

Threlfall, Anita ABR:EX

From: Birnie, Kayla ABR:EX
Sent: Friday, September 2, 2016 2:52 PM
To: Sidhu-Scherer, Jeanette ABR:EX
Subject: FW: MLA FN Advisory Committee Questions and Recommendations
Attachments: 2016_08_23_13_32_37.pdf

Thanks! Please let me know if I need to do anything :)

Kayla Birnie
Executive Administrative Assistant | Negotiations & Regional Operations Ministry of Aboriginal Relations & Reconciliation
Phone: 250 356 1086 | Mobile: 250 888 1216

-----Original Message-----

From: French, Shawna ABR:EX
Sent: Friday, September 2, 2016 2:48 PM
To: Birnie, Kayla ABR:EX
Subject: RE: MLA FN Advisory Committee Questions and Recommendations

Yeah I think so

Shawna French
A/ Executive Director
Deputy Ministers Office
Ministry of Aboriginal Relations & Reconciliation

5th Floor - 2957 Jutland
Victoria BC
Phone: 250 356-6330
Cell: 250-213-7671
mailto:Shawna.French@gov.bc.ca

-----Original Message-----

From: Birnie, Kayla ABR:EX
Sent: Friday, September 2, 2016 2:48 PM
To: French, Shawna ABR:EX
Subject: RE: MLA FN Advisory Committee Questions and Recommendations

Thanks Shawna! Wondering is it like a letter response from MO?

Thx

Kayla Birnie
Executive Administrative Assistant | Negotiations & Regional Operations Ministry of Aboriginal Relations & Reconciliation
Phone: 250 356 1086 | Mobile: 250 888 1216

-----Original Message-----

From: French, Shawna ABR:EX
Sent: Friday, September 2, 2016 2:46 PM
To: Birnie, Kayla ABR:EX
Subject: FW: MLA FN Advisory Committee Questions and Recommendations

Probably helpful if I send the attachment hey!

Shawna French
A/ Executive Director
Deputy Ministers Office
Ministry of Aboriginal Relations & Reconciliation

5th Floor - 2957 Jutland
Victoria BC
Phone: 250 356-6330
Cell: 250-213-7671
mailto:Shawna.French@gov.bc.ca

-----Original Message-----

From: Gash, Michael ABR:EX
Sent: Friday, September 2, 2016 9:56 AM
To: French, Shawna ABR:EX; Lyttle, Shawna ABR:EX
Cc: Pedersen, Mike FLNR:EX; Berg, Shane ABR:EX; Lofthouse, Mark ABR:EX; Leece, Robert ABR:EX; Lyons, Devon ABR:EX; Richmond, Patrick ABR:EX; O'Sullivan, Susan FLNR:EX; Vanderburgh, Ken FLNR:EX
Subject: FW: MLA FN Advisory Committee Questions and Recommendations

Hello Shawna and Shawna. I am wondering if there has been any further follow up on the attached questions that came from MLA Barnett to Minister Rustad?

MLA Barnett is currently planning a second FN Advisory Committee meeting for Sept 23, 2016. It may be appropriate to provide her with a response prior to the 23rd.

It is my understanding that Mike Pedersen, Susan O'Sullivan and Ken Vanderburgh from MFLNRO will be attending the meeting on the 23rd. s.22 I did however ask the MLA's office if they wanted an alternative from MARR and they declined. We may wish to consider sending someone given the nature of the meeting.

Thanks for your feedback.

Mike Gash

-----Original Message-----

From: Pedersen, Mike FLNR:EX
Sent: Tuesday, August 23, 2016 2:48 PM
To: Richmond, Patrick ABR:EX; Gash, Michael ABR:EX; Vanderburgh, Ken FLNR:EX
Subject: FW: MLA FN Advisory Committee Questions and Recommendations

MLA Barnett has forwarded these questions onto Cameron Ehl for response. I asked her if I could share these out to you as I saw Private and Confidential on the sheet. I am going to assume some of us maybe involved in the response and as well she may be looking for some of us to attend her MLA FN Advisory Committee.

Please do not circulate

-----Original Message-----

From: Barnett.MLA, Donna [<mailto:Donna.Barnett.MLA@leg.bc.ca>]

Sent: Tuesday, August 23, 2016 1:44 PM

To: Ehl, Cameron ABR:EX

Cc: Pedersen, Mike FLNR:EX

Subject: MLA FN Advisory Committee Questions and Recommendations

August 15, 2016

PRIVATE AND CONFIDENTIAL

MLA FIRST NATION ADVISORY COMMITTEE

QUESTIONS:

1. Why have the parcels of land that have been identified for NSTQ Treaty been selected and who identified these parcels of land First Nations or Government?
2. How much land is expected to be transferred as a result of interim agreements and the final NSTQ Treaty?
3. What is the total value of lands, both interim lands and those under discussion for final treaty?
4. Will the existing land reserves be made available for discussion with public stakeholders? When will maps identifying all lands either through interim agreements or treaty lands be available to the public?
5. Who will be consulted and what will the process be for public input prior to final treaty?
6. Interim agreement lands and treaty lands have access now for public use. Will these accesses for the public still be available? Example* Access through crown lands trails, forestry access roads for recreation, hunting, trapping, guiding.
7. Where are the stakeholders' rights?
8. Why is government still negotiating when First Nations file litigations against the Province?
9. What model or best practices is the treaty negotiations based on?
10. What compensation will be paid for interim business losses caused by uncertainty created by Government treaty process?
11. Will citizens have existing rights and access to hunting and fishing – all land based tenures and public access?
12. What will First Nations be giving up when treaty is finalized? How can/will this be negotiated?
13. SUBSURFACE RIGHTS ON INTERIM AGREEMENT: lands or treaty lands will they stay with Crown? Do water rights stay with Province upon transfer of interim lands and treaty lands? Who will own lakes?
14. What are Interim Agreements Lands classified as and what are Treaty Lands classified as? Which laws will apply? I.e.: First Nations, Local Government, Provincial Government, and Federal Government.
15. Will extraction of resources (i.e.: forestry, mining etc.) once Interim Agreements and Treaty finalized be under Provincial, Federal laws and regulations or will First Nations regulations and laws take precedence.
16. Will the government fully and fairly compensate affected third parties whose existing business interests will be impacted in any way at full market value?

PRIVATE AND CONFIDENTIAL

CONSULTATION RECOMMENDATIONS

1. There must consultation with MLA First Nations Advisory Committee as soon as possible regarding all potential lands identified by Government to Government discussions: consultation must occur before negotiations of final agreements begin.
2. There must be consultation between residential and stakeholder groups identified on identified land boundaries as soon as possible after lands have identified by Government to Government discussions: consultation must occur before negotiations on final agreements begin.
3. There must be a public consultation process for the general public to explain what could possibly happen within the region as a result of Government to Government land negotiations.
4. Local Governments, Regional Governments, and Industry must be consulted in a public forum once lands have become identified for possible transfer in Government to Government discussions.
5. If consultations identify a large amount of controversy for a particular parcel of land the Governments will have to re-think the particular parcel that is being considered for transfer.
6. When agreements that involve conditions being set on lands are being negotiated , all stakeholders including , but not limited to ranchers, trappers, outfitters, industry, and the general papulation must be consulted before negotiations of final agreements begin.

ACCESS RECOMMENDATIONS

1. Full and complete access to deeded lands must be maintained on all roads for all residents to all back country areas regardless if land is transferred as treaty or Interim Agreement Lands. This includes but is not limited to, vehicles, back country vehicles, fishing and hunting etc. (All roads accesses revert to crown easement).
2. Trails and trail accesses must be identified (interim agreements and treaty negotiations) must be identified and remain open and fully accessible as explained above.
3. There must be a legal mechanism written into the agreements to guarantee full and complete access into all negotiated land transfers, this must not cost the affected stakeholder legal fees or time restraints.
4. There must be a resolution procedure written into agreements to immediately solve any access issues that arise, they must be resolved immediately with a no cost or legal fees to stakeholders.
5. All rights and conditions must stay as existing for all other tenure holders and stakeholders. (i.e.: ranchers, back country users, trappers, outfitters). If these conditions will not remain the same then there must be a process for compensating those affected.



Honourable Donna Barnett
East Annex, Parliament Buildings
Victoria, BC
V8V 1X4

Ref: 40734

Dear Minister Donna Barnett;

The draft Northern Secwepemc te Qelmuw (NStQ) Agreement-in-Principle (AIP) and Appendices are now publicly available on MARR's website and as hard copies. Given your interest in these negotiations, the AIP and Appendices are enclosed for your use. They have not been initialled or signed. Alongside these documents, the Province is also making available maps depicting range tenure overlaps with the proposed NStQ Treaty Settlement Lands. These range overlap maps are available on MARR's website and will also be mailed to tenure holders.

Here are the relevant links for downloading these documents:

- Draft NStQ AIP: <http://bit.ly/Draft-NStQ-AIP>
- Draft NStQ Appendices: <http://bit.ly/Draft-NStQ-Appendices>
- All range tenures that overlap with proposed NStQ Treaty Settlement Lands: <http://bit.ly/NStQ-Range-Overlap-Maps>
- Summary of other NStQ Agreements on MARR website: <https://www2.ga.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/first-nations-a-z-listing/northern-shuswap-tribal-council-northern-secwepemc-te-qelmuw>

Additionally, hard copies will be available to be borrowed by stakeholders or other members of the public who would prefer to review the agreement at their leisure. These copies will be available shortly at the following locations:

- **Williams Lake:** Ministry of Aboriginal Relations and Reconciliation, 640 Borland St. Contact Erika Driedger at erika.driedger@gov.bc.ca or (250) 398-4422.
- **100 Mile House:** Ministry of Forests, Lands and Natural Resource Operations, 300 S Cariboo Highway. Contact Sarah Szatmari at sarah.szatmari@gov.bc.ca or (250) 395-7865.
- **Kamloops:** Ministry of Aboriginal Relations and Reconciliation, 441 Columbia St., 3rd Floor. Contact Liz Olsson at liz.olsson@gov.bc.ca or (250) 828-4278.
- **Quesnel:** Ministry of Forests, Lands and Natural Resource Operations, 322 Johnston Ave. Contact Sylvie Bailey at sylvie.bailey@gov.bc.ca or (250) 992-4437.

We are also working to make copies available at the public libraries in 100 Mile House, Williams Lake and Quesnel.

If you have any questions about these documents or would like to share your views or comments with the Province, please contact Patrick Richmond, Negotiator, at patrick.richmond@gov.bc.ca or (250) 387-5170.

Best regards,



Mark Lofthouse

Chief Negotiator, Ministry of Aboriginal Relations and Reconciliation

From: [Richmond, Patrick ABR:EX](#)
To: [Pedersen, Mike FLNR:EX](#); [Vanderburgh, Ken FLNR:EX](#); [O'Sullivan, Susan FLNR:EX](#); [Gash, Michael ABR:EX](#)
Cc: [Cole, Kim ABR:EX](#); [Lyons, Devon ABR:EX](#)
Subject: Fwd: Information on Committee.
Date: Wednesday, November 23, 2016 12:13:32 PM

Patrick Richmond
Negotiator
Ministry of Aboriginal Relations and Reconciliation

t: [\(250\) 387-5170](tel:(250)387-5170)
c: [\(250\) 413-7002](tel:(250)413-7002)
e: Patrick.Richmond@gov.bc.ca
w: <http://www.gov.bc.ca/arr>
vCard: <http://vcrd.co/patrick/609>

Sent from my iPhone

Begin forwarded message:

From: "Marks, Beverly LASS:EX" <Beverly.Marks@leg.bc.ca>
Date: November 23, 2016 at 12:03:21 PM PST
To: "Richmond, Patrick ABR:EX" <Patrick.Richmond@gov.bc.ca>
Subject: Information on Committee.

Hi Patrick, here is the information you provided.

Committee members: Judy Banas Trapper, Leon Chretien Business owner/pres. 100 Mile Chamber of Commerce , Floyd Lee, trapper /guide outfitter, Amy Thacker Cariboo Chilcotin Coast Tourism Assoc. , Darrel Williamson, Glen Wonders AMEBC, Nigel Hemingway Surveyor, Walt Cobb Mayor WL, Margo Wagner CRD, Diane Wood rancher, Ron Hume appraiser, Gisela Janzen realtor, Courtney Smith realtor, Rick Takagi Norbord, Claudia Blair WL Tourist Assoc. , Tal Pincott rancher, Paul French USW, Roy Scott 100 Mile District, Mitch Campsall Mayor 100 Mile, Tom Hoffman Tolko, Mike Pedersen and staff.

Oct Meeting attendee's: Amy Thacker, Diane Wood, Judy Banas, Darrel Williamson, Paul French, Walt Cobb, Ron Hume, Mike Pedersen and staff.

****November 23 meeting confirmed attendee's :** Nigel Hemingway, Rick Takagi, Judy Banas ,Leon Chretien, Floyd Lee, Walt Cobb, Tom Hoffman, Diane Wood, Claudia Blair, Ron Hume, Paul French.

**** re:** November 23 confirmed, many don't ever confirm with me, so at this time the above is who I have heard from, could be more. B

Beverly Marks,
Constituency Assistant to
MLA Donna Barnett, Cariboo-Chilcotin

250-395-3916

From: [Richmond, Patrick ABR:EX](#)
To: [Marks, Beverly LASS:EX](#)
Cc: [Cole, Kim ABR:EX](#)
Subject: Re: FN Stakeholder meeting Nov 23/16 in Lac La Hache.
Date: Tuesday, November 22, 2016 9:06:54 PM

Hi Beverly,

For our records, could you please send me:

1. A list of the members of Minister Barnett's Advisory Committee
2. A list of who attended the October meeting.
3. A list of who will attend the November 23 meeting.

Thank you

Patrick

Patrick Richmond | Negotiator
Ministry of Aboriginal Relations and Reconciliation

t: [\(250\) 387-5170](tel:(250)387-5170)
c: [\(250\) 413-7002](tel:(250)413-7002)
e: Patrick.Richmond@gov.bc.ca
w: <http://www.gov.bc.ca/arr>
vCard: <http://vcrd.co/patrick/609>

Sent from my iPad

On Nov 22, 2016, at 1:53 PM, Marks, Beverly <Beverly.Marks@leg.bc.ca> wrote:

That is so great, Thank you. B November 23/16 at 7 OAPO hall Lac La Hache. B

From: Richmond, Patrick ABR:EX [<mailto:Patrick.Richmond@gov.bc.ca>]

Sent: November 22, 2016 1:35 PM

To: Marks, Beverly <Beverly.Marks@leg.bc.ca>

Cc: Ray Peterson <Ray.Peterson@aandc-aadnc.gc.ca>

Subject: Re: FN Stakeholder meeting Nov 23/16 in Lac La Hache.

Hi Beverly

We will both be there.

Best regards,

Patrick

Patrick Richmond | Negotiator
Ministry of Aboriginal Relations and Reconciliation

t: [\(250\) 387-5170](tel:(250)387-5170)

c: [\(250\) 413-7002](tel:(250)413-7002)
e: Patrick.Richmond@gov.bc.ca
w: <http://www.gov.bc.ca/arr>
vCard: <http://vcrd.co/patrick/609>

Sent from my iPad

On Nov 22, 2016, at 1:30 PM, Marks, Beverly <Beverly.Marks@leg.bc.ca> wrote:

Hi Patrick, any confirmation if you and the federal negotiator will be able to attend?? Thanks Bev.

Beverly Marks,

Constituency Assistant to

MLA Donna Barnett, Cariboo-Chilcotin

Response to “MLA First Nation Advisory Committee” Questions

BACKGROUND

The Province seeks to negotiate treaties as the ultimate form of reconciliation of Crown and aboriginal interests. Treaty negotiations provide an opportunity to resolve long standing land questions that were left unresolved when treaty-making was abandoned in the 1800s. Treaties provide operational clarity for resource development and major projects. Certainty is key to attracting investment and creating jobs for all British Columbians.

The Ministry of Aboriginal Relations and Reconciliation has implemented enhanced guidelines for negotiators to ensure they have a solid understanding of local government and stakeholder interests as we negotiate agreements with First Nations. Our objective is to reach agreements with First Nations that are well informed, understood and supported by aboriginal and non-aboriginal communities alike.

It is important to note that there are some instances where confidentiality is required due to the nature of the negotiations or to avoid compromising a provincial negotiating position. In those situations, our negotiators explore options such as non-disclosure agreements as a means to seek input from the appropriate interested parties.

The Province aims to reach agreements that balance the interest of all parties. BC provides mandates to our negotiators that must balance many interests; however, creative solutions are most often found when all parties, including stakeholders, are informed and flexible.

NStQ has been negotiating a treaty since the mid 1990s. The negotiations are currently at the Agreement-in-Principle stage, which will then lead into the next negotiations stage to finalize the treaty. BC has secured the agreement of Canada and NStQ to make the AIP and appendices publicly available in the near future.

QUESTIONS FROM MLA DONNA BARNETT:

- 1. Why have the parcels of land that have been identified for NStQ Treaty been selected and who identified these parcels of land First Nations or Government?**

The proposed AIP land package was the result of extensive negotiations between NStQ, BC and Canada. In the land selection negotiations, NStQ identified its areas of interest with regards to lands. These areas reflected a number of their interests in particular parcels of land including proximity to existing communities and Indian Reserves, economic development, forestry, recreation, tourism, historical significance, and cultural significance.

- 2. How much land is expected to be transferred as a result of interim agreements and the final NStQ Treaty?**

Under Incremental Treaty Agreements (ITAs), BC will transfer up to 3760 ha of land to NStQ. Maps identifying the ITA lands have been publicly available since February 5, 2016, when the

ITAs were signed. In the meantime, provincial negotiators will continue to engage with stakeholders and local governments on specific ITA parcels to ensure stakeholders have an accurate understanding of negotiated conditions (e.g., continued access), and negotiators have a full understanding of stakeholders concerns and suggestions.

Additional lands will be negotiated during Final Agreement negotiations, but the quantum and location have not been determined. Provincial negotiators will engage stakeholders and local governments early in these discussions.

3. What is the total value of lands, both interim lands and those under discussion for final treaty?

The Province is unable to disclose its financial mandate for cash or lands as that would compromise the negotiations as well as Cabinet confidence.

4. Will the existing land reserves be made available for discussion with public stakeholders? When will maps identifying all lands either through interim agreements or treaty lands be available to the public?

Maps identifying the ITA lands have been publicly available since February 5, 2016, when the ITAs were signed. The parties are currently working towards making the AIP and its maps publicly available in the near future. In the meantime, provincial negotiators are engaging with stakeholders and local governments on specific parcels.

5. Who will be consulted and what will the process be for public input prior to final treaty?

The Province has directly engaged range tenure holders, mineral tenure holders, energy companies, trapline holders, guide outfitters, water licence holders, and property owners potentially affected by the incremental treaty agreements. This engagement will continue through the implementation of the ITAs and throughout Final Agreement negotiations and will be expanded to include any other relevant stakeholders. Provincial negotiators will seek input from the MLA to ensure all potentially impacted stakeholders are identified.

The Province and Canada also routinely engage with local government. Provincial negotiators will continue to engage the Cariboo Regional District, the City of Williams Lake, and the Thompson-Nicola Regional District. This engagement will be ongoing and will also be expanded to include the Squamish-Lillooet Regional District and the District of 100 Mile House. Engagement between BC and local government is set out in the memorandum of understanding signed between MARR and the Union of BC Municipalities.

BC and NStQ have struck a public information working group that is developing a plan to engage the general public after the public release of the AIP.

6. Interim agreement lands and treaty lands have access now for public use. Will these accesses for the public still be available? Example* Access through crown lands trails, forestry access roads for recreation, hunting, trapping, guiding.

Provincial negotiators first attempt to avoid any stakeholder impacts, or in the second instance, negotiate provisions to minimize or mitigate impacts, including addressing access requirements. BC will continue to negotiate provisions that maintain full and complete access on pre-existing roads, and to Crown land beyond parcels transferred to a First Nation. This includes access to private parcels where that access may involve crossing treaty settlement lands.

Until a Final Agreement is implemented, the NSTQ will own the ITA lands in fee simple. The Province has negotiated, and will continue to negotiate, for access across ITA parcels. For ITA parcels that do not have pre-existing access requirements, public access will be at the discretion of the land owner, like it is for any private land.

The AIP sets out that treaty settlement lands will be subject to provisions in the treaty regarding access. Namely, NSTQ has agreed to allow reasonable public access on NSTQ Public Lands for temporary recreational and non-commercial purposes, including opportunities for the public to hunt and fish on NSTQ Public Lands, provided that this access does not interfere with uses authorized by NSTQ or the ability of NSTQ to authorize uses or dispose of NSTQ Public Lands in accordance with NSTQ Law. This is analogous to the status quo where the public may currently enter onto provincial Crown land for recreational purposes, but the Province ultimately retains the authority to authorize uses or dispositions of provincial Crown land.

The Province will negotiate provisions in the Final Agreement providing for reasonable access across NSTQ treaty settlement lands to access private properties and tenures.

With regards to trapping and guiding activities, the approach taken in treaty, including with NSTQ, is that NSTQ will allow reasonable access on NSTQ Public Lands to the registered holders of overlapping registered commercial traplines or guide outfitter licences and certificates for the purpose of carrying out trapping and guiding activities.

7. What are the stakeholders' rights?

Provincial negotiators first attempt to avoid any stakeholder impacts, or in the second instance, negotiate provisions to minimize or mitigate impacts, including addressing access requirements. BC will continue to negotiate provisions that maintain full and complete access on pre-existing roads, and to Crown land beyond parcels transferred to a First Nation. This includes access to private parcels where that access may involve crossing treaty settlement lands.

Provincial negotiators will continue to engage with stakeholders throughout the negotiation process, will carefully review the information provided through the engagement process, and will ensure the information is taken into account in the development of mandates.

Provincial negotiators have directly engaged tenure holders and property owners potentially affected by the incremental treaty agreements. This engagement will continue through the implementation of the ITAs. Additionally, BC has started engagement activities on the AIP with cattle ranchers and local government. Engagement with other stakeholder groups, for example tenure holders and property owners, prior to the signing of the AIP is currently being planned. Tenure holders and property owners will have the opportunity to raise concerns they may have. The Province will work with them to address those concerns.

The Province has initiated consultation with relevant stakeholder groups, for example the Association for Mineral Exploration of BC, the BC Cattlemen's Association. This engagement will be ongoing, and expanded to other stakeholder groups, throughout the NStQ negotiations.

The Province and Canada also routinely engage with local government. Engagement between BC and local government is set out in the memorandum of understanding signed between MARR and the Union of BC Municipalities.

MARR, BC and NStQ have struck a public information working group that is developing a plan to engage the general public after the public release of the AIP.

8. Why is government still negotiating when First Nations file litigations against the Province?

The Province does not always engage in negotiations when litigation is filed. This is decided on a case by case basis. BC may continue to negotiate if our legal advice indicates potential risk of litigation, or BC may choose to terminate negotiations. There are also examples where negotiations have taken place "with prejudice", meaning the negotiation record may form part of BC's evidence in court.

The Province takes the position that negotiations are preferable to litigation. Additionally, both the BC and federal Supreme Courts have consistently directed government to negotiate matters pertaining to aboriginal rights and title. Maintaining negotiations is the best way to sustain a dialogue and relationship with the First Nation.

9. What model or best practices is the treaty negotiations based on?

Treaties have evolved over time and modern day treaties represent the current legal status and governance practices of First Nations. The first modern treaty in BC, with the Nisga'a, established a general benchmark for modern treaty negotiations in BC, and has been refined over the course of the treaty process.

Treaty is the ultimate form of reconciliation with First Nations and provides for the full and final settlement of the aboriginal rights, as protected under section 35 of the Constitution Act. A finalized treaty provides certainty for the negotiating parties, the general public, the business sector and industry.

10. What compensation will be paid for interim business losses caused by uncertainty created by Government treaty process?

Provincial negotiators first attempt to avoid any stakeholder impacts, or in the second instance, negotiate provision to minimize or mitigate impacts, including access requirements.

The treaty process is a response to the uncertain legal status of crown land resulting from unresolved claims of aboriginal rights and title. Treaties provide certainty for resource development and major projects, and therefore, are key to attracting investment and creating jobs for all British Columbians. Any consideration of compensation will be consistent with BC's and Canada's legal obligations regarding compensation.

11. Will citizens have existing rights and access to hunting and fishing – all land based tenures and public access?

The Province has negotiated, and will continue to negotiate, for access across both ITA parcels and treaty settlement lands. The AIP sets out that treaty settlement lands will be subject to provisions in the treaty regarding access. Namely, that NStQ will allow reasonable public access on NStQ Public Lands for temporary recreational and non-commercial purposes, including opportunities for the public to hunt and fish on NStQ Public Lands, provided that this access does not interfere with uses authorized by NStQ or the ability of NStQ to authorize uses or dispose of NStQ Public Lands in accordance with NStQ Law. This is analogous to the status quo where the public may currently enter onto provincial Crown land for recreational purposes, but the Province ultimately retains the authority to authorize uses or dispositions of provincial Crown land.

12. What will First Nations be giving up when treaty is finalized? How can/will this be negotiated?

Treaty is the ultimate form of reconciliation with First Nations and provides for the full and final settlement of the aboriginal rights and title, as protected under section 35 of the Constitution Act. A finalized treaty provides certainty for the negotiating parties, the general public, the business sector and industry by identifying where the First Nations have treaty lands, what rights they have and where and how those rights can be exercised.

13. SUBSURFACE RIGHTS ON INTERIM AGREEMENT: lands or treaty lands will they stay with Crown?

On ITA parcels, ownership of subsurface resources remains with the provincial Crown, for those subsurface resources currently owned by the provincial Crown. On treaty settlement lands, ownership of the subsurface resources transfer to NStQ, for those subsurface resources currently owned by the provincial Crown.

On both ITA and treaty settlement parcels, any existing mineral tenures in good standing will continue under provincial administration.

14. Do water rights stay with Province upon transfer of interim lands and treaty lands? Who will own lakes?

Licences issued under the Water Act remain in effect and under provincial administration on both ITA and treaty settlement parcels. The Province is not negotiating the ownership of water bodies with NStQ. Even if a lake is wholly surrounded by treaty settlement or ITA lands, the lake will continue to be owned by the Province.

With regards to water use on treaty settlement lands, BC retains the right and authority to licence surface water on treaty settlement lands. Under the treaty, NStQ will negotiate an allocation of water but making use of that water will be subject to the provincial water licensing system.

15. What are Interim Agreement Lands classified as and what are Treaty Lands classified as? Which laws will apply? i.e.: First Nations, Local Government, Provincial Government and Federal Government.

ITA lands are fee simple private property. They are treated the same as any other private property in the province – subject to local government regulations and bylaws, provincial and federal law, NStQ will pay property taxes on them, etc.

Treaty settlement lands will be NStQ treaty settlement lands. They will be subject the terms of the treaty. The concurrent law model sets out that First Nation, provincial and federal law will apply concurrently. Treaty provisions deal with the event of a conflict of laws. The Criminal Code applies on treaty settlement lands.

16. Will extraction of resources (i.e.: forestry, mining, etc.) once Interim Agreements and Treaty finalized be under Provincial, Federal laws and regulations or will First Nations regulations and laws take precedence.

ITA lands are fee simple private property. Any resource extraction would take place consistent with provincial and federal law.

Treaty settlement lands will be NStQ treaty settlement lands. They will be subject the terms of the treaty. On treaty settlement lands, provincial and federal law will apply in addition to any First Nations laws established under the terms of the treaty. The treaty contains provisions to address those situations where a conflict of laws arises.

Treaty chapters will detail specific areas of NStQ law making and the extent of that law making authority. For example, forestry standards prescribed by NStQ law must meet or exceed provincial forest standards applicable to private lands under provincial law.

Treaty provisions deal with the event of a conflict of laws.

17. Will the government fully and fairly compensate affected third parties whose existing business interests will be impacted in any way at full market value?

Provincial negotiators first attempt to avoid any stakeholder impacts, or in the second instance, negotiate provision to minimize or mitigate impacts, including access requirements.

The treaty process is a response to the uncertain legal status of Crown land resulting from unresolved claims of aboriginal rights and title. A treaty provides certainty for resource development and major projects, and therefore, are key to attracting investment and creating jobs for all British Columbians. Any consideration of compensation will be consistent with BC's and Canada's legal obligations regarding compensation.



Honourable Donna Barnett
East Annex, Parliament Buildings
Victoria, BC
V8V 1X4

Ref: 40734

Dear Minister Donna Barnett;

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- All range tenures that overlap with proposed NStQ Treaty Settlement Lands: <http://bit.ly/NStQ-Range-Overlap-Maps>
- Summary of other NStQ Agreements on MARR website: <https://www2.ga.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/first-nations-a-z-listing/northern-shuswap-tribal-council-northern-secwepemc-te-qelmuw>

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- **Kamloops:** Ministry of Aboriginal Relations and Reconciliation, 441 Columbia St., 3rd Floor. Contact Liz Olsson at liz.olsson@gov.bc.ca or (250) 828-4278.
- **Quesnel:** Ministry of Forests, Lands and Natural Resource Operations, 322 Johnston Ave. Contact Sylvie Bailey at sylvie.bailey@gov.bc.ca or (250) 992-4437.

We are also working to make copies available at the public libraries in 100 Mile House, Williams Lake and Quesnel.

If you have any questions about these documents or would like to share your views or comments with the Province, please contact Patrick Richmond, Negotiator, at patrick.richmond@gov.bc.ca or (250) 387-5170.

Best regards,



Mark Lofthouse

Chief Negotiator, Ministry of Aboriginal Relations and Reconciliation

From: [Richmond, Patrick ABR:EX](#)
To: s.22
Subject: RE: NSTQ Treaty Negotiations.
Date: Friday, March 17, 2017 2:21:53 PM

Dear s.22

Thank you for your letter. I appreciate the time and thought you have taken to set out some of your concerns and I would like to take this opportunity to provide you with a response.

Now that the draft Northern Shuswap te Qelmucw (NStQ) Agreement-in-Principle (AIP) has been made available to the public, I can refer you to some specific provisions that address some of the concerns you outlined.

With regards to irrigation ditch s.22 our records indicate that the ditch is associated with water licenses s.22 which are all held by you. The proposed NStQ treaty settlement lands will not affect the status of those licenses nor the ditch. Article 6.8.1 of the draft NStQ AIP sets out that "NStQ will allow reasonable access across NStQ Treaty Settlement Lands, at no cost, to the Interests listed in Appendices F-1, F-3, F-5, F-8, and F-9, consistent with the terms and conditions of those Interests. Your three water licenses are all listed in Appendix F-8: Part 3—Water Rights as "Interests to Continue in Accordance with Provincial Law". This means your water licences will continue under provincial administration and you will have access to your water licenses and works consistent with 6.8.1.

Additionally, water licence s.22
s.2 will be subject to the same protections as your own water licences. This approach is how the Province deals with any licences issued under the *Water Act* where the licence area or related infrastructure is in overlap with treaty settlement lands.

The Province is undertaking a comprehensive stakeholder engagement process with potentially affected stakeholders. This will take some time to complete and as a result some stakeholders are engaged earlier than others.

With regards to access to your deeded land, you will continue to have access to your private property under a NStQ Final Agreement. Article 6.8.3 of the draft NStQ AIP sets out that "NStQ will allow reasonable access, including access on NStQ Roads, at least as favourable as that which exists immediately before the Effective Date across NStQ Treaty Settlement Lands, at no cost, to the lands described in Appendix J or any subdivided portions thereof". Appendix J has not yet been completed, but will contain a list of those properties to which 6.8.3 applies. Your deeded property will be listed in Appendix J prior to the completion of the Final Agreement if you require access across NStQ Treaty Settlement Lands to reach your private property.

With regards to the letter that was discussed with the other tenure holder whose licence area overlaps with yours, the Ministry of Aboriginal Relations and Reconciliation and the Ministry of Forests, Lands, and Natural Resource Operations are close to finalizing letters for him and other ranchers. This approach is a reflection of how the Province is working through the range overlaps. We are able to deal with the least complex overlap situations sooner. The more complex overlaps, such as your situation, will take longer to work through. This does not mean there is an assumption that the remaining tenure holders will expect an animal unit month loss. Rather, it means that the Province is still working through the multitude of complex issues in order to arrive at a resolution of the overlap.

Finally, I would like to clarify that the draft NStQ AIP has not been signed at this time. The Parties initialled the draft NStQ AIP in December, which is a step required prior to the signing of the agreement. At the moment, there is no firm date as to when the AIP will be signed. Once signed, it

is not a legally binding agreement but will form the foundation of the Final Agreement and will indicate the start of Final Agreement negotiations. During Final Agreement negotiations, the Province will continue to work with you and other ranchers with regards to any overlaps between your range tenures and the proposed NStQ Treaty Settlement Lands.

I would be pleased to meet with you again in person to discuss these or other concerns you may have. I will follow-up with a telephone call to see if you would like to meet.

Best regards,

Patrick Richmond
Negotiator

cc: Honourable Donna Barnett, Minister of State for Rural Economic Development

From: s.22

Sent: Sunday, March 5, 2017 4:15 PM

To: Barnett.MLA, Donna LASS:EX; Richmond, Patrick ABR:EX

Subject: NSTQ Treaty Negotiations.

From: [Birnie, Kayla ABR:EX](#)
To: [Sidhu-Scherer, Jeanette ABR:EX](#)
Subject: FW: MLA FN Advisory Committee Questions and Recommendations
Date: Friday, September 2, 2016 2:51:55 PM
Attachments: [2016_08_23_13_32_37.pdf](#)

Thanks! Please let me know if I need to do anything :)

Kayla Birnie
Executive Administrative Assistant | Negotiations & Regional Operations
Ministry of Aboriginal Relations & Reconciliation
Phone: 250 356 1086 | Mobile: 250 888 1216

-----Original Message-----

From: French, Shawna ABR:EX
Sent: Friday, September 2, 2016 2:48 PM
To: Birnie, Kayla ABR:EX
Subject: RE: MLA FN Advisory Committee Questions and Recommendations

Yeah I think so

Shawna French
A/ Executive Director
Deputy Ministers Office
Ministry of Aboriginal Relations & Reconciliation

5th Floor - 2957 Jutland
Victoria BC
Phone: 250 356-6330
Cell: 250-213-7671
mailto:Shawna.French@gov.bc.ca

-----Original Message-----

From: Birnie, Kayla ABR:EX
Sent: Friday, September 2, 2016 2:48 PM
To: French, Shawna ABR:EX
Subject: RE: MLA FN Advisory Committee Questions and Recommendations

Thanks Shawna! Wondering is it like a letter response from MO?

Thx

Kayla Birnie
Executive Administrative Assistant | Negotiations & Regional Operations Ministry of Aboriginal Relations & Reconciliation
Phone: 250 356 1086 | Mobile: 250 888 1216

-----Original Message-----

From: French, Shawna ABR:EX
Sent: Friday, September 2, 2016 2:46 PM
To: Birnie, Kayla ABR:EX
Subject: FW: MLA FN Advisory Committee Questions and Recommendations

Probably helpful if I send the attachment hey!

Shawna French
A/ Executive Director
Deputy Ministers Office
Ministry of Aboriginal Relations & Reconciliation

5th Floor - 2957 Jutland
Victoria BC
Phone: 250 356-6330
Cell: 250-213-7671
mailto: Shawna.French@gov.bc.ca

-----Original Message-----

From: Gash, Michael ABR:EX
Sent: Friday, September 2, 2016 9:56 AM
To: French, Shawna ABR:EX; Lyttle, Shawna ABR:EX
Cc: Pedersen, Mike FLNR:EX; Berg, Shane ABR:EX; Lofthouse, Mark ABR:EX; Leece, Robert ABR:EX; Lyons, Devon ABR:EX; Richmond, Patrick ABR:EX; O'Sullivan, Susan FLNR:EX; Vanderburgh, Ken FLNR:EX
Subject: FW: MLA FN Advisory Committee Questions and Recommendations

Hello Shawna and Shawna. I am wondering if there has been any further follow up on the attached questions that came from MLA Barnett to Minister Rustad?

MLA Barnett is currently planning a second FN Advisory Committee meeting for Sept 23, 2016. It may be appropriate to provide her with a response prior to the 23rd.

It is my understanding that Mike Pedersen, Susan O'Sullivan and Ken Vanderburgh from MFLNRO will be attending the meeting on the 23rd. ^{s.22} I did however ask the MLA's office if they wanted an alternative from MARR and they declined. We may wish to consider sending someone given the nature of the meeting.

Thanks for your feedback.

Mike Gash

-----Original Message-----

From: Pedersen, Mike FLNR:EX
Sent: Tuesday, August 23, 2016 2:48 PM
To: Richmond, Patrick ABR:EX; Gash, Michael ABR:EX; Vanderburgh, Ken FLNR:EX
Subject: FW: MLA FN Advisory Committee Questions and Recommendations

MLA Barnett has forwarded these questions onto Cameron Ehl for response. I asked her if I could share these out to you as I saw Private and Confidential on the sheet. I am going to assume some of us maybe involved in the response and as well she may be looking for some of us to attend her MLA FN Advisory Committee.

Please do not circulate

-----Original Message-----

From: Barnett.MLA, Donna [<mailto:Donna.Barnett.MLA@leg.bc.ca>]
Sent: Tuesday, August 23, 2016 1:44 PM
To: Ehl, Cameron ABR:EX
Cc: Pedersen, Mike FLNR:EX
Subject: MLA FN Advisory Committee Questions and Recommendations

August 15, 2016

PRIVATE AND CONFIDENTIAL

MLA FIRST NATION ADVISORY COMMITTEE

QUESTIONS:

1. Why have the parcels of land that have been identified for NSTQ Treaty been selected and who identified these parcels of land First Nations or Government?
2. How much land is expected to be transferred as a result of interim agreements and the final NSTQ Treaty?
3. What is the total value of lands, both interim lands and those under discussion for final treaty?
4. Will the existing land reserves be made available for discussion with public stakeholders? When will maps identifying all lands either through interim agreements or treaty lands be available to the public?
5. Who will be consulted and what will the process be for public input prior to final treaty?
6. Interim agreement lands and treaty lands have access now for public use. Will these accesses for the public still be available? Example* Access through crown lands trails, forestry access roads for recreation, hunting, trapping, guiding.
7. Where are the stakeholders' rights?
8. Why is government still negotiating when First Nations file litigations against the Province?
9. What model or best practices is the treaty negotiations based on?
10. What compensation will be paid for interim business losses caused by uncertainty created by Government treaty process?
11. Will citizens have existing rights and access to hunting and fishing – all land based tenures and public access?
12. What will First Nations be giving up when treaty is finalized? How can/will this be negotiated?
13. SUBSURFACE RIGHTS ON INTERIM AGREEMENT: lands or treaty lands will they stay with Crown? Do water rights stay with Province upon transfer of interim lands and treaty lands? Who will own lakes?
14. What are Interim Agreements Lands classified as and what are Treaty Lands classified as? Which laws will apply? I.e.: First Nations, Local Government, Provincial Government, and Federal Government.
15. Will extraction of resources (i.e.: forestry, mining etc.) once Interim Agreements and Treaty finalized be under Provincial, Federal laws and regulations or will First Nations regulations and laws take precedence.
16. Will the government fully and fairly compensate affected third parties whose existing business interests will be impacted in any way at full market value?

PRIVATE AND CONFIDENTIAL

CONSULTATION RECOMMENDATIONS

1. There must consultation with MLA First Nations Advisory Committee as soon as possible regarding all potential lands identified by Government to Government discussions: consultation must occur before negotiations of final agreements begin.
2. There must be consultation between residential and stakeholder groups identified on identified land boundaries as soon as possible after lands have identified by Government to Government discussions: consultation must occur before negotiations on final agreements begin.
3. There must be a public consultation process for the general public to explain what could possibly happen within the region as a result of Government to Government land negotiations.
4. Local Governments, Regional Governments, and Industry must be consulted in a public forum once lands have become identified for possible transfer in Government to Government discussions.
5. If consultations identify a large amount of controversy for a particular parcel of land the Governments will have to re-think the particular parcel that is being considered for transfer.
6. When agreements that involve conditions being set on lands are being negotiated , all stakeholders including , but not limited to ranchers, trappers, outfitters, industry, and the general papulation must be consulted before negotiations of final agreements begin.

ACCESS RECOMMENDATIONS

1. Full and complete access to deeded lands must be maintained on all roads for all residents to all back country areas regardless if land is transferred as treaty or Interim Agreement Lands. This includes but is not limited to, vehicles, back country vehicles, fishing and hunting etc. (All roads accesses revert to crown easement).
2. Trails and trail accesses must be identified (interim agreements and treaty negotiations) must be identified and remain open and fully accessible as explained above.
3. There must be a legal mechanism written into the agreements to guarantee full and complete access into all negotiated land transfers, this must not cost the affected stakeholder legal fees or time restraints.
4. There must be a resolution procedure written into agreements to immediately solve any access issues that arise, they must be resolved immediately with a no cost or legal fees to stakeholders.
5. All rights and conditions must stay as existing for all other tenure holders and stakeholders. (i.e.: ranchers, back country users, trappers, outfitters). If these conditions will not remain the same then there must be a process for compensating those affected.