

BRITISH COLUMBIA – T̓SILHQOT'IN NATIONAL GOVERNMENT LEADERSHIP TABLE

11:00 am – 4:00 pm, Monday, January 28, 2019
Vancouver Cabinet Office, 7th floor, 999 Canada Place

AGENDA (annotated – BC only)

Attendees:

TNG Leadership: Chief Joe Alphonse (Tl'etinqox and Tribal Chair); Chief Russell Myers Ross, (Yunesit'in & TNG Tribal Vice-Chair); Chief Francis Laceese, Tl'esqox; Chief Roy Stump, ?Esdilagh; Chief Otis Guichon (Tsi Deldel); Chief Jimmy Lulua, Xenigwet'in.

TNG staff: Jay Nelson – Executive Lead, Negotiations & External Affairs; Peyal Gilpin Laceese – Cultural Ambassador; Jody Nishima - Support Team, Sub-table Manager for Social, Cultural, Education and Justice; J.P. Laplante – Support Team for T̓silhqot'in Nen; Mining, Oil and Gas Manager; Helen Nemeth – Team Manager; Daana Gilpin – Executive Assistant; Loretta Williams – Communications Assistant.

Meeting Facilitators: Shawn and Heather Atleo.

BC Leadership: Minister Fraser, Minister Donaldson, Minister Heyman, Minister Eby, Minister Conroy, Minister Farnworth.

BC staff: Don Bain, Office of the Premier (BC Facilitator); Doug Caul (MIRR Deputy); 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	Prayer and drum song (T̓silhqot'in National Government)
11:15 am – 11:30 am	Introductions and Opening Remarks
11:30 am – 1:00 pm	<ol style="list-style-type: none"> 1. Nenqay Deni Accord Workplan & Deliverables 2. Moose Co-Management Agreement 3. Damages Settlement 4. Title Area <ol style="list-style-type: none"> a. Tourism Operators b. Bridging Agreements c. Declared Title Area Transition Agreement
1:00 pm – 2:00 pm	LUNCH (two short videos from TNG) – Premier arrives
2:00 pm – 3:40 pm	<ol style="list-style-type: none"> 5. Collaborative Emergency Management Agreement 6. TNG Social Plan & Goals 7. Dasiqox Tribal Park 8. Taseko / New Prosperity Mine

	9. Tripartite Transformative Change Agreement
3:40 pm – 3:55 pm	Closing Remarks
3:55 pm – 4:00 pm	Closing Prayer/ Drum Song

BACKGROUND:

On February 11, 2016, the T̓silhqot'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 T̓silhqot'in National Government (TNG). The TNG represents Tl'etinqox (Anaham), Xení 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 T̓silhqot'in decision and the broader traditional territory claimed by the T̓silhqot'in Nation. The broader territory overlaps claims by other nations including the Northern Secwepemc te Qelmucw First Nations (NStQ) and the Southern Dakh 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.

On November 2, 2018 the Federal Government signed the Gwets'en Nilt'i Pathway Letter with the TNG. In the agreement Canada commits to recognizing the T̓silhqot'in Nation and its rights of governance and self-determination; to develop an agreement by Spring 2019 that sets out the milestones and establishes clear, transformative steps towards achieving reconciliation.

BC is working with Canada and the TNG to develop a tripartite agreement that advances the commitments in the Accord and the recent Pathway Letter. This draft agreement has temporarily been named the Transformative Change Agreement.

The Transformative Change Agreement would provide a clear pathway for T̓silhqot'in self-governance and to effect management and control and reap the benefits of the Declared Title Lands, while providing certainty to BC, Canada and third parties about each others respective roles, rights and responsibilities. It will also attempt to address T̓silhqot'in aspirations for governance (whether under co-management or other collaborative decision-making model) throughout the territory. The goal is to sign the Transformative Change Agreement on June 26, 2019 – the fifth anniversary of the Supreme Court title land declaration.

The Transformative Change Agreement will include a commitment for Canada and BC to legally recognize a T̓silhqot'in National Government, within the limits of each government's jurisdictions, so that the T̓silhqot'in communities can transition away from the Indian Act and

non-profit/society model of governance and representation.^{s.16}
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On January 11, 2019 the Southern Dakelh Nation Alliance and the Tsilhqot'in Nation signed an "Interim Letter of Understanding for Boundary Discussions" to commit to working together as neighbours to resolve boundary issues associated with the Nenqay Deni Accord.

INTRODUCTION - OPENING REMARKS (Minister Fraser)

- 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 T̓silhqot'in Title Lands to provide an exoneration speech directly to the T̓silhqot'in people
 - Canada – TNG entered into a Pathways Agreement
 - Work on a trilateral Transformative Change Agreement
 - TNG - Southern Dakelh Nation LOU regarding boundary discussions
 - Moose Co-management work;
 - Emergency Services work;
 - Declared Title Land Transition Strategy
 - 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. I look forward to spending the next few hours getting to know one another better and sharing ideas.
- We have lunch coming in at 1:00pm and I am told you have some videos we can watch.
- [Speak to Premier and Ministers attendance].
- [Turn meeting over to facilitators (Shawn & Heather Atleo)].

TOPICS FOR DISCUSSION

1. NENQAY DENI ACCORD WORK PLAN & DELIVERABLES (Minister Fraser)

- The work plan sought to advance some key priorities under Accord.
- A key goal, to secure engagement of Canada, has been accomplished.
 - The tripartite Transformative Change Agreement under negotiation will bring Canada fully into our reconciliation efforts, including the implementation of self-government and self-determination goals established by the T̓silhqot'in Nation.
 - The agreement will result in greater financial participation from Canada.
- Other accomplishments include:

- Completed proposed Title Area transition strategy;
- Finalized Economic Action Plan and specific advancements such as:
 - T̓silhqot'in 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 T̓silhqot'in 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 Gwet'in 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.

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KEY MESSAGES:

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

2. MOOSE CO-MANAGEMENT AGREEMENT (Minister Donaldson)

- 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.
- As part of this Co-Management Agreement, a Moose Solutions Roundtable was created, with the inaugural meeting occurring on December 4, 2018.
- The Roundtable is comprised on Indigenous and non-Indigenous individuals that come together to:
 - Develop a common understanding of the complex problem of moose recovery.

- Create a collaborative forum to work on this complex problem.
 - Identify common strategic priorities for government on moose recovery.
 - Provide advice to the decision makers
 - Improve communications.
- 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.

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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.

3. DAMAGES SETTLEMENT (Minister Eby)

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

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KEY MESSAGES:

- BC supports a conversation on damages under the broader reconciliation discussion s.13,s.16
- 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 T̓silhqot'in Nation.

4. TITLE AREA (Minister Fraser)

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.

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- Recent work by the Xeni to improve relations with the operators has reduced tensions.
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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.

c) Comprehensive Declared Title Area (DTA) Transition Agreement

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- The draft agreement includes a goal to provide clarity on access to communities, through the Declared Title Area and to private property.
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- BC and Canada are in conversation regarding funding possibilities.

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KEY MESSAGES:

- Glad to see the commitment to dealing with access issues.
- BC is interested and willing to enter into a tripartite comprehensive declared title area transition agreement.
- 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.
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5. COLLABORATIVE EMERGENCY MNGT. AGREEMENT (Minister Farnworth)

- 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 T̓silhqot'in 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. An early version of a report incorporating the community and Nation's experiences, best practices, and calls to action entitled "*The Fire Awakened Us*" may be provided at the meeting.

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.
- [If *The Fire Awakened Us Report* provided] – Thank you for the hard work on this report. We think it will generate much needed conversation and learnings.

6. SOCIAL PLAN & GOALS (Minister Conroy & Minister Fraser)

- The TNG plan to present a draft Social & Cultural Plan to the Ministers. The plan is expected to speak to the following goals:
 - **Healthy Children & Families** - ensuring child and family services reflect a unified, preventative and culturally based approach rooted in the Tsilhqot'in Nation's traditional laws and values; are delivered and managed by the Tsilhqot'in, with child and family wellness indicators exceeding provincial standards
 - **Healthy Communities** - transforming the lives of the Tsilhqot'in people by addressing the need for safe and healthy homes and infrastructure;
 - **Emergency Management** - establishing seamless and effective emergency management across governments in a manner that supports a partnership and leadership role for the Tsilhqot'in Nation and communities;
 - **Education and Training** - access to meaningful education programs and support, with integration of Tsilhqot'in culture and teachings and improved student experiences and learning outcomes.
 - **Culture and Language** - Citizens fluent in, and proud of their language and culture; preservation of Tsilhqot'in language, beliefs, oral histories and cultural knowledge.
 - **Justice** - representation of Tsilhqot'in Citizens in process at each stage of the criminal justice system equal to or below the proportional representation of non-Aboriginal peoples; access to appropriate education and support in relation to the criminal justice system, including innovative preventative and restorative strategies and alternatives consistent with Tsilhqot'in laws and values.

KEY MESSAGES

- Thank you for the plan. We recognize these goals as a key component of the Accord and central to healthy people's, communities and society.
- We need to review the plan to make sure we understand everything in it but recommit to working with you to make the goals a reality.

7. DASIQOX TRIBAL PARK (Minister Heyman)

- In October 2014 the Xeni Gwet'in and Yunesit'in declared an area of approximately 3,000km² in the Taseko Lake area of the South Chilcotin as a tribal park.
- The asserted Daisqox tribal park is outside of T̓silhqot'in aboriginal title land and the proven rights area. As proposed, it contains the Taseko/ New Prosperity mine, Amarc's Ike mineral property, provincial forest and other tenures.
- BC maintains the area remains under provincial authority. The tribal park declaration was unilateral and did not involve negotiations with the Province.

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- The Xeni 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.

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- BC agrees with the general concept of Indigenous Protected and Conserved Areas (IPCA), but needs to determine how such areas are considered, mandated and negotiated.
- FLNRORD will have a growing role in this work, since it relates to land use planning, reconciliation negotiations and other stewardship initiatives.
- The Nenqay Deni Accord Working Group is discussing T̓silhqot'in interests and is exploring options to meet those interests within an integrated land use framework including addressing imminent forest harvesting pressures.
- Issues associated with the Taseko/ New Prosperity are updated in a separate section below.
- Amarc's Ike mineral property (i.e., copper, molybdenum, silver) is located in the proposed tribal park, 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 has been reclaimed and the permit continues until 2022.

- Some support for mining exists within the TNG community and leadership for certain areas within the T̓silhqot'in Territory.

KEY MESSAGES

- BC appreciates the extensive community effort that went into setting out TNG's interests in the area and the recent update Chief Ross provided on these efforts at the First Nations Leaders' Gathering this past November.
- BC acknowledges the connection the T̓silhqot'in people have to the area.

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8. TASEKO / NEW PROSPERITY MINE (Minister Eby)

- The T̓silhqot'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 T̓silhqot'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 T̓silhqot'in remain strongly opposed. The T̓silhqot'in were before the Federal Court of Appeal the week of Jan 14th supporting the federal government's 2014 rejection of the proposed mine. This court decision is now on reserve and, once issued, may be subject to a leave application by either party to the Supreme Court of Canada.

KEY MESSAGES:

- This is a longstanding and complex matter.

- We recognize the T̓silhqot'in National Government's frustration with the issuance of the Notice of Work and Occupant License to Cut permits.
- We note these issues are still in front of the courts.
- We await the Court of Appeal decision (possible timeline end of Feb - April).
- BC remains committed to land and resource planning efforts identified in the Accord.

9. TRIPARTITE TRANSFORMATIVE CHANGE AGREEMENT (Minister Fraser)

- In November 2018 Canada committed to recognizing the T̓silhqot'in Nation and its rights of governance and self-determination. In their Pathways Agreement the two Parties committed to develop an agreement by Spring 2019 that sets out the milestones and establishes clear, transformative steps towards achieving true and lasting reconciliation and an enduring nation-to-nation relationship.
- BC made a without prejudice offer to work trilaterally with Canada and the TNG to advance TNG self-governance and self-determination using the eight pillars of our Nenqay Deni Accord as a framework for progress. The TNG and Canada have agreed to this approach and work continues on a draft tripartite Transformative Change Agreement.

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KEY MESSAGES:

- We support the direction of the tripartite Transformative Change Agreement, and are excited by this significant opportunity for TNG, BC, and Canada to converge our efforts and be stronger together.
- We believe the work can further our commitments to implement the T̓silhqot'in decision and UNDRIP.
- To be effective, the Transformative Change Agreement must honor the interests of the TNG, Province and Canada. It must provide a path for us to reconcile jurisdictions and work together. It must allow all people living in the Chilcotin to see a future for themselves.

APPENDICES:

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APPENDIX 2: Williams Lake Indigenous Court Proposal Status Update

APPENDIX 3: Update - Moose Co-Management Agreement

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APPENDIX 2

Williams Lake Indigenous Court Proposal

Status Update

Suggested Response:

- The Province of BC has committed to a renewed relationship with Indigenous peoples and to take action to advance true and lasting reconciliation.
- One way we are doing this is working with the BC Aboriginal Justice Council to expand Indigenous courts.
- Indigenous courts are problem-solving courts that offer a holistic, culturally appropriate approach to Indigenous offenders and finding solutions, other than incarceration, to address the issues underlying criminal behaviour.
- I am pleased to hear that your community has taken steps towards creating a holistic, Indigenous court which is intended to adopt a restorative justice approach to sentencing, holding the offender accountable, and reintegrating the offender into the community to achieve better justice outcomes.
- We are committed to continue working with the Williams Lake Indigenous court committee to seek better, culturally-informed solutions to current justice problems.
- Decisions about new Indigenous courts are made by the Chief Judge of the Provincial Court, in consultation with the provincial government and Indigenous communities

Background:

Indigenous Courts:

- Indigenous courts are judicial-led initiatives that have been developed in consultation with the ministry, local First Nations, community members, police, defence lawyers, and other support service groups like the Native Court Workers and Counselling Association of British Columbia.
- Under the Specialized Courts Strategy, the Ministry has created a committee process whereby communities can draft a proposal and submit it for consideration and decision making.
- There are six Indigenous courts throughout the province operating in Duncan, Merritt, Kamloops, New Westminster, North Vancouver and Prince George.

Indigenous Court Proposal Status Update:

- A proposal for Williams Lake Indigenous court was submitted in September 2018 and is being considered by the Provincial Advisory Committee on Indigenous and Specialized Courts and Related Initiatives. The Committee brings together the Provincial Court, the BC Aboriginal Justice Council, the Ministry of Attorney General and various other ministries, and justice system partners.

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APPENDIX 3

INFORMATION BRIEFING NOTE – MOOSE CO-MANAGEMENT AGREEMENT

DATE: January 22, 2018

PREPARED FOR: Doug Donaldson, Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Update on Moose Co-Management Agreement

BACKGROUND:

- The province entered a moose co-management agreement in September 2018 with the Tsilhqot'in National Government (TNG). The Agreement builds on previous commitments and the Province will work with the Tsilhqot'in toward co-management including the development of "structures and processes... to reach consensus outcomes", and "a pathway to reconcile respective jurisdiction, governance, laws and responsibilities respecting the co-management of moose".
- The agreement includes commitments to advance:
 - 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;
 - strengthened data collection systems;
 - an innovative co-management framework for moose management;
 - moose solutions roundtable (inclusive of neighbouring First Nations and stakeholders).
- A Moose Solutions Roundtable was hosted and a small task team (multi-nation, multi-stakeholder) is working on a Terms of Reference to guide the role and function of the roundtable as an advisory group.

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DISCUSSION:

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