

A FRAMEWORK AGREEMENT TO NEGOTIATE A TREATY

This Agreement is dated for reference the 12th day of January, 1996.

BETWEEN:

THE KASKA DENA
as represented by
THE KASKA DENA COUNCIL
("Kaska Dena")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by
THE MINISTER OF INDIAN AFFAIRS AND
NORTHERN DEVELOPMENT
("Canada")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA
as represented by
THE MINISTER OF ABORIGINAL AFFAIRS
("British Columbia")

(collectively "the Parties")

WHEREAS:

The Kaska Dena assert that they are a part of the Kaska Nation, that they are an aboriginal people whose traditional territory stretches from northern British Columbia through the south-east Yukon Territory and into the Northwest Territories, and that they have unextinguished aboriginal rights to that territory, including that portion located in northern British Columbia.

The claim of the Kaska Dena to the Territory was first formally submitted to Canada in 1982. In 1983, Canada accepted that claim for the purposes of negotiation pursuant to Canada's land claim policies.

Following the establishment of the BCTC, the Kaska Dena submitted a Statement of Intent to negotiate a treaty with Canada and British Columbia under the BCTC process.

The Kaska Dena Statement of Intent to negotiate was accepted by the BCTC. Subsequently, Canada, British Columbia and the Kaska Dena have agreed to negotiate a treaty under the BCTC process.

The Parties have met the requirements established by the BCTC for framework negotiations.

The Parties to this Agreement wish to achieve certainty about future jurisdiction and rights to ownership and use of lands and resources in the Territory.

The Parties acknowledge the importance of providing public access to the treaty process while recognizing the need to conduct effective negotiations; consequently the Parties have provided public access to the process in an agreement, referred to as the "Protocol Regarding the Openness of the Kaska Dena Treaty Process" ("Openness Protocol").

NOW THEREFORE the Parties agree as follows:

1. DEFINITIONS

1.1 "**Agreement-in-Principle**" means the agreement approved as evidenced by signature of the Parties at the end of Stage 4 of the BCTC process which will be comprised of various sub-agreements and other provisions as agreed.

1.2 "**BCTC**" means the British Columbia Treaty Commission.

1.3 "**BCTC Agreement**" means the British Columbia Treaty Commission Agreement dated September 21, 1992.

1.4 "**BCTC process**" means the six-stage negotiation process described in the Report of the British Columbia Claims Task Force dated June 28, 1991, and referred to in the BCTC Agreement.

1.5 "**Chief Negotiator**" means the negotiator appointed by each of the Parties for the treaty negotiations.

1.6 "**Final Agreement**" means the agreement formally ratified and signed by the Parties at the end of Stage 5 of the BCTC process.

1.7 "**Overlap**" means a claim by a First Nation other than the Kaska Dena to a geographic area within the Territory.

1.8 "**Sub-Agreement**" means an agreement, initialed by the Chief Negotiators, on a substantive issue listed in Section 5.1 of this Agreement.

1.9 "**Territory**" means the geographic area identified by the Kaska Dena as that portion of their

traditional territory located in northern British Columbia as indicated on the map on file with the BCTC.

2. PURPOSE

2.1 The purpose of this Agreement is to govern the conduct of the negotiations between the Parties. It sets out the process and timetable for negotiations to complete an Agreement-in-Principle on the subjects listed, including the jurisdiction of Kaska Dena government.

3. SCHEDULING AND TIMING

3.1 The Parties intend to proceed diligently and in good faith to reach an Agreement-in-Principle with respect to the subjects listed in Section 5.1 within eighteen months from the date of execution of this Agreement.

3.2 Following signing of an Agreement-in-Principle, the Parties intend to commence negotiations towards a Final Agreement-in-Principle, the Parties intend to commence negotiations towards a Final Agreement based upon the Agreement-in-Principle. The Parties will address in the Agreement-in-Principle a timetable for completing the Final Agreement.

4. PARTIES

4.1 The Parties to the negotiations, the Agreement-in-Principle and Final Agreement will be the Kaska Dena, Canada and British Columbia,

5. SUBJECTS FOR NEGOTIATION

5.1 Set out below is a list of the subjects which the Parties intend to address in the negotiations. The list is not intended to be exhaustive and each of the Parties may raise a broad range of components for negotiation under each subject. Other subjects may be added with the written agreement of the Chief Negotiators.

5. 1.1 General

Eligibility and Enrollment

Certainty

Approval and Ratification

Amendment

Dispute Resolution

Constitutional Protection

Third Party Interests

5.1.2. Lands

Land Selection and Tenure

Access

Parks and Protected Areas

Surface and Sub-surface Rights

Environmental Management

5.1.3 Natural Resources

Fish

Wildlife

Forests

Water

Mining

Oil and Gas

5.1.4 Financial Components

Financial Settlement Components

Resource Revenue Sharing

Economic Development

Taxation

5.1.5 Governance

Law Making and Jurisdiction

Inter-governmental Relations

Structure of Government

Transition

Program and Service Delivery

5.1.6 Cultural Artifacts and Heritage

5.1.7 Implementation

Requirements for Legislative Change

Timing

Funding

Participation in drafting of Settlement Legislation

5.2 The inclusion of a subject in section 5.1 does not commit any of the Parties to conclude an agreement on that subject or a component of that subject.

5.3 The Parties agree that subjects or elements of subjects requiring negotiation on a regional and/or provincial basis will be identified by the Parties and negotiated accordingly.

5.3.1 The Parties will develop principles and criteria to determine which subjects, or an element or elements of a subject, will be negotiated on a regional and/or provincial basis, and to help guide the process.

5.3.2 The Parties will develop a process for negotiating subjects on a regional basis and identifying the other First Nations with which regional negotiations on the specific subjects will proceed.

5.4 The issue of constitutional protection, including Kaska Dena governance, will be addressed prior to concluding an Agreement-in-Principle.

5.5 The Parties intend to develop an Implementation Plan which includes, but is not limited to:

- arrangements for monitoring treaty implementation;
- implementation funding, including funding for training; and
- timing.

6. INTERIM MEASURES

6.1 In accordance with recommendation 16 of the "Report of the British Columbia Claims Task Force", interim measures agreements may be negotiated before or during negotiations for both an Agreement-in-Principle and a Final Agreement when an interest is being affected which could undermine the process.

7. THE NEGOTIATION PROCESS

7.1 The Chief Negotiators will be responsible for the conduct and coordination of the negotiations.

7.2 Negotiations will be conducted at a main negotiation table ("Main Table") at which the Chief Negotiators will be responsible for:

7.2.1 managing the negotiation process including the development of workplans and the setting of priorities;

7.2.2 negotiating and concluding an Agreement-in-Principle and a Final Agreement;

7.2.3 implementing and managing the Kaska Dena Openness Protocol;

7.2.4 implementing detailed procedures, consistent with this Agreement, to guide the Parties during Agreement-in-Principle negotiations as outlined in the document entitled "Kaska Dena Treaty Negotiations Procedures Agreement";

7.2.5 establishing working groups, side tables and other processes, as agreed; and

7.2.6 implementing dispute resolution mechanisms, as agreed.

7.3 Any agreement on a subject listed in Section 5. 1 which is to be included in the Agreement-in-Principle or Final Agreement must be negotiated and agreed to by the Parties.

7.4 Where negotiation of a subject listed in Section 5.1 results in agreement, the Parties will record it in a

Sub-Agreement. The Chief Negotiators will indicate their agreement on the subject by initialing the Sub-Agreement.

7.5 Once they have initialed all Sub-Agreements, the Chief Negotiators will negotiate an Agreement-in-Principle by consolidating the Sub-Agreements and adding necessary provisions as agreed.

7.6 The Chief Negotiators will indicate their agreement to the Agreement-in-Principle by initialing it, and will recommend the initialed Agreement-in-Principle to their respective Parties for approval.

7.7 Any Chief Negotiator may request that any initialed Sub-Agreement or Agreement-in-Principle be reconsidered and amended prior to the signing of the Agreement-in-Principle.

7.8 The Parties will indicate their approval of the Agreement-in-Principle by signing it.

7.9 After the signing of the Agreement-in-Principle, the Parties will negotiate with the intention of concluding a Final Agreement based on the Agreement-in-Principle.

8. INFORMATION-SHARING

8.1 The Parties recognize the need to share information during the negotiations as outlined in the document entitled "Principles for Information Sharing among the Parties during Kaska Dena Treaty Negotiations".

9. OVERLAPS

9.1 The Kaska Dena shall resolve any overlaps it may have with other First Nations and report back to the Main Table from time to time regarding the status of its overlap discussions.

10. NEGOTIATION FUNDING

10.1 Each Party will be responsible for obtaining funding for its participation in the negotiation process.

11. GOVERNMENT PROGRAMS

11.1 During the negotiation process, members of the Kaska Dena resident in British Columbia shall continue to enjoy the same rights and benefits as any other citizen of Canada and resident of British Columbia. The Kaska Dena and its members will have access to the various programs and services of Canada and British Columbia in effect from time to time, including those directed to aboriginal people and organizations, in accordance with the criteria established from time to time for the application of those programs and services.

12. SUSPENSION OF NEGOTIATIONS

12.1 Any of the Parties may, for any reason, including litigation, suspend the negotiations contemplated by this Agreement by providing to the other Parties and to the BCTC written notice appropriate to the circumstances which also sets out the reasons for the suspension and the date that the suspension commences.

13. INTERPRETATION

13.1 This Agreement is not intended to be a treaty nor does it constitute a land claims agreement within the meaning of sections 25 and 35 of the Constitution Act, 1982.

13.2 The Agreement-in-Principle is not intended to be a treaty nor does it constitute a land claims agreement within the meaning of sections 25 and 35 of the Constitution Act, 1982.

13.3 The Final Agreement is intended to be a treaty and is intended to constitute a land claims agreement within the meaning of sections 25 and 35 of the Constitution Act, 1982.

13.4 The treaty negotiations and all related documents, except for a Final Agreement that is in effect 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.

13.5 For greater certainty, the Parties agree that section 13.4 does not determine the enforceability of any agreement which may flow from this Framework Agreement, nor the admissibility of any such agreement in any proceeding to enforce that agreement.

13.6 This Agreement is not intended to be legally binding, and shall not constitute or be deemed to constitute a creation, recognition, affirmation or denial of any rights.

14. AMENDMENT

14.1 The Chief Negotiators may, by agreement in writing, amend the list of subjects for negotiation as set out in section 5 and any protocol or procedural agreement referred to in this Agreement.

14.2 This Agreement may only be amended by agreement of the Parties in writing.

15. APPROVAL OF THIS AGREEMENT

15.1 Initialing of this Agreement by the Chief Negotiators indicates their intention to recommend it to the Parties for their approval.

15.2 Signing of this Agreement by the Parties indicates their approval of it.

15.3 Approval of this Agreement by the Kaska Dena is to be authorized by a written resolution to that effect by the Kaska Dena Land Claims Caucus, together with written resolutions by the respective Chiefs and Councils of the Fort Ware Band, the Dease River Band and Liard Indian Reserve #3 (Lower Post).

15.4 The Minister of Indian Affairs and Northern Development is authorized to sign this Agreement on behalf of Canada.

15.5 The Minister of Aboriginal Affairs is authorized to sign this Agreement on behalf of British Columbia.

16. ROLE OF THE BRITISH COLUMBIA TREATY COMMISSION

16.1 The Parties acknowledge that the role of the BCTC is as set out in the BCTC Agreement.

17. DISPUTE RESOLUTION

17.1 Should an impasse be reached, the Parties will endeavor to use dispute resolution mechanisms, and in so doing may approach the BCTC for assistance.

IN WITNESS WHERE OF the Parties hereto hereby set their hands and seals on the 12th day of January, 1996.

Signed on behalf of the Kaska Dena Council

Mr. Walter Carlick
Chair
Kaska Dena Council

Signed on behalf of Her Majesty The Queen in Right of Canada

Honorable Ron Irwin
Minister of Indian Affairs and Northern Development

Signed on behalf of Her Majesty The Queen in Right of British Columbia

The Honorable John Cashore
Minister of Aboriginal Affairs