

Page 001 of 590

Withheld pursuant to/removed as

s.14; s.16; s.22

Page 002 of 590 to/à Page 010 of 590

Withheld pursuant to/removed as

s.14; s.16

## Restall, Analise EMPR:EX

---

**From:** Woolley, Paul GCPE:EX  
**Sent:** July 31, 2014 4:35 PM  
**To:** Carr, Steve MNGD:EX  
**Cc:** Hansen, Brian MNGD:EX; Piccinino, Ines MNGD:EX; Mihlar, Fazil MNGD:EX; McCaffrey, Julianne GCPE:EX; Coley, Simon J JAG:EX  
**Subject:** FW: Updated William key messages  
**Attachments:** Tsilhqot'in KMs - July 30-2014.docx  
  
**Importance:** High

This just in from MARR

---

**From:** Fillion, Corinna GCPE:EX  
**Sent:** Thursday, July 31, 2014 4:28 PM  
**To:** Haslam, David GCPE:EX; Thomas, Vivian P GCPE:EX; Macnaughton, Jason GCPE:EX; Crebo, David GCPE:EX; Woolley, Paul GCPE:EX; Schollen, Tasha GCPE:EX; Stewart, Janet GCPE:EX; Keenan, Jason GCPE:EX  
**Cc:** Platts, Robin GCPE:EX; Fraser, John Paul GCPE:EX  
**Subject:** Updated William key messages  
**Importance:** High

Hi all. Attached are updated key messages approved for use on William decision.

*Corinna Fillion*  
Communications Director,  
Ministry of Aboriginal Relations and Reconciliation  
Government Communication and Public Engagement

250 953-3211 / cell 250 882-0918

Supreme Court of Canada decision – Tsilhqot'in title  
Key Messages  
July 30, 2014

**Key messages:**

- The Supreme Court decision is a significant milestone that provides greater clarity both on Aboriginal title and rights, and on the Province's rights and responsibilities.
- We welcome this decision as it provides certainty and supports processes of good faith negotiation.
- The decision re-enforces and validates BC's commitment to avoid confrontation through negotiated settlements with First Nations.
- We have had great success over the last decade building respectful, collaborative relationships with First Nations as a means to achieve reconciliation.
- Since 2006, we have reached more than 200 agreements with First Nations, both through the treaty process and other agreements such as revenue-sharing agreements, which can serve as building blocks towards full reconciliation.
- The clarity provided by the William decision may mean some adjustments are required for tools BC has developed.
- We are committed to working collaboratively with First Nations, the federal government and industry to determine what those adjustments might be.
- We are confident that the strong relationships we've established with First Nations and with industry will allow us to work through the implications of the decision in a way that continues to benefit First Nations and all British Columbians.

**Secondary:**

- It's important to point out that title has been declared to a particular tract of land in Tsilhqot'in traditional territory. This decision came about as the result of a lengthy legal process that was tied up in the court system for well over a decade.
- That's why our goal is always to negotiate rather than litigate.

Page 013 of 590 to/à Page 074 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 075 of 590

Withheld pursuant to/removed as

s.16; s.14

Page 076 of 590 to/à Page 088 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 089 of 590 to/à Page 090 of 590

Withheld pursuant to/removed as

s.16; s.14



Page 091 of 590 to/à Page 121 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 122 of 590

Withheld pursuant to/removed as

s.16; s.14

Page 123 of 590 to/à Page 134 of 590

Withheld pursuant to/removed as

s.14; s.16

sec 12  
OK

**Restall, Analyse EMPR:EX**

---

**From:** Paine, Julian C MNGD:EX  
**Sent:** September 2, 2014 12:37 PM  
**To:** Coley, Simon J JAG:EX  
**Subject:** FW: September 3rd, 2014 - Strategic Aboriginal Issues ADM Committee meeting  
**Attachments:** s.12,s.13

Check out the pdf doc.

Julian C Paine  
Assistant Deputy Minister  
First Nations and Labour Initiatives  
Ministry of Natural Gas Development

---

**From:** Heuman, Sheena A JAG:EX  
**Sent:** Tuesday, September 2, 2014 11:54 AM  
**To:** Blaschuk, Michael MTIC:EX; Craven, Paul EAO:EX; Duncan, Dave TRAN:EX; Eichenberger, Kathy MEM:EX; Gordon, Matt GCPE:EX; Greer, David MTIC:EX; Gunnarsen, Krista A ABR:EX; Halls, Lori D ENV:EX; Hutchings, Geraldine J JAG:EX; Jensen, Tom R FLNR:EX; Laaksonen-Craig, Susanna FLNR:EX; Leslie, Lisa GCPE:EX; MacLaren, Les MEM:EX; Mayhew, Neilane ABR:EX; Morel, David P MEM:EX; Moyse, Geoff JAG:EX; O'Sullivan, Susan FLNR:EX; Paine, Julian C MNGD:EX; Parkes, Norm E TRAN:EX; Sandstrom, Kurt JAG:EX; Schollen, Tasha GCPE:EX; 'Snow, Donia (BC Hydro)'; Thompson, Glen R JAG:EX; Swan, Trevor OGC:IN; Waters, Cory EAO:EX; XT:Weiler, Charlie ABR:IN; Yearwood, Paul JAG:EX  
**Cc:** Andrews, Sarah FLNR:EX; Hall, Donna L FLNR:EX; Heuman, Sheena A JAG:EX; Hocker, Bernadette JAG:EX; Kowalewsky, Sheila J ABR:EX; 'Linda Cho'; Llewellyn-Thomas, Marnie ENV:EX; Lyttle, Shawna JAG:EX; McNeil, Kevin MEM:EX; Musgrove, Kate MEM:EX; 'Nubia Budau (BC Hydro)'; O'Connor, Lisa EAO:EX; Pearson, Barbera MIT:EX; Pollock, Kelly JAG:EX; Richter, Connie JAG:EX; Rogers, Tina TRAN:EX; Samarin, Ruth OGC:IN; Shaw, Courtney TRAN:EX; Storey, Deanna JAG:EX; Stoughton, Maryanne MTIC:EX  
**Subject:** September 3rd, 2014 - Strategic Aboriginal Issues ADM Committee meeting

The materials for the September 3<sup>rd</sup> Strategic Aboriginal Issues ADM Committee have been uploaded to the SharePoint site at:

[https://lsb.gov.bc.ca/clients/strategic\\_aboriginal\\_issues/Assistant\\_Deputy\\_Ministers/Forms/AllItems.aspx?RootFolder=%2FClients%2FStrategic%5Faboriginal%5FIssues%2FAssistant%5FDeputy%5FMinisters%2FMeeting%20Materials%2FSeptember%203%2C%202014](https://lsb.gov.bc.ca/clients/strategic_aboriginal_issues/Assistant_Deputy_Ministers/Forms/AllItems.aspx?RootFolder=%2FClients%2FStrategic%5Faboriginal%5FIssues%2FAssistant%5FDeputy%5FMinisters%2FMeeting%20Materials%2FSeptember%203%2C%202014)

They are also attached for your convenience.

*Sheena Heuman*  
Executive Coordinator  
Office of the Assistant Deputy Attorney General  
PO Box 9280, Stn Prov Gov't  
Victoria BC V8W 9J7  
Phone: (250) 356-8467  
Fax: (250) 356-5111  
Email: [Sheena.Heuman@gov.bc.ca](mailto:Sheena.Heuman@gov.bc.ca)

Page 137 of 590 to/à Page 138 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16

Page 139 of 590 to/à Page 140 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

Page 141 of 590 to/à Page 170 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16



Sec 13

## MINUTES

### Strategic Aboriginal Issues ADM Steering Committee Meeting – August 27<sup>th</sup>, 2014

Present:

Kurt Sandstrom, JAG  
Paul Yearwood, JAG

Cory Waters for Paul Craven, EAO  
Louise Gaudette, MARR  
Tom Jensen, FLNRO  
Kathy Eichenberger, MEM  
Lauren Mullholland, GCPE (MOJ)  
Ian Pulkington for Norm Parkes, TRAN  
David Greer, MTIC  
Michael Hudson, DOJ Canada  
Nathaniel Amann-Blake for Dave Morel,  
MEM  
Donia Snow, BC Hydro  
Lisa Leslie, GCPE MARR  
Lori Halls, ENV

1. Update from Department of Justice (Michael Hudson)  
s.13,s.14

2. Approval of Minutes from August 13 & August 19 Meetings
  - a. **COMMITTEE APPROVED:** The Minutes from the meetings held August 13 and August 19 were approved as drafted.
3. Draft Concept Papers
  - a. Review of the Concept Papers was tabled pending Neilane Mayhew's attendance at the meeting. Moved to September 3, 2014 meeting.

CONFIDENTIAL & PRIVILEGED  
For Internal Use Only – Not for Distribution

4. Approval of Terms of Reference

- a. ADM Steering Committee – Approved subject to the following addition under the heading ‘Approach’:  
“(4) Legislative Task Team – to be established.”
- b. Declared Title Task Team – Approved , as drafted.
- c. Unproven/Asserted Title – Approved as drafted.
- d. LNG Task Team – Approved subject to the following amendment to the last bullet under the heading ‘Scope’:  
“Co-ordinate engagement with industry, First Nations and the federal government.”
- e. Task Teams will no longer be referred to as Task Team 1, 2, 3, and will be referred by descriptive titles as Declared, Undeclared, LNG respectively.

5. Updates and Priorities from Task Teams

s.13,s.14

6. Communications Plan

a.s.13,s.16

- b.
- c.

7. September 2- 5<sup>th</sup> Meeting

- a. The Deputies are meeting on September 5, not September 2, and materials are required by September 4.
- b. Task Teams should be preparing a one-page update on what they have been working on and what issues have been identified, a short 30/60/90 report will be sufficient.
- c. The following dates were confirmed for information:
  - i. September 3 – Premier meeting with the Tsilhqot'in;
  - ii. September 5 – Deputy Ministers meeting;
  - iii. September 9 – Full Cabinet meeting;
  - iv. September 11 – All Chiefs meeting;
  - v. September 16 – Cabinet Working Group on First Nations.

**The Next Meeting will be held on September 3, 2014.**

DRAFT

**Roger William case (*Tsilhqot'in Nation v. BC*) Implementation**  
**Strategic Aboriginal Issues ADM Steering Committee**

**AGENDA**  
**September 3rd, 2014**

- 1. Update from Department of Justice (STANDING ITEM)**
- 2. Approval of Minutes from August 27th meeting.**
- 3. Draft Concept Papers provided for Information.**
- 4. Updates and Priorities as Identified by Task Teams (including written summaries for Deputies Meeting on September 5th).**
- 5. Communications Plan**
- 6. Next Meeting – September 10, 2014**

Page 175 of 590

Withheld pursuant to/removed as

s.14

Page 176 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 177 of 590 to/à Page 178 of 590

Withheld pursuant to/removed as

s.14

## Restall, Analyse EMPR:EX

---

**From:** Calof, Justin ABR:EX  
**Sent:** July 10, 2014 3:52 PM  
**To:** Coley, Simon J JAG:EX  
**Subject:** Fwd: FLNR meeting agenda for 1st meeting with the Tsilhqot'in

Justin Calof, Project Leader (LNG)  
Province of BC

Office: (250) 398-4247  
Mobile (250) 267-2076

Begin forwarded message:

**From:** "Ellis, Rose ABR:EX" <[Rose.Ellis@gov.bc.ca](mailto:Rose.Ellis@gov.bc.ca)>  
**Date:** July 10, 2014 at 3:36:33 PM PDT  
**To:** "Gash, Michael ABR:EX" <[Michael.Gash@gov.bc.ca](mailto:Michael.Gash@gov.bc.ca)>, "Calof, Justin ABR:EX" <[Justin.Calof@gov.bc.ca](mailto:Justin.Calof@gov.bc.ca)>, "Berg, Shane ABR:EX" <[Shane.Berg@gov.bc.ca](mailto:Shane.Berg@gov.bc.ca)>  
**Subject:** **Fw: FLNR meeting agenda for 1st meeting with the Tsilhqot'in**

Rose Ellis  
Executive Director, Negotiations and Regional Operations Division  
Ministry of Aboriginal Relations and Reconciliation  
Cell: 250-888-1980  
Office: 250-387-5237

---

**From:** Ellis, Rose ABR:EX  
**Sent:** Thursday, July 10, 2014 3:35 PM  
**To:** Mayhew, Neilane ABR:EX; Munro, Steve C ABR:EX  
**Cc:** Walters, Peter ABR:EX; Wilkie, Maria ABR:EX; Cunningham, Peter C ABR:EX; French, Shawna ABR:EX  
**Subject:** Re: FLNR meeting agenda for 1st meeting with the Tsilhqot'in

Mike Gash has been working closely with, and supporting, his colleagues in FLNR. He is planning to attend and is helping to structure the agenda so it is as positive as possible.

Steve I understand there have been some discussions to date with Chief Roger William and if there are any specific messages that the regional team can underscore please let us know.

Rose Ellis  
Executive Director, Negotiations and Regional Operations Division  
Ministry of Aboriginal Relations and Reconciliation  
Cell: 250-888-1980  
Office: 250-387-5237



---

**From:** Mayhew, Neilane ABR:EX  
**Sent:** Thursday, July 10, 2014 3:20 PM  
**To:** Munro, Steve C ABR:EX  
**Cc:** Walters, Peter ABR:EX; Wilkie, Maria ABR:EX; Cunningham, Peter C ABR:EX; French, Shawna ABR:EX; Ellis, Rose ABR:EX  
**Subject:** FW: FLNR meeting agenda for 1st meeting with the Tsilhqot'in

MARR Regional staff are aware and I believe they are participating in the meeting. Rose can confirm.

(Sorry to wade in Peter but I have been working broadly with Rose and Krista on the William response so I knew about this).

**Neilane Mayhew**  
Assistant Deputy Minister  
Strategic Initiatives Division  
Ministry of Aboriginal Relations and Reconciliation  
Phone: 250 356-1439  
Fax: 250 387-6073

---

**From:** Munro, Steve C ABR:EX  
**Sent:** Thursday, July 10, 2014 3:09 PM  
**To:** Walters, Peter ABR:EX; Wilkie, Maria ABR:EX; Mayhew, Neilane ABR:EX; Cunningham, Peter C ABR:EX; French, Shawna ABR:EX  
**Subject:** FW: FLNR meeting agenda for 1st meeting with the Tsilhqot'in  
**Importance:** High

Peter

FLNR has been instructed to engage with Chief William—MARR regional staff should be aware. Should they participate in the meeting?

Steve Munro  
Deputy Minister  
Ministry of Aboriginal Relations & Reconciliation  
(250) 356-1394

---

**From:** <Moyses>, Geoff Moyses <[Geoff.Moyse@gov.bc.ca](mailto:Geoff.Moyse@gov.bc.ca)>  
**Date:** Thursday, 10 July, 2014 9:53 AM  
**To:** Tim Sheldon <[Tim.Sheldan@gov.bc.ca](mailto:Tim.Sheldan@gov.bc.ca)>, Steve Munro <[steve.c.munro@gov.bc.ca](mailto:steve.c.munro@gov.bc.ca)>  
**Subject:** FW: FLNR meeting agenda for 1st meeting with the Tsilhqot'in

Apropos of our discussion this morning...just fyi re engagement with Tsilhqot'in.

---

**From:** O'Sullivan, Susan FLNR:EX  
**Sent:** Thursday, July 10, 2014 7:49 AM  
**To:** Moyses, Geoff JAG:EX; Goode, Diane M FLNR:EX; Hunter, Charles FLNR:EX  
**Cc:** Manwaring, Richard G FLNR:EX; MacDougall, Gerry L FLNR:EX; Vanderburgh, Ken FLNR:EX; Tack, Stefan E FLNR:EX

**Subject:** FLNR meeting agenda for 1st meeting with the Tsilhqot'in  
**Importance:** High

sec 16.

Attached is a proposed agenda for FLNR's first meeting with Tsilhqot'in/Xeni Gwet'in. We will likely be contacting Chief Roger William on Friday as our initial contact and as an attempt to arrange a meeting with Xeni Gwet'in. We expect to confirm in that phone call whether Chief Roger is the appropriate contact on behalf of the SCC Decision. Before Friday, we may be able to confirm through other means that Chief Roger is the contact. There is the possibility that Chief Joe Alphonse, the Tribal Chief of the Tsilhqot'in Nation may have a leadership as well in response to the SCC.

We intend to share this agenda once a meeting has been arranged. We are also finalizing a comprehensive list of decisions that exist over the Aboriginal title area primarily for our internal government use and then secondly, we will pull out a simplified list that we intend to share at this first meeting.

We are looking for a review by the end of today on the attached.

Thank you.

Susan O'Sullivan  
Manager, First Nations Relations, Cariboo Region  
Ministry of Forests, Lands and Natural Resource Operations  
Williams Lake

Find us on facebook: [Good NeighbourBC](#)

Phone: (250) 398-4347

Fax: (250) 398-4790

Cell: (250) 303-0607

-----  
This e-mail message and any attachments are confidential. Any dissemination or use of this information by a person other than the intended recipient is unauthorized. If you are not the intended recipient, please notify me by return e-mail, do not open any attachment and delete this communication and any copy. Thank you

Page 182 of 590 to/à Page 190 of 590

Withheld pursuant to/removed as

s.14; s.16

## Restall, Analise EMPR:EX

---

**From:** Ellis, Rose ABR:EX  
**Sent:** July 7, 2014 1:30 PM  
**To:** Coley, Simon J JAG:EX  
**Subject:** FW: Update - Internal Work on William Response

514

Internal document, for info only.

---

**From:** Mayhew, Neilane ABR:EX  
**Sent:** July-04-14 4:57 PM  
**To:** Cowtan, Pamela ABR:EX; Gash, Michael ABR:EX; Lizée, Yvette ABR:EX; Poland, Peter ABR:EX; Kerr, Paul ABR:EX; Gunnarsen, Krista A ABR:EX; Low, Bruce ABR:EX; Banford, Alexandra R ABR:EX; Morris, Tricia ABR:EX; Robertson, Linda G ABR:EX; ABR NROD Executive; Perrins, Greg ABR:EX; de Waal, Penny ABR:EX; Brunette, Greg ABR:EX; Cockle, Darlene ABR:EX; Donaldson, Nedinska ABR:EX; Draeseke, Rob ABR:EX; Dunn, Stephen L ABR:EX; Ellis, Elisabeth ABR:EX; Franklin, Janice ABR:EX; Gilmore, Tena ABR:EX; Gunnarsen, Krista A ABR:EX; Heaney, Lincoln ABR:EX; Maloughney, Mary Sue ABR:EX; Matsubuchi, Michael ABR:EX; McCombs, Brendan ABR:EX; Miles, Barbara S ABR:EX; Morris, Tricia ABR:EX; Murali, Bala ABR:EX; Nash, Laurel ABR:EX; Puggioni, Giovanni ABR:EX; Pyper, John ABR:EX; Roberts, Lloyd E ABR:EX; Simonson, Terry ABR:EX; Smith, Dugald ABR:EX; Wright, Milt ABR:EX  
**Cc:** Walters, Peter ABR:EX  
**Subject:** Update - Internal Work on William Response

Further to the recent DM message note, I am writing to provide some information for staff on the internal MARR response to the recent SCC decision and what can be expected over the next couple of weeks. Please feel free to share with MARR internally as required.

1. Decision Response Plan – Immediate response is focussed on supporting JAG, initial coordination with NR Sector, stakeholders and response with TN. This work is being led out of LRB with support from DMO. Please contact Mary-Sue Maloughney and Krista Gunnarson if you have any questions.
2. Strategic and Policy Response - As can be expected, there is lots of interest in how this will shape up over the coming weeks. Key milestones will be final legal analysis and policy direction from government. In the interim:
  - Internally, coordination will take place through 3PT to develop preliminary recommendations on policy priorities. These recommendations will need to be refined as the legal analysis is completed and we receive direction from government. We will also be engaging with agencies through the CAART, First Nations Secretariat and NRS ADMS next week.
  - Existing policy working groups (e.g. Shared Decision Making Working Group) will continue to support corporate policy response.
  - We also expect that some new policy committees, both with MARR and agency staff, will need to be struck to ensure we are building on experience we all have implementing our current policy framework. Contact Terry Simonson, Rose Ellis or Krista if you have any questions.
3. Negotiations Response - Recognizing that several staff are participating in negotiations over the next couple of weeks, we want to ensure that we are coordinated in our response and approach at tables. To that end, there are a couple of initiatives underway that will help support response on the ground and inform the broader strategic policy response noted above.

- NROB is carrying out an assessment to existing mandates and anticipated response from FNs as they consider the terms of their current agreements. Our full suite of agreements are in scope, including non-treaty and treaty (Snr. Managers in NROD and SID have been asked to provide this information to Rose Ellis).
- NROB will also be providing key messages to support implementation of G2Gs and support on strategies for current negotiations. Lead Penny de Waal.
- s.14,s.16

We appreciate the efforts and collaboration that is underway across Divisions to respond to this new direction. Should staff have any questions regarding potential implications for any of the projects you are working on please bring those forward through your Snr. Manager or project leader or contacts noted above. As previously indicated, all media inquiries should be directed to Corinna Filion.

**Neilane Mayhew**

Assistant Deputy Minister

Strategic Initiatives Division

Ministry of Aboriginal Relations and Reconciliation

Phone: 250 356-1439

Fax: 250 387-6073

Page 193 of 590 to/à Page 213 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

## Restall, Analise EMPR:EX

---

**From:** Robb, Peter L. EMPR:EX  
**Sent:** September 10, 2018 10:38 PM  
**To:** Harvey, James AG:EX; Bailey, Scott EAO:EX; Coley, Simon J EMPR:EX; Nash, Laurel IRR:EX; Thomson, Barbara L AG:EX  
**Cc:** Chace, Julie EMPR:EX; Avila, Amy EMPR:EX  
**Subject:** Fwd: Today's developments

514

FYI

Begin forwarded message:

**From:** "John W. McManus" <[JMcManus@tasekominer.com](mailto:JMcManus@tasekominer.com)>  
**Date:** September 10, 2018 at 6:49:59 PM PDT  
**To:** "Robb, Peter L. EMPR:EX" <[Peter.Robb@gov.bc.ca](mailto:Peter.Robb@gov.bc.ca)>  
**Subject:** Today's developments

Hi Peter. As discussed there was another injunction petition brought by tng heard in Vancouver today.

On the judges recommendation, Taseko has agreed to not proceed with mechanical disturbance prior to her final injunction decision slated for 930 am Monday september 17. Tng has agreed that although they also have people in the area in the interim and Taseko continues to do non disturbance work, both parties should respect each other's presence.

We're planning to move earthmoving gear and loggers in on next Tuesday as a result. In the meantime we continue reconnaissance and planning activities and camp construction.

Judge asked our counsel if it was possible for BC to postpone the EA certificate deadline. Our answer was "not that we know of".

Sent from my BlackBerry 10 smartphone on the Rogers network.

---

"Notice Regarding Transmission

This message is intended only for the person(s) to whom it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this communication is prohibited. Please notify us of the error in communication by telephone (778-373-4533) or by return e-mail and destroy all copies of this communication. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of Taseko Mines Limited or any affiliated or associated company. The recipient should check this email and any attachments for the presence of viruses. Neither Taseko Mines Limited nor any affiliated or associated company accepts any liability for any damage caused by any virus transmitted by this email. Thank you."

See 13.

## Restall, Analise EMPR:EX

---

**From:** Sheldon, Tim FLNR:EX  
**Sent:** February 19, 2015 9:08 PM  
**To:** Henderson, Kim N PREM:EX  
**Cc:** Nikolejsin, Dave MEM:EX; Carr, Steve MNGD:EX; Mayhew, Neilane ABR:EX; Coley, Simon J JAG:EX; Moyse, Geoff JAG:EX; Caul, Doug D EAO:EX; Munro, Steve C ABR:EX  
**Subject:** Re: TNG

hi Kim, I know its late but here are my quick thoughts that summarize quid pro quos from FLRNO perspective:

This is based on the themes from their work plan.

s.13,s.16

Sent from Tim Sheldon's iPad

On Feb 10, 2015, at 4:39 PM, Henderson, Kim N PREM:EX <[Kim.Henderson@gov.bc.ca](mailto:Kim.Henderson@gov.bc.ca)> wrote:

Hi, following up from our meeting last week can you please do some thinking within your teams about possible QPQs that could be considered as part of TNG negotiations should MARR receive that direction. Neilane would appreciate hearing from you by the end of the week with your suggestions.

Thanks.



Page 216 of 590 to/à Page 220 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

Page 221 of 590

Withheld pursuant to/removed as

s.13; s.14; s.16; s.12

## Restall, Analise EMPR:EX

see 12.

**From:** Hutchings, Geraldine J JAG:EX  
**Sent:** November 10, 2014 8:56 AM  
**To:** JAG LSB Ab Law Legal Staff  
**Subject:** FW: Task Teams - ADM Steering Committee on Strategic Aboriginal Issues

fyi

---

**From:** Mayhew, Neilane ABR:EX  
**Sent:** Sunday, November 9, 2014 3:17 PM  
**To:** Gash, Michael ABR:EX; 'chris.roine@bchydro.com'; Scraba, Erin H EAO:EX; Leahy, Jeff ENV:EX; Stepaniuk, Daryl R ENV:EX; O'Sullivan, Susan FLNR:EX; Tack, Stefan E FLNR:EX; Vanderburgh, Ken FLNR:EX; Mah-Paulson, May MEM:EX; Messmer, Mark J MEM:EX; Porter, Charles OGC:EX; Hubner, Todd B TRAN:EX; Puggioni, Giovanni ABR:EX; Waters, Cory EAO:EX; Brown, David R ENV:EX; Mana, Myles FLNR:EX; Avila, Amy OGC:IN; Gow, Lisa A TRAN:EX; Lutz, Carl B TRAN:EX; 'doug.little@bchydro.com'; ABR TT2  
**Cc:** Craven, Paul EAO:EX; Wheler, Francesca M ABR:EX; Morel, David P MEM:EX; Standen, Jim ENV:EX; Jensen, Tom R FLNR:EX; Paine, Julian C MNGD:EX; Moyse, Geoff JAG:EX; Hutchings, Geraldine J JAG:EX; Gordon, Matt GCPE:EX  
**Subject:** Task Teams - ADM Steering Committee on Strategic Aboriginal Issues

As you may know, the Assistant Deputy Minister Steering Committee on Strategic Aboriginal Issues (ADMSC on SAI) has reformed into a smaller working group with a specific focus to deliver the Cabinet direction on BC's Tsilhqot'in response. This includes the implementation of nine short term and three long term strategies, which have been articulated in a cross-government work plan.

s.13,s.16

I want to personally thank you for all your hard work, insights and technical expertise you brought to your task team. Your effort has moved the needle on some very hard topics and, although the work is not over, I appreciate the time and energy you have given, and continue to give, on these critical priorities for BC. For those of you on task team 2, your Chair, Krista Gunnarsen, will be able to provide more information over the coming weeks.

On behalf of all the members of the ADM committee, thank you again for your contributions.

**Neilane Mayhew**

Associate Deputy Minister and

Chief Operating Officer

Ministry of Aboriginal Relations and Reconciliation

Phone: 250 356-1439

Fax: 250 387-6073

## Restall, Analyse EMPR:EX

---

**From:** Hutchings, Geraldine J JAG:EX  
**Sent:** September 24, 2014 12:08 PM  
**To:** JAG LSB Ab Law Legal Staff  
**Subject:** FW: Implementation of TN LOU  
**Attachments:** Tsilhqot'in Nation Letter.pdf; Tsilhqotin\_XeniGwetin\_LOU\_ver02.pdf

Hi

If interested in being a part of this work, please let me know. thanks

---

**From:** Ellis, Rose ABR:EX  
**Sent:** Friday, September 19, 2014 9:30 AM  
**To:** Moyse, Geoff JAG:EX  
**Subject:** Implementation of TN LOU

Geoff,

We are quickly moving to the implementation stage for the TN LOU that was signed by the Premier on Sept 10. A lot of work ahead, as you are aware!

I am assembling a provincial team. Doug Konkin has been brought onboard as Chief Negotiator lead and we will have a full team of agency participants, at the Executive and operational/regional staff level to support. I wanted to check in with you to get a recommendation on JAG lead.

The specific work that will be required:

- Strategy for transition of declared area
- Development of a process for discuss remedies for breach of Crown duty in the decision
- Development of RA and legal advice, which will include advice on revenue sharing and shared decision making.

Obviously having a strong connection to the current work already underway corporately on the Tsilhqot'in decision will be key. Can you please advise on who we might be able to pull into the team.

Thanks Geoff

Rose Ellis  
Executive Director, Negotiations and Regional Operations Division  
Ministry of Aboriginal Relations and Reconciliation  
Cell: 250-888-1980  
Office: 250-387-5237



September 9, 2014

Ref. 35253

Nits'il?in (Chief) Joe Alphonse  
Tribal Chairman – Tsilhqot'in National Government  
Tl'etinqox Government Office

Nits'il?in Roger William  
Vice Chairman – Tsilhqot'in National Government  
Xeni Gwet'in First Nations Government

Nits'il?in Francis Laceese  
Tl'esqox First Nation

Nits'il?in Percy Guichon  
Tsi Deldel First Nation

Nits'il?in Bernie Mack  
?Esdilagh First Nation

Nits'il?in Russell Ross Myers  
Yunesit'in First Nations Government

Nits'il?in Yaz (Councilor) Marilyn Baptiste  
Xeni Gwet'in First Nations Government

Nits'il?in Yaz Loretta Williams  
Xeni Gwet'in First Nations Government  
253-4<sup>th</sup> Avenue North  
Williams Lake BC  
V2G 4T4

Dear Chiefs of the Tsilhqot'in Nation and Councilors of Xeni Gwet'in:

I would like to acknowledge the positive progress that has been made between the Tsilhqot'in Nation (TN) and the Province of British Columbia to begin to move forward

.../2

---

Ministry of Aboriginal Relations  
and Reconciliation

Office of the Deputy Minister

Mailing Address:  
Box 9100 Stn Prov. Govt  
Victoria BC V8W 9B1

Website: [www.gov.bc.ca/arr](http://www.gov.bc.ca/arr)

in addressing the recent decision by the Supreme Court in Tsilhqot'in Nation. The Province of British Columbia greatly values the relationship with the TN and wishes to continue to enhance our government-to-government relationship.

Following the September, 3 2014 meeting with representatives of the TN and the Honourable Christy Clark, Premier, significant joint efforts have been made to develop a proposed path forward for longer-term reconciliation negotiations. As provincial lead, I have been working closely with the TN representatives and we are making good efforts on a proposed letter of understanding (LOU) between the Province of British Columbia, the Xení Gwet'in, and Tsilhqot'in National Government on behalf of the TN, that commits to developing a lasting protocol agreement with the TN by March 31, 2014.

An important first step for moving forward with our government-to-government relationship while negotiations are underway on the protocol agreement is for British Columbia to provide short-term funding and commit to address key immediate issues. As such, the Province commits to the following:

1. **Support LOU Implementation:** The Province will provide \$600,000 to support the TN in moving forward in addressing shared priorities and negotiations of the protocol agreement by March 31, 2015.
2. **Bridge funding related to forestry activity:** Recognizing the TN concerns with the current proposed forestry agreement, the Province is committed to provide a \$1.6 million one-time allocation equal to the annual benefits received under the forest revenue-sharing agreement that expired April 2014. This commitment will be replaced by a more permanent commitment that will be part of the protocol agreement.
3. **Bridge funding related to Gibraltar Mine:** The Province will commit to work with the Tsilhqot'in to resolve the current outstanding technical issues (confirming offer amount) and make best efforts to develop an interim agreement, including a reasonable financial component, within two months. This commitment will be replaced by a more permanent commitment that will be part of the protocol agreement.
4. **Develop joint response to Mount Polley dam breach:** The Province is committed to actively engage, with a goal to develop a mutually-agreable solution to address aspects of the breach of the tailings storage facility, including capacity funding to participate in the independent and government reviews for Mount Polley and Gibraltar Mine. Given the urgency of this matter and the progress made to date, the Ministry of Energy and Mines will continue to lead for the Province and work with the TN in the process currently established.

.../3

I look forward to continuing to work with the TN to continue to advance the government-to-government relationship.

Please contact me directly with any questions. If you have any questions regarding the Mount Polley negotiations, please contact Mr. David Morel, Assistant Deputy Minister, Ministry of Energy and Mines, at 250-942-0473.

Yours truly,

A handwritten signature in cursive script, appearing to read "Steve Munro".

Steve Munro  
Deputy Minister

pc: Crystal Verhaeghe  
Executive Director  
Tsilhqot'in National Government

Dave Nikolejsin  
Deputy Minister  
Ministry of Energy and Mines

David Morel  
Assistant Deputy Minister,  
Ministry of Energy and Mines





# LETTER OF UNDERSTANDING

Dated for reference September 10, 2014

*between*

XENI GWET'IN FIRST NATIONS GOVERNMENT ("XENI GWET'IN"), TSILHQOT'IN NATIONAL GOVERNMENT, on behalf of the TSILHQOT'IN NATION

*and*

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA  
("British Columbia")

(Collectively, the "Parties")

## SHARED VISION:

- A. This Letter of Understanding ("Letter") commits the Parties to strengthening their government-to-government relationship by undertaking negotiations in good faith towards a lasting reconciliation agreement between the Tsilhqot'in people and the Province of British Columbia.
- B. On June 26, 2014, the Supreme Court of Canada rendered its unanimous judgment in Tsilhqot'in Nation, recognizing Aboriginal title for the first time in Canadian history, in the homeland of the Tsilhqot'in people. This Letter establishes an initial framework in response to the Tsilhqot'in Nation judgment.
- C. The Tsilhqot'in Nation judgment offers a profound opportunity for British Columbia, the Tsilhqot'in Nation, and all First Nations, to renew and strengthen a shared vision of First Nations as true partners in the economic, political and social future of this province.
- D. The Parties wish to embrace this historic opportunity and explore new ways to effect a just and enduring reconciliation for the Tsilhqot'in people and to lead the way forward with new and innovative approaches to Crown-First Nations reconciliation.

## ACKNOWLEDGMENT & RECONCILIATION

1. The Parties agree to strengthen their relationship and move forward based on recognition and respect. In this spirit, the Premier has accepted the invitation of the Tsilhqot'in Nation to:
  - a. meet with the Tsilhqot'in leadership, elders, youth and communities in Xeni Gwet'in, on Tsilhqot'in Aboriginal title lands, in Fall 2014; and
  - b. attend the 150 year commemoration of the Chilcotin War of 1864.
2. British Columbia agrees to take steps to redress, through a statement in the legislature and other means, the wrongful trial and hanging in 1864/65 of the Tsilhqot'in Chiefs, who died defending their lands, their people and their way of life. British Columbia will engage closely with the Tsilhqot'in at each stage of this process of redress.

## PROCESS

3. Within 30 days, the Parties will establish a Leadership Table comprised of the Tsilhqot'in Chiefs and relevant Ministers. The Leadership Table will meet no less than twice before March 31, 2015, and thereafter as required until longer-term arrangements are agreed to by the Parties, to set goals, monitor progress and provide direction to the Working Group. The Premier will appoint a senior official to participate at the Leadership Table and report directly to the Premier.
4. Within 30 days, the Parties will establish a Working Group comprised of senior officials from the key Ministries, and designates of the Xeni Gwet'in and Tsilhqot'in Nation. The Working Group will hold regular monthly meetings and implement the direction of the Leadership Table. The Working Group will also be enabled to deal with any urgent short-term issues that arise between meetings.
5. The Leadership Table and Working Group will prepare a work plan and terms of reference to accomplish the priorities and actions identified in this Letter.

## PRIORITY ISSUES

6. The Parties will work in good faith to develop detailed options to address the following priorities at the Leadership Table and through the Working Group:
  - a. transition of the Title Area to Tsilhqot'in management, benefit and control;
  - b. a process to discuss remedies for the breach of Crown duty found in Tsilhqot'in Nation;
  - c. establishing innovative interim financial arrangements, which the Parties intend to replace with enduring agreements, to share benefits from resource development in the Tsilhqot'in territory;
  - d. exploring other economic opportunities for the Tsilhqot'in communities;
  - e. addressing the health, education and socio-economic well-being of the Tsilhqot'in people;
  - f. developing a Protocol Agreement for Tsilhqot'in territory, as described below; and
  - g. other priorities as identified by the Parties.

## PROTOCOL AGREEMENT

7. The Parties will make best efforts to negotiate a Protocol Agreement by March 31, 2015. The Protocol Agreement will set out a comprehensive framework for negotiations to reconcile the rights, interests and goals of the Tsilhqot'in Nation and British Columbia in Tsilhqot'in territory (including both interim and long-term measures) and commit sufficient resources to support its implementation.

## FUNDING & RESOURCES

8. The Parties agree that the commitment of adequate funding and resourcing by British Columbia is essential to the success of this Letter. The Parties will determine adequate bridge funding to support the shared priorities and processes identified in this Letter, until the Protocol Agreement is concluded and longer-term funding commitments are in place.

## OTHER

9. The Parties acknowledge that reconciliation requires the participation of Canada and that both Parties will work to encourage Canada's participation.
10. The Parties agree that industry has a critical role to play in achieving a new vision and the Parties will explore opportunities to engage industry.
11. This Letter does not create, amend, define, affirm, recognize, abrogate or derogate from any aboriginal rights or title of the Tsilhqot'in Nation which are recognized and affirmed by section 35 (1) of the Constitution Act, 1982.

Signed on verso.

IN WITNESS WHEREOF *the Parties hereby execute this Letter as of the date first written above.*

ON BEHALF OF THE TSILHQOT'IN NATION:

\_\_\_\_\_  
NITS'IL?IN (CHIEF) JOE ALPHONSE  
Tribal Chairman – Tsilhqot'in National Government  
Tl'etincox Government Office

\_\_\_\_\_  
NITS'IL?IN PERCY GUICHON  
Tsi Deldel First Nation

\_\_\_\_\_  
NITS'IL?IN ROGER WILLIAM  
Vice Chairman – Tsilhqot'in National Government  
Xeni Gwet'in First Nations Government

\_\_\_\_\_  
NITS'IL?IN BERNIE MACK  
?Esdilagh First Nation

\_\_\_\_\_  
NITS'IL?IN FRANCIS LACEESE  
Tl'esqox First Nation

\_\_\_\_\_  
NITS'IL?IN RUSSELL ROSS MYERS  
Yunesit'in First Nations Government

ON BEHALF OF THE XENI GWET'IN FIRST NATIONS GOVERNMENT:

\_\_\_\_\_  
NITS'IL?IN YAZ (COUNCILOR) MARILYN BAPTISTE

\_\_\_\_\_  
NITS'IL?IN YAZ LORETTA WILLIAMS

ON BEHALF OF THE PROVINCE OF BRITISH COLUMBIA:

\_\_\_\_\_  
HON. CHRISTY CLARK  
Premier

\_\_\_\_\_  
HON. JOHN RUSTAD  
Minister of Aboriginal Relations and Reconciliation

Page 230 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 231 of 590

Withheld pursuant to/removed as

s.16; s.14

OK to release :

**Restall, Analyse EMPR:EX**

---

**From:** Hutchings, Geraldine J JAG:EX  
**Sent:** July 17, 2014 9:20 AM  
**To:** JAG LSB Ab Law Legal Staff  
**Subject:** Junger power point  
**Attachments:** Junger Tsilhqotin decision Powerpoint Presentation-final.pdf

For information.

Geraldine Hutchings  
Acting Group Supervisor  
Aboriginal Law Group Tel: (250) 387 0691

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

The logo for McMillan, featuring the word "mcmillan" in a lowercase, sans-serif font. The letters are white and set against a dark grey rectangular background.

# **Tsilhqot'in Nation v. British Columbia**

Implications for the Natural Resource Sector

Robin Junger

July 16, 2014

# OPINION | Proposed resource projects west of Rockies need 'time-out'

Supreme Court ruling in favour of First Nations means seismic shifts in resources landscape

## Tsilhqot'in First Nation ruling means revisiting the James Bay Treaty, says lawyer

Aboriginal ruling in B.C. has implications for Ontario

First Nations in Canada gets its land back

BOB RAE

The Supreme Court's B.C. land-title decision? It's more important than you think

## SCOC title claim decision could apply to large parts of Quebec, expert says

James O'Reilly, aboriginal-rights lawyer, says First Nations could claim land in most of northern Quebec

## Green party leaders says Northern Gateway pipeline is 'dead'

Supreme Court's Tsilhqot'in First Nation ruling a game-changer for all

GORDON GIBSON

The claims are just. But the Supreme Court ruling means chaos

**This land is now their land, and it always was**

High court's aboriginal title ruling changes entire natural-resource landscape, say experts

BY DENE MOORE, THE CANADIAN PRESS    JUNE 26, 2014

mcmillan

## Ian Mulgrew: First Nations mistaken in their celebration of Supreme Court ruling

BY IAN MULGREW, VANCOUVER SUN COLUMNIST    JUNE 29, 2014

## Why the Supreme Court's Tsilhqot'in land title decision is no game changer



ROBIN JUNGER, SPECIAL TO FINANCIAL POST | July 10, 2014 | Last Updated:

Jul 10 4:32 PM ET

More from Special to Financial Post



## Tsilhqot'in Decision: The Sky Is Not Falling

June 27, 2014    Osler's Aboriginal Law Group

mcmillan

3



Title lands = 1750 sq. km (0.18% of BC)



## Key findings – old law

- confirmation of existing law from *Delgamuukw* and *Sparrow*.
- to prove title, there must be pre-sovereignty occupation that is sufficient, continuous (if present occupation is relied on as proof of occupation pre-sovereignty) and exclusive.



## Key findings – old law (cont.)

- title is unique beneficial interest in the land. Akin to fee simple ownership.
- encompasses the right to the use and occupation of the land held pursuant to that title for a variety of purposes.



## Key findings – old law (cont.)

– title confers:

- the right to decide how the land will be used;
- the right of enjoyment and occupancy of the land;
- the right to possess the land;
- the right to the economic benefits of the land; and
- the right to pro-actively use and manage the land.



## Key findings – old law (cont.)



- held collectively for both present and future generations.
- can only be disposed of to the Crown and cannot be used in ways that would substantially deprive future generations of the land.

## Key findings – old law (cont.)



- infringements may occur if justified.
- as per *R v Sparrow*, government must show:
  1. that it discharged its procedural duty to consult and accommodate;
  2. that its actions were based on a compelling and substantial objective; and
  3. that the governmental action is consistent with the Crown's fiduciary obligation to the group.

## Key findings – old law (cont.)

- “In the wake of *Gladstone*, the range of legislative objectives that can justify the infringement of [A]boriginal title is fairly broad.”
- development of agriculture, forestry, mining, and hydroelectric power, as well as the economic development of the province, are examples of objectives that can justifiably infringe title.



## Key findings – clarified law

**CLARIFICATION**

- “occupation” means regular and exclusive use of land and some clarification that title is not limited to specific historic village sites.
- accepts approach of trial judge, not BC Court of Appeal.
- but notes at paragraphs 43 and 56 that these findings are consistent with prior SCC decisions.



## Key findings – clarified law (cont.)

- infringements must not substantially deprive future generations of the benefit of the land.

**CLARIFICATION**

## Key findings – new law

- provincial laws of general application apply to title lands.
- province can infringe title when justified.
- constitutional law doctrine of “interjurisdictional immunity” has no application in the context of infringement of s. 35 rights.
- ends a debate that has existed since *Delgamuukw*.





## Consent is encouraged, but...

- is complemented by right to justifiably infringe.
- may not be possible at all.
- when is existence of consent determined? At proposal stage? After EA studies completed? After permit terms and conditions are set?
- who among the aboriginal group(s) can issue consent? How will internal group decisions be made and manifest?



## Consent is encouraged, but... (cont.)

- will aboriginal members be able to challenge decision to consent to infringement through JR?
- what if the aboriginal community changes its mind?
- what about future phases of project (e.g. mine life extensions)?
- will terms of consent agreements and payment be made public?



## Responses from First Nations to date



"I didn't think it would be so definitive," Phillip added. "I was actually prepared for something much less. It's not very often that I'm without words, and I'm quite overwhelmed at the moment." — *Grand Chief Stewart Phillip, president of Union of B.C. Indian Chiefs*



"Individual communities are going to have to decide how they proceed, whether it is through a negotiated treaty or litigation. Esk'etemc will consider our options and be prepared to go to court again if necessary to prove title to our lands," - *Esk'etemc Chief Charlene Belleau*



"This is the end of denying rights and title ... This decision will bring much needed certainty for First Nations, government and industry. This case is about us regaining our independence—to be able to govern our own Nation and rely on the natural resources of our land. We are ready to move forward in this new relationship with government and industry. That work starts today."— *Tsilhqot'in Chief Joe Alphonse*

## Responses from First Nations to date (cont.)



Simgiigyet'm Gitwangak and Gitsegukla have issued eviction notices today to all Sports Fisheries, Forest Industry and CN Rail to leave Gitxsan lax yip by August 4, 2014. This notice is pursuant to ayokim Gitxsan supported by the decision by the Supreme Court of Canada that the Crown must obtain consent and preserve the interests of the Gitxsan before carrying on any activities on Gitxsan lax yip, 33,000 sq km of territory in northwestern British Columbia. – *Gitxsan Eviction Notice*

### **Northern Gateway pipeline: First Nations outline constitutional challenges**

Grand Chief Stewart Phillip says at least 9 legal challenges have been launched (CBC News)



"The Tahltan Central Council has today announced its intention to prepare an Aboriginal title and rights claim against the Province of British Columbia and Fortune Minerals Ltd for the controversial Arctos Anthracite Coal project proposed for Mt. Klappan in the Klappan area of Tahltan territory."  
– *Tahltan Central Council Statement*



mcmillan

## Response from government to date



“The decision provides additional certainty around processes and tests that are applied to the relationship between the Province and Aboriginal peoples ... We believe this is the right approach as it enables First Nations to fully participate in economic development.” – *Attorney General and Minister of Justice Suzanne Anton*



“Our government believes that the best way to resolve outstanding aboriginal rights and title claims is through negotiated settlements that balance the interests of all Canadians” - *Aboriginal Affairs Minister Bernard Valcourt*



B.C. Premier Christy Clark and her cabinet have set a tentative date of Sept. 11 to meet with First Nations leaders and discuss the Supreme Court of Canada's recognition last week of aboriginal title in the Tsilhqot'in decision.

## Responses from industry to date



Business Council of  
British Columbia

"For well over a decade, and increasingly over the past number of years, businesses working on the land base in British Columbia have been engaging collaboratively with First Nations to build new economic relationships... today's Supreme Court decision is an important clarification of aboriginal title and provides for greater certainty around the application of provincial law and regulation on the land base in British Columbia... - *Greg D'Avignon, President and Chief Executive Officer of the Business Council of BC*



"We at AME BC know that the path forward is for the federal and provincial governments to continue consulting with the Tsilhqot'in Nation... The outcome of such consultation will enable further investment from the mineral exploration and development industry that will create jobs and shared economic opportunity for all British Columbians, including the people of the Tsilhqot'in Nation." - *Karina Briño, president and CEO of the Mining Association of B.C.*

mcmillan

19



	Tsilhqot'in litigation	Nisga'a Treaty	Tsawwassen Treaty
<b>Years to Conclude</b>	16 Years	24 Years	16 Years
<b>Total Land</b>	1,750 square kilometres	2,019 square kilometres	7.24 square kilometres
<b>Subsistence Rights</b>	Rights to hunt and trap in the region for subsistence and to capture wild horses for domestic uses.	Rights to harvest fish, aquatic plants, oolichan, intertidal bivalves, wildlife and migratory birds in certain areas for domestic purposes.  Yearly allocations for some designated species.	Rights to harvest fish, aquatic plants, intertidal bivalves, wildlife and migratory birds in certain areas for domestic purposes.  Yearly allocations for some species.
<b>Commercial Rights</b>	NA	Commercial yearly allocation of salmon.	Treaty related harvest agreement provides for commercial fisheries in certain areas; guaranteed commercial allocation of Fraser River salmon.
<b>Law-Making Power</b>	NA	Right to self-government and the authority to make laws.	Right to self-government and the authority to make laws.
<b>Capital Transfers (for commercial funding, economic development, etc)</b>	NA	\$196.1 million dollars (over 15 years)	\$13.9 Million (over 10 years)
<b>Canada's contribution to a Fisheries Conservation Fund</b>	NA	\$10.3 Million	\$1 Million
<b>Transition, training and one-time funding</b>	NA	\$40.6 Million	\$15.8 Million
<b>Other Economic Benefits</b>	NA	\$11.8 Million to participate in the general commercial fishery.	\$2 M for release of rights and interest in mines and minerals under English Bluff.
<b>Other Benefits</b>	NA	Funding to help deliver health, education, and social services to their members and other area residents.	Ongoing funding of \$2.8 million for programs and services in the first Fiscal Finance Agreement; renegotiated every five years.

## What may we expect from First Nations?

- significantly more title litigation? *Maybe*
- renewed interest in / commitment to the treaty process? *Likely*
- more shared decision-making, ECDA's and revenue sharing? *Likely*
- increased consultation expectations based on asserted but unproven title? *Very likely*

## How will government respond?

**A man that flies from his fear may find that he has only taken a short cut to meet it.”**

— J.R.R. Tolkien

- governments already struggle to make decisions involving aboriginal rights and title claims.
- decision can be influenced by non-legal matters.
- greatest risk to industry is if governments fail to embrace the authority the decision gives.

## Will we see new policy and legislation?

- government may review and refine consultation policies.
- legislation is another option – e.g. an Aboriginal Title and Reconciliation Act.



Legislation could be used to:



- address the immediate questions investors have. (e.g. what is effect of title on existing or future mineral or forest tenures on proven title lands)
- limit third party actions on title lands where and as appropriate.
- spell out when and what compensation will be available to third parties affected by aboriginal title.

## Legislation could be used to: (cont.)

- include procedural requirements and decision-making principles to ensure any infringements are justified.
- provide for First Nation compensation when justified title infringements occur (e.g. similar to the existing revenue sharing program for mining in BC)
- delegate powers where appropriate to aboriginal groups / persons to administer provincial laws applying on title lands.

## Implications for the mining industry

- SCC has said mining is one of the compelling governmental objectives that can justify infringement
- it is unclear whether or not proven title includes mineral rights.
- even if it does, the province can continue to issue tenures and regulate mining on lands for which title has been proven subject to aboriginal consent or justification.



## Implications for the forest industry



- provisions of the *Forest Act* did not apply to timber located on those lands because of Court's interpretation of "Crown timber".
- the province can amend the legislation to include timber on established aboriginal title as long as it is justified.
- forestry laws related to things like fire prevention and pest management would likely not be considered infringements at all.



## Implications for the LNG sector



- no title proven in relevant areas.
- some area has been settled by Nisga'a treaty.
- government and many relevant players have stated willingness to work constructively.
- fact that provincial laws of general application apply to title land and province can now infringe helps with certainty.

## Implications for the LNG sector (cont.)

- highly likely that LNG infrastructure development would be a compelling and substantial interest under justification analysis.
- Challenges may be not so much with the law but First Nation expectations.

## Implications for private land owners

- prior to 1982, rights and title could be extinguished by certain government actions.
- but majority in *Delgamuukw* held that province could not extinguish title, as it is core federal jurisdiction.
- SCC has now distanced itself from that finding, calling it mere “obiter”.



## Implications for private land owners (cont.)



- raises question of whether province could extinguish aboriginal title through issuance of fee simple before 1982.
- issue was avoided in Tsilhqot'in case.



## Risk

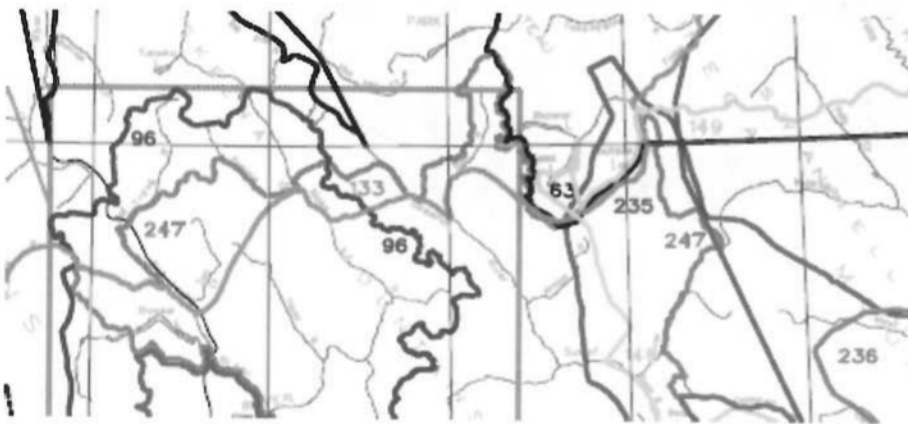
The possibility of loss or harm in exposure to a chance of damage involving uncertain danger in the creates or suggests a hazard or the degree of probability of suc

## How can proponents reduce risk?

- know the ethnohistorical background of an area and get preliminary strength of claim opinions.
- consider whether projects falls within SCC guidance as to compelling governmental interest.
- ensure the consultation record is well documented and robust.
- ensure compelling reasons for project are documented and discussed with First Nations.

## How can proponents reduce risk (cont.)?

- monitor and support Crown's efforts to discharge its duties.
- ensure government meets its duties to First Nations.
- establish a strategy to seek agreement where possible.





mcmillan



**Robin Junger**

Co-Chair, Aboriginal,  
Environmental, Co-Chair,  
B.C., Oil and Gas

Vancouver t: 778.329.7523  
robin.junger@mcmillan.ca



Page 268 of 590

Withheld pursuant to/removed as

s.16; s.14

Page 269 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 270 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

Page 271 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 272 of 590

Withheld pursuant to/removed as

s.13; s.14; s.16

Page 273 of 590

Withheld pursuant to/removed as

s.14; s.16; s.13

Page 274 of 590 to/à Page 279 of 590

Withheld pursuant to/removed as

s.13; s.14; s.16

Page 280 of 590 to/à Page 281 of 590

Withheld pursuant to/removed as

s.14; s.16; s.13



Page 282 of 590 to/à Page 284 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 285 of 590 to/à Page 288 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16

Page 289 of 590

Withheld pursuant to/removed as

s.13; s.16

Page 290 of 590 to/à Page 296 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 297 of 590 to/à Page 298 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

Page 299 of 590 to/à Page 303 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16

Page 304 of 590 to/à Page 312 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 313 of 590 to/à Page 316 of 590

Withheld pursuant to/removed as

s.13; s.14; s.16



See 14.

**Restall, Analyse EMPR:EX**

---

**From:** Moyse, Geoff JAG:EX  
**Sent:** July 7, 2014 4:35 PM  
**To:** Paine, Julian C MNGD:EX  
**Cc:** Coley, Simon J JAG:EX  
**Subject:** RE: William Response  
**Attachments:** William Response.docx

Some musings on musings...

Geoffrey S. Moyse QC  
Executive Counsel  
Office of the Deputy Attorney General  
Ministry of Justice and Attorney General

*This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify my office by telephone or by email.*

---

**From:** Paine, Julian C MNGD:EX  
**Sent:** Monday, July 7, 2014 4:00 PM  
**To:** Moyse, Geoff JAG:EX  
**Cc:** Coley, Simon J JAG:EX  
**Subject:** William Response

Some musings for tomorrow's meeting.

Cheers!

jp

Page 318 of 590 to/à Page 320 of 590

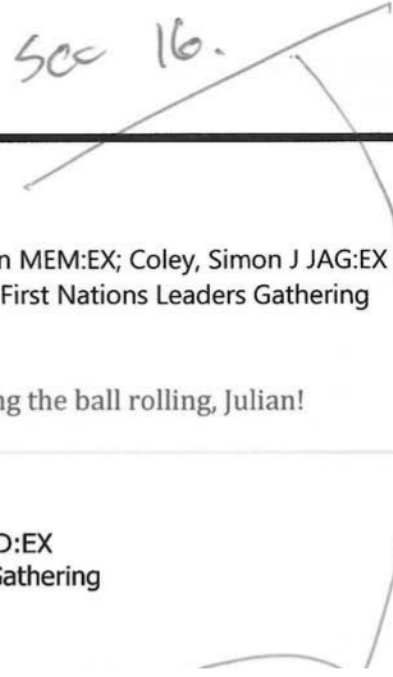
Withheld pursuant to/removed as

s.14; s.16

**Restall, Analyse EMPR:EX**

---

see 16.



**From:** Piccinino, Ines MNGD:EX  
**Sent:** August 27, 2014 2:02 PM  
**To:** Paine, Julian C MNGD:EX; Koncohrada, Karen MEM:EX; Coley, Simon J JAG:EX  
**Subject:** RE: Time Sensitive Request: BC Cabinet and First Nations Leaders Gathering

Couple of minor wording suggestions and one comment. Thanks for getting the ball rolling, Julian!

---

**From:** Paine, Julian C MNGD:EX  
**Sent:** Wednesday, August 27, 2014 1:54 PM  
**To:** Koncohrada, Karen MEM:EX; Coley, Simon J JAG:EX; Piccinino, Ines MNGD:EX  
**Subject:** RE: Time Sensitive Request: BC Cabinet and First Nations Leaders Gathering

My tentative list:  
s.13,s.16

Thoughts?

Julian C Paine  
Assistant Deputy Minister  
First Nations and Labour Initiatives  
Ministry of Natural Gas Development

---

**From:** Koncohrada, Karen MEM:EX  
**Sent:** Wednesday, August 27, 2014 11:47 AM  
**To:** Paine, Julian C MNGD:EX; Coley, Simon J JAG:EX; Piccinino, Ines MNGD:EX  
**Subject:** FW: Time Sensitive Request: BC Cabinet and First Nations Leaders Gathering  
**Importance:** High

Hi Simon, Julian and Ines,  
See MARR's request below for an overview of **MNGD's key issues/opportunities (top 3-5) with First Nations** by Friday Aug 29 at 10 a.m.

Can we cut to the chase on this meeting briefly and agreeing on the top 3 to 5 issues?

Then I will locate the corresponding BNs.

Thanks  
Karen

---

**From:** Todd, Melissa L MNGD:EX  
**Sent:** Wednesday, August 27, 2014 11:32 AM

**To:** Koncohrada, Karen MEM:EX  
**Subject:** Time Sensitive Request: BC Cabinet and First Nations Leaders Gathering  
**Importance:** High

Hi Karen,

Please see below request regarding the BC Cabinet and FN Leaders Gathering on September 11<sup>th</sup> in Vancouver:

Please note that briefing materials on key issues related to First Nations are required from each Ministry. It is requested that your ministry send an overview of key issues/opportunities (top 3-5), along with associated issues notes, to Shawna French at [Shawna.French@gov.bc.ca](mailto:Shawna.French@gov.bc.ca) by **10am on Friday, August 29** so that they can be organized in time for scheduled Executive briefings.

Melissa

**Melissa Todd**

A/Senior Executive Assistant | Deputy Minister's Office | Ministry of Natural Gas Development  
Phone: 250.952.0504 | Email: [Melissa.L.Todd@gov.bc.ca](mailto:Melissa.L.Todd@gov.bc.ca)

**From:** Mayhew, Neilane ABR:EX

**Sent:** Wednesday, August 27, 2014 11:19 AM

**To:** Baskerville, Shannon MIT:EX; Brown, Stephen R HLTH:EX; Byng, Dave A EDUC:EX; Carr, Steve MNGD:EX; Carroll, Sandra AVED:EX; Denlinger, Becky CSCD:EX; Dyble, John C PREM:EX; Fraser, John Paul GCPE:EX; Fyfe, Richard J JAG:EX; Henderson, Kim N PREM:EX; Jacobson, John MTIC:EX; Main, Grant TRAN:EX; Mentzelopoulos, Athana JTST:EX; Milburn, Peter R FIN:EX; Munro, Steve C ABR:EX; Nikolejsin, Dave MEM:EX; Sheldon, Tim FLNR:EX; Shoemaker, Wes ENV:EX; Sieben, Mark MCF:EX; Sturko, Derek AGRI:EX; Sweeney, Neil PREM:EX; Tarras, Lynda PSA:EX; Taylor, Sheila A SDSI:EX; Wanamaker, Lori JAG:EX

**Cc:** Holmes, Rachel ABR:EX; French, Shawna ABR:EX

**Subject:** BC Cabinet and First Nations Leaders Gathering

Good morning,

I am pleased to provide you with further information regarding the BC Cabinet and First Nations Leaders Gathering on September 11 in Vancouver, including an overview of the event, your role in it and a time sensitive request for information from your respective ministries.

On Thursday, September 11<sup>th</sup>, the Gathering, which is co-hosted by the Province and the First Nations Leadership Council (FNLC), will take place at the Fairmont Hotel Vancouver. Invitations have been extended to 203 First Nations Chiefs, as well as Tribal Council leaders and delegates. Leaders and executive of the FNLC will be attendance, as well as all Provincial Cabinet Ministers. You will have received a meeting invite from John Dyble. All Deputy Ministers are expected to attend and to participate in the proceedings.

The purpose of the Gathering is to convene a meaningful dialogue between First Nations and Provincial leadership regarding key issues and priorities of mutual interest. The event also provides an opportunity for First Nations engagement with key decision makers and to demonstrate Government's commitment to working in partnership.

To support these outcomes, we anticipate that the agenda will be organized into both plenary and break-out components. We are in the process of completing these details and will provide further information as soon as possible.

The role of Deputy Ministers is to engage in dialogue throughout the day with First Nations representatives. To support you, we will be sending a full set of briefing materials next week. We will be organizing set tables at both the plenary sessions and lunch so that First Nations participants can seat themselves with a Minister or Deputy of their choice in order to have an opportunity to dialogue on topics of interest. Ministers and Deputies will be encouraged to 'mingle'

throughout breaks. Volunteers, comprised of provincial and FNLC staff, will be on hand for support throughout the event.

Please note that briefing materials on key issues related to First Nations are required from each Ministry. It is requested that your ministry send an overview of key issues/opportunities (top 3-5), along with associated issues notes, to Shawna French at [Shawna.French@gov.bc.ca](mailto:Shawna.French@gov.bc.ca) by **10am on Friday, August 29** so that they can be organized in time for scheduled Executive briefings.

Thank you in advance for your participation and contribution. If you would like to arrange a pre-briefing to discuss any of the details noted above, please contact Rachel Holmes at [Rachel.Holmes@gov.bc.ca](mailto:Rachel.Holmes@gov.bc.ca) or she can be reached through the Deputy Minister's office at 250 356-1394.

**Neilane Mayhew**

A/ Deputy Minister

Ministry of Aboriginal Relations and Reconciliation

Phone: 250 356-1439

Fax: 250 387-6073

Page 324 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14

Page 325 of 590 to/à Page 328 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16

Page 329 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16



Page 330 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16

Page 331 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

Page 332 of 590 to/à Page 333 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16

Page 334 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

Page 335 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16

Page 336 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

Page 337 of 590 to/à Page 344 of 590

Withheld pursuant to/removed as

s.12; s.13; s.16

## Restall, Analise EMPR:EX

---

**From:** Hutchings, Geraldine J JAG:EX  
**Sent:** September 3, 2014 3:43 PM  
**To:** Yearwood, Paul JAG:EX; Christie, Erin JAG:EX; JAG LSB Ab Law Legal Staff  
**Subject:** FW: Tsilhqot'in Decision  
**Attachments:** Declared\_Title\_Area\_v2.pdf

FYI.

---

**From:** Calarco, Andrew FLNR:EX  
**Sent:** Wednesday, September 3, 2014 3:19 PM  
**To:** 'Swaille, Dave LTSA:EX'; 'Geraldine.Hutchings@gov.bc.ca'; 'Thomson, Mike LTSA:EX'  
**Cc:** Hlasny, Brad FLNR:EX; Edquist, Kevin FLNR:EX  
**Subject:** RE: Tsilhqot'in Decision

Just a follow-up to our meeting of July 28th. We've created this initial draft boundary based upon the ruling by using base-mapping data along with some pre-existing information to depict some lands of "proven title outside of claim area".

### Points of context:

- We did not have access to the digital files created by Clover Point Cartographics but have spatialized the attached boundary using base information (i.e. TRIM, Fresh Water Atlas, roads & some trapline information) and interpretation of ruling
- Submerged lands are excluded and in following the normal protocols for spatial representations of treaty lands, only water bodies overlapping the boundary have been explicitly marked as excluded. The submerged lands which are full encapsulated have not been marked differently but as is standard practice, these should be interpreted as exclusions.
- Overlapping or immediately adjacent parks/protected areas have been depicted for discussion purposes
- The Fresh Water Atlas has been used for determination of heights of land – this has been the standard for several years and is in line with data specifications for Parks (i.e. well established business practice)
- A 1km buffer has been used around the Chilko river – clearly this can easily be adjusted as needed but has been established at 1km pending further direction.

If anyone had questions or needed any additional information, please let me know. Not sure where Justice and the SG would like to go from here but if we can help in any way, don't hesitate to get in touch.

Regards,

Andy

Andrew Calarco  
**GeoBC**  
Tel: 250.952.6581  
Cell: 250.812.4869



---

**From:** Swaile, Dave LTSA:EX [mailto:Dave.Swaile@ltsa.ca]  
**Sent:** Monday, July 28, 2014 1:46 PM  
**To:** Calarco, Andrew FLNR:EX  
**Cc:** Hlasny, Brad FLNR:EX; Edquist, Kevin FLNR:EX; 'Geraldine.Hutchings@gov.bc.ca'; Thomson, Mike LTSA:EX  
**Subject:** FW: Tsilhqot'in Decision

Hi Andy.

Per our meeting this morning, I attach Geraldine's initial email to me, which contains a link to the Supreme Court of Canada decision, and an attachment containing the BCSC decision summary.

Thanks to all for taking the time to meet today.

Regards,  
Dave

**Dave Swaile, BCLS, CLS**

Deputy Surveyor General  
Surveyor General Division  
Land Title and Survey Authority of British Columbia  
Suite 200 - 1321 Blanshard Street, Victoria, BC V8W 9J3  
T: 250-410-0591 | F: 250-410-0655 | [dave.swaile@ltsa.ca](mailto:dave.swaile@ltsa.ca) | [www.ltsa.ca](http://www.ltsa.ca)

This communication and all attachments are intended only for the addressee and are confidential. If you receive this communication in error, please delete it and notify me immediately. Thank you.

Hi Dave,

I am interested in having your office's views on a description of the area that the SCC has declared to be vested in the Tsilhqot'in Nation. I am attaching a link to the decision. The parties to the litigation still need to finalize an order, which should include a description of the area. After the BCSC decision, Canada, BC and the FN all generated different maps based on their understanding of the area.

I am attaching the BCSC decision summary, to which the SCC makes reference. I would like to know if you have concerns, from the perspective of the crown land registry and clarity of boundaries, with the description used. If alternative language would assist in future survey work or to avoid disputes, we would be interest in this.

I note the SCC expressly excluded private land and land underwater, which differs from the BCSC.

If you would like to discuss, I would be happy to do so. I note that if the parties do not agree on the language, there may be a further court process to have it settled.

<http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14246/index.do>

Geraldine Hutchings  
Acting Group Supervisor  
Aboriginal Law Group Tel: (250) 387 0691

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.



Page 349 of 590 to/à Page 350 of 590

Withheld pursuant to/removed as

s.14; s.16

ok to disclose

# Nenqay Deni Accord



For countless generations before the arrival of settlers, the ʔEsggidam, ancestors of the Tsilhqot'in, thrived in the Chilcotin as a powerful nation, guided by the wisdom of their legends and the laws.

The ʔEsggidam were healthy and strong – as individuals, families, communities and a Nation. They had a rich culture and deep spiritual connection with the lands and resources that sustained their people.

With the arrival of Europeans came a dark chapter. Tsilhqot'in history speaks of the intentional spread of smallpox eradicating entire families and villages. The Nation successfully waged war against the colonial government in 1864, and when Tsilhqot'in war Chiefs entered the camp of the colonial militia under a flag of truce to negotiate peace, they were betrayed, wrongly arrested and tried for murder. Six Chiefs were hanged.

In the decades that followed, the Tsilhqot'in faced an onslaught: the taking of their lands, the devastating impacts of the residential school system, the imposition of the *Indian Act*, and mass apprehension of their children.

On October 23, 2014, Premier Christy Clark apologized for the wrongful hanging of the six Tsilhqot'in war chiefs and confirmed the full exoneration of the chiefs to the extent of the Province's ability.

This redress marked a first step toward reconciliation with the Tsilhqot'in Nation and reinforced the importance of working together to build a better future and address the continuing challenges associated with colonization and Indian residential schools.

Despite historical wrongs and continuing challenges, the Tsilhqot'in people remain strong and resilient. Their culture and connection to their lands is powerful, alive, and grows stronger each day.

On June 26, 2014, the Supreme Court of Canada declared Aboriginal title in the caretaker area of the Xeni Gwet'in, one of six Tsilhqot'in communities. The court decision was the first of its kind and the implications for the Tsilhqot'in and all British Columbians are immense.

Since the ruling, the provincial government and the Tsilhqot'in have focused on developing a solid government-to-government relationship aimed at achieving economic sustainability and improving the social well-being of the Tsilhqot'in communities. Reducing conflict on the land and closing the socio-economic gap between the Tsilhqot'in people and non-Aboriginal British Columbians is of paramount importance.

The Tsilhqot'in vision is to fully restore their Nation to the power of the ʔEsggidam. They enter reconciliation negotiations as one step on that path.

Together the Tsilhqot'in and the Government of British Columbia call upon all British Columbians to support us working as true partners to see the Tsilhqot'in people restored to their rightful place, sharing fully in the wealth and benefits of this beautiful Province.

Working in partnership, the Province and the Tsilhqot'in have created a reconciliation framework agreement to define the next phase of negotiations which will address the interests of both parties in Tsilhqot'in territory and help bring the court decision to life. The agreement defines a role for Canada in the reconciliation process and commits both parties to engaging the federal government in this important work.

This reconciliation framework agreement outlines the next steps including immediately addressing priority areas such as governance, economic development, justice, health, education, social issues, and land and resource management. Reconciliation is challenging and important; it requires discussion, consensus-building and negotiation, but it is the only option that brings the real possibility of transformation, healing and growth.

A tremendous opportunity stands before all of us, if we can overcome conflict and truly recognize and celebrate our different cultures, laws and governance, and our responsibilities to our lands and our future generations.

It is our sincere hope that this Agreement offers an opportunity for healing and for building a better Province, for the Tsilhqot'in people and all British Columbians.

**NENQAY DENI ACCORD:**

***The People's Accord***

(the "Agreement")

Dated for reference February 11, 2016

BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**

as represented by the Minister of Aboriginal Relations and Reconciliation  
and the Premier of British Columbia

("British Columbia")

AND

**THE TSILHQOT'IN NATION** as represented by:

Xeni Gwet'in First Nations Government,  
Yunesit'in Government,  
Tl'etinqox Government,  
?Esdilagh First Nation,  
Tsi Deldel First Nation,  
Toosey Indian Band, and  
The Tsilhqot'in National Government ("TNG")

(the "Tsilhqot'in Parties")

(British Columbia and the Tsilhqot'in Parties are collectively referred to as the "Parties")

**WHEREAS:**

- A. On June 26, 2014, the Supreme Court of Canada rendered its unanimous judgment in *Tsilhqot'in Nation*, recognizing Aboriginal title for the first time in Canadian history, in the homeland of the Tsilhqot'in peoples;
- B. The *Tsilhqot'in Nation* judgment offers a profound opportunity for British Columbia, the Tsilhqot'in Nation, and all First Nations, to renew and strengthen a shared vision of First Nations as true partners in the economic, political and social future of this Province;



- C. On November 20, 2012, Canada issued a statement of support for the *United Nations Declaration on the Rights of Indigenous Peoples*. On November 13, 2015, the Federal Government mandated that the Minister of Indigenous and Northern Affairs support the work of reconciliation and implement the recommendations of the Truth and Reconciliation Commission, starting with implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*;
- D. The Tsilhqot'in Nation is committed to advancing its right to self-determination and the other rights and interests of the Tsilhqot'in peoples under constitutional and international law;
- E. The Parties signed a Letter of Understanding on September 10, 2014, committing to strengthen their government-to-government relationship and to undertake negotiations in good faith towards a lasting reconciliation agreement between the Tsilhqot'in people and the Province of British Columbia;
- F. As directed by the Letter of Understanding, the Parties wish to embrace this historic opportunity and lead the way forward with new and innovative approaches to Crown-First Nations reconciliation;
- G. In this spirit, the Parties have developed this comprehensive framework for longer-term negotiations to reconcile the rights, interests and goals of the Tsilhqot'in Nation and British Columbia in Tsilhqot'in Territory;
- H. As the Tsilhqot'in Nation has governed itself from time immemorial, the Parties wish to reconcile their respective jurisdictions, governance, laws and responsibilities; and
- I. The Parties share the goal of establishing relationships and processes that reduce conflict, foster mutual understanding and respect, and promote outcomes that reflect consensus and consent.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

**1.0 DEFINITIONS IN THIS AGREEMENT**

- 1.1 **"Caretaker Areas"** means the areas within Tsilhqot'in Territory in which each Tsilhqot'in Community is recognized by the Tsilhqot'in Nation as holding special rights and responsibilities under Tsilhqot'in law and governance;
- 1.2 **"Category 'A' Lands"** means areas within Tsilhqot'in Territory that are agreed by the Parties to be under the ownership, control and management of the Tsilhqot'in Nation, as set out in sections 12.15 to 12.20 of this Agreement, excluding Indian Reserves;

- 1.3 **"Category 'B' Lands"** means all lands in Tsilhqot'in Territory except for the Declared Title Area, Category 'A' Lands and Indian Reserves;
- 1.4 **"Declared Title Area"** means the area subject to the declaration of Aboriginal title granted by the Supreme Court of Canada in *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44;
- 1.5 **"Effective Date"** is the date on which this Agreement has been signed by all Parties;
- 1.6 **"First Nations Woodland Licence"** means a long-term, area-based, First Nations woodland licence entered into between the Ministry of Forests, Lands and Natural Resource Operations and a First Nation or its designated representative, and confers upon the holder an exclusive right to harvest timber on a defined licence area, and also allows for management of non-timber forest resources, as set out in the *Woodland Statutes Amendment Act*;
- 1.7 **"Land Based Investment Strategy"** means the Land Based Investment Strategy program delivered through the Ministry of Forests, Lands and Natural Resource Operations that guides ongoing resource investments and short-term targeted investments in British Columbia's natural resources sector, to realize environmental sustainability and economic prosperity;
- 1.8 **"Leadership Table"** means the elected Chiefs of the Tsilhqot'in Communities and the British Columbia Ministers assigned, from time to time, to lead implementation of this Agreement and negotiation of further agreements that will effect a comprehensive and lasting reconciliation between the Parties, and to help to resolve disputes in accordance with section 18.2 of the Agreement;
- 1.9 **"Parties"** means British Columbia and the Tsilhqot'in Parties and 'Party' means any one of them;
- 1.10 **"Pillars"** means the pillars of reconciliation set out in section 3.1, as described in sections 6.0 – 13.0;
- 1.11 **"Tsilhqot'in Citizens"** means individuals who are members of the Tsilhqot'in Nation;
- 1.12 **"Tsilhqot'in Communities"** means the residential communities of Xeni Gwet'in, Yunesit'in, Tl'etinqox, ?Esdilagh, Tsi Deldel, and Toosey;
- 1.13 **"Tsilhqot'in Governance Agreement"** means the governance agreement negotiated by the Parties pursuant to section 6.3 of this Agreement;

- 1.14 **“Tsilhqot’in Stewardship Agreement”** means the extension of the strategic engagement agreement between British Columbia, the Tsilhqot’in Nation and the TNG, dated for reference June 10, 2014, and any further extension of or successor to this agreement;
- 1.15 **“Tsilhqot’in Territory”** for the purpose of this Agreement is identified in the map attached as Schedule “A”;
- 1.16 **“Wildlife Panel”** means the Wildlife Panel under the *Tsilhqot’in Stewardship Agreement*; and
- 1.17 **“Working Group”** means the representatives of the Tsilhqot’in Nation and British Columbia assigned, from time to time, to implement this Agreement and support negotiation of further agreements that will effect a comprehensive and lasting reconciliation between the Parties, and to help to resolve disputes in accordance with section 18.1 of the Agreement.

## **2.0 PURPOSE**

- 2.1 The purpose of this Agreement is to establish the shared vision, principles and structures for the Parties to negotiate one or more agreements to effect a comprehensive and lasting reconciliation between the Tsilhqot’in Nation and British Columbia.
- 2.2 This Agreement is also intended to foster immediate and ongoing action by the Parties to:
- a. improve the social, cultural and economic well-being of the Tsilhqot’in Communities;
  - b. build and align the capacities of the Parties to negotiate lasting reconciliation agreements and to implement those agreements once concluded;
  - c. effect the practical transition of the Declared Title Area to Tsilhqot’in management, benefit and control, while respectfully engaging with third parties and attempting to address their interests within the Declared Title Area;
  - d. reduce conflict and encourage collaboration in respect of land and resource management decisions in Tsilhqot’in Territory;
  - e. promote economic development and investment in Tsilhqot’in Territory and the broader region that reflects the values, goals and priorities of the Parties; and

- f. promote mutual understanding between the Parties and encourage relationships based on respect, recognition and reconciliation.

### **3.0 THE PILLARS OF RECONCILIATION**

3.1 The Parties commit to work together to achieve the shared vision for each of the following “pillars of reconciliation”, as described in sections 6.0 – 13.0:

- a. Tsilhqot’in Governance;
- b. Strong Tsilhqot’in Culture and Language;
- c. Healthy Children and Families;
- d. Healthy Communities;
- e. Justice;
- f. Education and Training;
- g. Tsilhqot’in Management Role for Lands and Resources in Tsilhqot’in Territory; and
- h. Sustainable Economic Base.

3.2 The Parties will address each of the Pillars in accordance with the Guiding Principles.

### **4.0 GUIDING PRINCIPLES**

4.1 The Parties commit to immediate and sustained progress to achieve the shared vision for each of the Pillars, in accordance with the guiding principles set out in this section (“Guiding Principles”).

4.2 Collaboration: To the fullest extent possible, the Parties will avoid adversarial positions in their engagement with each other and jointly address challenges and achieve progress through respectful engagement, mutual understanding and a spirit of collaboration.

4.3 Decision-making and Mandates: The Parties will structure their teams, negotiation tables and process to ensure quick access to individuals best positioned to provide the required mandate, decision or direction.

- 4.4 **Sustained Progress:** The Parties commit to sustained, step-by-step progress towards each of the Pillars, and will work together to define short, mid and long-term objectives. The Parties will jointly prepare and review annual work plans to develop and refine this “road map” to achieve reconciliation and the agreed outcomes.
- 4.5 **Measurable Progress:** The Parties’ progress towards each goal will be objectively measurable and regularly evaluated. The Parties will agree on the targets and metrics of progress for each goal. If progress is below expectations, the Parties will jointly develop a response.
- 4.6 **Dedicated Time and Expertise:** The Parties will dedicate the time, expertise, staff, key decision-makers and technical support required to achieve progress towards the shared vision for each of the Pillars. This includes working together to build capacity and maximize use of training opportunities.
- 4.7 **Holistic Approach:** The Parties recognize that the goals of the Agreement are inter-related and must be approached holistically. In particular, the success of all other goals depends on a strong foundation of Tsilhqot’in culture and language. The Parties acknowledge that there is a strong linkage between social and economic progress and effective progress will require parallel, ongoing work on each of the Pillars.
- 4.8 **Flexible and Innovative Arrangements:** The Parties will consider any arrangements to achieve the goals of the Agreement, including interim agreements, comprehensive agreements, memoranda of understanding, protocols, legislation, policy changes, revenue sharing, amendments to the Tsilhqot’in Stewardship Agreement, or any combination thereof.

The Parties will use a flexible and creative approach to develop opportunities and arrangements as required to achieve the goals set out in the Agreement, even if they are different from the *status quo* or do not fit easily into existing regimes, laws, programs, policies or structures.

- 4.9 **Role of Canada:** The Parties acknowledge the participation and commitment of the Government of Canada is required to fully achieve the shared vision and reach final reconciliation, including the full and lasting reconciliation of Tsilhqot’in Aboriginal rights under section 35 of the *Constitution Act, 1982*. The Parties will work diligently to get meaningful participation from the Government of Canada while maintaining their shared commitment to progress towards the shared vision for each of the Pillars.

## **5.0 IMPLEMENTATION TABLES**

- 5.1 The Leadership Table and Working Group established under the Letter of Understanding will be continued to implement the Agreement and provide oversight and co-ordination

to sub-tables, for the duration of this Agreement. The Leadership Table will continue to meet regularly and not less than quarterly unless otherwise agreed by the Parties.

5.2 Additional sub-tables will be established as soon as possible and no later than 6 months after the Effective Date, with responsibility to guide progress under this Agreement in specific areas and report to the Working Group as follows (the "Sub-Tables"):

- a. Governance Sub-Table
- b. Economic Development Sub-Table
- c. Social, Cultural, Education and Justice Sub-Table
- d. Lands and Resources Sub-Table
- e. Declared Title Area Implementation Sub-Table

5.3 The Sub-Tables will be comprised of senior staff from the relevant Ministries and Tsilhqot'in Nation. Each Sub-Table will prepare its own terms of reference for approval by the Working Group, establish its process, and hold regular meetings to implement the direction of the Working Group and Leadership Table.

5.4 Each Sub-Table will be accountable for achieving meaningful progress in advancing the shared vision for their respective Pillar(s). Each Sub-Table will establish the metrics for assessing progress, regularly evaluate and report annually on progress, and undertake action planning for sustained progress from year to year.

5.5 The Working Group will report to the Leadership Table on an annual basis on or before February 1 of each year with a brief summary of the implementation of the Agreement. The summary will incorporate the annual reporting requirements identified in sections 5.4 and 12.49 and where appropriate include recommendations for improving outcomes.

## **6.0 TSILHQOT'IN GOVERNANCE**

6.1 The Parties commit to work together to achieve the following shared vision for this Governance Pillar, in accordance with sections 6.2 – 6.6:

- a. British Columbia and the Tsilhqot'in Nation recognize and reconcile their respective jurisdictions, governance, laws and responsibilities;
- b. The Tsilhqot'in Nation governs itself, its communities and Tsilhqot'in Citizens pursuant to Tsilhqot'in governance structures, laws and values;
- c. The Tsilhqot'in Nation exercises law-making powers and provides autonomous governance and government programs for Tsilhqot'in Citizens and Tsilhqot'in Communities, including matters of Tsilhqot'in culture, heritage, identity, language and institutions; and

- d. The Tsilhqot'in Nation exercises governance and law-making powers with respect to lands and resources.
- 6.2 Without limiting the steps that the Parties may take to achieve this shared vision, the Parties have identified and commit to the specific priorities set out below.
- 6.3 The Parties will negotiate and seek to reach agreement on a Tsilhqot'in Governance Agreement that recognizes the Tsilhqot'in Nation as a government within Canada, with law-making jurisdiction.
- 6.4 British Columbia will work with the Tsilhqot'in Parties, in the manner outlined in section 6.5, to prepare for the development of provincial legislation, and will encourage Canada to develop compatible federal legislation, that recognizes the Tsilhqot'in Nation as a government within Canada and which implements the Tsilhqot'in Governance Agreement.
- 6.5 To ensure proposed provincial legislation meets the intent of agreements reached under this section, British Columbia will work with the Tsilhqot'in Parties in the development of the foundation for the legislative request and will work with the Tsilhqot'in Parties to reach agreement on an appropriate approach to consultation on the draft legislation.
- 6.6 The Parties will work to establish an intergovernmental framework to further the harmonious relationship of federal, Tsilhqot'in and provincial laws, programs and services.

**7.0 STRONG TSILHQOT'IN CULTURE AND LANGUAGE**

- 7.1 The Parties commit to work together to achieve the following shared vision for this Pillar:
- a. Tsilhqot'in Citizens fluent in, and proud of, their language and culture;
  - b. public awareness, appreciation and understanding of Tsilhqot'in culture, history and heritage; and
  - c. recording and preservation of Tsilhqot'in language, beliefs, oral histories including legends, and cultural knowledge for the benefit of future generations.

**8.0 HEALTHY CHILDREN AND FAMILIES**

- 8.1 The Parties commit to work together to achieve the following shared vision for this Pillar:

- a. health indicators for Tsilhqot'in children and families on par with or exceeding standards for non-Aboriginal children and families; and
- b. adequate support for Tsilhqot'in children and families, delivered and managed by Tsilhqot'in Communities, in accordance with Tsilhqot'in laws and values as implemented through section 6 of this Agreement.

## **9.0 HEALTHY COMMUNITIES**

9.1 The Parties commit to work together to achieve the following shared vision for this Pillar:

- a. standards of living for Tsilhqot'in Communities on par with or exceeding non-Aboriginal communities, including housing, infrastructure, roads and access to clean water; and
- b. Tsilhqot'in Communities supporting their own well-being and healthy standards of living through economic self-sufficiency, to the extent practicable.

## **10.0 JUSTICE**

10.1 The Parties commit to work together to achieve the following shared vision for this Pillar:

- a. representation of Tsilhqot'in Citizens in process at each stage of the criminal justice system is equal to or below the representation of non-Aboriginal peoples, proportionally to their respective populations;
- b. Tsilhqot'in Citizens have access to appropriate education and support in relation to the criminal justice system, including innovative preventative and restorative strategies and alternatives that are consistent with Tsilhqot'in laws and values, as implemented through section 6 of this Agreement.

10.2 Without limiting the steps that the Parties may take to achieve the shared vision for this Justice Pillar:

- a. British Columbia recognizes that the Tsilhqot'in Nation has expressed a strong interest in having an effective and culturally appropriate First Nation Court established (i.e. a "*Gladue*" sentencing process) for the region, associated with the Provincial Court in Williams Lake;
- b. British Columbia and the TNG will cooperate in conducting a needs assessment addressing the criminal justice issues of concern to the Tsilhqot'in Nation and, after



considering such factors as effectiveness and efficiency, recommend potential options to address these issues;

- c. in conducting the needs assessment, the Parties will assess the feasibility of developing and maintaining a system to inform the TNG, to the extent possible, about the status of Tsilhqot'in Citizens in the criminal justice system, subject to any restrictions imposed by *the Freedom of Information and Protection of Privacy Act* or other applicable legislation;
  - d. the Parties will seek to engage Canada and other stakeholders, as required, to develop this needs assessment and potential options; and
  - e. depending upon the options identified, the Parties will explore opportunities to support and fund the preferred options, including potential funding by Canada.
- 10.3 The Parties will seek to engage Canada and examine options to improve policing in the Tsilhqot'in Communities, including a review of funding options for education and jobs-training in criminal justice, law enforcement and security-related fields for Tsilhqot'in Citizens.
- 10.4 The Parties will seek to engage Canada and explore options to respond to issues of gang violence in Tsilhqot'in Communities, including continued engagement between the RCMP and the Tsilhqot'in Parties on this issue, and consideration of preventative measures, education, employment opportunities, recreation and cultural programs targeted at youth.

## **11.0 EDUCATION AND TRAINING**

- 11.1 The Parties commit to work together to achieve the following shared vision for this Pillar:
- a. education funding and outcomes in Tsilhqot'in Communities are on par with or exceeding those in non-Aboriginal communities;
  - b. education programs are developed and delivered by the Tsilhqot'in Communities, with strong language and cultural components;
  - c. public schools provide a safe and welcoming place for Tsilhqot'in Citizens, with appropriate First Nations culture and history components, developed with the Tsilhqot'in; and
  - d. Tsilhqot'in Citizens have meaningful opportunities for post-secondary education and training.

## **12.0 TSILHQOT'IN MANAGEMENT ROLE FOR LANDS AND RESOURCES**

- 12.1. The Parties will jointly develop an efficient and effective management framework, through this Agreement, for lands and resources in Tsilhqot'in Territory, that:
- a. fully recognizes the right of the Tsilhqot'in Nation, as set out in *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44, to the ownership of lands and resources in the Declared Title Area and the right to proactively manage, enact laws, and decide the uses of the lands and resources in the Declared Title Area;
  - b. recognizes the right of the Tsilhqot'in Nation to ownership of lands and resources in Category 'A' Lands and the right to proactively manage, enact laws, and decide the uses of the lands and resources in the Category 'A' Lands, in accordance with sections 12.13 to 12.24 of this Agreement;
  - c. recognizes and reflects the unique Tsilhqot'in culture, values, economy and management goals and priorities for lands and resources in Tsilhqot'in Territory, including the wildlife, fish and clean water that have supported Tsilhqot'in culture and economies for countless generations and which must continue to support the Tsilhqot'in Nation and other British Columbians into the future;
  - d. supports truly collaborative and efficient decision-making between the Parties about lands and resources on Category 'B' Lands in a manner that strives to achieve, to the fullest extent possible, consensus between the Parties, with a particular focus on projects, decisions and activities that may have significant impacts, as jointly defined by the Parties;
  - e. integrates the knowledge and experience of Tsilhqot'in traditional knowledge and western science in the making of resource decisions;
  - f. ensures that land and resource management within Tsilhqot'in Territory supports the goal of preserving, enhancing and sustaining Tsilhqot'in cultural practices and the meaningful exercise of Tsilhqot'in Aboriginal rights, while fostering the strategic social, economic and environmental objectives of the Province;
  - g. seeks to co-ordinate the management of wildlife, lands and resources across the Declared Title Area, Category 'A' Lands and the Tsilhqot'in Territory;
  - h. within the above framework, supports a resource economy that is focused on sustainability, benefits the Tsilhqot'in Nation and British Columbia, and is fair to the rights and interests of other stakeholders;

- i. reconciles Tsilhqot'in rights, culture, values, economy, management goals and priorities for lands and resources with the culture, values, economic aspirations, goals and priorities of all British Columbians; and
- j. fully respects the duty British Columbia has to consult and, if appropriate, seek to accommodate other First Nations.

12.2 Without limiting the steps that the Parties may take to achieve this shared vision, the Parties have identified and commit to the specific priorities set out below. The Parties may also consider and may jointly implement responses to the critical issues respecting land and resource management in Tsilhqot'in Territory that arise while the initiatives set out in this section are in progress.

12.3 The Parties will promptly take the appropriate steps to amend the Tsilhqot'in Stewardship Agreement, pursuant to the procedures set out in section 8 of the Tsilhqot'in Stewardship Agreement, to provide:

- a. that, as a guiding principle, in a manner that is also consistent with sections 12.3 (b) and (c) of this Agreement, the Parties will strive to reach consensus for decisions made under the Tsilhqot'in Stewardship Agreement, utilizing the Engagement Processes and maintaining the focus under the Tsilhqot'in Stewardship Agreement on working together to make efficient and effective decisions;
- b. where consensus cannot be reached under the Tsilhqot'in Stewardship Agreement, British Columbia or the Tsilhqot'in Parties may request the support of the Working Group, prior to the decision and within agreed timelines, to attempt to resolve the conflict; and
- c. where a decision is rendered under the Tsilhqot'in Stewardship Agreement that does not reflect a consensus outcome, British Columbia or the Tsilhqot'in Parties may request a review and written report, led by the Responsible Officials, detailing the areas of disagreement, options for addressing these areas and recommendations to achieve consensus in future decisions.

12.4 For each of the initiatives set out below, British Columbia will assist the Tsilhqot'in Parties, upon request and to the extent that it is able, with appropriate technical support and the best available data required to support these processes and planning.

***Strategic Planning***

12.5 The Parties will engage in collaborative strategic planning for Category 'B' Lands ("Strategic Planning"). The Parties will make all reasonable efforts to establish, by consensus, a shared strategic management framework that supports their Strategic

Planning for the lands and resources on Category 'B' Lands in accordance with the shared vision set out in section 12.1.

- 12.6 In carrying out Strategic Planning, the Parties will jointly identify geographic, issue and/or sector based priorities to begin the process. The Parties will then explore opportunities for collaboration and mutual technical learning to assist with Tsilhqot'in strategic planning, while respecting the autonomy of the Tsilhqot'in Parties in carrying out their own planning initiatives in the Tsilhqot'in Communities.
- 12.7 The Parties acknowledge that Strategic Planning may occur incrementally, but the Parties commit to make progress towards achieving a strategic management framework over Category 'B' Lands in a timely manner.
- 12.8 British Columbia will work with the Tsilhqot'in Nation in carrying out Strategic Planning for Category 'B' Lands, to:
- a. document Tsilhqot'in values, objectives and vision for land and resource management;
  - b. seek to address access management issues and cumulative effects assessment and management;
  - c. inform decision-making about land and resource management;
  - d. provide operational guidance on how resource management and development activities should be carried out on Category 'B' Lands;
  - e. support a sustainable economy that benefits the Tsilhqot'in Nation and British Columbia; and
  - f. support, where possible, strategic-level agreement between the Parties concerning land and resource management.
- 12.9 The Parties agree it is important to be inclusive and, to meet the goal of reflecting the interests of Tsilhqot'in Citizens and other British Columbians, they will seek to engage others as required to build the envisioned strategic management framework.

***Update of the South Chilcotin Stewardship Plan***

- 12.10 Consistent with the joint commitment to the South Chilcotin Stewardship Plan as a living document, the Parties will undertake an immediate review and make every reasonable effort to update this strategic plan by May 1, 2016 by consensus, to fully reflect the

shared vision set out in section 12.1 of this Agreement. This review will include strategies and options to:

- a. provide long-term maintenance of sensitive areas including winter moose habitat and wildlife corridors through such measures as the Government Actions Regulation, ATV restrictions and Visual Quality Objectives;
- b. maximize the retention of green timber;
- c. ensure effective access management;
- d. implement a comprehensive approach to recovery of moose populations; and
- e. review the opportunity for a Tsilhqot'in forest tenure in the area.

12.11 Where existing permit conditions or operational plans are inconsistent with the updated South Chilcotin Stewardship Plan, the Parties will strongly encourage permit holders to conduct their permitted activities in a manner consistent with the updated plan.

12.12 In order to allow the South Chilcotin Stewardship Planning process to be completed:

- a. British Columbia Timber Sales will defer advertising additional timber sales in the South Chilcotin until May 1, 2016;
- b. the Parties will strongly encourage forest licensees to limit submission of new cutting permit applications during the review period, so that the South Chilcotin Stewardship Planning process may be completed before licensees submit applications for new cutting permits; and
- c. statutory decision-makers will be made aware of the South Chilcotin Stewardship Planning process and values at risk and consider these in processing of new cutting permits or timber sales in the South Chilcotin.

***Category 'A' Lands***

12.13 British Columbia recognizes the important spiritual and cultural relationship between the Tsilhqot'in and the land, both within the Declared Title Area and throughout Tsilhqot'in Territory.

12.14 The Tsilhqot'in Nation asserts Aboriginal title to the entire Tsilhqot'in Territory. British Columbia holds a different view on the extent and location of Aboriginal title. Despite these different perspectives, the Parties are committed to establishing Tsilhqot'in

ownership, management and control over additional areas of Tsilhqot'in Territory, through timely negotiations, without recourse to further litigation and conflict.

- 12.15 As a priority, the Parties will jointly establish a process for the Tsilhqot'in Parties to select additional areas in Tsilhqot'in Territory, for each Tsilhqot'in Community, that will be recognized as under the ownership, control and management of the Tsilhqot'in Nation (Category 'A' Lands).
- 12.16 British Columbia acknowledges that the quantum and nature of Category 'A' Lands for each Tsilhqot'in Community will be guided by the principles recognized in *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44 and not confined to specific sites of settlement or intensive use. The Parties will utilize a collaborative and interest-based approach to the negotiation of Category 'A' Lands, and will not be limited to or rely strictly on a strength of claim or evidentiary approach.
- 12.17 For greater certainty, each Tsilhqot'in Community will have the option of establishing its Category 'A' Lands within its Caretaker Area of Tsilhqot'in Territory through negotiations with British Columbia.
- 12.18 The legal status of lands within Category 'A' Lands [for example, fee simple, s.91(24), etc.] will be determined by the Parties through further negotiations.
- 12.19 The Parties acknowledge that British Columbia has the duty to consult and, if appropriate, accommodate other First Nations in the establishment of Category 'A' Lands.
- 12.20 The Parties will make every reasonable effort to select and legally establish the Category 'A' Lands by February 1, 2020.
- 12.21 The Parties will make every reasonable effort, on an expedited basis, to mutually identify areas for each Tsilhqot'in Community that have high potential to eventually become Category 'A' Lands (herein "Provisional Category 'A' Lands").
- 12.22 The Parties will develop a collaborative structure for the efficient and practical management of lands and resources on Provisional Category 'A' Lands that requires, to the fullest extent possible, approval and authorization by both British Columbia and the Tsilhqot'in Nation for any activities or development that require provincial authorization ("Collaborative Decision-Making").
- 12.23 The Parties intend to engage in Collaborative Decision-Making on Provisional Category 'A' Lands until such time as Category 'A' Lands are conclusively identified and legally established.

- 12.24 The Parties will make best efforts to identify Provisional Category 'A' Lands for each Tsilhqot'in Community, and jointly design and implement Collaborative Decision-Making for Provisional Category 'A' Lands, by February 1, 2018 or as soon as possible thereafter.

***Fish and Wildlife Panel***

- 12.25 The Tsilhqot'in Nation and British Columbia have a shared goal of sustainable provincial fisheries and wildlife populations ("Fish and Wildlife") and recognize there are many other parties who share this goal.
- 12.26 The Parties agree to empower the Wildlife Panel as the primary source of joint strategic recommendations respecting Fish and Wildlife management and harvest allocation to government statutory decision-makers, third party delivery agencies and the Tsilhqot'in Nation leadership. The work of the Wildlife Panel will provide the framework for collaborative management of Fish and Wildlife within Tsilhqot'in Territory. Within this framework the Province will work to engage and represent others with an interest in wildlife and fisheries. In recognition of this expanded role, the Parties will take steps through the Tsilhqot'in Stewardship Agreement to rename the Wildlife Panel as the "Fish and Wildlife Panel" (hereafter, the "Panel").
- 12.27 The Parties will promptly take the appropriate steps to amend the Tsilhqot'in Stewardship Agreement, pursuant to the procedures set out in section 8 of that agreement, to make the appropriate changes to reflect the expanded role and responsibilities outlined in this Agreement.
- 12.28 The Panel will establish collaborative processes to provide joint recommendations and advice to statutory decision-makers, third-party delivery agencies and the Tsilhqot'in Parties with respect to:
- a. reviewing available wildlife inventory information, identifying information gaps including the significance of those gaps, and in order of priority, providing recommendations to British Columbia and the Tsilhqot'in Parties on how these gaps may be addressed, the resources required to fulfill information needs and how available regionally-allocated provincial funding should be allocated to fish and wildlife management priorities;
  - b. as a key input to provincial/Tsilhqot'in planning processes, making recommendations on habitat management and measures to facilitate effective use of habitat supply, including legal protection through legislative mechanisms including the Government Actions Regulation and *Land Act* designations;

- c. developing, by March 1, 2017, a monitoring program to track the population status and use of key provincial/Tsilhqot'in fisheries and wildlife values;
- d. leading the implementation of access management, cumulative effects assessment and the application of assessment outcomes to statutory decisions;
- e. making recommendations to the Parties respecting research requirements including wildlife population dynamics, wildlife and landscape ecology, and human dimensions in fish and wildlife management;
- f. providing recommendations to statutory decision-makers responsible for fish and wildlife harvest regulation and allocation decisions;
- g. developing species-specific recovery/management plans that will include operational guidance for all pertinent resource development activities, and guidance for Forest Stewardship Plans and operational plans and activities under those Forest Stewardship Plans. Development of a Moose Management Plan will be the priority task of the Panel (see sections 12.33 to 12.41);
- h. education and outreach; and
- i. other matters as agreed to by the Parties.

12.29 The Parties will jointly design and implement collaborative processes and structures that accord British Columbia and the Tsilhqot'in equal influence, through the Panel, in providing recommendations to direct the annual allowable harvest and allocation of species on Category 'B' Lands by November, 1, 2016.

12.30 Where British Columbia has a duty to consult and, if appropriate, accommodate other First Nations about a decision, British Columbia will discharge this duty as part of the decision-making process. The Panel will strive to resolve any conflicts between its preferred direction and the Crown's duties of consultation and accommodation to other First Nations; however, the Parties acknowledge that statutory decisions must accord with the Crown's duties of consultation owed to all First Nations.

12.31 The Parties will adopt a collaborative approach to provincial wildlife research and studies in Tsilhqot'in Territory, including the collaborative design, implementation and analysis of such research and studies and the participation, where possible, of Tsilhqot'in Citizens.



12.32 The Parties will design and implement a joint wildlife monitoring and enforcement regime by March 1, 2017 that provides a direct role for British Columbia and the Tsilhqot'in Parties.

***Immediate Commitment to Moose Recovery***

12.33 The Parties are committed to the recovery and responsible management of moose populations in Tsilhqot'in Territory.

12.34 The Panel will lead the development of a moose management plan (the "Moose Management Plan").

12.35 The Panel will continue to assemble the most current information and data on moose population trends based on survey and monitoring results, and input from the Tsilhqot'in Nation. The analysis will indicate changes in population levels, identify pressures affecting moose population viability and sustainability, and confirm the relative influence of identified causal factors that drive population trends.

12.36 The Panel will identify information gaps in the current information and data, provide recommendations on how these gaps may be addressed, and the resources required to fulfill information needs.

12.37 The Panel will prepare a summary of the analysis and causal factors underlying moose population trends. The analysis will provide a basis for exploring strategies to support recovery, including population trends, recovery thresholds and management measures to support the achievement of population targets.

12.38 The results from the evaluation and mitigation stage will be used to confirm population targets, management objectives, mitigation actions to accompany implementation, and monitoring procedures as components of a draft Moose Management Plan.

12.39 The draft Moose Management Plan will be submitted to the Ministry of Forests, Lands and Natural Resource Operations and the TNG for endorsement by Dec. 31, 2016.

12.40 The Panel will have an ongoing role in monitoring and implementation of the Moose Management Plan, including:

- a. monitoring and reporting on all hunting activity;
- b. scheduling and carrying out population surveys;
- c. undertaking mortality assessment and related technical reporting;

- d. seeking out and undertaking measures for predator control; and
- e. facilitating habitat enhancement and restoration, including measures for management of active road density.

12.41 Within thirty (30) days of the Effective Date, the Panel will meet and identify interim measures for moose recovery that will be immediately implemented.

***Environmental Assessment***

12.42 The Parties will explore opportunities to improve the provincial environmental assessment and the pre-assessment process, including opportunities to:

- a. enhance the role of First Nations at every stage of environmental assessment;
- b. better incorporate Aboriginal culture, values, worldviews, economies and priorities into environmental assessment and pre-assessment;
- c. more fully address Aboriginal rights, Aboriginal title and socio-economic issues in a manner that implements best practices and respects the Aboriginal perspective; and
- d. increase participation by First Nations in regulatory and environmental oversight and monitoring.

***Tsilhqot'in Place Names***

12.43 At the request of the Tsilhqot'in Nation, British Columbia will name, dual name or rename a set of key geographical features within the Declared Title Area and Category 'A' Lands with Tsilhqot'in place names, in accordance with existing provincial policy and procedures. Adopted place names will be identified in the BC Geographical Names database.

12.44 By February 1, 2017, the Parties will jointly develop an initial list of the key geographical features to be named, dual named, or renamed with Tsilhqot'in place names, in accordance with section 12.43.

12.45 The Tsilhqot'in Nation may propose that British Columbia name, dual name or rename other geographic features within Tsilhqot'in Territory with Tsilhqot'in place names, and British Columbia will consider those proposals in accordance with existing provincial law, policy and procedures.

12.46 At the request of the Tsilhqot'in Nation, British Columbia will record Tsilhqot'in place names and historical background submitted by the TNG, for geographical features, in

accordance with provincial law, policy and procedures. Recorded place names will be identified in the BC Geographical Names database.

- 12.47 British Columbia will implement bilingual Tsilhqot'in-English highway signage stating the distances to the respective Tsilhqot'in Communities.
- 12.48 The Parties will consider further opportunities for public displays of Tsilhqot'in culture and history, and seek additional funding opportunities together to create roadside kiosks and enhance the current signage.

### ***Annual Review and Progressive Improvement***

- 12.49 The Parties will annually review the progress of the collaborative strategic planning under section 12.5, the negotiation of Category 'A' Lands and Provisional Category 'A' Lands under sections 12.15 and 12.21, and the Panel under section 12.26, and jointly decide and implement any changes or initiatives required to advance the shared vision set out in section 12.1.
- 12.50 In accordance with section 6, the Parties are committed, in due course, to jointly design and implement collaborative processes and structures that guide additional strategic planning initiatives and statutory decisions, as prioritized and agreed by the Parties.
- 12.51 If, during the Term of this Agreement, British Columbia and another First Nation enter into a consent-based or joint decision-making initiative, through delegation, agreement or through enabling legislation, British Columbia will promptly advise the Tsilhqot'in Nation of that initiative and will review and negotiate with the Tsilhqot'in Nation in good faith on the potential provision and implementation of a similar consent-based or joint decision-making initiative. The expectation of the Parties is that every reasonable effort will be made to negotiate and implement similar consent-based or joint decision-making initiatives as appropriate to the circumstances.
- 12.52 The Parties commit to revisit the Timber Supply Review and the Annual Allowable Cut for the Williams Lake Timber Supply Area, as required to take into account new strategic planning direction, and the establishment of Category 'A' Lands.

## **13.0 SUSTAINABLE ECONOMIC BASE**

### ***Economic Action Plan***

- 13.1 The Parties have a common interest in improving Tsilhqot'in participation in the economy and establishing a secure climate for economic and resource development. The Economic Sub-Table will produce an Economic Action Plan by April 1, 2017.

- 13.2 The Economic Development Sub-Table will identify opportunities to support economic development for the Tsilhqot'in Communities and seek ways to support a positive contribution to the economies of the region and British Columbia.
- 13.3 As part of Strategic Planning and economic development planning, the Parties will explore identification of specific areas of land suitable for the promotion of appropriate development, including forestry, alternative energy, tourism and eco-tourism, responsible mining development, ranching, agriculture and food systems, and other economic initiatives.
- 13.4 Every effort will be made to advance economic opportunities deemed actionable by the Economic Development Sub-Table, as they are identified.
- 13.5 The Economic Development Sub-Table will promote the voluntary engagement of third parties, as required, to advance specific economic opportunities.
- 13.6 The Parties will take all reasonable steps to enhance participation by Tsilhqot'in Citizens and Tsilhqot'in businesses in government procurement contracts and opportunities.

#### ***River West Mill***

- 13.7 The Parties recognize the potential value of restarting the River West Forest Products Mill as a key driver of employment and other direct and indirect economic benefits for the Tsilhqot'in Communities and British Columbia.
- 13.8 British Columbia will support the Tsilhqot'in Nation's efforts to increase involvement of Tsilhqot'in Parties in the forest industry and to bring River West Mill back into operation, taking into account all relevant considerations, by:
- a. facilitating the engagement of the forest industry, BC Timber Sales, the Ministry of Jobs, Tourism and Skills Training, and BC Hydro;
  - b. seeking ways to fulfill expired offers of uplift volumes;
  - c. exploring additional opportunities to provide economically viable volume and tenure; and
  - d. exploring innovative ways to bring marginal fibre into production in a way that benefits the Tsilhqot'in Communities.

#### ***Resource Revenue Sharing***

- 13.9 The Parties will negotiate enduring, innovative agreements to share benefits from resource development on Category 'B' Lands by March 31, 2017.

- 13.10 The Parties will continue the interim financial arrangements established under section 6(c) of the *Letter of Understanding* until the Parties have negotiated more enduring agreements under section 13.9.

#### ***Targeted Rural and Economic Development***

- 13.11 The Parties recognize that large-scale timber harvesting in response to the mountain pine beetle epidemic has, to date, resulted in very little long-term benefit to the Tsilhqot'in Communities. For decades to come, the level of timber harvesting is expected to be significantly reduced.
- 13.12 The Parties recognize the ability of Tsilhqot'in Nation, Tsilhqot'in Communities and Tsilhqot'in Citizens to develop strong economies, and capitalize on emerging economic opportunities depends, in part, on regional collaboration, tailored economic approaches, access to investment capital, and business development support.
- 13.13 The Parties will work together to take advantage of, leverage, and enhance benefits from existing and emerging rural and economic development programs and initiatives. This includes exploring the possibility of establishing specific access to economic development capital through establishment of a legacy fund and other means.

#### ***Alternative Energy & Infrastructure Plan***

- 13.14 The Tsilhqot'in Parties have identified a number of energy related aspirations, including development of clean energy, upgrades to the Highway 20 distribution line and electrification of Xeni Gwet'in. Some of these items have already been the subject of extensive study and work involving the Tsilhqot'in Nation and BC Hydro. BC Hydro and the Tsilhqot'in Nation are meeting directly to review the energy-related studies that have already been done in the area to understand the Tsilhqot'in Nation's current proposals, which differ in some cases from what was proposed and studied earlier.
- 13.15 Once the new proposals are understood, British Columbia, supported by BC Hydro, is committed to working collaboratively with the Tsilhqot'in Nation to identify and assess opportunities and determine their technical and financial viability taking into account such factors as BC Hydro's rate plan, and the challenges identified in previous studies.
- 13.16 The Parties will undertake a review of existing studies and proposals for clean energy development and initiate new reviews based on pre-feasibility and feasibility studies including, but not limited to, solar, bio-energy, hydro, wind and geothermal. Clean energy proposals will be evaluated based on the opportunities available under BC Hydro's Standing Offer Program or any other applicable programs. In addition, BC Hydro remains open to considering innovative opportunities, where such opportunities are supported by a positive financial business case, that provides net benefit to ratepayers

and that advances the shared vision of this Agreement. This review will also include proposals for electrification of Xeni Gwet'in and upgrades to the Highway 20 distribution line.

- 13.17 The Parties will complete their review on a priority basis and prepare a report outlining short-term opportunities (e.g. projects that can move beyond the feasibility stage) by April 1, 2017, or as soon as practicable depending on the nature of the proposals that are presented by the Tsilhqot'in Nation. As part of this report, British Columbia will examine, and clearly communicate, any options at its disposal to support short and long-term opportunities.
- 13.18 The Parties acknowledge that upgrades to the electrical infrastructure described in Section 13 are required to create additional economic opportunities for the Tsilhqot'in Nation, and fully achieve the economic vision described in this Agreement.

#### ***Land Based Investment Commitments***

- 13.19 The Parties will jointly review the Land Based Investment Strategy to ensure provincial funds that are allocated to the Tsilhqot'in Territory are commensurate with the reforestation and stand tending requirements to support the Type IV silviculture strategy. The Parties will jointly establish priority of works to occur and, where possible, maximize Tsilhqot'in Nation participation in carrying out these works.

#### ***Acquisitions Fund***

- 13.20 The Parties will explore options to establish a fund to enable the acquisition by the Tsilhqot'in Nation of key private properties, licenses, tenures or other interests that come available for sale in Tsilhqot'in Territory, if such a purchase supports the collaborative vision and goals of this Agreement.

#### ***First Nations Woodland Licenses***

- 13.21 British Columbia will process the applications by the Tsilhqot'in Communities for First Nations Woodland Licenses on a priority basis. The target date for completion of Tsilhqot'in woodland licenses or bridging replaceable licenses will be September 30, 2016.
- 13.22 British Columbia will, at the request of any Tsilhqot'in Party, discuss alternative or interim tenures (e.g. replaceable volume-based forest licenses) and support their timely implementation, including making volume available, where such tenures support the vision of this Agreement.

#### **14.0 ACTION PLAN FOR SOCIAL, CULTURAL, EDUCATION & JUSTICE PILLARS**

- 14.1 The Parties will establish the necessary processes and structures to enable collaborative action between their respective leadership, organizations, ministries and staff, and assure that measurable progress is made to strengthen the socio-cultural well-being of Tsilhqot'in Citizens, families, communities and organizations, beginning with a focus on the strategic priorities identified in the shared vision for the following Socio-Cultural Pillars:
- a. Strong Tsilhqot'in Culture and Language;
  - b. Healthy Children and Families;
  - c. Healthy Communities;
  - d. Justice; and
  - e. Education and Training.
- 14.2 The Parties acknowledge the dedication and effort of such social service agencies as Denisiqi Services Society, Punky Lake Wilderness Camp Society and Nenqayni Treatment Centre, while also acknowledging that substantial progress and change is required to achieve the shared vision set out for the Socio-Cultural Pillars.
- 14.3 The Social, Cultural, Education and Justice Sub-Table will produce a Social and Cultural Action Plan by February 28, 2017.
- 14.4 The following principles will guide the Parties in developing the Social and Cultural Action Plan and achieving the shared vision for these Pillars:
- a. the Parties recognize that progress may be made towards the shared vision for these Pillars if British Columbia prioritizes existing resources and programs in a focused manner for the Tsilhqot'in Communities;
  - b. however, the Parties acknowledge that the Tsilhqot'in Communities face considerable socio-economic gaps relative to non-Aboriginal communities, as well as substantial barriers to addressing these gaps;
  - c. accordingly, the Parties recognize that resources are required, particularly in the initial stages, for the Parties to successfully develop and implement the Social and Cultural Action Plan;
  - d. the Parties are committed to the goal of developing self-sustaining Tsilhqot'in Communities with the expectation that the Tsilhqot'in Parties will eventually be in a position to contribute financially to social and cultural programs and initiatives for the Tsilhqot'in Communities;

- e. at the same time, the Parties recognize that sustained focus and commitment from the Parties will be required to close the socio-economic gaps facing the Tsilhqot'in Communities; and
- f. accordingly, the financial contribution of the Tsilhqot'in Parties to these efforts will commence only when, and to the extent that the Parties agree, it does not compromise sustained progress towards achieving the shared vision set out for the Pillars, and an agreed level of progress has been achieved towards closing the socio-economic gaps with non-Aboriginal communities.

14.5 The Tsilhqot'in Parties will:

- a. identify and confirm community-defined strategic priorities and targets for strengthening the social and cultural well-being of its Tsilhqot'in Citizens, families, communities and organizations and achieving the outcomes for each of the identified Pillars; and
- b. establish structures and processes within the Tsilhqot'in Nation for governing, administering, planning, and implementing activities to progress Tsilhqot'in social and cultural priorities.

14.6 The Parties will:

- a. engage the active participation of key partners to assist the Parties in their understanding of and approaches to addressing the complex issues related to social and cultural well-being;
- b. identify shared priorities to advance Tsilhqot'in Citizens social and cultural well-being and related joint accountabilities;
- c. identify and address barriers and gaps in policy and the social service delivery models that are inhibiting progress towards Tsilhqot'in Nation priorities for each Pillar;
- d. as a priority, work to engage Canada, and develop an action plan to significantly improve housing in the Tsilhqot'in Communities;
- e. develop and resource joint strategic plans to align with and advance progress on Tsilhqot'in Nation priorities;
- f. enter into research and data-sharing arrangements, in compliance with the *Freedom of Information and Protection of Privacy Act*, to assist Tsilhqot'in decision making, planning and governance of social and cultural well-being;



- g. work together to develop and maintain a system to notify, inform and update the Tsilhqot'in Nation, to the extent possible, about the status of Tsilhqot'in children and youth in the provincial child and family system, subject to any restrictions imposed by the *Freedom of Information and Protection of Privacy Act* or other applicable legislation; and
- h. identify opportunities to structure provincial and Tsilhqot'in investments in ways that will leverage financial contributions to advance Tsilhqot'in priorities; and seek to achieve administrative and service delivery efficiencies where possible.

**14.7 British Columbia will:**

- a. through provincial strategic leadership, focus provincial resources to advance implementation of shared strategic priorities and achieve measureable progress on short, medium and long-term goals; and
- b. review and, if necessary, refine and advance new policies and approaches to ensure that they facilitate and are compatible with advancing the shared vision for each Pillar.

**15.0 DECLARED TITLE AREA**

15.1 The Parties will promptly establish the Declared Title Area Implementation Sub-Table in accordance with section 5.2, to address practical issues in the Declared Title Area, with the mandate to foster a stable transition to full management, benefit and control of the Declared Title Area by the Tsilhqot'in Nation while respectfully engaging third parties and attempting to address their interests within the Declared Title Area.

**16.0 PAST BREACHES OF CROWN'S DUTIES IN DECLARED TITLE AREA**

16.1 The Parties will make every reasonable effort, by May 1, 2016, to negotiate appropriate remedies for the breach of British Columbia's duties to the Tsilhqot'in Nation identified by the Supreme Court of British Columbia in *Tsilhqot'in Nation v British Columbia*, 2007 BCSC 1700 and affirmed by the Supreme Court of Canada in *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44.

**17.0 FIRST NATIONS CONSULTATION**

17.1 The Parties enter this Agreement as a high-level framework to foster and support future negotiations between the Parties. The Parties do not intend, by taking this first step of signing the Agreement and establishing a high-level framework for discussions, to affect or impact in any way the asserted or established rights of other First Nations under section 35 of the *Constitution Act, 1982*.

17.2 The Parties agree that this Agreement will be implemented in a manner consistent with the established rights of other First Nations under section 35 of the *Constitution Act 1982*, as well as British Columbia's ongoing duty to consult with First Nations and seek to accommodate potential adverse impacts on asserted Aboriginal rights and title claims, as appropriate, in accordance with the common law and the provisions of applicable First Nations' treaties and engagement agreements.

17.3 The Parties recognize and acknowledge that other First Nations assert rights and interests under section 35 of the *Constitution Act, 1982* in the area subject to this Agreement, and are committed to engaging with other First Nations in an open and positive manner to attempt to resolve differences, reconcile interests and find mutually agreeable solutions.

## **18.0 DISPUTE RESOLUTION**

18.1 If a dispute arises relating to the interpretation or implementation of this Agreement (a "Dispute"), British Columbia or the Tsilhqot'in Parties may bring the Dispute to the attention of the Working Group by written notice. The Working Group will discuss and attempt to resolve the Dispute, with direction from the Parties' respective principals, where required.

18.2 If the Working Group cannot resolve the Dispute, the Leadership Table will be convened to discuss and attempt to resolve the Dispute or provide further direction to the Working Group.

18.3 Additionally, the Parties will utilize any dispute resolution mechanisms agreed to by the Parties in relation to a specific Dispute, including facilitated discussions or mediation.

18.4 For clarity, nothing in this section prevents or limits the ability of any Party to seek relief in court relating to a Dispute after exhausting the dispute resolution processes set out in sections 18.1 and 18.2 or if a Party still considers the Dispute unresolved more than 60 days after the Dispute was brought to the attention of the Working Group under section 18.1.

18.5 Notwithstanding section 18.4, any Party may bring judicial proceedings relating to a Dispute at any time:

- a. to prevent the loss of a right to commence proceedings due to the expiration of a limitation period; or
- b. to obtain interlocutory or other interim relief.

## **19.0 IMPLEMENTATION FUNDING**

- 19.1** To implement this Agreement, British Columbia will provide the Tsilhqot'in National Government with:
- a. \$4,200,000 within thirty (30) days of the Effective Date;
  - b. \$3,000,000 on or before March 1, 2017;
  - c. \$3,000,000 on or before March 1, 2018; and
  - d. amounts agreed to pursuant to section 19.5, the first due March 1, 2019 and the second, and final amount, due March 1, 2020.
- 19.2** Annual payments described in section 19.1(b), (c) and (d) will be released by British Columbia following receipt of an annual report in each fiscal year that provides a high level summary of expenditures and achievements from the previous year's implementation funding. The form and manner of that report will be agreed to by the Parties.
- 19.3** The TNG will ensure that the annual report referred to in section 19.2 of this Agreement is submitted to British Columbia at least thirty (30) days prior to the next scheduled payment.
- 19.4** The TNG will ensure that the reports referred to in section 19.2 of this Agreement are posted in a manner making them reasonably available to Tsilhqot'in Citizens and the public. If, due to technical limitations, the Tsilhqot'in National Government is unable to make the reports available in this manner, British Columbia may assist in the public dissemination of the reports.
- 19.5** The Parties agree that stable, predictable funding is desirable to implement the Agreement and commit to a rolling model of funding for years four (4) and five (5) of the Agreement. Specifically, British Columbia will identify funding for those years, two (2) years before the money is due.
- 19.6** The Parties agree that this Agreement is of benefit to all Parties and that as a principle, the Parties agree to discuss and pursue supplemental funding sources that may contribute to the implementation of this Agreement.
- 19.7** The Parties agree that they will work together to engage the Government of Canada, with one of the goals being federal allocation of secure funding for the Tsilhqot'in Nation, to support the negotiations necessary for the implementation of this Agreement.

19.8 British Columbia's obligation to pay money under this Agreement is subject to the *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year during which payment is due.

## **20.0 OTHER AGREEMENTS**

20.1 Other written agreements between British Columbia and the Tsilhqot'in Parties, including the Tsilhqot'in Stewardship Agreement, continue in accordance with their provisions but from time to time may be amended, in writing, by British Columbia and the Tsilhqot'in Parties to those other agreements, to address progress under this Agreement.

## **21.0 TERM AND TERMINATION**

21.1 This Agreement remains in effect for five (5) years from the Effective Date or until it is terminated pursuant to section 21.4 below (the "Term").

21.2 This Agreement is without prejudice to the right of the Tsilhqot'in Parties to commence or engage in litigation, including litigation asserting Aboriginal rights under section 35 of the *Constitution Act, 1982*, in response to a conflict arising from provincial or federal government actions or authorizations that cannot otherwise be resolved by the Parties.

21.3 In the spirit of this Agreement:

- a. the Tsilhqot'in Parties each agree and covenant that none of the Tsilhqot'in Parties will initiate or advance any litigation involving British Columbia seeking a declaration of Aboriginal title during the Term of the Agreement, other than in response to a conflict arising from government actions or authorizations that the Parties cannot otherwise resolve to the satisfaction of the Tsilhqot'in Parties. Where such an unresolved conflict arises, the Parties acknowledge that the Tsilhqot'in Parties may seek a declaration of Aboriginal title to the area that is reasonably required to respond effectively to the government action or authorization at issue.
- b. Nothing in section 21.3(a) constitutes an admission by British Columbia that the seeking of a declaration of Aboriginal title in response to an unresolved conflict is an appropriate remedy.
- c. Should the Tsilhqot'in Parties pursue a declaration of Aboriginal title pursuant to section 21.3(a), nothing in this Agreement will prevent British Columbia from raising any defence it may choose to any petition or action or other litigation in which such a declaration of Aboriginal title is sought.

- 21.4 If any Tsilhqot'in Party commences litigation that is contrary to section 21.3, British Columbia may terminate this Agreement upon the expiry of ninety (90) days' advance written notice to all Tsilhqot'in Parties.
- 21.5 British Columbia will withdraw any termination notice previously given if, prior to the expiry of the 90 day notice period in section 21.4:
- a. a notice of discontinuance of the entire proceeding as against all named parties is filed in court in respect of any litigation commenced contrary to section 21.3; or
  - b. British Columbia and all Tsilhqot'in Parties enter into an abeyance agreement, placing all litigation, court proceedings or court actions commenced contrary to section 21.3 into abeyance as against all named parties.
- 21.6 For greater certainty, section 21.3 does not limit the rights of the Tsilhqot'in Parties or Tsilhqot'in Citizens to defend any action or proceeding, civil or criminal, in which any Tsilhqot'in Party or Tsilhqot'in Citizen is named, joined or added as a defendant or a respondent, and in which their rights under section 35 of the *Constitution Act, 1982*, are placed in question.
- 21.7 The Parties acknowledge that this Agreement is a transition step to support the negotiation of more enduring arrangements between the Parties. The Parties will make every reasonable effort to negotiate a comprehensive and lasting reconciliation agreement, or agreements, before the expiry of this Agreement.
- 21.8 The Parties are jointly committed to achieving the shared vision for the Pillars set out in section 3, pursuant to the Guiding Principles set out in section 4. Prior to the expiry of this Agreement, the Parties will negotiate in good faith and attempt to reach agreement to renew, replace or supersede this Agreement, as required to advance and achieve the commitments set out in this Agreement, and in particular sections 3 and 4.
- 21.9 The Tsilhqot'in Parties will not authorize or support claims brought by Tsilhqot'in Citizens that contravene section 21.3(a).
- 21.10 British Columbia agrees and covenants that it will not count or rely on the period of time while this Agreement is in effect in support of a defence based on laches, acquiescence, limitation periods or any other statutory or equitable bar to court proceedings that may be brought by the Tsilhqot'in Parties, or any of them, seeking a declaration of Aboriginal rights, including Aboriginal title.

## **22.0 GENERAL PROVISIONS**

- 22.1 This Agreement may be amended by agreement of the Parties, in writing.

- 22.2 Nothing in this Agreement precludes the Tsilhqot'in Parties from:
- a. negotiating or implementing benefit-sharing or other agreements with proponents, third parties, or governments;
  - b. accessing any economic benefits or opportunities that might be available to the Tsilhqot'in Parties;
  - c. obtaining funding under the Tsilhqot'in Stewardship Agreement; or
  - d. participating in government programs for which the Tsilhqot'in Parties may be eligible.
- 22.3 Subject to section 21.10 this Agreement will not limit any position that British Columbia or the Tsilhqot'in Parties may take in future negotiations or legal proceedings.
- 22.4 While the Parties recognize and affirm the declaration of Aboriginal title granted by the Supreme Court of Canada in *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44, this Agreement does not otherwise create, amend, define, affirm, recognize, abrogate or derogate from any Aboriginal rights or Aboriginal title of the Tsilhqot'in Nation.
- 22.5 This Agreement is not a treaty or a lands claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 22.6 This Agreement does not:
- a. fetter or limit, and shall not be deemed to fetter or limit, the decision-making authority of any Party or their authorized representatives; or
  - b. constitute any admission of fact or liability.
- 22.7 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.
- 22.8 If any part of this Agreement is void or unenforceable at law, the Parties agree to negotiate and attempt to reach agreement, to the extent reasonably possible and as their respective interests may require, on a replacement for the severed part with a view to achieving the intent of the Parties as expressed in this Agreement.
- 22.9 All headings in this Agreement are for convenience only and do not form a part of this Agreement and are not intended to interpret, or explain the scope, extent or intent of this Agreement or any of its provisions.

- 22.10 In this Agreement, words in the singular include the plural, and words in the plural include the singular unless the context or any specific definition otherwise requires.
- 22.11 The use of the word “including” is to be read as not limiting the generality of the preceding term or phrase.
- 22.12 The following Schedules are attached to and form part of this Agreement: *Schedule A – Map of the Tsilhqot’in Territory*.
- 22.13 This Agreement may be executed in counterparts and by facsimile by the Parties.

### **23.0 REPRESENTATIONS AND WARRANTIES**

- 23.1 Tsilhqot’in Nation representations: Each of the Tsilhqot’in Parties represents and warrants to British Columbia, with the intent and understanding that British Columbia will rely on them in entering into this Agreement that:
- a. it has the legal power, capacity and authority to enter into this Agreement on its own behalf and on behalf of its Citizens; and
  - b. this Agreement is a valid and binding obligation upon it.
- 23.2 British Columbia representations: British Columbia represents and warrants to the Tsilhqot’in Parties, with the intent and understanding that the Tsilhqot’in Parties will rely on them in entering into this Agreement, that it has the authority to enter into this Agreement and that this Agreement is a valid and binding obligation upon British Columbia.

IN WITNESS WHEREOF the Parties hereby execute this Agreement as of the date first written above.

On behalf of the Tsilhqot’in Nation and the Tsilhqot’in Parties:

---

Nits’il?in (Chief) Joe Alphonse  
Tribal Chairman – Tsilhqot’in National Government  
Tl’etinqox Government

---

Nits’il?in Roger William  
Vice Chairman – Tsilhqot’in National Government  
Xeni Gwet’in First Nations Government

---

Nits'il?in Francis Laceese  
Toosey Indian Band

---

Nits'il?in Ervin Charleyboy  
Tsi Deldel First Nation

---

Nits'il?in Bernie Mack  
?Esdilagh First Nation

---

Nits'il?in Russell Myers Ross  
Yunesit'in First Nations Government

**On behalf of the Province of British Columbia:**

---

Hon. Christy Clark, Premier

---

Hon. John Rustad  
Minister of Aboriginal Relations and Reconciliation





Page 388 of 590 to/à Page 411 of 590

Withheld pursuant to/removed as

s.14; s.16

Re-building trust of  
-cert. why would we...



Ministry of  
Forests, Lands, Natural  
Resource Operations  
and Rural Development

## Early Warning Note

Date: August 27, 2018

CLIFF: 105090

Email to: Vivian Thomas, **Communications Director, GCPE**

Email to: Paul Rasmussen, **Assistant Deputy Minister, South Area**

CC to: Dana Eckardt, **Director, Executive Operations**  
Emily Tackaberry, **A/Manager Executive Issues**

From: Cariboo-Chilcotin Natural Resource District

Contact: Harold Stolar, District Manager

Ph: 250-398-4400

Issue: Taseko Mines Limited (TML) seeking issuance of an Occupant Licence to Cut (OLTC) for New Prosperity Notice of Work (NOW) after BC Supreme Court decision

Briefing Note to follow: No

### **Background:**

There has been a long standing position taken by the Tsilhqot'in Nation Government (TNG) that they do not want to see Taseko develop New Prosperity within the traditional territory of the Xenigwet'in. The TNG have opposed all exploratory work by the company that would support the development of a mine.

In May 2017 TML applied to the Cariboo-Chilcotin Natural Resource District (DCC) for an OLTC to support a NOW which was not yet approved by the Ministry of Energy, Mines and Petroleum Resources (EMPR).

EMPR approved the NOW in July 2017. TML then approached DCC requesting when the issuance of OLTC would occur. During 2017, DCC was engaged heavily with fire response and recovery efforts. TML was informed that it may take some time to issue the OLTC. Subsequently the Federal Canadian Environmental Assessment Agency (CEAA) and the TNG petitioned the BC Supreme Court, on different grounds, to halt TML from conducting activities associated with the NOW.

Both petitions were dismissed by the BC Supreme Court, with the latest occurring on August 23, 2018. Taseko requires the OLTC to harvest crown timber and the district manager is required under Section 14 of the *Mineral Tenures Act* to issue an OLTC on request of the holder of the mineral rights in this area. In addition to the Province's consultation with the TN regarding both the NOW and OLTC, which commenced in November 2016, DCC took additional steps to engage with TML and TNG and provided possible conditions that could be included in the OLTC.



Taseko has given notice to the TNG and the Province that they are preparing to conduct activities authorized in the NOW no earlier than September 1, 2018 and have contacted DCC to request a timeline for issuance of the OLTC.

The OLTC, with additional conditions, is prepared and ready to be sent to TML for signing. Once returned DCC intends to issue the OLTC.

The issuance of the OLTC will likely create significant tensions with TNG, who are adamantly opposed. Injunction applications and/or direct action at the work site is expected. TML has notified the RCMP, and MIRR has notified and engaged its Critical Incidents & Emergency Management (CIEM) team.

***Suggested Response:***

Under Section 14 of the *Mineral Tenures Act*, the district manager must issue harvesting authority if requested by of the holder of the mineral rights in this area. Deep consultation on the OLTC and NOW occurred with the TN. With respect to that consultation process, the BC Supreme Court recently found "that both the consultation process and degree of accommodation were such that the honour of the Crown was maintained, and adequate reconciliation efforts were made in the circumstances".

In addition to that earlier consultation, the province recently undertook further engagement with TN on additional conditions that could be attached to the OLTC to avoid and minimize, to the extent possible, impacts on TN rights and interests arising from the OLTC.

Page 414 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 415 of 590

Withheld pursuant to/removed as

s.16; s.14

Page 416 of 590 to/à Page 433 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 434 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16



Page 435 of 590

Withheld pursuant to/removed as

s.16; s.12; s.13; s.14

Page 436 of 590 to/à Page 437 of 590

Withheld pursuant to/removed as

s.12; s.13; s.14; s.16

Page 438 of 590

Withheld pursuant to/removed as

s.13; s.12; s.14; s.16

Se B.

**Coley, Simon J JAG:EX**

**From:** Ellis, Rose ABR:EX  
**Sent:** Monday, July 7, 2014 1:30 PM  
**To:** Coley, Simon J JAG:EX  
**Subject:** FW: Update - Internal Work on William Response

Internal document, for info only.

**From:** Mayhew, Neilane ABR:EX  
**Sent:** July-04-14 4:57 PM  
**To:** Cowtan, Pamela ABR:EX; Gash, Michael ABR:EX; Lizee, Yvette ABR:EX; Poland, Peter ABR:EX; Kerr, Paul ABR:EX; Gunnarsen, Krista A ABR:EX; Low, Bruce ABR:EX; Banford, Alexandra R ABR:EX; Morris, Tricia ABR:EX; Robertson, Linda G ABR:EX; ABR NROD Executive; Perrins, Greg ABR:EX; de Waal, Penny ABR:EX; Brunette, Greg ABR:EX; Cockle, Darlene ABR:EX; Donaldson, Nedinska ABR:EX; Draeseke, Rob ABR:EX; Dunn, Stephen L ABR:EX; Ellis, Elisabeth ABR:EX; Franklin, Janice ABR:EX; Gilmore, Tena ABR:EX; Gunnarsen, Krista A ABR:EX; Heaney, Lincoln ABR:EX; Maloughney, Mary Sue ABR:EX; Matsubuchi, Michael ABR:EX; McCombs, Brendan ABR:EX; Miles, Barbara S ABR:EX; Morris, Tricia ABR:EX; Murali, Bala ABR:EX; Nash, Laurel ABR:EX; Puggioni, Giovanni ABR:EX; Pyper, John ABR:EX; Roberts, Lloyd E ABR:EX; Simonson, Terry ABR:EX; Smith, Dugald ABR:EX; Wright, Millt ABR:EX  
**Cc:** Walters, Peter ABR:EX  
**Subject:** Update - Internal Work on William Response

Further to the recent DM message note, I am writing to provide some information for staff on the internal MARR response to the recent SCC decision and what can be expected over the next couple of weeks. Please feel free to share with MARR internally as required.

1. Decision Response Plan – Immediate response is focussed on supporting JAG, initial coordination with NR Sector, stakeholders and response with TN. This work is being led out of LRB with support from DMO. Please contact Mary-Sue Maloughney and Krista Gunnarson if you have any questions.
2. Strategic and Policy Response - As can be expected, there is lots of interest in how this will shape up over the coming weeks. Key milestones will be final legal analysis and policy direction from government. In the interim:
  - Internally, coordination will take place through 3PT to develop preliminary recommendations on policy priorities. These recommendations will need to be refined as the legal analysis is completed and we receive direction from government. We will also be engaging with agencies through the CAART, First Nations Secretariat and NRS ADMS next week.
  - Existing policy working groups (e.g. Shared Decision Making Working Group) will continue to support corporate policy response.
  - We also expect that some new policy committees, both with MARR and agency staff, will need to be struck to ensure we are building on experience we all have implementing our current policy framework. Contact Terry Simonson, Rose Ellis or Krista if you have any questions.
3. Negotiations Response - Recognizing that several staff are participating in negotiations over the next couple of weeks, we want to ensure that we are coordinated in our response and approach at tables. To that end, there are a couple of initiatives underway that will help support response on the ground and inform the broader strategic policy response noted above.

- NROB is carrying out an assessment to existing mandates and anticipated response from FNs as they consider the terms of their current agreements. Our full suite of agreements are in scope, including non-treaty and treaty (Snr. Managers in NROD and SID have been asked to provide this information to Rose Ellis).
- NROB will also be providing key messages to support implementation of G2Gs and support on strategies for current negotiations. Lead Penny de Waal.
- s.14,s.16

We appreciate the efforts and collaboration that is underway across Divisions to respond to this new direction. Should staff have any questions regarding potential implications for any of the projects you are working on please bring those forward through your Snr. Manager or project leader or contacts noted above. As previously indicated, all media inquiries should be directed to Corinna Filion.

**Neilane Mayhew**  
Assistant Deputy Minister  
Strategic Initiatives Division  
Ministry of Aboriginal Relations and Reconciliation  
Phone: 250 356-1439  
Fax: 250 387-6073

Page 441 of 590 to/à Page 468 of 590

Withheld pursuant to/removed as

s.14; s.16

DRAFT PRINCIPLES  
*that Guide the*  
PROVINCE OF BRITISH COLUMBIA'S  
*Relationship with*  
INDIGENOUS PEOPLES



OK to discuss -





# DRAFT PRINCIPLES that Guide the PROVINCE OF BRITISH COLUMBIA'S Relationship with INDIGENOUS PEOPLES

The Province wants to renew its relationship with Indigenous peoples in B.C., and affirms its desire to achieve a government-to-government relationship based on respect, recognition and exercise of Aboriginal title and rights and to the reconciliation of Aboriginal and Crown titles and jurisdictions. We agree to work with Indigenous peoples to jointly design, construct and implement principled, pragmatic and organized approaches informed by the Supreme Court of Canada *Tsilhqot'*in decision and other established law, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Truth and Reconciliation Commission (TRC) Calls to Action.

Indigenous people have a special constitutional relationship with the Crown. This relationship, including existing Aboriginal and treaty rights, is recognized and affirmed in section 35 of the *Constitution Act, 1982*.

The Province's draft reconciliation principles are intended as bold statements to guide this new relationship and end the denial of Indigenous rights that have led to disempowerment and assimilationist policies and practices. The principles will assure the Province conducts itself in a way that reflects a clear shift in an often troubled relationship with Indigenous peoples to a modern government-to-government relationship that is strong, sophisticated and valued. These principles create the space needed to exercise our respective jurisdictions for the benefit of all British Columbians. We will recognize success when we know Indigenous peoples believe themselves to be self-determining, self-governing, self-sufficient and can practise their Indigenous cultural traditions and customs as an important and respected part of B.C. society.

B.C.'s principles are about renewing the Crown-Indigenous relationship. They are an important starting point to move away from the status quo and to empower the Province to fundamentally change its relationship with Indigenous peoples, a process that will take time and will call for innovative thinking and action. This is necessary to ensure a modernized Crown-Indigenous relationship in B.C.

## **1** The Province of British Columbia recognizes that all relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.

This opening principle affirms the priority of recognition in renewed government-to-government relationships. As set out by the courts, an Indigenous nation or rights-holding group is a group of Indigenous people sharing critical features such as language, customs, traditions, and historical experience at key moments in time like first contact, assertion of Crown sovereignty, or effective control. The Royal Commission on Aboriginal Peoples estimated that there are between 60 and 80 historical nations in Canada.

The Province's recognition of the ongoing presence and inherent rights of Indigenous peoples as a defining feature of Canada is grounded in the promise of section 35 of the *Constitution Act, 1982*, in addition to reflecting articles 3 and 4 of UNDRIP. The promise mandates the reconciliation of the prior existence of Indigenous peoples and the assertion of Crown sovereignty, as well as the fulfilment of historic treaty relationships.

This principle reflects UNDRIP's call to respect and promote the inherent rights of Indigenous peoples. This includes the rights that derive from their political, economic, and social structures and from their cultures, spiritual traditions, histories, laws, and philosophies, especially their rights to their lands, territories and resources.

The constitutional and legal order in Canada recognizes the reality that Indigenous peoples' ancestors owned and governed the lands which now constitute Canada prior to the Crown's assertion of sovereignty. All of the Crown's relationships with Indigenous peoples are based on recognition of this fact and supported by the recognition of Indigenous title and rights, as well as the negotiation and implementation of pre-Confederation, historic, and modern treaties.

It is the mutual responsibility of all governments to shift their relationships and arrangements with Indigenous peoples so that they are based on recognition and respect for the right to self-determination, including the inherent right of self-government for Indigenous nations. This responsibility includes changes in the operating practices and processes of the provincial government. For Indigenous peoples, this responsibility includes how they define and govern themselves as nations and governments and the parameters of their relationships with other orders of government.

## **2** The Province of British Columbia recognizes that reconciliation is a fundamental purpose of section 35 of the *Constitution Act, 1982*.

Reconciliation is an ongoing process through which Indigenous peoples and the Crown work cooperatively to establish and maintain a mutually respectful framework for living together, with a view to fostering strong, healthy, and sustainable Indigenous nations within a strong Canada. As we build a new future, reconciliation requires recognition of rights and that we all acknowledge the wrongs of the past, know our true history, and work together to implement Indigenous rights.

This transformative process involves reconciling the pre-existence of Indigenous peoples and their rights and the assertion of sovereignty of the Crown, including inherent rights, title, and jurisdiction. Reconciliation, based on recognition, will require hard work, changes in perspectives and actions, and compromise and good faith, by all.

Reconciliation frames the Crown's actions in relation to Aboriginal and treaty rights and informs the Crown's broader relationship with Indigenous peoples. The Province's approach to reconciliation is guided by UNDRIP, the TRC Calls to Action, constitutional values, and collaboration with Indigenous peoples as well as the federal and other provincial and territorial governments.

### **3 The Province of British Columbia recognizes that the honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.**

The Province recognizes that it must uphold the honour of the Crown, which requires the provincial government and its departments, agencies, and officials to act with honour, integrity, good faith, and fairness in all of its dealings with Indigenous peoples. The honour of the Crown gives rise to different legal duties in different circumstances, including fiduciary obligations and diligence. The overarching aim is to ensure that Indigenous peoples are treated with respect and as full partners in Confederation.

### **4 The Province of British Columbia recognizes that Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.**

This principle affirms the inherent right of self-government as an existing Aboriginal right within section 35 of the *Constitution Act, 1982*. Recognition of the inherent jurisdiction and legal orders of Indigenous nations is therefore the starting point of discussions aimed at interactions between federal, provincial, territorial, and Indigenous jurisdictions and laws.

As informed by UNDRIP, Indigenous peoples have a unique connection to and constitutionally protected interest in their lands, including decision making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands.

Government-to-government relationships, including treaty relationships, therefore include:

1. developing mechanisms and designing processes which recognize that Indigenous peoples are foundational to Canada's constitutional framework;
2. involving Indigenous peoples in the effective decision making and governance of our shared home;
3. putting in place effective mechanisms to support the transition away from colonial systems of administration and governance; and
4. ensuring, based on recognition of rights, the space for the operation of Indigenous jurisdictions and laws.

**The Province of British Columbia recognizes that treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.**

This principle recognizes that Indigenous peoples have diverse interests and aspirations and that reconciliation can be achieved in different ways with different nations, groups, and communities.

This principle honours historic treaties as frameworks for living together, including the modern expression of these relationships. In accordance with the Royal Proclamation of 1763, many Indigenous nations and the Crown historically relied on treaties for mutual recognition and respect to frame their relationships. Across much of Canada, the treaty relationship between the Indigenous nations and Crown is a foundation for ongoing cooperation and partnership with Indigenous peoples.

The Province recognizes the role that treaty making has played in building Canada and the contemporary importance of treaties, both historic and those negotiated after 1973, as foundations for ongoing efforts at reconciliation. The spirit and intent of both Indigenous and Crown parties to treaties, as reflected in oral and written histories, must inform constructive partnerships, based on the recognition of rights, that support full and timely treaty implementation.

In accordance with section 35 of the *Constitution Act, 1982*, all Indigenous peoples in Canada should have the choice and opportunity to enter into treaties, agreements, and other constructive arrangements with the Crown as acts of reconciliation that form the foundation for ongoing relations. The Province prefers no one mechanism of reconciliation to another. It is prepared to enter into innovative and flexible arrangements with Indigenous peoples that will ensure that the relationship accords with the aspirations, needs, and circumstances of the Crown-Indigenous relationship.

The Province also acknowledges that the existence of Indigenous rights is not dependent on an agreement and, where agreements are formed, they should be based on the recognition and implementation of rights and not their extinguishment, modification, or surrender.

Accordingly, this principle recognizes and affirms the importance that Indigenous peoples determine and develop their own priorities and strategies for organization and advancement. The Province recognizes Indigenous peoples' right to self-determination, including the right to freely pursue their economic, political, social, and cultural development.

**6** The Province of British Columbia recognizes that meaningful engagement with Indigenous peoples aims to secure their free, prior and informed consent when B.C. proposes to take actions which impact them and their rights, including their lands, territories and resources.

This principle acknowledges the Province's commitment to a new government-to-government relationship that builds on and goes beyond the legal duty to consult. In delivering on this commitment, the Province recognizes the right of Indigenous peoples to participate in decision making in matters that affect their rights through their own representative institutions and the need to consult and cooperate in good faith with the aim of securing their free, prior and informed consent.

The Supreme Court of Canada has clarified that the standard to secure consent of Indigenous peoples is strongest in the case of Aboriginal title lands. The Supreme Court of Canada has confirmed that Aboriginal title gives the holder the right to use, control, and manage the land and the right to the economic benefits of the land and its resources. The Indigenous nation, as proper title holder, decides how to use and manage its lands for both traditional activities and modern purposes, subject to the limit that the land cannot be developed in a way that would deprive future generations of the benefit of the land.

The importance of free, prior and informed consent, as identified in UNDRIP, extends beyond title lands. To this end, British Columbia will look for opportunities to build processes and approaches aimed at securing consent, as well as creative and innovative mechanisms that will help build deeper collaboration, consensus, and new ways of working together. It will ensure that Indigenous peoples and their governments have a role in public decision making as part of Canada's constitutional framework and ensure that Indigenous rights, interests, and aspirations are recognized in decision making.

**7** The Province of British Columbia recognizes that respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.

This principle reaffirms the central importance of working in partnership to recognize and implement rights and, as such, that any infringement of Aboriginal or treaty rights requires justification in accordance with the highest standards established by Canada's courts and must be attained in a manner consistent with the honour of the Crown and the objective of reconciliation.

This requirement flows from the constitutional arrangements in Canada. Meaningful engagement with Indigenous peoples is therefore mandated whenever the Province may seek to infringe a section 35 right.

**8** The Province of British Columbia recognizes that reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with the federal government and Indigenous nations that promotes a mutually supportive climate for economic partnership and resource development.

The Province recognizes that the rights, interests, perspectives, and governance role of Indigenous peoples are central to securing a new fiscal relationship. It also recognizes the importance of strong Indigenous governments in achieving political, social, economic, and cultural development and improved quality of life. This principle recognizes that a renewed economic and fiscal relationship must ensure that Indigenous nations have the fiscal capacity, as well as access to land and resources, in order to govern effectively and to provide programs and services to those for whom they are responsible.

The renewed fiscal relationship will also enable Indigenous peoples to have fair and ongoing access to their lands, territories, and resources to support their traditional economies and to share in the wealth generated from those lands and resources as part of the broader provincial economy.

A fairer fiscal relationship with Indigenous nations can be achieved by the Province, in concert with the federal government, through a number of mechanisms such as new tax arrangements and the negotiation of revenue-sharing agreements.

**9** The Province of British Columbia recognizes that reconciliation is an ongoing process that occurs in the context of evolving Crown-Indigenous relationships.

This principle recognizes that reconciliation processes, including processes for negotiation and implementation of treaties, agreements and other constructive arrangements, will need to be innovative and flexible and build over time in the context of evolving Crown-Indigenous relationships. These relationships are to be guided by the recognition and implementation of rights.

Treaties, agreements, and other constructive arrangements should be capable of evolution over time. Moreover, they should provide predictability for the future as to how provisions may be changed or implemented and in what circumstances. The Province is open to flexibility, innovation, and diversity in the nature, form, and content of agreements and arrangements.

The Province also recognizes that it has an active role and responsibility in ensuring the cultural survival of Indigenous peoples as well as in protecting Aboriginal and treaty rights.

The Province will collaborate with Indigenous peoples on changes to provincial laws, policies and practices.

**10** The Province of British Columbia recognizes that a distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of Indigenous peoples in B.C. are acknowledged, affirmed, and implemented.

The Province recognizes First Nations, the Métis Nation, and Inuit as the Indigenous peoples of Canada, consisting of distinct, rights-bearing communities with their own histories, including with the Crown. The work of forming renewed relationships based on the recognition of rights, respect, co-operation, and partnership must reflect the unique interests, priorities and circumstances of each people.





Sec 13

## Restall, Analise EMPR:EX

---

**From:** Paine, Julian C MNGD:EX  
**Sent:** August 22, 2014 5:06 PM  
**To:** Coley, Simon J JAG:EX; Hansen, Brian MNGD:EX; Piccinino, Ines MNGD:EX; Carr, Steve MNGD:EX  
**Subject:** Fw: Strategic Aboriginal Issues Working Group - X-Government Key Messages  
**Attachments:** TT2 - X-Govt Key\_Messages Ver-22-Aug-2014.docx

Fyi

Jp

---

**From:** Mayhew, Neilane ABR:EX <Neilane.Mayhew@gov.bc.ca>

**Sent:** Friday, August 22, 2014 3:10 PM

**To:** Lyttle, Shawna JAG:EX; Blaschuk, Michael MTIC:EX; 'Charlie Weiler'; Craven, Paul EAO:EX; Duncan, Dave TRAN:EX; Eichenberger, Kathy MEM:EX; Gordon, Matt GCPE:EX; Greer, David MTIC:EX; Gunnarsen, Krista A ABR:EX; Halls, Lori D ENV:EX; Hutchings, Geraldine J JAG:EX; Jensen, Tom R FLNR:EX; Laaksonen-Craig, Susanna FLNR:EX; Leslie, Lisa GCPE:EX; MacLaren, Les MEM:EX; Morel, David P MEM:EX; Moyse, Geoff JAG:EX; O'Sullivan, Susan FLNR:EX; Paine, Julian C MNGD:EX; Parkes, Norm E TRAN:EX; Sandstrom, Kurt JAG:EX; Schollen, Tasha GCPE:EX; 'Snow, Donia (BC Hydro)'; Thompson, Glen R JAG:EX; Swan, Trevor OGC:IN; Waters, Cory EAO:EX; XT:Weiler, Charlie ABR:IN; Yearwood, Paul JAG:EX; Hunter, Charles FLNR:EX; Amann-Blake, Nathaniel MEM:EX; Simonson, Terry ABR:EX; Tack, Stefan E FLNR:EX; Scraba, Erin H EAO:EX; Mulholland, Lauren GCPE:EX; Gaudette, Louise ABR:EX; DeLarge, Lorne MTIC:EX; Chan, Debbie JAG:EX

**Cc:** Andrews, Sarah FLNR:EX; Hall, Donna L FLNR:EX; Heuman, Sheena A JAG:EX; Hocker, Bernadette JAG:EX; Kowalewsky, Sheila J ABR:EX; Labh, Janet JAG:EX; 'Linda Cho'; Llewellyn-Thomas, Marnie ENV:EX; McNeil, Kevin MEM:EX; Musgrove, Kate MEM:EX; 'Nubia Budau (BC Hydro)'; O'Connor, Lisa EAO:EX; Pearson, Barbera MIT:EX; Pollock, Kelly JAG:EX; Richter, Connie JAG:EX; Rogers, Tina TRAN:EX; Samarin, Ruth OGC:IN; Shaw, Courtney TRAN:EX; Storey, Deanna JAG:EX; Stoughton, Maryanne MTIC:EX

**Subject:** Strategic Aboriginal Issues Working Group - X-Government Key Messages

Further to our meetings last week and this week, it was agreed that Task Team #2 would do some final work to ensure the internal communications material is consistent and has received JAG review. That work has been completed and the finalized key messages are attached. As agreed to at the meeting, the ADM or agency representative has accountability to communicate within their own agency and/or distribute the materials as appropriate.

### Neilane Mayhew

Assistant Deputy Minister

Strategic Initiatives Division

Ministry of Aboriginal Relations and Reconciliation

Phone: 250 356-1439

Fax: 250 387-6073



OK to disclose

# LETTER OF UNDERSTANDING

Dated for reference January 27, 2017

BETWEEN:

## THE TSILHQOT'IN NATION as represented by:

Xeni Gwet'in First Nations Government,  
 Yunesit'in Government,  
 Tl'etinqox Government,  
 ?Esdilagh First Nation,  
 Tsi Deldel First Nation,  
 Toosey Indian Band (Tl'esqox), and  
 The Tsilhqot'in National Government ("TNG")  
 (the "Tsilhqot'in Nation")

AND:

## HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by

the Minister of Indigenous and Northern Affairs Canada ("the Minister")  
 ("Canada")

(Collectively, the "Parties")

### SHARED VISION:

- A. By entering this Letter of Understanding ("Letter"), Canada and the Tsilhqot'in Nation commit to renewing and strengthening their nation-to-nation relationship, and negotiating in good faith to achieve a lasting reconciliation for the Tsilhqot'in people.
- B. On June 26, 2014, the Supreme Court of Canada rendered its unanimous judgment in *Tsilhqot'in Nation*, recognizing Aboriginal title for the first time in Canadian history, in the homeland of the Tsilhqot'in people.
- C. The *Tsilhqot'in Nation* judgment offers a profound opportunity for Canada, the Tsilhqot'in Nation, and all First Nations to restore Indigenous Peoples to their rightful place as true partners in the economic, political and social fabric of Canada.
- D. On May 10, 2016, Canada fully endorsed the *United Nations Declaration on the Rights of Indigenous Peoples* without qualification and committed to implement the *Declaration* in partnership with Indigenous Peoples.
- E. The Tsilhqot'in Nation has governed itself since time immemorial, in accordance with its own inherent laws, jurisdiction, governance and responsibilities. For generations, the Tsilhqot'in people have vigorously protected their culture, their homeland, and their right to self-determination as Indigenous Peoples within Canada.
- F. The Parties wish to embrace this historic opportunity and explore new ways to achieve a just and enduring reconciliation for the Tsilhqot'in people and to lead the way forward with new and innovative approaches to reconciliation between Canada and Indigenous Peoples, based on recognition of rights, respect, co-operation and true partnership.

### ACKNOWLEDGMENT & RECONCILIATION

1. The Parties agree to renew and strengthen their nation-to-nation relationship. In this spirit, the Minister accepts the invitation of the Tsilhqot'in Nation to meet with the Tsilhqot'in leadership, elders, youth and communities in Xeni Gwet'in, on Tsilhqot'in Aboriginal title lands, in Summer 2017 or such other time as agreed by the Parties. The Minister will also relay Tsilhqot'in Nation's invitation to the Prime Minister and the Minister of Justice.
2. Recognizing that reconciliation begins with truth telling and healing, the Minister agrees to seek authority for Canada:
  - a. to take steps to redress, through a statement issued on a date and location to be agreed upon by the Parties, the wrongful trial and hanging in 1864/65 of the Tsilhqot'in Chiefs, who died defending their lands, their people and their way of life;
  - b. to the fullest extent of its authority, to exonerate the Tsilhqot'in Chiefs of any wrongdoing; and
  - c. to make deliberative attempts to understand the history of the Chilcotin War of 1864/65 and its aftermath (in particular the Tsilhqot'in perspective) and how these events have shaped the relationship between the Tsilhqot'in and the Crown to date, in an effort to move beyond this history and create a truly reciprocal and respectful relationship.

### RECONCILIATION FRAMEWORK AGREEMENT

3. The Parties will make best efforts to negotiate a Reconciliation Framework Agreement (Framework Agreement) by January 2019. The Framework Agreement will set out a shared vision, principles, priorities and structures to negotiate a comprehensive and lasting reconciliation between the Tsilhqot'in Nation and Canada.

**PRIORITY ISSUES**

- 4. The Parties commit to working to transform the lives of Tsilhqot'in citizens and communities, in the following priority areas:
  - a. closing the profound gaps in education, health and mental health care, housing, infrastructure, access to clean water and the overall health and well-being of the Tsilhqot'in citizens and communities;
  - b. addressing criminal justice, community safety and policing issues;
  - c. supporting children and families of the Tsilhqot'in people;
  - d. jointly reviewing fisheries management in Tsilhqot'in territory;
  - e. establishing new fiscal relationships based on stable, predictable and flexible funding;
  - f. exploring and seeking to resolve issues related to Lot 7741 (Chilcotin Military Block);
  - g. fostering economic opportunities for the Tsilhqot'in;
  - h. recognizing and implementing Tsilhqot'in governance and law;
  - i. recognizing and reconciling Tsilhqot'in Aboriginal title and rights;
  - j. implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*, including the right of free, prior informed consent;
  - k. negotiating the Framework Agreement, as described above; and
  - l. other priorities as identified by the Parties.
- 5. The Parties are committed to making progress in the above areas while the Framework Agreement is negotiated and implemented.
- 6. In negotiating the Framework Agreement, and making progress in the priority areas, the Parties will draw on the Truth and Reconciliation Commission's recommendations, as set out in its Final Report, for guidance and as a framework for action in achieving reconciliation.

**PROCESS**

- 7. The Tsilhqot'in Chiefs and the Minister (the "Leadership") may engage when required to resolve issues as they arise and to ensure the efficient progress of negotiations. The Minister will engage other federal departments as required.
- 8. The Lead Negotiator for the Tsilhqot'in Nation and the Senior Assistant Deputy Minister, Treaties and Aboriginal Government (the Steering Committee), will meet on a quarterly basis, at a minimum, and are responsible for overseeing the negotiation process.

- 9. The Parties will establish a technical working group comprised of designates of the Tsilhqot'in Nation, and officials from Indigenous and Northern Affairs Canada, Justice Canada, and other departments, as required (the "Working Group"). The Working Group will hold regular meetings, no less than monthly, and implement direction from the Leadership. The Working Group will also deal with any urgent short-term issues that arise between meetings.
- 10. Each Party will ensure that its representatives at the Working Group have direct and timely access to their Leadership and to those individuals that are best positioned to provide any required mandate, decision or direction.
- 11. The Parties will use a flexible and solutions-based approach to develop opportunities and arrangements as required to achieve progress on the priority issues, even if they differ from, or do not fit easily, into existing regimes, laws, programs, policies or structures.

**FUNDING & RESOURCES**

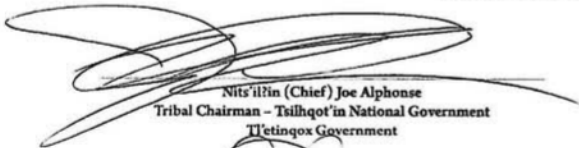
- 12. The Parties agree that the commitment of funding and resourcing by Canada is essential to the success of this Letter and the Framework Agreement. The Parties will determine bridge funding to support the shared priorities and processes identified in this Letter, until the Framework Agreement is concluded and longer-term funding commitments are in place.

**OTHER**

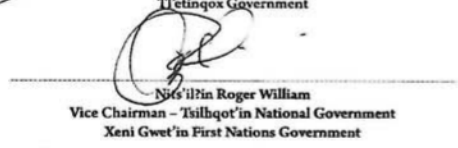
- 13. This Letter does not create, amend, define, affirm, recognize, abrogate or derogate from any Aboriginal rights or title of the Tsilhqot'in Nation which are recognized and affirmed by section 35 (1) of the *Constitution Act, 1982*.
- 14. This Letter and Framework Agreement which may flow from it are not intended to constitute a treaty or land claims agreement within the meaning of Sections 25 and 35 of the *Constitution Act, 1982*.
- 15. This Letter does not create, recognize, affirm, deny or amend any legally enforceable rights.
- 16. This Letter does not preclude the Tsilhqot'in from accessing any funding, program or initiative that Canada might normally make available to other First Nations.
- 17. This Letter, the negotiations conducted pursuant to this Letter, and all related documents, are without prejudice to the positions of the Parties in any proceedings before a court or other forum and shall not be construed as admissions of fact or liability.

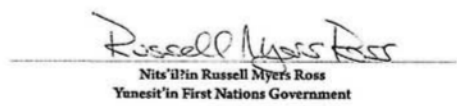
IN WITNESS WHEREOF the Parties hereby execute this Letter as of the date first written above.

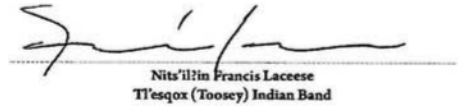
On behalf of the Tsilhqot'in Nation:

  
Nits'il'in (Chief) Joe Alphonse  
Tribal Chairman - Tsilhqot'in National Government  
Tl'etinqox Government

  
Nits'il'in Victor Roy Stump  
?Esdilagh First Nation

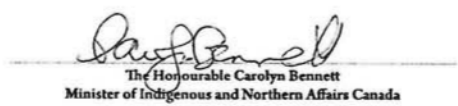
  
Nits'il'in Roger William  
Vice Chairman - Tsilhqot'in National Government  
Xeni Gwet'in First Nations Government

  
Nits'il'in Russell Myers Ross  
Yunesit'in First Nations Government

  
Nits'il'in Francis Lacey  
Tl'esqox (Toosey) Indian Band

  
Nits'il'in Ervin Charleyboy  
Tsi Deldel First Nation

On behalf of Her Majesty the Queen in Right of Canada:

  
The Honourable Carolyn Bennett  
Minister of Indigenous and Northern Affairs Canada

*OK to declare*

## QUESTIONS & ANSWERS

### Federal Letter of Understanding with Tsilhqot'in Jan. 26, 2017

- 1. Has B.C. been involved in this Letter of Understanding?**
  - No, this is Canada's letter of understanding with the Tsilhqot'in.
  
- 2. The LOU commits to implement UNDRIP and identifies consent as a priority issue. Does this change B.C.'s position on the declaration?**
  - The federal government needs to clarify its references to the United Nations Declaration on the Rights of Indigenous Peoples and the matter of "free, prior and informed consent".
  - Federal officials themselves have said the Declaration has some elements that are unworkable within the Constitution so we need to hear more about their scope and intent.
  - On the issue of consent, our government has been very clear that no single person, or single group of people should have absolute veto over creating jobs in B.C.
  - We need to find ways to work together to embrace the spirit of the Declaration consistent with Canadian law. Many of the clauses in the Declaration require us to do this together.
  - We assume the federal government will clarify this and we look forward to hearing their next steps.
  
- 3. B.C. has an Accord with TNG. How does that fit in with this LOU?**
  - Many of the areas highlighted in the federal Letter of Understanding – education, children and families, healthy communities, justice and governance are key pillars of the framework agreement we signed with the Tsilhqot'in last year.
  - We need to hear much more from the federal government to understand the scope and intent of their LOU and their next steps.
  
- 4. Will B.C. amend the content of the Accord to take account of the LOU?**
  - Our framework agreement is separate and we are not a party to the federal-Tsilhqot'in LOU.
  
- 5. There are priority issues identified in the federal LOU that are not in to Accord. Why is that?**
  - This is Canada's letter of understanding with the Tsilhqot'in and B.C. was not party to the discussions.
  
- 6. What happens if the work under the Accord and the work under the LOU conflict?**
  - Lasting reconciliation with the Tsilhqot'in is important to all levels of government.
  - However, this is Canada's letter of understanding with the Tsilhqot'in. We have only just received it and it raises some questions for the Province.
  
- 7. Will B.C. be discussing the contents of the LOU with the federal government?**
  - B.C. has regular dialogue with the federal government on a whole range of matters.
  - Because this is Canada's understanding with the Tsilhqot'in, B.C. was not party to these particular discussions.

- The federal government needs to clarify its references to the United Nations Declaration on the Rights of Indigenous Peoples and the matter of “free, prior and informed consent”.
  - Federal officials themselves have said the Declaration has some elements that are unworkable within the Constitution so we need to hear more about their scope and intent.
  - We are looking to the federal government to clarify this and we look forward to hearing their next steps.
- 8. Can the federal government have discussions with Tsilhqot’in on a bi-lateral basis on recognizing and reconciling Aboriginal title and rights and implementing Tsilhqot’in laws?**
- These areas have been raised as issues between the federal government and Tsilhqot’in.
  - However, B.C. needs to play a significant role on any discussions in these important and complex areas.



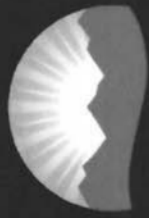
# BC's Approach for Achieving Reconciliation with First Nations

October 2014



Ministry of  
Aboriginal Relations  
and Reconciliation

*copy of release.*

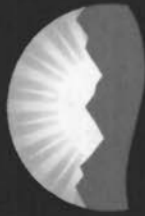


BRITISH  
COLUMBIA

## Unfinished Business

- **Few treaties in B.C. – unique in Canada**
  - Courts confirm - without treaties, undefined Aboriginal rights exist
  - Tsilhqot'in decision provides more clarity
- **Significant uncertainty**
  - Potential for litigation & confrontation
- **Uncertainty impacts economy**
  - Major impediment to investment/jobs
  - Studies show billions in lost opportunities





BRITISH  
COLUMBIA



## B.C. 's Approach with First Nations

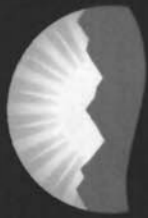


- **Reconciliation:**
  - Government-to-Government relationship based on respect, recognition and accommodation
- **FNs must be full participants in the economy**
  - Sustainable FN communities require tools to participate in social and economic opportunities
- **Endorsed by industry**



## Relationships with First Nations

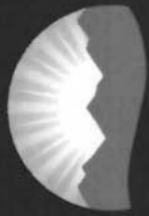
- BC is building positive relationships with FNs
- Evolving Tools
  - Treaties and related agreements
  - Consultation and accommodation
  - Other types of reconciliation agreements
    - Shared decision making
    - Benefit sharing
    - Economic development
    - Socio-cultural
- Increasingly industry understands it has a role



BRITISH  
COLUMBIA

## Tsilhqot'in Decision

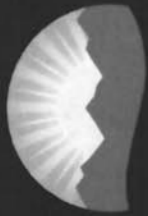
- A significant and historic decision
  - 1<sup>st</sup> title declaration
  - Clarity regarding nature of aboriginal title
- However, the court process took more than 2 decades and cost \$10's of millions



BRITISH  
COLUMBIA

## Opportunity

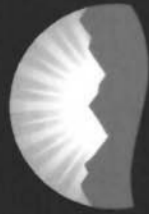
- Clarity provided by Tsilhqot'in is an opportunity
- Re-enforces commitment to reconciliation through negotiation
- Commitment to work with FNs, Canada and industry to address implications



BRITISH  
COLUMBIA

## Engagement

- Heard from FNs that we must work together
- Historic Sept 11 meeting between BC Chiefs, Premier and Cabinet
- LOU with Tsilhqot'in to implement SCC decision and achieve a reconciliation protocol
- Continue to engage with FN communities to facilitate opportunity and reconciliation



BRITISH  
COLUMBIA

## Routes to Reconciliation

- B.C. has developed a flexible set of tools:
  - Addresses individual FNs' needs and circumstances
  - Allows development opportunities to be realized before full agreement
  - Provides for ability to build full reconciliation agreements over time
- In the context of Tsilhqot'in, adjustments may be required

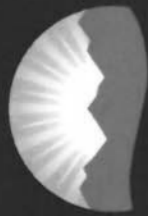




BRITISH  
COLUMBIA

## Negotiating Title

- Avoid cost and time of litigation
- Can include full set of social and economic development tools
  - Jurisdiction and self-government
  - Removal from *Indian Act*
  - Financial and other
- FNs have identified concerns with treaty process
  - Legal model
  - Debt
  - OSR, fish and other key issues

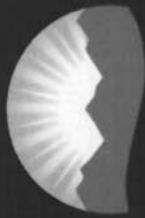


BRITISH  
COLUMBIA

## Revenue Sharing

- Since 2002, have shared more than \$400M in resource revenues with FNs
  - Supports direct FN participation in development
  - Facilitates partnerships with proponents
- Currently revenue-sharing is available for:
  - Forestry
  - Natural gas and oil
  - Mining
  - Clean energy
- BC continues to be willing to work with FNs to ensure revenue-sharing is effective



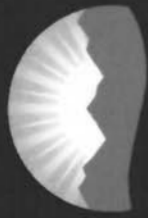


BRITISH  
COLUMBIA

## Decision Making Agreements

- Numerous Strategic Engagement Agreements (SEAs) and Reconciliation Protocols
  - Land and resource stewardship objectives
  - Government to government (G2G) engagement
  - Streamlined process benefits FNs and BC
- BC remains committed to working with FNs on shared decision making approaches:
  - Emphasis on stewardship
  - Importance of capacity support for FNs
  - Links to treaty and other reconciliation agreements

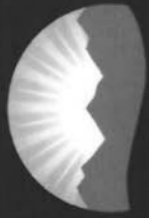




BRITISH  
COLUMBIA

## Economic Development Agreements

- BC is committed to providing FNs with tools to participate & benefit from development opportunities
  - Land transfers
  - Revenue-sharing and other financial benefits
  - Aboriginal skill training
- Industry is willing to partner in win-win opportunities
- BC will continue to work with FNs to facilitate opportunities
  - LNG
  - Mining
  - Other



BRITISH  
COLUMBIA

## Going Forward



- BC has embraced the Tsilhqot'in decision as an opportunity
- Commitment to work with FNs on reconciliation approaches
- Continued engagement at the community level to facilitate economic and social opportunities

see 16.

BRITISH COLUMBIA –  
T ŠILHQOT'IN NATIONAL GOVERNMENT  
LEADERSHIP TABLE

Monday, January 28, 2019

11:00 am – 4:00 pm

Vancouver Cabinet Office, 7th floor, 999 Canada Place

**AGENDA (annotated – BC only)**

**Attendees:**

**TNG Leadership:** Chief Joe Alphonse (Tl'etinqox and Tribal Chair); Nits'il'in (Chief) Russell Myers Ross, Yunesit'in, TNG Tribal Vice-Chair; Nits'il'in Francis Laceese, Tl'esqox; Nits'il'in Roy Stump, ?Esdilagh; Nits'il'in Jimmy Lulua, Xeni Gwet'in.

**TNG staff/guests:** Jay Nelson, Executive Lead, Negotiations & External Affairs; Helen Nemeth, Negotiations Team Manager; Loretta Williams, Nits'il'in-yaz (Councillor), Xeni Gwet'in; Jody Nishima, Social, Cultural, Education & Justice Sub-Table Manager; Daana Gilpin, Executive Assistant.

**TNG Co-Chairs:** Shawn and Heather Atleo, or Harold Tarbell.

**BC Leadership:** TBC: Minister Fraser, Minister Donaldson, Minister Heyman. Additional ministers: Minister Conroy, Minister Mark, Minister Darcy, Minister Farnworth.

**BC staff:** Don Bain, Office of the Premier (BC Facilitator); Doug Konkin (Provincial Chief Negotiator); Alexandra Banford (Chief Negotiator, South Area), Ken Vanderburgh, Director, Strategic Initiatives (FLNR) (conference line); others to be confirmed.

TIME	AGENDA ITEM
11:00 am – 11:15 am	<b>Prayer and drum song (Tšilhqot'in National Government)</b>
11:15 am – 11:30 am	<b>Introductions and Opening Remarks</b>
11:30 am – 12:00 pm	<ol style="list-style-type: none"> <li>1. Nenqay Deni Accord Workplan &amp; Deliverables</li> <li>2. Moose Co-Management Agreement</li> </ol>
12:00 pm – 1:00 pm	<b>LUNCH</b>
1:00 pm – 3:45 pm	<ol style="list-style-type: none"> <li>3. Dasiqox Tribal Park</li> <li>4. Taseko / New Prosperity Mine</li> <li>5. Damages Settlement</li> <li>6. Title Area</li> </ol>

	<ul style="list-style-type: none"> <li>a. Tourism Operators</li> <li>b. Bridging Agreements</li> <li>c. Declared Title Area Transition Agreement</li> </ul> <p>s.16</p> <ul style="list-style-type: none"> <li>8. Collaborative Emergency Management Agreement</li> </ul>
3:45 pm – 4:00 pm	<b>Closing Remarks</b>

11:15 – 11:30 am **Introductions & Opening Remarks**

- (MSF) I appreciate everyone finding time in their calendars to come together as a Leadership Table under the Nenqay Deni Accord.
- Much has happened since our last meeting on June 5, 2018, and it is good we are getting together to acknowledge our collective progress and to determine our next steps together.
  - In November Prime Minister Justin Trudeau visited T̓silhqot̓ in Title Lands to provide an exoneration speech directly to the T̓silhqot̓ in people
  - Canada – TNG entered into a Pathways Agreement
  - Federal partners fully engaged in conversation
  - Moose Co-management work;
  - Emergency Services work;
  - Declared Title Land Transition Strategy
  - s.16
  - Continued implementation of other components of the Nenqay Deni Accord
- We have set aside most of the day because we have a lot to talk about and I look forward to spending the next few hours getting to know one another better and sharing ideas.
- We have lunch coming in at 1200 but before that.....

11:30 – 12:00 pm **Topics for discussion**

12:00 – 1:00 pm **LUNCH**

1:00 – 3:45 pm **Topics for discussion**

3:45 – 4:00 pm **Closing Remarks**

**BACKGROUND:**

On February 11, 2016, the Tšilhqot'in (pronounced Tsill-COAT-ten) Nation and British Columbia signed the Nenqay Deni Accord (the Accord). The Accord is a five-year road map for negotiations leading to long term reconciliation between the Province and the Tšilhqot'in National Government (TNG). The TNG represents Tl'etinqox (Anaham), Xeni Gwet'in (Nemiah Valley), Tsi Deldel (Alexis Creek/Redstone), Tl'esqox (Toosey), ?Esdilagh (Alexandria), and Yunesit'in (Stone).

The Accord applies to the title lands declared in the 2014 Supreme Court of Canada Tšilhqot'in decision and the broader traditional territory claimed by the Tšilhqot'in Nation. The broader territory overlaps claims by other nations including the Northern Secwepemc te Qelmu'cw First Nations (NSQ) and the Southern Dakelh Nation Alliance (SDNA).

On October 31, 2017 the Provincial government and TNG renewed their commitment to the Accord. The Accord calls for a quarterly Leadership Table meeting of Chiefs and provincial Ministers. The last meeting was on June 5, 2018 when the leadership table approved a work plan for the Working Group which oversees implementation of the Accord.

s.16

## TOPICS FOR DISCUSSION

### 1. NENQAY DENI ACCORD WORK PLAN & DELIVERABLES

- The work plan sought to advance some key priorities under Accord.  
s.13,s.16
  
- Other accomplishments include:
  - Completed proposed Title Area transition strategy;
  - Finalized Economic Action Plan and specific advancements such as:
    - T̓silhqot̓in Solar Farm Announcement;
    - Initiated updated feasibility study for River West Mill.
  - Progress on social goals including efforts to establish a First Nations Court; development of multi-year Language Strategy and co-development of a T̓silhqot̓in Child and Family Model;
  - Renewed Bridging Agreements for tenured operations on title land;
  - Conducted collaborative work with Declared Title Area Tourism Operators on bear viewing and operational issues;
  - Joint enforcement work between Xenia Gwet̓in Rangers and BC Conservation Officer Service & BC Natural Resource Officers
  - Completed review of Fish and Wildlife Panel Operations;
  - Renewed work on Moose recovery & joint decision making;
  - TNG Radio becoming operational;
  - Substantial progress on collaborative emergency management including the completion of “The Fire Awakened Us” – a TNG report on the 2017 fires.

s.16

#### KEY MESSAGES:

- We are excited about the progress we are seeing and the full inclusion of Canada in our reconciliation efforts with the T̓silhqot̓in Nation.
- There is more to do, and we still have to sort out the logistics, including resourcing this important work.



### 3. DASIQOX TRIBAL PARK

- In October 2014 the Xení Gwet'in and Yunesit'in declared an area of approximately 3,000km<sup>2</sup> in the Taseko Lake area of the South Chilcotin as a tribal park.
- The Daisqox tribal park asserted area is outside of the Tšilhqot'in aboriginal title land and proven rights area. It proposes to contain the Taseko/ New Prosperity mine, Amarc's Ike mineral property, provincial forest and other tenures.
- BC maintains the area remains under provincial authority. The Tšilhqot'in declaration was unilateral and did not involve negotiations with the Province.
- The Xení Gwet'in and Yunesit'in are investing significant resources to formalize a management approach for the Dasiqox Tribal Park. Their proposed management approach prohibits mining.
- The Xení Gwet'in and Yunesit'in are pursuing funding through the Federal "Conservation 2020" Initiative and have asked for a provincial letter of support in pursuing an Indigenous Protected and Conserved Area designation. They believe this funding can be used to help address existing tenured uses.
- Any new Indigenous Protected areas contemplated in supported by BC will come as a result of planning internal processes and negotiations (e.g., Land Use Planning (LUP), negotiations, Species At Risk (SAR), etc).
- BC agrees with the general concepts of Indigenous Protected and Conserved Areas (IPCA) as mechanisms to pursue in mandated negotiations, but need to determine how their-IPCA proposals are to be considered and mandated implementation looks in BC (how much, how many).
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) will have a growing role in this work, since it relates to land use planning, reconciliation negotiations and other stewardship initiatives.
- As such, BC will be advising the Xení Gwet'in and Yunesit'in before the Leadership meeting that BC is not in a position to provide a letter of support for the Dasiqox area to become a fully protected conservation area, but instead sees the parties collaborating on land and resource use planning under the Accord to balance various land use objectives in this region.
- In April 2018 a public outreach program was launched, and a new brochure and website created www.dasiqox.org
- Issues associated with the Taseko/ New Prosperity mine are updated in a separate section below.
- Amarc's Ike mineral property (i.e., copper, molybdenum, silver) is located approximately 45 km southeast of the title area.



- As part of Amarc's 2018 work program under its multi-year area-based permit, the company completed 5 drill holes. The work undertaken has been reclaimed and the permit remains open until 2022.
- Some support for mining exists within the TNG community and leadership for certain areas within the Tšilhqot'in Territory.
- The Nenqay Deni Accord Working Group is discussing Tšilhqot'in interests and is exploring options to meet those interests within an integrated land use framework including addressing imminent forest harvesting pressures.

**KEY MESSAGES**

- BC appreciates the extensive community effort that's gone into building a vision and plan for the Dasiqox Tribal Park, and most recently the update Chief Ross provided on these efforts at the First Nations Leaders' Gathering this past November.
- BC understands the connection the Tšilhqot'in people have to this area.
- We look forward to continuing to work with you within the Accord work plan to scope out what is possible for the Dasiqox tribal park area. BC appreciates the extensive community effort that's gone into setting out the TNG's interests in the area, and most recently the update Chief Ross provided on these efforts at the First Nations Leaders' Gathering.
- BC acknowledge the connection the Tšilhqot'in people have to this area.
- As has been discussed, BC does not accept the unilateral declaration of a tribal park within the area, and there are currently significant economic interests advancing within that region which we would like to work with Tšilhqot'in on under the Accord.
- We look forward to continuing to work with you within the Accord work plan to scope out what is possible for moving on the land and resource planning work.

Formatted: Indent: Left: 1.9 cm, No bullets or numbering

○

**4. TASEKO / NEW PROSPERITY MINE**

- The Tšilhqot'in have expressed strong opposition to Taseko's proposed New Prosperity project and appealed the dismissal of their challenge to a Notice of Work issued by Ministry of Energy, Mines and Petroleum Resources (EMPR).
- On Aug. 23, 2018, the BC Supreme Court upheld the Notice of Work permit. In rendering its decision, the Court made the following conclusion: "both the consultation process and degree of accommodation were such that the honor of the Crown was maintained, and adequate reconciliation efforts were made in the circumstances."
- On Sept. 17, 2018, the BC Court of Appeal granted a temporary injunction preventing Taseko from starting activities authorized by the Notice of Work permit until a court decision on Tšilhqot'in National Government's appeal of the Aug. 23 Supreme Court order was rendered. The appeal was heard in November 2018 and the decision is on reserve.

- Taseko has an application before the Environmental Assessment Office to amend their provincial environmental assessment (EA) certificate that was extended in 2015. The existing EA certificate covers the original project rejected by the federal government in 2010.
- The proposed project does not have the required Federal approval, and the T̓silhqot̓in remain strongly opposed.
- s.13, s.16

**KEY MESSAGES:**

- This is a longstanding and complex matter.
- We recognize the T̓silhqot̓in National Government's deep frustration with the process to issue the recent issuance of the Notice of Work and Occupant License to Cut permits.
- We note that these issues are still in front of the courts.
- This government remains deeply committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples. It is situations like this that demonstrate the urgent need to review laws and policies to ensure consistency with UNDRIP.
- We thank the TNG for providing us with their ideas. BC is considering options on how to move forward. We await the Court of Appeal decision.
- BC remains committed land and resource planning under the Accord.

**5. MOOSE CO-MANAGEMENT AGREEMENT**

- On September 28, 2018, the TNG and Province entered into a Co-management Agreement to improve collaboration and address our different perspectives on the appropriateness of Limited Entry Hunting (LEH) process and outcomes.
- Work is ongoing regarding:
  - compliance and enforcement collaboration;
  - training and joint education;
  - development of a TNG hunting compliance and enforcement program;
  - exploration and improvement of forest harvesting and management practices;
  - an innovative co-management framework, which contemplates true joint-decision making, for moose management.
- Staff working on joint decision making are recommending to Leadership that the parties pursue a moose management pilot project on an expedited basis to identify a new model of joint decision making and potential accommodations, that include both harvesting and habitat measures, for the 2019 LEH decision.

**KEY MESSAGES:**

- BC and the TNG have worked over the past three years of the Accord to establish innovative and collaborative moose management approaches.
- Regulated hunting quotas in management areas within the TNG territory have been reduced.
- We are committed to improving moose management and the way we work together.
- Wildlife surveys, access and hunting management and innovation in collaborative decision making are priorities.
- We are interested in a joint decision making pilot that respects the interests of other nations.

**6. DAMAGES SETTLEMENT**

- Section 16.1 of the Nenqay Deni Accord commits the Province and the T̓silhqot̓in Nation to “make every reasonable effort... to negotiate appropriate remedies for the breach of British Columbia’s duties to the T̓silhqot̓in Nation identified by the Supreme Court of British Columbia in T̓silhqot̓in Nation v British Columbia, 2007 BCSC 1700 and affirmed by the Supreme Court of Canada in T̓silhqot̓in Nation v British Columbia, 2014 SCC 44.”

s.16

**KEY MESSAGES:**

- BC supports a conversation on damages under the broader reconciliation discussion.
- We want to avoid diverting energy and resources into litigation and are confident we can move forward in this respect with a mutually agreeable solution as part of the final reconciliation package with the T̓silhqot̓in Nation.

## 7. TITLE AREA

### a) Tourism Operators

- Relations between Indigenous and non-Indigenous tourism operators in the north Chilko Lake area, especially as it pertains to bear viewing activities and use of jet boats, has been strained.
- The Chilko Operators Association (COA) representing individual operators located in this area have been seeking a “buy out” from BC and Canada based on their opinion that the Xeni Gwet’in are implementing rules that create an unfair playing field and are making it impossible for them to operate.
- A proposed package from the COA to “make whole” 6 tourism operators was sent to Canada on April 8, 2018 with a cc to BC. The proposal is for a lump sum payment of \$36M and \$1.8M annually for business transition funding over an unspecified timeframe.
- The operators threatened a media campaign that never developed.
- s.16

•

•

•

•

#### KEY MESSAGES:

- The Province supports the effort of the TNG to build constructive relationships with property owners and commercial operators within the Title Area.
- BC believes that Indigenous and non-Indigenous commercial operators can co-exist within the Title Area.
- It is important to continue working cooperatively as we transition the management, benefit and control of the Title Lands, and to ensure good communication between the Xeni and those who continue to live and do business within the Title Area.
- This is important both to ensure continued economic diversity across this area to the benefit of the Xeni, and to demonstrate that First Nation governments are fully committed to working with their non-Indigenous neighbors.

### b) Bridging Agreements

- BC and the TNG / Xeni negotiated multi-year bridging agreements, including one for *Land Act* tenures within the declared title area (e.g., commercial recreation).
- The agreements confirm continued consent and authorization for provincial tenures in the Title Area, allow for the collection and transfer of fees to the TNG, and address some compliance and enforcement issues. These agreements expire at various times throughout 2019 and 2020.
- The agreements did not resolve issues regarding bear viewing conflicts on the Chilko River. Control of vessels on the water is under federal jurisdiction as a navigable waterway. BC currently has no enforcement authority for controlling jet boats on this stretch of the river.
- The Xeni are seeking additional regulatory tools and enforcement controls for this activity.
- Federal engagement will assist in addressing these issues.

**KEY MESSAGES:**

- Thank you for entering into bridging agreements – they bring stability and predictability.
- We must now continue our joint, longer term transition work.

s.16

s.16

*KEY MESSAGES:*

- Glad to see the commitment to dealing with access issues.
- s.16
  
- We believe a number of existing federal and provincial programs can help support the plan and will work with you and Canada to get access to these resources.
- We are working with Canada around the question of extraordinary funding and expect to provide an answer on that in the next couple months - it may be difficult to fund the plan in its entirety.

**8. COLLABORATIVE EMERGENCY MANAGEMENT AGREEMENT**

- The 2017 wildfire season was challenging for TNG communities. Some communities chose to remain and protect their homes despite evacuation orders from neighboring regional districts. Overcoming these early challenges, leaders found a way to collaborate with BC Wildfire Services and Emergency Management BC to assess risk, obtain resources, and make decisions on behalf of their communities.
- In April 2018, a Collaborative Emergency Management Agreement (signed by the Province (Emergency Management British Columbia, Ministry of Indigenous Relations and Reconciliation, Ministry of Forests, Lands, Natural Resources and Rural Development), the Department of Indigenous Services Canada and the TNG) focused on improving emergency management within the T̓silhqot̓in communities, including enhancing the role and capacity in mitigation, preparedness, response and recovery, and exploring opportunities for partnership.
- As part of the emergency management work it was revealed a previous bridging agreement incorporates only *Emergency Program Act* and not the *Wildfire Act*. BC Wildfire Service has confirmed fire suppression will be supported on title land while a more formal agreement is reached.
- A Canada funded feasibility study for a regional emergency centre, training facility and evacuation centre (“Emergency Centre”) will commence in January 2019.
- Funding was also provided to complete community-level reports stemming from the 2017 wildfires experience. Release of a 15-page report incorporating the community and Nation’s experiences, best practices, and calls to action entitled “The Fire Awakened Us” will coincide with this meeting (it is expected that a draft copy will be provided to Minister Farnworth earlier).

*KEY MESSAGES:*

- We will work together to explore TNG’s proposal for a regional emergency centre and examine other opportunities such as training programs. These could provide partnership opportunities for neighbouring First Nations and non-Indigenous communities in the area.
- Canada has expressed a strong commitment to this work with TNG. We are pleased to be working closely with the federal government and TNG to improve collaboration and strengthen our partnership.

APPENDICES:

[To be confirmed with TNG]

**Task Team #1: Identification of Work and Priorities for the title area**

**Mandate:** Provide advice and recommendations to the ADM Committee for the work required, and priorities, over the title area in question. It is expected that this task team would examine the existing and future tenures in the title area and any and all other issues that need to be determined operationally.

**Recognized Priorities that affect all business lines:**

s.14,s.16



Prepared for the ADM Committee (July 30, 2014)

Tsilhqot'in Title Area Working Group

Prepared by Susan O'Sullivan and Stefan Tack, FLNR

Task Team #1: Identification of Work and Priorities for the title area

Business Line	What is the active/planned work in the Aboriginal Title area?  Firstly – on the ground Secondly - administrative	What is the priority issue?  (Safety/Economic)	Briefly describe anticipated concerns? ie, justification language, eviction, moving ahead,
---------------	---	--	--

s.13,s.14,s.16

Prepared for the ADM Committee (July 30, 2014)

Tsilhqot'in Title Area Working Group

Prepared by Susan O'Sullivan and Stefan Tack, FLNR

<b>Business Line</b>	<b>What is the active/planned work in the Aboriginal Title area?</b>	<b>What is the priority issue? (Safety/Economic)</b>	<b>Briefly describe anticipated concerns? ie, justification language, eviction, moving ahead,</b>
	Firstly – on the ground Secondly - administrative		

s.13,s.14,s.16

**Prepared for the ADM Committee (July 30, 2014)**

**Tsilhqot'in Title Area Working Group**

Prepared by Susan O'Sullivan and Stefan Tack, FLNR

s.13,s.14,s.16

Prepared for the ADM Committee (July 30, 2014)

Tsilhqot'in Title Area Working Group

Prepared by Susan O'Sullivan and Stefan Tack, FLNR

<b>Business Line</b>	<b>What is the active/planned work in the Aboriginal Title area?</b>  Firstly – on the ground Secondly - administrative	<b>What is the priority issue?</b>  (Safety/Economic)	<b>Briefly describe anticipated concerns? ie, justification language, eviction, moving ahead,</b>
----------------------	--	---	---

s.13,s.14,s.16

Prepared for the ADM Committee (July 30, 2014)

Tsilhqot'in Title Area Working Group

Prepared by Susan O'Sullivan and Stefan Tack, FLNR

---

s.13,s.14,s.16

Prepared for the ADM Committee (July 30, 2014)

Tsilhqot'in Title Area Working Group

Prepared by Susan O'Sullivan and Stefan Tack, FLNR

---

s.13,s.14,s.16

Prepared for the ADM Committee (July 30, 2014)

Tsilhqot'in Title Area Working Group

Prepared by Susan O'Sullivan and Stefan Tack, FLNR

---

s.13,s.14,s.16

**Prepared for the ADM Committee (July 30, 2014)**

**Tsilhqot'in Title Area Working Group**

Prepared by Susan O'Sullivan and Stefan Tack, FLNR

s.13,s.14,s.16



Page 519 of 590 to/à Page 559 of 590

Withheld pursuant to/removed as

s.14; s.16

Page 560 of 590

Withheld pursuant to/removed as

s.16; s.14

Page 561 of 590 to/à Page 572 of 590

Withheld pursuant to/removed as

s.14; s.16

## FLNR – Interim Key messages in response to the *Tsilhqot'in Nation Decision*

---

**Overall statement about messaging:** We are providing direction in the interim until we understand the full implications of this court decision. If you are unsure after reading this document, please refer your questions to your First Nations Relations Manager or the First Nations Relations Branch.

---

### Operational Questions

---

Question	Answer	Source	Helpful links
s.13,s.16			

## FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision

---

### Operational Questions

---

Question	Answer	Source	Helpful links
s.13,s.16			

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

Operational Questions

---

**Question**  
s.13,s.14,s.16

**Answer**

**Source**

**Helpful links**

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

Operational Questions

---

Question	Answer	Source	Helpful links
s.13,s.16			

## FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision

---

### Operational Questions

---

Question  
s.13,s.16

Answer

Source

Helpful links



## FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision

---

### Operational Questions

---

Question	Answer	Source	Helpful links
s.13,s.14,s.16			

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

Operational Questions

---

Question	Answer	Source	Helpful links
s.13,s.14,s.16			

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

Questions about Messaging to Stakeholders and First Nations

Question	Answer	Source	Helpful links
s.13,s.16			

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

Questions about Messaging to Stakeholders and First Nations

Question	Answer	Source	Helpful links
s.13,s.16			

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

Questions about Messaging to Stakeholders and First Nations

Question  
s.13,s.16

Answer

Source

Helpful links

---

DR

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

Tsilhqot'in Title Area

---

s.13,s.14,s.16

s.13,s.14,s.16

DRAFT

s.13,s.16

DRAFT



**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**  
s.13,s.14,s.16

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

s.13,s.16

s.13,s.16

DRAFT

**FLNR – Interim Key messages in response to the *Tsilhqot'in Nation* Decision**

---

s.16

Version 1.2 This document contains Privileged Information - Confidential - for Internal Government Use Only  
Page 17 of 17

Page 590 of 590

Withheld pursuant to/removed as

DUPLICATE