

Lheidli T'enneh Final Agreement

Participant Handbook



October 2006

Introduction

This Handbook has been prepared to help explain the Lheidli T'enneh final treaty agreement to the people who are eligible to participate in it.

It contains a brief summary of each chapter. Wherever specific questions have been raised by community members, the handbook also contains those questions and answers to them. The summaries and the questions and answers should be read together to gain a complete understanding of each chapter.

This handbook is not intended to replace the Final Agreement. Anything that is not clear can be clarified by referring to the Final Agreement.

The treaty is complex and will only work if everyone understands it. Therefore this handbook is a “living document” for which we invite comments and further questions.

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Preamble

The Preamble sets out the broad context for the Final Agreement, including the values and principles important to Lheidli T'enneh and what the treaty is intended to achieve.

The Preamble specifically provides that the Lheidli T'enneh:

- are Carrier aboriginal people whose heritage, history, culture, language and religion are tied to the lands and waters surrounding the confluence of the Fraser and Nechako Rivers
- want to preserve, protect and enhance their economy, heritage, language and culture
- have inherent rights protected by the Constitution of Canada

The Preamble explains that:

- the courts have told Canada, British Columbia and First Nations to come to agreements through negotiations rather than lawsuits
- the Final Agreement was negotiated under the British Columbia treaty process
- the treaty negotiations were conducted in an atmosphere of mutual respect and openness between the Lheidli T'enneh, Canada and British Columbia

In the Preamble, Lheidli T'enneh, Canada and BC agree that the purposes of the treaty are to:

- achieve certainty by setting out each party's role in lands, resources and law-making
- continue, not extinguish, the rights of Lheidli T'enneh in accordance with the Final Agreement

Definitions

The treaty is a legal document, so it is important that the words in it are clearly understood. This section provides the legal definitions for terms used in the treaty.

In this Handbook, we have tried to use “plain English”. However it is important to be clear on a few of the more common definitions:

“Treaty” and “Final Agreement” have the same meaning in this handbook.

“Parties” means the three parties who negotiated the treaty, Lheidli T'enneh, the federal government of Canada and the provincial government of British Columbia.

“Effective Date” means the date the treaty comes into effect. That date will be set by agreement of the three Parties after all three have ratified the Final Agreement. It will likely be one to two years after a successful Lheidli T'enneh ratification vote.

General Provisions

The General Provisions chapter sets out the legal nature of the treaty and the basic rules that apply to the whole treaty, including the “certainty” that all Parties desire.

The Final Agreement is a treaty for the purposes of sections 25 and 35 of the 1982 Constitution of Canada. This means that the rights of the Lheidli T'enneh people as set out in the treaty have the highest protection under Canadian law.

The treaty comprehensively sets out all of the rights of Lheidli T'enneh. Aboriginal title is modified and clarified in accordance with the treaty.

Lheidli T'enneh citizens have the right to practice the Carrier culture and use the Carrier language in a way that is consistent with the treaty.

Federal and provincial laws will apply to Lheidli T'enneh. If there is any conflict between a federal, provincial or Lheidli T'enneh law and the treaty, the treaty will prevail.

Lheidli T'enneh citizens who are also Canadian citizens are entitled to all rights, benefits and programs available to all Canadians and other aboriginal people in Canada. This treaty does not affect the rights of any other aboriginal people in Canada.

Canada, BC and Lheidli T'enneh cannot legally challenge the treaty, or support anyone else in challenging the treaty, in court.

Governments must consult with the Lheidli T'enneh as set out in the treaty, any side agreements, and as required by law.

Community Questions and Answers about General Provisions

1. Who is entitled to the General Provisions?

Everyone is entitled to rely on these provisions. Once Lheidli T'enneh, Canada and British Columbia approve the treaty, it will be legally binding on all three parties and on all other persons.

2. What is certainty?

Certainty means that the treaty comprehensively sets out all of the rights, and settles the aboriginal land title interests, of Lheidli T'enneh. Aboriginal title is modified, clarified and continued in accordance with the treaty.

3. What about the claim over the surrender of Fort George IR #1?

Lheidli T'enneh's specific claim against Canada for the surrender of the former Fort George IR #1 can continue. There is nothing in the treaty that will in any way undermine the claim against Canada. The claim may proceed through the courts or the Specific Claims Process.

4. Can changes be made to the treaty?

Amendments to the treaty can be made if all Parties agree. In some specific cases where the treaty requires the Parties to negotiate and reach agreement on an issue, but the Parties cannot agree, an impartial arbitrator may determine an amendment.

There is also a "periodic review" provision that requires the Parties to meet every fifteen years to formally review the treaty provisions. At the end of that review, the Parties may agree to amend the treaty if they conclude it is necessary.

5. Who started the treaty process with Lheidli T'enneh?

Lheidli T'enneh attempted to obtain additional land from a government commission in 1915, but was refused. Lheidli T'enneh filed a claim in the Comprehensive Claims process on April 15, 1982 but was refused again. Lheidli T'enneh was one of the first Bands to file under the British Columbia Treaty Process when it started in December 1993 and it has been a leader in that process ever since.

Eligibility and Enrolment

The Eligibility and Enrolment chapter sets out who is eligible to be a Lheidli T'enneh citizen and the process for becoming a Lheidli T'enneh citizen.

Eligibility refers to the criteria that determine whether someone can become a Lheidli T'enneh citizen. If an individual is eligible, he or she can enroll and become able to vote to ratify the Final Agreement and to participate in the treaty if it is approved.

An individual is eligible to be enrolled if they have Lheidli T'enneh ancestry, are a Lheidli T'enneh Band member or have been adopted under Lheidli T'enneh custom.

Enrolment is the process of signing up for the treaty. It involves completing an application form and submitting it, along with any necessary supporting documentation, to the Lheidli T'enneh Eligibility and Enrolment Committee. If the application meets the eligibility criteria, it will be accepted and the applicant will be enrolled.

The three-person Enrolment Committee has been established by Lheidli T'enneh to set up enrolment procedures, process enrolment applications, and maintain a list of those who are enrolled. The committee is funded by Canada and British Columbia.

Decisions of the Enrolment Committee can be appealed to an Enrolment Appeal Board set up by Canada and Lheidli T'enneh and funded by Canada and BC. Applicants can also apply to the Supreme Court of British Columbia to review or set aside a decision of the Enrolment Committee or the Appeal Board.

If the treaty is ratified, Lheidli T'enneh will be responsible for the ongoing administration of an enrolment process for those who are eligible, but have not previously enrolled.

Community Questions and Answers about Eligibility and Enrolment

1. What are the benefits of enrolling?

Those who enroll will have the ability to vote for or against ratifying the Final Agreement. If the Final Agreement is ratified, those who are enrolled will receive all of the rights, benefits, programs and services that are available to Lheidli T'enneh citizens under the Final Agreement.

2. What will be offered to band members living off reserve?

There will be no Band and no reserve after the treaty is in effect. Lheidli T'enneh citizens living off Lheidli T'enneh lands after the Effective Date may still qualify for programs and service that are available to every other British Columbia citizen. As well, they may qualify for Lheidli T'enneh programs and services in accordance with policies of the Lheidli T'enneh Government and availability of funding.

3. What are the consequences of not enrolling with Lheidli T'enneh?

Those who do not enroll will not have the ability to vote in the Ratification Vote. If the treaty is ratified, Band members who do enroll may face limitations on the opportunities and benefits that are available to other Lheidli T'enneh citizens under the treaty.

Others who meet the eligibility criteria but don't enroll will not be able to vote and will not be able to receive any of the benefits, programs and services that are available to Lheidli T'enneh Citizens under the Final Agreement.

4. Can spouses enroll?

Spouses can enroll only if they personally meet the Eligibility and Enrolment criteria. After the treaty is in effect, the Lheidli T'enneh Government may decide to develop a citizenship code which includes spouses of Lheidli T'enneh citizens; however, marriage alone is not an eligibility criteria set out in the Final Agreement.

5. How would a divorce affect Eligibility and Enrolment?

Since marriage has no effect on eligibility, neither does divorce. Eligibility is always measured by personal criteria.

6. How can we find out if we are eligible?

If you filled out an enrolment application and forwarded it to the Eligibility and Enrolment Committee, they will review the application and make a determination as to whether you meet the eligibility criteria or not. The Committee will notify you in writing of its decision, and if enrolment is refused, provide you with written reasons why. If you are eligible, your name will be included on the Enrolment Register and voters list.

7. Will this be on the website?

Yes, the eligibility criteria and enrolment procedures will be displayed on the website, <http://www.lheidli.ca/>.

8. When will the Eligibility and Enrolment process be implemented?

The process has already started. Application forms have been distributed to existing Band members and are being sent to others who have expressed interest in participating in the Lheidli T'enneh treaty. Additional public information notices will be posted. The Enrolment Committee has been established and Lheidli T'enneh representatives on the Enrolment Appeals Board have been identified and trained.

9. Will Lheidli T'enneh have Lheidli T'enneh bloodline history?

Lheidli T'enneh has established reasonably extensive genealogical records but has not accepted "blood quantum" as a requirement for eligibility. It is believed that blood quantum is not a workable criterion.

10. Will Lheidli T'enneh still follow the *Indian Act* and Bill C 31 regarding Indian status?

After the Effective Date, the *Indian Act*, including the Bill C-31 will still apply to determine whether or not Lheidli T'enneh citizens have Indian status. However, the remainder of the Indian Act will no longer apply and will be replaced by the Final Agreement, if ratified. Thus Lheidli T'enneh citizenship, not Indian status will be the most significant factor for programs, services and benefits.

11. How will we be categorized?

After the Effective Date, status Indians will still be categorized as status Indians, and everyone who has enrolled, with or without status, will be categorized as Lheidli T'enneh citizens.

12. Will the Board continue after treaty?

The Enrolment Committee and the Enrolment Appeal Board will be dissolved when they have completed their work in respect of those applications and appeals commenced before the ratification vote. After the Effective Date, Lheidli T'enneh will be responsible for establishing an ongoing process for enrolling eligible individuals who may come forward in the future.

13. How does Lheidli T'enneh define adoption by custom?

The definition that the Community Treaty Council adopted is: "An individual whose ancestors were adopted into Lheidli T'enneh through the potlatch system prior to 1929".

14. How do we categorize the Métis in the Band and what do they get if the treaty is ratified?

If a Métis person meets the eligibility criteria and enrolls, they will have the ability to vote in the ratification vote. If the Final Agreement is ratified, they will receive all of the benefits, programs and services that are available to Lheidli T'enneh citizens.

15. Can a person transfer to another Band and still benefit from the treaty?

No. An individual cannot be a member of another band and be a Lheidli T'enneh citizen at the same time. If someone transferred to another band and received benefits, they would have to transfer out of Lheidli T'enneh and would no longer be eligible to receive treaty benefits. Similarly, if a member of another Band enrolls as a Lheidli T'enneh citizen, they will have to give up membership in the other Band. Nor will they be able to collect benefits under another treaty.

16. Do children have to fill out applications to enroll separately?

Any child who is 16 years of age can enroll by themselves and vote on ratification. Anyone under the age of 16 must be enrolled by their parents or legal guardian.

Ratification

The Ratification chapter sets out how Lheidli T'enneh, Canada and British Columbia will approve the final treaty. The treaty has no effect until it has been ratified by all three Parties.

Lheidli T'enneh must ratify the treaty first. Any person who has enrolled as a Lheidli T'enneh citizen and is at least 16 years old may vote.

The Lheidli T'enneh ratification process requires:

- First, a motion to hold a ratification vote on the treaty must be adopted by consensus at a Community Treaty Council meeting. This step has been completed.
- Second, a ratification vote by secret ballot must be held and a majority of votes must approve the treaty. The Community Treaty Council has recommended the majority be set at 70% for approval of the treaty.
- Third, the treaty must be signed by a person authorized by Lheidli T'enneh.

A three-member Ratification Committee representing Canada, BC and Lheidli T'enneh will be established to conduct the Lheidli T'enneh ratification vote. This committee will prepare a voters list based on the enrolment applications approved by the Enrolment Committee and ensure information on the treaty is available to voters.

Mike Bozoki has been identified as the Lheidli T'enneh representative on the Ratification Committee. Canada and British Columbia will provide funding for this committee.

If Lheidli T'enneh ratifies the treaty, British Columbia and lastly Canada will complete their ratification. There are two parts to each of their processes: the agreement must be signed by a Minister and each government must pass Settlement Legislation to approve and implement the treaty.

Community Questions and Answers about Ratification

1. What is the Band population?

The present population of the Lheidli T'enneh Band is approximately 320 members.

2. What is the time frame for reviewing material?

Lheidli T'enneh has identified mid-January, 2007 as the likely voting date. Potential voters have until then to become informed about the content and effect of the treaty.

3. What is the process of voting?

The voting procedure will be determined by the Ratification Committee and administered by an Electoral Officer. It is likely to be similar to a regular Band council election.

4. Who developed and accepted the ratification process?

The process was negotiated by the three parties based on the approach that was used in ratifying the Nisga'a Final Agreement and other modern treaties in Canada. It was approved by Lheidli T'enneh in the July 2003 Agreement in Principle.

5. What happens if this vote does not go through?

No one can be sure what would happen. It may be possible to vote again in the future, but if the terms of the agreement are reopened, Lheidli T'enneh could potentially lose some of what was negotiated in this package. Liability for the negotiation support loans will still exist and Lheidli T'enneh would remain under the *Indian Act*.

6. How do we ensure that all eligible voters vote?

No one can be forced to vote. However, Lheidli T'enneh can encourage maximum voter turnout through providing information to members, by personally contacting and reminding all eligible voters to vote, and by providing rides to the polling place.

7. Will there be, and should there be, workshops on the Chapters?

Yes. Lheidli T'enneh will work to ensure that everyone is aware of exactly what each chapter provides so that they can make an informed decision about ratification.

7. How will people who live out of province or in other areas vote?

Every eligible voter will have an opportunity to cast their ballot. Voting polls may be established in other areas where a significant number of eligible voters reside. Others will be able to vote by mail-in ballot.

8. Who would be the individual signing the treaty on behalf of Lheidli T'enneh?

This hasn't been confirmed yet but would likely be the Chief.

9. Can members vote by proxy?

No. Because mail-in ballots will be available, there is no need for proxy voting.

10. Will there be an age limit?

Voters must be at least 16 years of age to vote on the Final Agreement.

11. Will ratification be by status members only?

No. Anyone who meets the eligibility criteria and enrolls on the voters list can vote.

12. What resources are available for ratification information?

The treaty office has negotiated funding under a Treaty Related Measure for a communication plan that includes consultation materials such as information sheets, presentations, summaries of the Final Agreement, media training, consultation meetings with community members and the general public, travel expenses and administration. A website has been established at <http://www.lheidli.ca/> and various workshops, telephone campaigns, individual family meetings and other measures are being developed. The Community Treaty Council will continue to play an important role. Interested persons are encouraged to contact the treaty office at (250) 963 – 8480 with any questions.

13. How long after ratification will the Lheidli T'enneh Government take over?

After Lheidli T'enneh ratifies the treaty, British Columbia and Canada will ratify and enact settlement legislation. The Parties will then negotiate the Effective Date. The new government must be elected and take office within six months of the Effective Date.

Lands

The Lands chapter describes the land that Lheidli T'enneh will hold under the treaty, including Lheidli T'enneh law-making over its lands, how land can be added in the future and limits on expropriation by the federal and provincial governments.

“Lheidli T'enneh Lands” are the treaty settlement lands that Lheidli T'enneh will own in fee simple and govern after the treaty comes into effect. Fee simple ownership is the fullest form of ownership known in law. At the present time, Lheidli T'enneh occupies about 677 hectares of land located in four Indian reserves that are owned by the federal government. Through the treaty, Lheidli T'enneh will acquire approximately 4,275 hectares of Lheidli T'enneh Lands. Lheidli T'enneh will also own, but not govern, another 55 hectares of private fee simple lands.

Lheidli T'enneh treaty settlement lands will be under the jurisdiction of Lheidli T'enneh. The Lheidli T'enneh Government will thus be able to make laws for:

- use, management, planning and development
- ownership and sale
- a land title or registry system
- expropriation of lands by the Lheidli T'enneh Government

Federal and provincial laws will also apply on Lheidli T'enneh Lands, but Lheidli T'enneh land laws will prevail over federal and provincial land laws, except for laws governing matrimonial real property, and the Agricultural Land Reserve where it applies.

Lheidli T'enneh may tax its land. Lheidli T'enneh lands may be registered in the provincial land title system if Lheidli T'enneh decides to do so. Lands not registered in the provincial land registry system are protected from seizure or forfeiture under the terms of the Final Agreement.

If Lheidli T'enneh decides to sell or lease a parcel of Lheidli T'enneh Lands, the Lheidli T'enneh Government will still retain law-making authority over those lands unless Lheidli T'enneh, Canada and BC agree otherwise.

Unlike most landowners, Lheidli T'enneh will own all subsurface resources on or under Lheidli T'enneh Lands, such as minerals, coal, natural gas and gravel. Lheidli T'enneh can set and collect any fees or other charges relating to the development and extraction of subsurface resources from Lheidli T'enneh Lands.

Under certain circumstances, if Lheidli T'enneh, Canada and BC agree, parcels of land can be added to Lheidli T'enneh Lands. The first of these include two small CN Rail sidings that are already under negotiation. Within five years after the treaty is in effect, Lheidli T'enneh may identify two new areas of provincial Crown lands to be purchased for destination resort development.

Also within five years, Lheidli T'enneh has the right to purchase additional land at Purden Lake, other lands west of the Shelley reserve, and land at Cale Creek from British Columbia. Purchases will be at fair market value. Any lands added to Lheidli T'enneh Lands in the future that have an ALR designation will retain that designation.

Canada and BC can expropriate Lheidli T'enneh Lands for public purposes, but agree that they will not expropriate Lheidli T'enneh Lands unless absolutely necessary.

The expropriation provisions closely reflect those that are already in place under the *Lheidli T'enneh First Nation Land Code*. When a parcel of Lheidli T'enneh Land is needed for public purposes, and there are no reasonable alternatives, Canada or BC and Lheidli T'enneh will make best efforts to negotiate an agreement regarding the land use. Even if the Parties cannot reach agreement and the land is expropriated, Canada or BC will compensate Lheidli T'enneh by providing new lands or financial payment based on the economic and cultural value of the expropriated lands.

In some cases, expropriated land may be returned to the Lheidli T'enneh after it is no longer required for a public purpose. In all cases, only the smallest interest required by Canada or British Columbia will be expropriated.

Community Questions and Answers about Lands

1. How much land will Lheidli T'enneh get and where is it located?

The Final Agreement provides for 19 parcels of Lheidli T'enneh Lands totaling about 4,275 hectares. These include four parcels of existing Indian reserves, one parcel of surplus federal land and fourteen parcels of provincial crown land, listed as follows.

- I.R. #1A, Fort George Cemetery in Fort George Park
- I.R. #2 at Shelley
- I.R. #3 Clesbaoneecheck Reserve on the North Nechako Road
- I.R. #4 Salaquo at the confluence of the Nechako and Chilako River
- The former federal Experimental Farm on the old Caribou Highway near the airport
- The Beaver parcel adjacent to east boundary of the Shelley Reserve
- The Salmon Lands parcel at the confluence of the Fraser and Salmon Rivers
- The Salmon B parcel on the Fraser River south of the Salmon Lands parcel
- The Shelley A parcel on the north and west boundary of the Shelley Reserve
- The Willow River parcel on Highway 16 at the Willow River bridge
- The Stony Lake parcel approximately 70 kilometres south of Prince George on the Willow Forest Service Road
- The Narrow Lake parcel approximately 55 kilometres south of Prince George on the Bowron and Narrow Lake Forest Service Roads
- The Vista parcel on Landooz Road adjacent to Shelley Reserve
- Four parcels on Cranbrook Hill south and west of the University of Northern BC
- The Harper Valley parcel between the Hart highway and Foothills Boulevard in Prince George
- The former Hutda Lake corrections facility, southwest of Prince George on the Blackwater Road

Lheidli T'enneh will also own 55 hectares of private fee simple lands. These are Sand Island in the Fraser River near Fort George Canyon and a parcel on Red Rock Road adjacent to Fort George Canyon Park.

2. How do B.C. Hydro, Duke Energy and the railroads compensate Lheidli T'enneh?

Duke and Plateau pipelines pay taxes to the band. B.C. Hydro pays a grant in lieu of taxes. The railroads consider themselves tax exempt, but the provincial government has paid a grant in lieu for CN and Lheidli T'enneh participated in the funding made available when BCR operations were taken over by CN. These arrangements will basically continue under the treaty except that railroad lands are not part of the new treaty settlement lands.

3. How would our heritage sites be protected?

All known heritage sites are protected under the provincial *Heritage Conservation Act*. Lheidli T'enneh will also be able to protect heritage sites on its lands through its law-making authority over land use and access.

4. Who can live on Lheidli T'enneh Lands?

As is already the case on the existing Indian reserves, anyone will be able to live on treaty settlement lands, subject to Lheidli T'enneh land use authority. The Cranbrook Hill and Harper Valley parcels in particular were selected for their residential and commercial development potential. It is anticipated that these will be serviced, subdivided and leased or sold on the open market. These lands will be registered in the provincial land title registry system. Anyone who purchases or leases these lands may live on them. Even if these lands are sold, they will still be treaty settlement lands subject to Lheidli T'enneh laws and the occupants will still pay taxes to the Lheidli T'enneh Government. Because the parcels are registered in the provincial land titles registry system, owners will be able to apply for mortgages and borrow money against the value of the parcel.

5. Will there be individual land owners?

As described under question 4 above, it is anticipated that at least some of the new lands will be developed for individual ownership. Whether or not the existing Indian reserves will be subdivided and allocated to individual band members is a decision that the Lheidli T'enneh Government will have to make based on the interests of its citizens.

6. Will there still be a Lands Authority?

The existing Lands Authority was established under the *Lheidli T'enneh First Nation Land Code* which can operate only on reserve land. Because the reserve land will be converted to Lheidli T'enneh treaty settlement land, the existing Land Authority cannot continue. However, within the Lheidli T'enneh Government, there will be a department that will be responsible for land management and the Lheidli T'enneh Government may choose to re-establish a Lands Authority to assist it in managing treaty settlement lands.

6. Do we need a land use plan to build upon our lands?

Generally speaking, land use planning is simply good practice before developing any land. For this reason, land use plans for the four Indian reserves were developed and enacted under the *Land Code* in 2005. With respect to future planning the Comprehensive Master Agreement being negotiated with the City of Prince George and the Regional

District of Fraser-Fort George under the Local Government Relations chapter contains commitments to harmonize land use planning so as to provide seamless administration, comparable costs, attractive places to live and invest, and diverse and sustainable economies.

7. Is the Agricultural Land Reserve (“ALR”) still on the land?

The only parcel that will have the ALR designation is the Salmon Lands parcel at the confluence of the Fraser and Salmon Rivers. The ALR designation on other affected parcels will be removed by provincial Settlement Legislation.

8. Are there going to be paved roads?

Paved roads are a service that the Lheidli T'enneh Government will address when it makes decisions about capital budgeting, land development and taxation.

9. What is the *Land Act*?

The *Land Act* is the provincial legislation that governs management and disposition of provincial Crown land.

10. What is a commercial recreational tenure?

Commercial recreation includes outdoor recreation activities authorized to be carried out on provincial Crown land on a fee-for-service basis. It covers a wide range of ecotourism and outdoor adventure activities such as heli-skiing, heli-hiking, snowmobiling, wildlife viewing and kayaking. The *Land Act* requires individuals who want to use Crown land for commercial recreation purposes to have authorization to do so. The commercial recreation tenure opportunity identified in the Final Agreement is intended to provide an economic development opportunity for Lheidli T'enneh involving a possible trail network and interpretive wildlife/forestry sites in the vicinity of Narrow Lake.

11. What does expropriation mean?

Expropriation is the legal power for a government to force a land-owner to sell their land to the government for some public purpose, such as a highway or utility right of way.

12. Will we have the option to buy additional land?

Yes, as set out in the Lands chapter summary, above.

Access

The Access chapter sets out the rules for the public and government officials to enter onto Lheidli T'enneh Lands and how the Lheidli T'enneh Government can enter onto Crown lands.

Members of the public will be able to enter onto Lheidli T'enneh Lands for non-commercial and recreational purposes including hunting and fishing, subject to reasonable limits. Public access does not include the harvesting of natural resources unless authorized by the Lheidli T'enneh Government. It also does not allow anyone to cause damage to Lheidli T'enneh lands or resources, create a nuisance, or interfere with Lheidli T'enneh businesses or private lands.

The Lheidli T'enneh Government will allow persons to enter or cross Lheidli T'enneh Lands in order to access interests such as private parcels of lands or tenures.

Through its powers over land use, Lheidli T'enneh may decide to zone areas of Lheidli T'enneh lands to exclude access to the public.

Agents of the provincial and federal governments may enter onto Lheidli T'enneh Lands for specific purposes such as to deliver programs and services, enforce laws, conduct inspections and respond to emergencies or natural disasters. Canada and BC will provide notice of entry to the Lheidli T'enneh Government when possible.

In the same way, agents of the Lheidli T'enneh Government can enter onto Crown lands for purposes such as the delivery of programs and services, conduct of inspections and law enforcement. When possible, the Lheidli T'enneh Government will provide notice to Canada or BC of its entry onto Crown lands.

Every Lheidli T'enneh citizen has the right to access Crown lands in order to exercise traditional harvesting rights in accordance with the treaty. In addition, Lheidli T'enneh citizens have the same right to access public lands as do other members of the public.

Community Questions and Answers about Access

1. What is “access”?

In the treaty, “access” refers to the legal ability to enter or cross land.

2. Do we have access to Lheidli T'enneh Lands through other properties?

Yes. Existing access routes will be continued. Where access is not available at present, statutory rights of way will be provided for and registered in the Land Titles Office.

3. Do other railroads have access through treaty settlement lands?

No. All railroad rights of way have been excluded from Lheidli T'enneh Lands.

4. Do utilities have access through treaty settlement lands?

Yes. Lheidli T'enneh will issue its own tenures for these Rights of Ways. These tenures may be extended to install new works on Lheidli T'enneh Lands where it is necessary to meet demand for services.

5. Do we have to post for access?

Lheidli T'enneh has that option. Lheidli T'enneh will also take reasonable measures to notify the public of any authorized use or disposition of Lheidli T'enneh Lands that would have the effect of preventing public access to Lheidli T'enneh Lands.

6. Will there be a posted sign identifying treaty settlement lands?

This would be possible if Lheidli T'enneh chooses to make the expenditures. However it is not necessary and the Parties have made maps available and consulted with adjacent landowners and the community at large to inform them what lands will become Lheidli T'enneh Lands.

7. Can Lheidli T'enneh restrict access to Lheidli T'enneh Lands?

Yes. Lheidli T'enneh can restrict access through land use zoning and regulation, other law making powers and under other laws such as the provincial *Trespass Act*.

Roads and Rights of Way

The Roads and Rights of Way chapter sets out the law-making authority, management, ownership and responsibility for roads and rights of way within Lheidli T'enneh Lands.

The Lheidli T'enneh Government will be able to pass laws regarding traffic, transportation and parking on roads on Lheidli T'enneh Lands.

Certain roads and rights of way will still be owned by BC or the City of Prince George and they will retain authority to govern their roads. However, if BC acquires a parcel of Lheidli T'enneh Lands for a new road, Lheidli T'enneh will have law-making authority over those lands unless BC expropriates them or Lheidli T'enneh agrees otherwise.

If BC decides that it no longer needs a road or right of way that is adjacent to Lheidli T'enneh Lands, Lheidli T'enneh will have the opportunity to acquire those lands.

Agents of the provincial government, a public utility, a railway or a municipal government that has a road or right of way on or adjacent to Lheidli T'enneh Lands may enter onto Lheidli T'enneh Lands in order to conduct maintenance or repairs.

Lheidli T'enneh Roads will be owned by Lheidli T'enneh and operated, maintained and repaired by the Lheidli T'enneh Government. These roads will be open for public use unless the Lheidli T'enneh Government closes them.

Any existing rights of way for public utilities including BC Hydro, Telus, Shaw Cable, Duke, Plateau Pipelines and Terasen Gas will continue after the treaty. To improve service, a public utility can apply to the Lheidli T'enneh Government to extend or install new works on Lheidli T'enneh Lands.

Community Questions and Answers about Roads and Rights of Way

1. What roads do Lheidli T'enneh own?

Ownership of roads affected by the Final Agreement is very detailed and is set out in the Appendices. Crown roads, municipal roads and railroads that are excluded from Lheidli T'enneh Lands are listed in Appendix C-1, C-2 and C-3. Any roads located on Lheidli T'enneh Lands that are not listed in these appendices are owned by Lheidli T'enneh.

2. Who is liable for removing dangerous trees?

This depends on where the dangerous trees are located. Usually whoever owns the road or right of way is responsible for the removal of dangerous trees from the right of way. In some circumstances, adjacent landowners are responsible if the dangerous tree is located on their land. In other circumstances, utilities such as BC Hydro will remove trees from private land that threaten their right of way.

3. Which roads are Crown roads in our territory?

At the present time, virtually all roads in the Lheidli T'enneh territory are provincial Crown Roads, including highways and forest service roads. Roads on federal lands such as the Indian reserves are owned by the federal government, and most roads within city limits are owned by the municipality. Crown roads and municipal roads that will be located on Lheidli T'enneh Lands under the treaty are listed in Appendices to the Final Agreement.

4. What railways go through Lheidli T'enneh Lands?

CN Rail operates all the railways that go through Lheidli T'enneh Lands, and owns the main line through the south Shelley and Salaquo reserves. The province of BC owns the former BC Rail line through north Shelley.

5. Who has Rights-of-Way through Lheidli T'enneh lands?

The federal and provincial governments, the city of Prince George, CN Rail, BC Hydro, Telus, Shaw Cable, Duke, Plateau Pipelines and Terasen Gas have rights of way through treaty settlement lands at present. All are described in the Appendices to the Final Agreement.

6. How will the Rights-of-Way be managed?

The Rights of Way will be managed by the government or utility that is responsible for them. Utility rights of way will be managed according to the tenures that Lheidli T'enneh issues to them under Lheidli T'enneh law.

7. Does the community have a say in public utilities such as where they are located and which ones are utilized?

Lheidli T'enneh citizens will have input into land use planning decisions and would be able to participate in the environmental assessment of larger utility projects. Utilization is primarily a business or affordability decision that would be made individually.

8. What utilities pay taxes and which ones don't?

At the present time, Duke and Plateau pipelines pay taxes to the band. B.C. Hydro pays a grant in lieu of taxes. The provincial government has paid a grant in lieu of taxes for CN Rail on North Shelley. After the treaty is in effect, any utility on Lheidli T'enneh lands will be liable to pay taxes or grants in lieu of taxes.

9. Will Lheidli T'enneh Citizens be utilized for work on roads?

The treaty does not stand in the way of such direct economic benefits but it does not guarantee employment or business opportunities either. These are ultimately business decisions by whoever is building the road. It is therefore important for persons who are interested in this work to develop the capacity to participate.

10. Will Lheidli T'enneh be able to make its own traffic and transportation laws?

Yes. The Lheidli T'enneh Government will be able to make laws for traffic, transportation, parking and highways on Lheidli T'enneh Lands to the same extent that municipal governments in BC can pass laws on this subject.

11. Every time that gas and hydro go up can we raise the taxes on Lheidli T'enneh Lands?

No. Lheidli T'enneh Government, the City of Prince George and the Regional District of Fraser Fort George are negotiating a Comprehensive Master Agreement that will provide for harmonized tax regimes. As well, Lheidli T'enneh tax powers are subject to appeal so must be exercised fairly.

Forest Resources

The Forest Resources chapter describes the law-making authority, management responsibilities and rules governing timber and non-timber forest resources on Lheidli T'enneh Lands.

Lheidli T'enneh will own all forest resources on Lheidli T'enneh Lands in the same manner that private landowners own forest resources on their lands, including timber and non-timber forest products such as mushrooms, plants and shrubs. This means that the forest resources on Lheidli T'enneh Lands can be managed and harvested according to less stringent standards and rules than on Crown lands.

The Lheidli T'enneh Government can pass laws governing forest resources and forest and range practices on Lheidli T'enneh Lands. The standards created by these laws must meet or exceed provincial forest environmental standards. Lheidli T'enneh laws will prevail over federal and provincial laws except for laws relating to wildfires and forest health. As the owner, Lheidli T'enneh can also establish and collect fees or other charges relating to forest resources on Lheidli T'enneh Lands.

Logs exported from Lheidli T'enneh Lands will be treated as if they had been harvested from an Indian Reserve in British Columbia. This means that timber exported from Lheidli T'enneh Lands will not be subject to any provincial export or manufacturing laws, and can be exported more easily, subject only to a federal "surplus test".

Lheidli T'enneh is responsible for the health of forest resources on Lheidli T'enneh Lands, including the control of insects like the mountain pine beetle, diseases, invasive plants or animals that pose a threat to the health of forest resources. Because threats to the health of forest resources can spread back and forth from Crown lands to Lheidli T'enneh Lands, the Parties will notify each other when such a threat exists, and develop a plan to minimize any impacts.

Lheidli T'enneh, Canada and BC have negotiated a Wildfire Suppression Agreement to set out the details of how the costs of fighting wildfires will be shared by the Parties. Lheidli T'enneh will be responsible for 1/3 of the costs if the fire starts on Lheidli T'enneh Lands subject to a formula which provides a "cap" on the total dollar value that Lheidli T'enneh will be responsible for. Lheidli T'enneh will not be responsible for any wildfire suppression costs off its lands. If a fire starts off Lheidli T'enneh Lands but spreads onto the lands, Lheidli T'enneh will not be responsible for any firefighting costs.

Lheidli T'enneh may harvest the timber on Lheidli T'enneh lands in the same manner as private land owners. In addition, Lheidli T'enneh has secured a 15,000 cubic meter Community Forest License and a 93,000 cubic meter evergreen forest license outside the treaty. This equates to a total annual harvest of approximately 108,000 cubic meters of wood. This is in addition to the wood supply that Lheidli T'enneh has received under a Forest and range Agreement.

Community Questions and Answers about Forest Resources

1. What future is there in forestry for Lheidli T'enneh?

A significant part of the local economy will depend on forestry for the foreseeable future. Properly managed, there is every reason to believe Lheidli T'enneh can participate in this economic and land use activity. Also, change creates opportunities, so developments like the treaty and mountain pine beetle can provide advantages.

2. How much logging will there be and how many hectares will be logged?

This will be a business and planning decision that will have to be made based on market and other circumstances after the Effective Date. We do know that Lheidli T'enneh will either log or purchase the coniferous timber on the Salmon Lands, Salmon B, Shelley A and Beaver parcels within ten years of the Effective Date under the Shelley Timber Agreement, which is a negotiated "side agreement" to the treaty.

3. Is it just going to be deciduous?

No. The Lheidli T'enneh community forest will be managed for a deciduous leading tenure, but on the treaty settlement lands, Lheidli T'enneh will own all timber, both deciduous and coniferous.

4. What is the band logging now?

This is a business question that is not related to the treaty. It should be taken up directly with the Band Council and the Development Corporation.

5. Will there be funding for building forestry capacity, for example heavy equipment operators, fire suppression and control, degree foresters and forest technicians.

Lheidli T'enneh will be developing a framework for capacity building in the next few months, and is currently updating its inventory of member capacity in forestry and other areas. Funding will be available for capacity building after and perhaps slightly before, the Effective Date. In the interim, members can take advantage of existing programs, and should concentrate particularly on basic education where possible.

6. How do you get a Class 1 drivers licence?

Information on the requirements is available from the BC Access Centre.

7. Who will regulate forest fires?

British Columbia will have primary responsibility for fire suppression on Lheidli T'enneh Lands. Costs will be covered by Wildfire Suppression Agreement described in the above summary.

8. Can we still play a role in fire suppression, for example, will Lheidli T'enneh have its own unit crew?

Lheidli T'enneh's fire suppression obligations are spelled out in the Wildfire Suppression Agreement. Lheidli T'enneh could develop a unit crew through agreement with the Ministry of Forests at any time.

9. How do we get compensation for our stumpage?

If Lheidli T'enneh allows others to log on its treaty settlement lands, it can establish and collect its own fees, rents and charges. If it logs on other lands, it is responsible to pay stumpage to the province.

10. How do we deal with the beetle kill and are we getting compensated for it?

Mountain pine beetle infestation is a province-wide problem that is being approached in many different ways. Initiatives that Lheidli T'enneh is involved in include emergency planning for forest fires, participation in the Nechako Watershed Council regarding water levels, participation in the Regional Wildlife Management Process regarding habitat implications, clean up of reserve lands under the *Land Code*, support for the City's community forest program and commercial logging opportunities under the Forest and Range Opportunity Agreement signed on October 18, 2006. There are no grounds for compensation *per se*.

11. After the pine beetle kill trees are taken out, will they be replaced?

If the trees are removed as part of a logging operation, reforestation will be required. If they are removed as part of a sanitation cutting ("clean up"), replacement would be decided in accordance with that program. Otherwise, nature will ultimately answer the question.

12. What will happen to the younger trees that the pine beetles are affecting now?

Those trees will die and become problems, opportunities or part of the natural order.

13. Will Lheidli be responsible for all forestry issues?

No. Lheidli T'enneh will have primary responsibility for forest management matters on treaty settlement lands, but not exclusive responsibility. For example, British Columbia will continue to be responsible for log scaling, timber marks and forest fire suppression.

14. Who will regulate harvesting and forest practices?

The Lheidli T'enneh Government will regulate these matters on Lheidli T'enneh Lands as provided in the Final Agreement. Provincial legislation will apply concurrently to "fill in" any gaps or regulate purely provincial matters such as scaling. The Province will be responsible for regulating harvesting and forest practices on provincial Crown land.

15. Who is going to be creating the acts?

The Lheidli T'enneh Government will be responsible for developing and enacting forestry legislation that applies on Lheidli T'enneh Lands. Part of the one-time implementation funding is for this purpose.

16. Could Lheidli export timber or timber products?

Yes. Lheidli T'enneh will be able to export logs and other commodities in the market system. These transactions will be in accordance with the regular laws governing such commercial transactions.

17. Who is going to pay for exports and who will get the money?

Ultimately, whoever purchases these products from Lheidli T'enneh will pay the costs of distribution through the purchase price that is paid to Lheidli T'enneh.

18. Will Lheidli be responsible for reforestation and how involved is the Nation in reforestation within the traditional territory?

Lheidli T'enneh has no responsibility for reforestation on Crown land except when it is operating a commercial venture, in which case it will be responsible for reforesting its cut blocks just like any other operator. On Lheidli T'enneh Lands, Lheidli T'enneh will be responsible for ensuring its lands are properly managed, including reforestation as necessary.

19. What are we going to do with the overlap with Saik'uz?

The territory that is shared with Saik'uz is dealt with under a Protocol of Understanding, Cooperation, Information Sharing and Support Regarding Common Areas of the Lheidli T'enneh, Saik'uz and Nazko First Nations that was signed on May 22, 1998.

20. What will BC do if it becomes aware of forest health risks that may affect Lheidli T'enneh forest resources?

Under the Final Agreement, BC will notify Lheidli T'enneh of the risk and the two will work together to develop a response to it. Lheidli T'enneh and Canada have the same obligations to each other and to British Columbia.

21. How does LTN Logging fit in and how could individual band members be accommodated for that?

LTN Logging operates as a business. Its role and obligations after treaty will be determined by the Lheidli T'enneh Government in consideration of legal and economic factors, including factors such as Own Source Revenue.

22. What happens if we have no trees?

This is highly unlikely. However, if Lheidli T'enneh finds itself without commercial timber volumes, it will have to absorb and manage the economic impact just like any other government.

23. Who is going to start the relationship with partners?

Lheidli T'enneh is already involved in various business relationships with joint venture partners and other forms of business organizations. Future relationships will occur in the ordinary course of business.

24. What is the *Forest Act*?

The Forest Act is the comprehensive provincial law that enables the provincial government to manage and dispose of timber on Crown land.

Water

The Water chapter defines who controls, regulates and manages water in Lheidli T'enneh territories. It also sets aside water for Lheidli T'enneh to use for domestic and economic development purposes.

The treaty will set aside, or “reserve” 13,400 cubic decameters (13,400,000 cubic meters) of water per year for Lheidli to use for household, agricultural and industrial purposes. This water can be taken in specified quantities from the Fraser, Nechako, Bowron and Willow Rivers, and Hutda Lake. This water reservation will have priority over other applications for water from these sources received by the government after June 19, 2006.

Lheidli T'enneh will not own the water reservation. However, it can pass laws regarding the licensing of water from its water reservation, which will prevail over federal and provincial laws. It can also regulate the supply and use of water by Lheidli T'enneh citizens on Lheidli T'enneh Lands, in which case federal and provincial laws will prevail.

To use this water reservation, the Lheidli T'enneh Government or a Lheidli T'enneh citizen can apply to BC for water licenses which set out the amount and source of water to be used. BC will approve the applications as long as they are in order, there is enough water available, and the Lheidli T'enneh Government has consented to the application. Lheidli T'enneh will not have to pay for this water.

BC will also establish additional 20-year water reservations to allow Lheidli T'enneh to explore the potential for hydroelectric power development in specific watersheds.

If any water planning is done for the Upper Fraser River watershed or any tributary of the Fraser River within the watershed, the Lheidli T'enneh Government may participate in the process in the same way as other First Nations or local governments. Canada, BC and Lheidli T'enneh can also negotiate agreements regarding the management of water within the Upper Fraser River watershed in order to coordinate responses to floods, ensure public safety, protect and monitor water quality and conserve water.

Community Questions and Answers about Water

1. Who will own the water on Lheidli T'enneh Lands?

The treaty does not affect ownership of water. British Columbia will continue to own all water in the province.

2. Is the water utility going to be part of the Treaty?

No. The BC *Water Utility Act* will not apply to Lheidli T'enneh and distribution of water will be a matter for the Lheidli T'enneh Government to administer as it sees fit, either through a Lheidli T'enneh water system or through a service agreement with the City or Regional District.

3. Does Lheidli T'enneh get all the water in the treaty settlement lands, and if not, how much water do we get?

Lheidli T'enneh water rights are not confined only to its treaty settlement lands. Rather, the treaty provides that BC will reserve 13,400,000 cubic meters of water for Lheidli T'enneh in the following watercourses:

Bowron River: 777,200 cubic metres
Fraser River: 9,674,800 cubic metres
Hutda Lake: 120,600 cubic metres
Nechako River: 375,200 cubic metres
Willow River: 2,438,800 cubic metres

4. Do we have to have our water metered?

Not unless the Lheidli T'enneh Government chooses to implement a metering system, or unless residents of Lheidli T'enneh Lands enter into a servicing agreement with local government that depends on a metered supply of water.

5. Are people going to be allowed to make laws about water?

Lheidli T'enneh, on behalf of its citizens, will have the authority to make laws about water licenses for water that is in the reservation and about the supply and use of water from water licenses issued to the Lheidli T'enneh government.

6. Are we going to have water licenses?

Lheidli T'enneh will have to take out water licenses to use the water from its reservations. Lheidli T'enneh can also apply for licenses on other water courses.

7. Are we going to have a water management system and will the Lheidli T'enneh Government monitor waste going into our waters?

Those decisions will be made by the Lheidli T'enneh Government, but all necessary authority exists in the Final Agreement.

8. Is Lheidli T'enneh going to divert a portion of the river for hydroelectric purposes and develop a hydroelectric plant?

The treaty provides that BC will reserve additional water on streams to be agreed to before the Effective Date for hydro electric development. This reserve will last for twenty years. Lheidli T'enneh is currently negotiating a private partnership to help evaluate the best potential sites for inclusion in this reservation.

9. Can we sell the electricity?

Sales will depend on BC Hydro policy at that time, but it is likely there will continue to be small scale commercial opportunities.

10. What would the impact on the area for hydroelectric development be?

That would be determined through an environmental assessment of the particular site that would be proposed for development.

11. Do we have an Agreement with other countries?

No, not under the treaty, but nothing precludes the kind of political and social protocols that are already in place with the Nanai people of eastern Siberia, for example.

12. What happens if we exceed our water limit?

The provincial *Water Act* prescribes penalties for breach of a water licence. Lheidli T'enneh could enact its own penalty regime for exceeding the limit of a license issued against the Lheidli T'enneh water reservation.

13. Who will manage our drinking water and who will be responsible for water management?

Drinking water management will be done either by an employee of the Lheidli T'enneh Government who has been trained in domestic water systems or by employees of the city or regional district if water is acquired through a services agreement.

14. Who will pay for maintenance, monitoring and evaluation of the water?

There are numerous alternatives. For domestic water, payment would usually be by regular utility charges to each household. Alternatively it could be done by water meters that would provide charges based on volumes used. For surface water, it would be an expense of government.

15. Will we be co-managing water with the province?

In a sense, that will happen through decision making about licenses for the water reservation. The treaty also provides for Lheidli T'enneh participation in water planning processes in the traditional territory. However the treaty does not contemplate formalized joint management of water.

16. Is there an action plan for floods and who will implement such an emergency response plan?

The regional district has statutory responsibility for emergency planning and response. The Lheidli T'enneh Lands Authority has worked with the regional district to develop emergency plans, and will continue to do so through service agreements or other similar arrangements after the treaty is in effect.

17. Will Lheidli T'enneh get a water system for north Shelley and who will pay to upgrade residential water for domestic use, or for a domestic water plant?

Again, in the treaty context, answers to these questions will depend on the priorities and funding levels of the Lheidli T'enneh government after the treaty is in effect.

18. What happens if our water gets contaminated by someone else?

As always, the answer depends on the circumstances of the incident. If the contamination is unlawful and the contaminator is identified, they may be ordered to clean it up or provide alternative supplies. They might also be prosecuted under federal or provincial

legislation and forced to pay a fine or complete some other sentence. Commercial fishermen are entitled to sue polluters who interfere with their catches.

19. Are we going to get better culverts for drainage?

That decision will be made by the Lheidli T'enneh government on Lheidli T'enneh Lands based on need and capital or maintenance funding. The provincial and local governments will make decisions on a similar basis for lands under their jurisdiction.

20. Is there a regulation for Pulp mill accidents?

Yes, there are both federal and provincial regulations for pulp mill safety and discharges.

21. How could we protect our water for future generations to come?

Lheidli T'enneh will have law making jurisdiction over the use of its water reservation, so it can conserve water through those laws. It will also have land use jurisdiction and some environmental protection law-making authority that could be applied in appropriate circumstances. Individuals can reduce their water consumption voluntarily and keep stream sides clean.

22. Will Lheidli T'enneh control all the lakes, creeks and rivers on our territory?

No, management remains primarily with the provincial government.

23. What process do we go through or need to sell water?

Commercial sales of water will have to go through the federal and provincial regulatory processes, which at the present time, permit only sales of bottled water.

24. Who cleans up any polluted waters?

Where the polluter is known, the polluter may be required by court judgment or government order to clean up their damage. If the polluter is not known, the provincial government has primary responsibility on provincial waters, but the costs may be prohibitive and the pollution may be allowed to dissipate by natural means, or to remain in the environment.

25. Will we continue with bottled water?

That will depend on what water system Lheidli T'enneh chooses to utilize after the Effective Date. If it develops its own purification system or acquires water through a service agreement with the City or the regional district, it may be possible to do away with bottled water.

Fisheries

The Fisheries chapter describes the Lheidli T'enneh treaty right to fish and how this right will be managed under the treaty. The chapter also sets out harvest levels and establishes processes for managing the fisheries.

The Lheidli T'enneh Fishing Right is a collective right of the Lheidli T'enneh people to harvest salmon and freshwater fish for food, social and ceremonial purposes within the Lheidli T'enneh Fish Area. It includes the right to trade or barter fish with other Lheidli T'enneh citizens and other aboriginal people in Canada. Subject to Lheidli T'enneh regulation, it can be exercised by any Lheidli T'enneh citizen, and can not be given away. The Lheidli T'enneh Fishing Right can be limited if there are conservation or public health or safety concerns.

The Lheidli T'enneh Government will have law-making authority:

- to determine who may fish under the Lheidli T'enneh Fishing Right
- for distribution of fish harvested under the Lheidli T'enneh Fishing Right
- to set rules for trade and barter of fish
- for documentation of individuals who fish under the Lheidli T'enneh Fishing Right, including personal identification, locations where fishing is permitted, and gear and methods for harvesting

“Harvest levels” are the amount of specific fish that Lheidli T'enneh may catch in a given year. For sockeye, the Lheidli T'enneh harvest level is:

- 2% of the Canadian total allowable catch of upper Fraser River sockeye when the Canadian total allowable catch is 250,000
- 5,000 salmon plus 1.2% of the Canadian total allowable catch of upper Fraser sockeye when the Canadian total allowable catch is greater than 250,000 and less than 840,000 fish, or
- 12,350 salmon when the Canadian total allowable catch is greater than 840,000

In average years this will amount to harvest levels for food, social and ceremonial purposes that range between 9,000 and 10,000 sockeye depending on the run size,

Where there are no conservation concerns, some species do not have harvest levels established. Where there is no harvest level established, the right to fish is not limited by a harvest level.

When any Party wishes to establish a harvest level for a species, it can make a proposal to the other Parties. The Parties will consider the proposal in the Joint Fisheries Committee and will attempt to negotiate an agreed harvest level. Where the Parties cannot agree on a harvest level, the matter will be referred to arbitration. This same process also applies to harvest levels for freshwater fish, although this negotiation will take place only between the Minister and the Lheidli T'enneh.

The Joint Fisheries Committee is a group with one representative from each party created to collaboratively plan Lheidli T'enneh fisheries under the Lheidli T'enneh Fishing Right. They committee will consider Lheidli T'enneh fisheries management activities, fisheries monitoring and enforcement and environmental protection activities associated with fisheries. The specific activities of the Joint Fisheries Committee may include:

- reviewing Lheidli T'enneh Annual Fish Plans
- making fisheries recommendations to the Minister and the Lheidli T'enneh Government
- considering proposals for fisheries activities within the Lheidli T'enneh Fish Area
- conducting analyses and studies

The Joint Fisheries Committee will try to make decisions by consensus.

If Canada or BC establishes another type of fisheries management process within the Fraser River watershed area involving a number of First Nations, Lheidli T'enneh may participate in this process, and certain functions of the Joint Fisheries Committee may be performed by such a new multi-First Nations fisheries management body.

Each year, Lheidli T'enneh will prepare an Annual Fishing Plan, to be shared with the Joint Fisheries Committee, which will describe how fish and aquatic plans will be harvested under the Lheidli T'enneh Fishing Right. The Plan will include:

- what species will be harvested
- if possible, what amount will be harvested
- the location and timing of harvest
- how the harvest will be done, including the type of fishing gear to be used
- monitoring and reporting activities

Based on the Lheidli T'enneh Annual Fishing Plan and recommendations of the Joint Fisheries Committee, the Minister will prepare a treaty Harvest Document setting out the times, location and methods of harvesting under the Lheidli T'enneh Fishing Right. The Harvest Document is similar to a fishing license but unlike fishing licenses, there is a treaty obligation for the Minister to issue the Harvest Document. All harvesting under the Fishing Right must be done in accordance with this treaty Harvest Document. If the Harvest Document is different from the Annual Fishing Plan or Joint Fisheries Committee recommendations, the Minister must explain the differences.

An additional average of 6000 sockeye will be available for commercial sale under a Harvest Agreement that is not part of the treaty. The Harvest Agreement provides for the ability of Lheidli T'enneh to acquire additional fish in the future, if available.

Upon the recommendation of the Joint Fisheries Committee, fish may be transferred from the Harvest Document which provides for the food, social and ceremonial allocation, to

the Harvest Agreement, which allows for commercial sale. Fisheries Operational Guidelines provide the details for how and when the transfer would take place.

The Fisheries Operational Guidelines describe the operational, day-to-day principles, procedures and guidelines to be used in putting the Fisheries chapter into practice.

Finally, Canada will contribute \$3,000,000 to a Lheidli T'enneh Fisheries Fund. This fund will be invested to support Lheidli T'enneh fisheries programs for conservation, protection, assessment, and sustainable management of fish stocks in the Lheidli T'enneh Fish Area.

Community Questions and Answers about Fisheries

1. What is involved in fisheries?

There is much more involved in fisheries than simply catching fish. At the political level Lheidli T'enneh must ensure its rights are protected and governments meet their fishery management obligations. This will be done through participation as an equal partner in the Joint Fisheries Committee process.

At the scientific and technical level, Lheidli T'enneh will carry out fisheries management activities such as harvest monitoring, stock assessment projects, stock restoration projects, fish population research projects and others.

2. Who will run the Lheidli T'enneh fisheries department and who develops, implements and enforces conservation plans?

The Lheidli T'enneh Government will be responsible for the fisheries program, but the exact structure has yet to be determined based on the size, structure and funding resources of the fisheries department and the government as a whole. Lheidli T'enneh and the other Governments may develop conservation plans through the Joint Fisheries Committee. Enforcement of them will generally be carried out by existing enforcement agencies through agreements or protocols with Lheidli T'enneh.

3. What would be the qualifications to run the department?

That will depend on the size, structure, and objectives of the department but generally a fisheries science or technical background would likely be required, in combination with experience in organizational management.

4. How is enhancement going to be a part of the fisheries department?

Enhancement projects would be part of the fisheries management activities of the Lheidli T'enneh fisheries department. The actual scale of such projects will depend on funding, staffing and in most cases, arrangements with the federal and provincial governments.

5. Will the rivers still be closed for Lheidli T'enneh and not down south?

Sometimes this may happen. Down river, people have access to other stocks of fish that are large enough to allow a harvest, and this might occur at times when up-river fisheries are finished or stocks have poor returns. However, fisheries downriver will not be

allowed to fish Lheidli T'enneh stocks to the extent that our fishery would be closed for conservation. If this happens, the treaty provides for compensation.

6. How will we monitor the fish with other nations along the river and up the coast so we do not run out of fish and our children have fish in the future?

In part, through participation in the Joint Fisheries Committee, Lheidli T'enneh interests will be made known to other users of migratory stocks, and protected. However, Lheidli T'enneh cannot manage the entire Fraser River and Pacific Coast. The federal Minister of Fisheries continues to have final responsibility for the entire fishery.

7. What is the annual Lheidli T'enneh salmon allocation?

Sockeye is the only salmon species for which there is an allocation limit at this time. The allocation is "abundance-based" meaning that it depends on how many sockeye are coming back to spawn. Generally, the allocation will average 9,000 to 10,000 fish annually. If returning numbers are very low, our allocation may be in the range of 500 to 5,000 sockeye. If all fish are needed for the spawning grounds, nobody will be allowed to harvest. In years of high runs, the harvest level could be as high as 12,350 fish. In future years there may be allocations negotiated for other salmon species such as chinook as circumstances change or more information becomes available.

8. How many fish are individuals and families allowed?

There are no individual or family allocations required in the treaty. Lheidli T'enneh will regulate its own internal fisheries, so individual or family limits would occur only if the Lheidli T'enneh Government, on behalf of Lheidli T'enneh citizens, concluded there was need for them.

9. What is the annual freshwater fish allocation?

There is no allocation limitation for resident stocks of fish. Lheidli T'enneh can fish as many as necessary, guided by conservation needs so that no stock is over-fished.

10. What type of freshwater fish can we harvest?

Any species of freshwater fish except Nechako River white sturgeon may be harvested. There is provision in the treaty to negotiate with the province if either party believes there should be no harvesting on some species or populations, such as Upper Fraser River sturgeon and bull trout.

11. Which salmon runs can we harvest?

Any salmon runs that Lheidli T'enneh has access to can be harvested unless there are valid management and conservation concerns that would cause the fishery to be closed.

12. Can we fish throughout the year?

Generally, yes for resident stocks, but Salmon stocks are naturally available only part of the year. If there are any seasonal limitations, they will be considered in the Joint Fisheries Committee and the Lheidli T'enneh Annual Fishing Plans that will be incorporated into the Harvest Documents that Canada and BC must issue in order to conform to the terms of the treaty and their own legislation.

13. If the allocation number is not adequate who is going to negotiate for more fish?

The allocation for sockeye salmon has been agreed to. If allocations are suggested for other salmon or freshwater fish the Lheidli T'enneh Government will negotiate.

14. What method would be utilized to harvest fish?

Methods may include trap nets, gill nets, rod and line, fence, traps or other methods authorized by the Minister. Lheidli T'enneh will, in its Annual Fishing Plan, list the different fishing methods that it prefers to use depending on the species or stocks of fish that will be fished.

15. What will be implemented for future capacity?

Lheidli T'enneh is currently completing a comprehensive analysis of capacity needs that will affect implementation of the treaty. Members with suggestions should bring them forward as soon as possible.

16. At what age do you need a fishing licence?

In the treaty, all members are eligible to fish for food, social and ceremonial purposes, regardless of age. However Lheidli T'enneh will have the power to manage its own fisheries, including authorizations, and may choose to determine an age limit.

17. Can we trade fish?

Yes, the treaty recognizes the right to trade and barter fish with other aboriginal people in Canada.

18. Does everyone need a boat licence?

This depends on the size and the use of the boat. Service Canada or the RCMP can provide specific information.

19. How do we ensure that whoever is going to represent Lheidli T'enneh has traditional knowledge and is a Lheidli T'enneh member?

The Lheidli T'enneh Government will assign a senior government member to the Joint Fisheries Committee to speak on behalf of the Lheidli T'enneh community. The Lheidli T'enneh Government is responsible for assigning the best qualified people for particular purposes.

20. After ratification, is DFO still going to tell us what to do?

Although the federal minister of fisheries always has ultimate responsibility for the fisheries, the treaty establishes management structures and authorities that make Lheidli T'enneh a meaningful participant in fisheries and balances the power of the Department of Fisheries and Oceans.

21. Will people who don't fish benefit the same as the people who do fish?

It is expected that the Lheidli T'enneh Government will establish policies and laws that will ensure community members receive fish, whether they are able to fish or not.

22. Can your non-native spouse fish for you?

Yes, but only for the allocated species, which at this time is only sockeye salmon, and only if authorized to do so by the Lheidli T'enneh Government.

23. Can we still fish with a rod without a fishing licence?

Yes, if you are fishing under the treaty fishing right and the Annual Fishing Plan and if you are authorized by Lheidli T'enneh to fish.

24. How do we deal with Lheidli members who are getting more than their allocation and selling the fish for their own gain?

This is contrary to federal and provincial law. Lheidli T'enneh will also have the authority to enforce its fishery laws and to punish offenders. This will include the power to enter into agreements or protocols with existing enforcement agencies.

25. What would be the consequences of extinction?

Loss of biodiversity is always tragic and unpredictable, but with regard to fish, the process of evolution generally provides for the expansion of another species if one species or stock goes extinct. Lheidli T'enneh will retain their fishing rights even if current stocks become extinct and are replaced by different species that don't exist in our Fish Area at the present time.

26. Will there be any commercial fishing benefits in treaty?

The treaty does not provide a constitutionally protected commercial fishery. However, it does provide that Canada and Lheidli T'enneh can negotiate a Harvest Agreement to license a small commercial fishery in the Fish Area, averaging 6000 sockeye per year based on current data.

27. What are the global warming effects on fisheries?

We do not yet know what the effects of global warming will be on Fraser River fisheries. Possible effects include lower water levels, higher water levels, colder water temperatures, warmer water temperatures and changes to predator distribution. In the immediate future, warmer winters have encouraged more pine beetles, which means dead or clear cut forests, which in terms means surface and groundwater volume and patterns will change.

28. Why do the feds still stalk us on our own lands?

The Department of Fisheries and Oceans is empowered to enforce the law, and its officers do so when they are conducting investigations or have grounds to suspect somebody is breaking the law. Provisions in the treaty regarding identification of fishers and joint planning of fisheries may serve to reduce some of the uncertainty faced by both the officers and Lheidli T'enneh fishers.

Wildlife

The Wildlife chapter describes the Lheidli T'enneh Right to Harvest Wildlife, including how it can be exercised by Lheidli T'enneh citizens, the law-making authority of the Lheidli T'enneh Government and management of wildlife in the Lheidli T'enneh Area.

Lheidli T'enneh will have the right to harvest game animals for food, social and ceremonial purposes within the Lheidli T'enneh Area. This is a communal right that cannot be taken away, and can be exercised free of charge. The right can be limited for conservation, or for public health and safety reasons.

If a Lheidli T'enneh person has a disability, and cannot exercise the Right to Harvest Wildlife themselves, the Lheidli T'enneh Government can approve another person to hunt on their behalf, as long as the designated person has a valid hunting license, has a signed agreement with the Lheidli T'enneh Government, and is not being paid to hunt.

The Right to Harvest Wildlife also includes the right to trade or barter wildlife and wildlife parts, including meat, with other Lheidli T'enneh citizens or aboriginal people resident in BC. Any sale of wildlife or wildlife parts must be done in accordance with federal and provincial laws.

Lheidli T'enneh citizens can harvest wildlife outside of the Lheidli T'enneh Area, but only in accordance with federal and provincial laws or under a recognized protocol with other aboriginal people.

The treaty states that the Lheidli T'enneh must have a reasonable opportunity to harvest wildlife. To guarantee this, BC and Canada must ensure that any approvals for use or sale of Crown lands do not deny Lheidli T'enneh the reasonable opportunity to harvest wildlife, although uses or sale may affect the methods, times and locations of Lheidli T'enneh hunting activities.

Lheidli T'enneh may make laws regarding wildlife, including:

- how wildlife is distributed among Lheidli T'enneh citizens
- the methods, timing and location of harvesting wildlife
- trade, barter and transportation of wildlife

Lheidli T'enneh Government will pass laws to require Lheidli T'enneh hunters to carry documentation that includes the name and address of the hunter in the English language. The Lheidli T'enneh Government may also establish programs to train hunters in conservation and safety and methods of harvesting and handling wildlife.

The Lheidli T'enneh Government and BC may negotiate agreements with respect to information sharing about wildlife management. Also, if BC creates any public regional

wildlife management group or process that includes any part of the Lheidli T'enneh Area, Lheidli T'enneh has the right to participate.

The Minister retains authority to manage and conserve wildlife and wildlife habitat. If there are conservation concerns, a species may be “designated”. For designated species, total allowable harvest levels are set by the Minister to determine the number of animals that can be harvested in a given year. Lheidli T'enneh will have a certain portion of this total allowable harvest level, through negotiation with BC or, if necessary, arbitration.

The Lheidli T'enneh Government must develop a Wildlife Harvest Plan for any species that has been designated or for any other wildlife species that Lheidli T'enneh and BC agree to. The Wildlife Harvest Plan would include:

- the methods, timing and location of hunting
- the number, age and sex of harvested wildlife
- monitoring and reporting of harvested wildlife
- transportation of wildlife or wildlife parts
- how long the Wildlife Harvest Plan will be in effect before being updated

Once complete, the Wildlife Harvest Plan will be sent to the Minister for review and approval. The Minister may make changes to the Plan, but must provide written reasons.

The traplines and guiding licenses and certificates that currently exist on Lheidli T'enneh Lands will be kept by the people that hold these interests, and the Lheidli T'enneh will not unreasonably restrict access by them. These interests can be renewed or transferred under provincial law; however, if a trapline or guiding license becomes vacant, the interest will not be granted to anyone else unless Lheidli T'enneh agrees.

Community Questions and Answers about Wildlife

1. Will hunting be the same as now?

Yes, more or less. But it will be subject to some new laws that the Lheidli T'enneh Government may enact to better manage hunting and the roles and responsibilities of the federal, provincial and Lheidli T'enneh Governments will be clearer.

2. When can we hunt?

Lheidli T'enneh can hunt anytime during the year except for designated species which may be restricted in accordance with a Wildlife Plan that is developed by Lheidli T'enneh and approved by the Ministers. The only designated species at this time are grizzly bears and mountain caribou.

3. After treaty, will we have to have licenses?

No. Lheidli T'enneh Citizens will not be required to have federal or provincial hunting licences or pay any fees, charges, or royalties to Canada or British Columbia relating to the Lheidli T'enneh Right to Harvest Wildlife. However, Lheidli T'enneh will issue an identification document to every Lheidli T'enneh citizen who hunts. If you are asked by an authorized person to produce that documentation, you must produce it.

4. Are we allowed to hunt outside our territory without losing guns and vehicles?

Lheidli T'enneh hunters can hunt outside the Lheidli T'enneh Area but not under the Lheidli T'enneh Right to Harvest Wildlife. Hunting in such areas must be done in accordance with federal and provincial laws or under a recognized protocol agreement between Lheidli T'enneh and another First Nation.

5. How many wildlife can we hunt, especially moose?

If there are no conservation concerns Lheidli T'enneh can hunt as many animals as are necessary for food, social and ceremonial purposes. If there are conservation concerns, the species will be designated and a total allowable harvest will be set by the Minister. In that case, Lheidli T'enneh would have a share of the total allowable harvest that it can hunt in accordance with a Wildlife Harvest Plan developed by Lheidli T'enneh.

6. Can we trade and barter with other First Nations?

Yes, you can trade and barter wildlife or wildlife parts, including meat, with other Lheidli T'enneh citizens and with other aboriginal people living in British Columbia.

7. How many traplines are held by Lheidli T'enneh members and where?

There are five traplines presently held by Lheidli T'enneh members. They are in the Shelley-Prince George area and Salaquo Reserve area.

8. Do Lheidli T'enneh hunters have to have firearms licences on our territory?

Yes. Federal and provincial firearm laws will continue to apply.

9. Who has paramouncy in Wildlife disputes?

Paramouncy refers to the priority of federal, provincial or Lheidli T'enneh laws when the laws are in conflict. Lheidli T'enneh Laws prevail in the event of a conflict of laws regarding internal matters such as distribution of harvested wildlife, the method, timing and location of the harvest under a Wildlife Harvest Plan, designation of Lheidli T'enneh hunters, trade or barter, identification of wildlife for transport and any other matters agreed to by the Parties.

Federal and Provincial Laws prevail in the event of a conflict regarding matters that affect others, such as: enforcement of a Wildlife Harvest Plan; documentation of hunters; transport of wildlife; and harvesting wildlife outside of the Lheidli T'enneh Area.

10. Do the rules apply to the whole Statement of Intent Area?

Yes. The Lheidli T'enneh hunting right can be exercised within the former Statement of Intent area, which is called the Lheidli T'enneh Area for hunting purposes.

11. Does wildlife include fish?

No. There is a separate chapter regarding fisheries.

12. Is Wildlife going to be protected on treaty settlement lands after the treaty is in effect, and who is responsible for management?

Yes. Lheidli T'enneh will work together with federal and provincial jurisdictions to manage and conserve wildlife and wildlife habitat in accordance with the Final Agreement.

Lheidli T'enneh is also a member of a Regional Wildlife Management Process that includes other First Nations, hunters, guides and trappers. This group represents the consumptive users of wildlife in a very large area and works with the provincial government to ensure all interest are represented in wildlife management decisions in this area.

13. Who will maintain wildlife habitat?

This will be a shared responsibility of all three parties within their respective authorities.

14. On treaty settlement lands, who does the conservation work?

On Lheidli T'enneh Lands, the Lheidli T'enneh Government may make Laws to regulate the Lheidli T'enneh Right to Harvest Wildlife and the Wildlife Harvest Level. Lheidli T'enneh also has land management authorities that are applicable to wildlife habitat and access. The Regional Wildlife Management Process is intended to help ensure that Lheidli T'enneh wildlife conservation measures are consistent with those on adjacent provincial lands.

15. How will the Wildlife laws be enforced?

Lheidli T'enneh wildlife laws may be enforced by persons authorized to enforce federal, provincial or Lheidli T'enneh laws. Lheidli T'enneh can enter into enforcement agreements with Canada or BC until Lheidli T'enneh is in a position to enforce its laws.

16. What are the consequences for poaching wildlife?

“Poaching” means “hunting illegally”. A Lheidli T'enneh citizen hunting according to the treaty is not poaching. A Lheidli T'enneh citizen who violates the treaty or who breaks the law outside the Lheidli T'enneh Area will be subject to all penalties relating to illegal hunting, such as fines, loss of firearms and vehicles and being prohibited from hunting.

17. Will Lheidli T'enneh be able to say who will be allowed to hunt on our lands?

Yes. Lheidli T'enneh Government will allow reasonable access for the public to hunt and fish on Lheidli T'enneh Lands subject to Lheidli T'enneh Laws and federal and provincial laws. Public access can be closed for good reason under a Lheidli T'enneh law or land use plan. Lheidli T'enneh can also regulate its own members and enter into formal agreements with other First Nations.

18. Are band members able to receive training to manage and conserve wildlife on our lands?

Lheidli T'enneh is developing a comprehensive capacity development plan based on future needs and existing resources. However, there are personal responsibilities as well and members who are interested in this area should be taking the initiative to achieve the necessary basic education qualifications to become regular Wildlife Officers.

19. Can Lheidli T'enneh help members get into the guiding, tourism or wildlife management business?

Support for economic development will be a priority of the Lheidli T'enneh Government, but specific policy decisions regarding direct assistance will have to be made after the Effective Date.

20. Will any regulations change?

Regulations change regularly to reflect changing wildlife management needs in provincial Wildlife Management Areas. Changes in the regulations are discussed in the Regional Wildlife Management Process or directly with Lheidli T'enneh.

21. If a non-Lheidli T'enneh member lives on treaty settlement lands, will he or she have the same hunting rights as Lheidli T'enneh citizens?

No. The hunting right is specific to Lheidli T'enneh citizens.

22. Will Lheidli T'enneh be able to hunt in other territories?

Yes, but you must have a valid hunting licence to do so or be hunting under a recognized protocol with the First Nation that occupies those territories.

Migratory Birds

The Migratory Birds chapter describes the Lheidli T'enneh Right to Harvest Migratory Birds, including how it can be exercised, the law-making authority of the Lheidli T'enneh Government and management of migratory birds within the Lheidli T'enneh Area.

Lheidli T'enneh will continue to have the right, at no cost, to harvest migratory birds, including their eggs, for food, social and ceremonial purposes within the Lheidli T'enneh Area. This right is a communal right and cannot be taken away. The right can, however, be limited for conservation or public health and safety reasons.

If there are conservation concerns, certain species of migratory birds may be designated. For designated species, total allowable harvest levels will be set by the Minister and Lheidli T'enneh will have a defined share of this total harvest. If there is no longer a conservation risk to a designated species, the designation may be removed.

Birds harvested under the Right to Harvest Migratory Birds can be traded or bartered with other Lheidli T'enneh citizens or aboriginal people resident in BC. Any sale, transport or export of migratory birds or migratory bird parts such as feathers must be done in accordance with federal and provincial laws.

Lheidli T'enneh citizens can also harvest migratory birds outside of the Lheidli T'enneh Area, but this must be done in accordance with federal and provincial laws or under a recognized protocol between Lheidli T'enneh and other aboriginal people.

The treaty states that Lheidli T'enneh must have a reasonable opportunity to harvest migratory birds. To guarantee this, BC and Canada must ensure that any approvals for use or sale of Crown lands do not deny Lheidli T'enneh hunters the reasonable opportunity to harvest migratory birds even if the uses or sale may affect the methods, times and locations of Lheidli T'enneh harvesting activities.

The Minister retains authority to manage and conserve migratory birds and bird habitat. Lheidli T'enneh will share in management and may make laws including distribution of harvested migratory birds among Lheidli T'enneh citizens, the methods, timing and location of harvesting migratory birds, trade, barter and sale of migratory birds and their parts and management of migratory birds and habitat on Lheidli T'enneh Lands.

The Lheidli T'enneh Government will pass laws that require Lheidli T'enneh harvesters to carry identification documents that include the name and address of the hunter in the English language and if desired, the Carrier language.

The Lheidli T'enneh Government, Canada and BC may negotiate agreements with respect to migratory bird conservation issues, such as information sharing, habitat monitoring, enforcement and permits. If BC creates any public regional migratory bird management group or process that includes any part of the Lheidli T'enneh Area, Lheidli T'enneh will have the right to participate.

Community Questions and Answers about Migratory Birds

1. What is the definition of “Migratory Birds”?

Migratory Birds are defined in federal legislation and include birds that return to the Lheidli T'enneh Area on an annual basis to raise their young and fly south again in the fall. Waterfowl and other edible birds, except grouse, are migratory birds.

2. What birds can we hunt?

Lheidli T'enneh citizens can hunt any birds that are present in their area, unless there is a conservation concern.

3. What times of the year can we hunt?

All Lheidli T'enneh Citizens may exercise the Lheidli T'enneh Right to Harvest Migratory Birds throughout the year unless a Lheidli T'enneh law provides otherwise.

4. Can a non-member hunt for a member?

The Lheidli T'enneh Right to Harvest Migratory Birds is for Lheidli T'enneh citizens only. Hunting by non-Lheidli T'enneh citizens has to be done in accordance with federal or provincial laws, including seasons, licenses and bag limits.

5. What happens if someone shoots a bird that is going extinct, for example the eagle and sand cranes?

Neither of these species is endangered in the Lheidli T'enneh area, but if a bird is protected from any harvesting by a law that applies under the treaty an offender would be subject to the same fines and penalties as any other person who shot a protected bird.

6. Will non-Lheidli T'enneh citizens have migratory bird hunting rights on treaty settlement lands?

A non-Lheidli T'enneh citizen can only hunt migratory birds on treaty settlement lands in accordance with federal, provincial and Lheidli T'enneh laws. Lheidli T'enneh has agreed to allow such persons reasonable access to Lheidli T'enneh Lands for purposes of hunting, but such persons have no treaty right to hunt.

Environmental Protection

Under the Environmental Protection chapter, the Lheidli T'enneh Government may pass laws to protect, preserve and conserve the environment on Lheidli T'enneh Lands, including laws for:

- preventing and mitigating pollution and other threats to the environment
- managing waste
- protecting air quality
- responding to environmental emergencies

The Lheidli T'enneh Government may also negotiate agreements with Canada and BC to take over environmental protection activities and functions within specific areas. The Parties may negotiate other agreements to protect, prepare for, and recover from environmental emergencies that occur on or near Lheidli T'enneh Lands and waters.

Community Questions and Answers about Environmental Protection

1. What is Environmental Protection?

Environmental protection refers to the measures that are taken to minimize negative human impact on the natural environment.

2. What will we be trying to protect? Does it include all aspects of the environment such as land, animals, water and air?

The treaty applies to all aspects of the environment, which is defined in the treaty to include land, water, air, organic and inorganic matter, living organisms and the ecosystem as a whole. There are also authorities in other chapters that apply to these components of the environment. As well, it is very important to keep this chapter in the context of concurrent federal, provincial and local government jurisdiction over environmental protection.

3. What is Environmental protection to us? Why will we be protecting the environment? How will the Youth benefit from Environmental Protection?

Most people understand the relationship between a healthy environment and healthy life. This applies to all people and all other life forms. These are strong traditional teachings that have become universal human values.

4. Will there be training provided to band members and who would provide it?

Training is available for various levels of involvement in environmental protection work. Some is highly technical and available at post secondary institutions like the University of Northern British Columbia. Basic concepts have already been introduced into elementary and high school courses of study. Short courses, orientations, extension programs, workshops and other forms of academic and community learning could be provided in the community if there is sufficient interest and funding after the Effective Date. As always, the starting point is for individuals to pursue basic education as the starting point.

5. Would a budget be appropriate for this and if so, how much?

An operating and development budget would be essential for an effective environmental management program. The amount would depend on decisions made by the Lheidli T'enneh Government after the Effective Date.

6. Who is responsible for the polluted air quality that already exists?

That responsibility is being shared by the provincial and local governments. Lheidli T'enneh has a seat on the interagency committee that is attempting to deal with air quality in Prince George.

7. Who will form the environmental emergency response team?

Emergency planning is the responsibility of the regional district, and Lheidli T'enneh has participated in its planning process. For particular types of environmental emergencies, such as chemical spills, the provincial environment ministry and industries such as CN Rail have developed specialized response teams.

8. Who will protect the environment? Will it be our responsibility or a joint responsibility between us and the government down the road?

Environmental laws will apply concurrently on Lheidli T'enneh Lands, so the federal and provincial governments will share environmental protection responsibilities with Lheidli T'enneh.

9. Why do BC and Canada laws prevail over Lheidli T'enneh laws in Lheidli T'enneh territory?

Environmental issues do not confine themselves to human boundaries. Thus, it is important that environmental laws operate consistently and in the widest possible area.

10. Is environmental protection going to be the same on treaty settlement lands as in the rest of Canada?

Not necessarily, although the basic intent will be the same. Lheidli T'enneh will be able to enact whatever laws it believes to be necessary and these laws will be effective as long as they are within Lheidli T'enneh jurisdiction and do not conflict with federal and provincial laws.

11. What steps are being taken to implement this authority and how will it be funded?

The parties are developing an Implementation Plan which will set out the obligations of each of the parties under this chapter. Planning is underway as to how to structure the administration of the Lheidli T'enneh government. It will ultimately be implemented by

ratification of the Final Agreement and funded by the revenues available to the Lheidli T'enneh Government.

12. Under what circumstances could we protect a certain species, a plant area or a rare animal?

In circumstances where the Lheidli T'enneh Government was convinced it was necessary to act within its authority to protect those species, plants or animals through the various law-making powers available to it.

13. Is there an environmental management plan in place and how would we go about creating our own *Land Management Protection Act*?

There is a partial environmental management plan in place on reserve land under the *Land Code*, and negotiations have begun to complete the intergovernmental Environmental Management Agreement. Some aspects of such an agreement could be “rolled into” the treaty. Enacting a land management statute requires one to be drafted according to instructions provided by the Lheidli T'enneh Government, then community consultation and enactment. This could be done under the *Land Code* now or under the treaty after the Effective Date.

14. Why isn't Lheidli more environmentally involved?

Lheidli T'enneh is actually very much involved in numerous environmental initiatives, particularly under the Land Code. These include development of an Environmental Management Agreement, environmental site assessments and clean up of the reserves West Nile virus monitoring, emergency planning, etc. Any limitations are a result of inadequate capacity and funding.

Lheidli T'enneh Rights and Roles Outside Lheidli T'enneh Lands

This chapter sets out the types of management responsibilities and activities that Lheidli T'enneh can undertake outside the boundaries of Lheidli T'enneh Lands.

From time to time, the provincial government establishes processes for residents of BC to provide input into plans or guidelines, such as land or resource management plans. If BC develops such a process within the Lheidli T'enneh Area, Lheidli T'enneh has a right to participate and to help with the development of the terms of reference. Lheidli T'enneh may also make proposals to establish a planning process in the Lheidli T'enneh area.

During the public planning process, Lheidli T'enneh may bring forward any proposals, which BC will review and take into consideration. BC will also give Lheidli T'enneh any draft plan resulting from the public planning process, and Lheidli T'enneh may review and provide recommendations to the Minister. If any of these recommendations are not adopted, the Minister will provide written reasons and meet with Lheidli T'enneh.

The province and First Nations have entered into a New Relationship based on mutual recognition, respect and accommodation of Aboriginal title and rights. Lheidli T'enneh will have the ability to participate in, and benefit from, any programs, policies or initiatives in the New Relationship, if these are applicable to the Lheidli T'enneh area. The treaty also provides that if there are "shared decision making" processes or institutions developed as a result of the New Relationship, Lheidli T'enneh will be able to apply those shared decision making processes or institutions in the Bowron and the Willow River watersheds.

Lheidli T'enneh has the right to gather plants for food, social and ceremonial purposes, at no cost, on Crown lands in the Lheidli T'enneh Area. This right can be limited by conservation or public health and safety concerns. To guarantee that Lheidli T'enneh can exercise this right, the treaty provides that BC and Canada must ensure that any approvals for use or sale of Crown lands do not deny Lheidli T'enneh the reasonable opportunity to gather plants, even if such uses or sale affect the methods, times and locations of Lheidli T'enneh gathering activities.

Lheidli T'enneh and BC will negotiate a Protocol that will describe how Lheidli T'enneh and BC will work together in planning, management, and creating economic opportunities in the Bowron Lake, Fort George Canyon, Purden Lake, West Lake, West Twin Lake and Kakwa parks. After the treaty comes into effect Lheidli T'enneh can make proposals to BC to establish new parks or protected areas. New parks or protected areas will not include Lheidli T'enneh Lands without Lheidli T'enneh consent.

Within two years after the treaty takes effect, Lheidli T'enneh will develop a proposal for commercial recreation in the Willow Watershed and apply to BC for a commercial recreation tenure. If the application is in order, BC will issue a 30-year tenure to Lheidli T'enneh, and for the first five years of the tenure, will not issue any other tenures that would create competition for Lheidli T'enneh.

Culture and Heritage

The Culture and Heritage chapter describes Lheidli T'enneh law-making authority relating to culture, heritage and language, the treatment of Lheidli T'enneh cultural property in the Canadian and BC museums, the treatment of Lheidli T'enneh ancient human remains and heritage sites and the naming of geographic features.

The Lheidli T'enneh Government can pass laws to:

- conserve, protect and manage cultural heritage resources, such as heritage sites and artifacts
- regulate public access to heritage sites
- preserve, promote, develop and teach the Carrier language and culture
- certify teachers of Carrier language and culture
- regulate the treatment of Lheidli T'enneh ancient human remains, including cremation and reburial

If it is determined that the Canadian Museum of Civilization in Ottawa possesses a Lheidli T'enneh artifact, the museum and the Lheidli T'enneh Government may negotiate an agreement concerning the return or care of the artifact.

Before the treaty comes into effect, Lheidli T'enneh and the Royal British Columbia Museum in Victoria will create a list of all Lheidli T'enneh artifacts held by the museum, and agree which artifacts will be returned to Lheidli T'enneh and which will continue to be cared for by the museum.

If it is discovered that Lheidli T'enneh artifacts are held in another collection besides the Canadian Museum of Civilization or Royal British Columbia Museum, Canada, BC and Lheidli T'enneh will work together to try and obtain access to that collection.

If a new Lheidli T'enneh artifact is discovered on Lheidli T'enneh Lands, Lheidli T'enneh will own the artifact. If an artifact is discovered outside Lheidli T'enneh Lands and comes into the possession of Canada or BC, those governments may lend or give the artifact to Lheidli T'enneh.

If Canada or BC comes into possession of Lheidli T'enneh ancient human remains, they will negotiate an agreement with Lheidli T'enneh to return those remains.

Lheidli T'enneh and BC will create a list of cultural or historic sites. Once the treaty takes effect, those sites will be designated as heritage sites under the *Heritage Conservation Act*, which means that they will be protected against interference or damage under provincial law.

Lheidli T'enneh and BC will agree to a list of geographic features that, when the treaty takes effect, will be renamed with their original Carrier names.

Community Questions and Answers about Culture and Heritage

1. What is cultural and heritage?

“Culture” refers to “way of life” and can be defined as the ideas, skills, arts, customary beliefs, social forms and material characteristics of a particular group of people at a particular time. “Heritage” refers to culture and traditions that are handed down from one’s ancestors.

Lheidli T'enneh culture is defined in the treaty to include Lheidli T'enneh history, feasts, ceremonies, traditional naming practices, clan symbols and crests, songs, dances and stories. The Lheidli T'enneh dialect of the Carrier language, Lheidli T'enneh customary laws and the ownership and use of the territory have strong cultural elements.

2. Is culture and heritage protected by the Constitution?

Lheidli T'enneh citizens will have the right to practice Carrier culture under the treaty, so that right will be protected under section 35 of the Canadian Constitution. Certain aspects of culture may also be protected as fundamental rights under the Canadian Charter of Rights and Freedoms. The Lheidli T'enneh Constitution provides that the Lheidli T'enneh Government will respect and encourage the use of Carrier language and the practices of the Carrier culture.

3. Who is in charge culture and heritage?

Lheidli T'enneh society is in charge of its own culture and heritage. This includes the Lheidli T'enneh Government, those that know Lheidli T'enneh culture and heritage and the individuals who practice it. All have the responsibility to ensure that culture exists in appropriate contemporary form and that heritage is not forgotten.

4. Will the Lheidli T'enneh Government implement culture and heritage?

Lheidli T'enneh will have law-making authority related to culture, heritage and language matters. The Lheidli T'enneh Government will exercise that authority according to its policies and the priorities of Lheidli T'enneh citizens.

5. Are there educational funds available to record cultural history?

The federal and provincial governments have no programs for culture and heritage that can be incorporated into the treaty, but there are funds available from other sources and Lheidli T'enneh is guaranteed the ability to apply for these. For example, the national residential school compensation program has identified funds that are available for

language and culture restoration. After the treaty is in effect, Lheidli T'enneh will also have access to internal finances that can be used for this purpose if it is a priority.

6. Is our language protected in the treaty?

Lheidli T'enneh Citizens have the right to use the Carrier language in a manner consistent with the Final Agreement and to pass some laws over how it is taught. As for culture, this right is protected by the Canadian and Lheidli T'enneh constitutions. The Lheidli T'enneh Government also has the option to maintain a public registry of its laws in the Lheidli T'enneh dialect and to issue hunting, fishing and gathering documents in Carrier.

7. How do culture and customs impact the treaty process?

Culture and customs determine the way people do things. The Community Treaty Council, for example, is a culturally appropriate institution that has had the strongest influence on treaty negotiations. The mandate given to Lheidli T'enneh negotiators included strong direction to recognize and protect culture and language, which is now provided in the Final Agreement. This includes law making, teaching, use of language and culture, naming of geographic features and the operation of the Lheidli T'enneh Government under a Lheidli T'enneh constitution.

8. How far gone is Lheidli T'enneh culture, language, traditional ways, dance, medicines, story telling, food, moccasins, bannock, baskets or ceremonies? Is there currently preservation of language and culture?

The Lheidli T'enneh dialect and culture have been undermined due to a number of historical factors, including residential schools, epidemics, loss of land and economic poverty. The Lheidli T'enneh dialect is only spoken by elders of the Lheidli T'enneh community and if not revived, will be lost. The last Lheidli T'enneh feast held was in 1928, so the clan system is threatened and only 90-100 of the current members belong to one of the traditional frog, beaver and grouse clans.

However, several Lheidli T'enneh elders have become skilled in language training and are developing a dictionary of Lheidli T'enneh words and work-books that can be utilized in the school district. Some youth have taken up drum making and drumming and have brought back a Lheidli T'enneh song sung by Morris Quaw.

9. How would we bring back traditional ways and pass it down?

The treaty will provide authorities and resources to protect and enhance language and culture. However, these will survive only if Lheidli T'enneh citizens want them to

survive. Individuals can start bringing back traditional ways by learning the language, songs and histories of the Lheidli T'enneh and practicing traditional values.

10. Who will pass culture and heritage down to the younger generations? Will the Elders be involved?

Those who understand culture and heritage have the obligation to pass it on to the next generations so that it is not lost. That is the traditional role of the Elders. The draft Lheidli T'enneh Constitution defines Elders and their role in providing guidance and advice on matters related to values, history, culture and language, including their contemporary application, and to contribute to the unity and harmony of the Lheidli T'enneh Nation.

11. Will we start our own culture and heritage group under the treaty?

The Lheidli T'enneh Government and the community at large have the ability to form such a group now and after the treaty.

12. What is the time frame for artifacts to be returned to Lheidli T'enneh and who gives that order?

British Columbia will transfer the Lheidli T'enneh Artifacts as soon as practicable after the Effective Date of the treaty. This has already been put in place, and depends only on the successful ratification of the treaty.

Governance

The Governance chapter sets out those law-making powers of the Lheidli T'enneh Government that are not included in other chapters. It is intended to provide certainty to Canada, BC, and Lheidli T'enneh about the self-government rights of the Lheidli T'enneh people regarding:

- how the Lheidli T'enneh Government will pass laws
- what the Lheidli T'enneh Government will pass laws about
- the relationship between federal, provincial and Lheidli T'enneh laws
- when the Lheidli T'enneh Government will pass laws

Unlike the Band Council, the Lheidli T'enneh Government will have full legal personality, meaning that it can:

- enter into legal contracts and agreements
- obtain, hold, sell, or dispose of property
- raise, spend, invest and borrow money
- sue and be sue

A Lheidli T'enneh Constitution has been developed by Lheidli T'enneh to describe the Lheidli T'enneh Government. It will include basic rules and values as well as provide for:

- the structure of the Lheidli T'enneh Government
- democratic elections for the Lheidli T'enneh Government
- accountable financial administration
- conflict of interest rules
- the law-making process and process to challenge laws
- protection of the rights of Lheidli T'enneh people
- how land can be sold or disposed of
- how Lheidli T'enneh "Public Institutions" will be created at arms-length from the Lheidli T'enneh Government to deliver specific services, such as a school board
- how the Constitution can be amended as times change

The Lheidli T'enneh Government must create a process for the administrative decisions of the Lheidli T'enneh Government and Lheidli T'enneh Public Institutions to be appealed or reviewed by people affected by the decision. This process may or may not include a right of appeal to the BC Supreme Court after any internal processes have been completed.

The Lheidli T'enneh Government will create and maintain a public registry of its laws in the English language, and in the Carrier language if desired. The Lheidli T'enneh Government will also provide copies of its laws to federal and provincial governments. Some people who are not Lheidli T'enneh citizens may live on Lheidli T'enneh Lands, and have interests in the activities of Lheidli T'enneh Institutions. As such, one seat on

the Lheidli T'enneh Government will be filled by an elected representative of these non-members. If decisions of Lheidli T'enneh Public Institutions directly and significantly affect non-members, they will also be eligible to participate in making those decisions. This may include membership in the Public Institution and will include access to the processes for appeal and review of administrative decisions.

The Chief and Council who are in office immediately before the treaty takes effect will form the first Lheidli T'enneh Government under the treaty. Elections for the new Lheidli T'enneh Government must take place within six months after the Effective Date.

If any part of a Lheidli T'enneh, federal or provincial law conflicts with the Lheidli T'enneh treaty, the provisions of the treaty will override that part of the Lheidli T'enneh, federal or provincial law.

Federal, provincial and Lheidli T'enneh laws will apply concurrently (at the same time) on Lheidli T'enneh Lands. If any of the laws conflict, they cannot apply concurrently. Therefore, for each law-making power, the treaty sets out which law will prevail over the other in the event of a conflict. Although it is necessary to read the treaty to see which laws prevail for each law-making authority, generally, for matters internal to the Lheidli T'enneh First Nation, the Lheidli T'enneh law will prevail. For matters of national or provincial scope, federal or provincial laws will prevail.

Before the Lheidli T'enneh Government makes a law regarding Adoption, Child Protection Services, Health, Social Services, Child Care, K-12 Education or Family and Community Development Services, it will give six months' notice to Canada and BC. If desired, Canada and/or BC and the Lheidli T'enneh Government can then discuss the proposed law, including the following issues:

- whether there is a way to address Lheidli T'enneh's needs without passing a Lheidli T'enneh law, including any necessary changes to federal or provincial laws
- how to make sure that the provincial and Lheidli T'enneh standards are comparable to each other
- immunity of service delivery professionals
- transferring files, assets or other information to Lheidli T'enneh

If BC plans to pass a law that might affect a Lheidli T'enneh law or law-making authority, BC and the Lheidli T'enneh Government will review the law together, potentially including the following considerations:

- the purpose and content of the law
- any necessary changes to the provincial law, or to a Lheidli T'enneh law
- any financial consequences of the provincial law for the Lheidli T'enneh Government

Further, the Lheidli T'enneh Government, Canada and BC can negotiate how to best coordinate their laws or programs. For example, the Lheidli T'enneh Government could deliver health programs or social assistance to non-Lheidli T'enneh citizens on behalf of

Canada or BC, or Lheidli T'enneh community correctional officers could provide services to offenders of federal or provincial laws who live on Lheidli T'enneh Lands.

Lheidli T'enneh laws will normally be passed by the Lheidli T'enneh Government, but the Lheidli T'enneh Government can authorize another organization to pass Lheidli T'enneh laws on its behalf if it makes sense to do so. Law-making power can be delegated to a Lheidli T'enneh Public Institution, another First Nation with a treaty, the federal or provincial government, or a local government.

For each Lheidli T'enneh law-making area, the treaty sets out who the law will apply to. This takes into account, among other things whether the law relates to a matter internal to Lheidli T'enneh citizens, whether the law relates to programs or services used by all Canadians or British Columbians, whether the law is a matter of public health or safety or whether there are also federal or provincial laws on that subject matter.

The different groups of people that Lheidli T'enneh laws could apply to are:

- all Lheidli T'enneh citizens, for example, citizenship
- all people residing on Lheidli T'enneh Lands, for example, child care
- all people entering onto Lheidli T'enneh Lands, for example, traffic, parking, transportation and highways
- all people using the services of the Lheidli T'enneh Government, for example, health services
- all people working for the Lheidli T'enneh Government, for example, financial administration

There are 23 different areas in the Governance chapter that the Lheidli T'enneh Government can pass laws about. There are other law-making authorities set out in other chapters of the treaty. The Lheidli T'enneh Government may also make laws and do other things that may be connected with exercising any of the 23 law-making authorities, or adopt any existing federal or provincial laws relating to the 23 law-making authorities. These authorities are:

Lheidli T'enneh Government

Lheidli T'enneh can pass laws regarding the Lheidli T'enneh Government's election, administration, management and operation, including:

- how Public Institutions are created and operate
- when corporations can be created
- the powers, duties, responsibilities and wages of Lheidli T'enneh Institution members and employees
- financial administration
- elections and referenda

The Lheidli T'enneh Government will also make laws to allow reasonable public access to its records and information.

Lheidli T'enneh Citizenship

Lheidli T'enneh can pass laws to govern who is eligible to be a citizen of the Lheidli T'enneh First Nation, what privileges and responsibilities citizenship includes, and how to apply for citizenship.

Lheidli T'enneh Assets

Lheidli T'enneh can make laws in respect of the use, ownership, management, and sale or disposition of assets of a Lheidli T'enneh Institution or Lheidli T'enneh corporation.

Adoption

The Lheidli T'enneh Government can make laws regarding the adoption of Lheidli T'enneh children in BC. These laws:

- must have the best interests of the child as the top priority
- must create standards that meet or are better than provincial standards
- may require the consent of the child to an adoption if the child is of the age of consent
- must require the Lheidli T'enneh Government to provide notices of adoptions to Canada and BC

Child Protection Services

The Lheidli T'enneh Government can pass laws for Child Protection Services for Lheidli T'enneh children on Lheidli T'enneh Lands. The Lheidli T'enneh Government and BC can also negotiate agreements for Lheidli T'enneh Child Protection Services laws to apply to Lheidli T'enneh children who are not living on Lheidli T'enneh Lands. A Child Protection Services law must provide for the safety and well-being of children and be similar to provincial laws in terms of some standards and information systems. If there is an emergency regarding a child on Lheidli T'enneh lands, BC may act to protect the child in the short-term, but will refer the matter back to Lheidli T'enneh after the emergency.

Aboriginal Healers

Lheidli T'enneh can make laws to authorize people to practice as aboriginal healers on Lheidli T'enneh Lands. These laws must also establish standards to promote public safety and protect client information. The laws cannot include licensing or certification of practitioners that are already certified under federal or provincial law or regulation of products or substances that are already regulated under federal or provincial law.

Health

The Lheidli T'enneh Government may make laws regarding health services provided by a Lheidli T'enneh Institution on Lheidli T'enneh Lands. These laws must take into account the protection, improvement and promotion of public and individual health and safety.

Family and Social Services

The Lheidli T'enneh Government can pass laws for family and social services, including income assistance, provided by a Lheidli T'enneh Institution, but cannot pass laws to license or regulate facility-based services off Lheidli T'enneh Lands.

Liquor Control

The Lheidli T'enneh Government can pass laws in respect of prohibiting or setting terms and conditions for the sale, exchange, possession, manufacture or consumption of liquor on Lheidli T'enneh Lands. Lheidli T'enneh also has the exclusive right to sell liquor, or designate individuals to sell liquor, on Lheidli T'enneh Lands in accordance with provincial laws.

Solemnization of Marriages

The Lheidli T'enneh Government may make laws in respect of solemnization of marriages within BC by people designated by the Lheidli T'enneh Government to do so.

Child Care

The Lheidli T'enneh Government can pass laws for child care services on Lheidli T'enneh Lands.

Kindergarten to Grade 12 Education

The Lheidli T'enneh Government may make laws for kindergarten to grade 12 education for Lheidli T'enneh citizens, or provided by a Lheidli T'enneh Institution, on Lheidli T'enneh Lands. These laws will have curriculum, testing, and other standards that will allow students to transfer between Lheidli T'enneh and provincial schools and will provide for the certification and discipline of teachers.

The Lheidli T'enneh Government may also pass laws for the home education of Lheidli T'enneh citizens on Lheidli T'enneh Lands.

Post-Secondary Education

The Lheidli T'enneh Government may make laws for post-secondary education provided by a Lheidli T'enneh Institution on Lheidli T'enneh Lands. This could include establishing post-secondary institutions to grant degrees, diplomas or certificates,

creating curriculum for Lheidli T'enneh post-secondary schools and providing adult education programs.

Emergency Preparedness

For the purposes of emergency preparedness and emergency measures, the Lheidli T'enneh Government will be considered a local authority under federal and provincial law. The Lheidli T'enneh Government can then make emergency preparedness and emergency measures laws in respect of its rights and powers, and has the ability to declare a state of local emergency. The Lheidli T'enneh Government also receives the same emergency preparedness and emergency measures protections, immunities and limitations on liability as a local authority.

Regulation of Business

The Lheidli T'enneh Government may make laws respecting the regulation and prohibition of businesses on Lheidli T'enneh Lands, which may include imposing fees or conditions.

Public Order, Peace and Safety

The Lheidli T'enneh Government may make laws to regulate, control or prohibit anything that creates, or may create, a nuisance, a trespass or a threat to public health, order, peace or safety. This authority does not apply to activities authorized by the federal or provincial governments.

Buildings and Structures

The Lheidli T'enneh Government may make laws respecting the design, construction, maintenance, repair, and demolition of buildings and structures on Lheidli T'enneh Lands to the same extent as municipalities in BC can pass laws about buildings and structures. The BC Building Code will apply on Lheidli T'enneh Lands.

Public Works

The Lheidli T'enneh Government can pass laws for public works and related services on Lheidli T'enneh lands to the same level of law-making authority that municipalities can.

Traffic, Parking, Highways and Transportation

The Lheidli T'enneh Government may make laws for traffic, transportation, parking and highways on Lheidli T'enneh Lands to the same extent that municipal governments in BC can pass laws on this subject.

Industrial Relations

Lheidli T'enneh cannot pass laws regarding industrial relations, but must be notified of any industrial relations matter or hearing involving persons employed on Lheidli T'enneh Lands. The Lheidli T'enneh Government can then provide their opinions concerning the treaty or Lheidli T'enneh culture as it relates to the industrial relations issue.

Enforcement of Lheidli T'enneh laws

The Lheidli T'enneh Government is responsible for the enforcement of its laws and may make laws to appoint enforcement officers and set out their powers of enforcement. It can also negotiate a policing agreement with a federal, provincial, or local police force to enforce Lheidli T'enneh laws.

The Lheidli T'enneh Government cannot authorize its enforcement officers to use firearms. It cannot establish a separate police force except under provincial law.

Adjudication of Lheidli T'enneh laws

The Lheidli T'enneh Government is responsible for ensuring the prosecution or appeal of matters arising under Lheidli T'enneh laws through hiring a prosecutor or negotiating an agreement with Canada or BC to carry out prosecutions or appeals on its behalf. The Provincial Court of BC or the Supreme Court of BC, as appropriate, will hear prosecutions or appeals under Lheidli T'enneh laws.

Lheidli T'enneh may recommend persons to the Judicial Council of BC for appointment by Cabinet as judicial justices of the peace. These justices of the peace would have the authority to adjudicate offences under Lheidli T'enneh law.

The possibility is provided for that, in the future, the Lheidli T'enneh Government or a group of First Nations with treaties could establish their own court to hear prosecutions and appeals under First Nations laws.

The Lheidli T'enneh Government can impose penalties, including fines and imprisonment, for the violation of a Lheidli T'enneh law, up to the level of penalties provided for summary conviction offences under the *Criminal Code*.

In addition, the Lheidli T'enneh Government may appoint persons to provide Community Correctional Services for persons charged with, or found guilty of, violating Lheidli T'enneh law.

Elected members or public officers of the Lheidli T'enneh Government are immune from lawsuits for damages arising in the course of their duties as an elected member or employee. This does not apply, however, in the event of dishonesty, negligence, malicious misconduct, or libel or slander. The Lheidli T'enneh Government also has the same immunities from liability as do municipal governments in British Columbia.

Community Questions and Answers about Governance

[Note: Most community questions related to the Lheidli T'enneh Constitution rather than to the Governance provisions of the Final Agreement. Those questions will therefore be addressed in the constitutional discussions.]

1. What is Governance?

Governance, broadly speaking, refers to the leadership, administration and adjudication of public affairs. In the context of the Final Agreement, it refers to the exercise of Lheidli T'enneh self-governance rights within the constitutional framework of Canada and British Columbia.

2. How do we make governance legal?

Self-governance is an existing aboriginal right, so it is legal in that broad sense. The treaty negotiations are necessary to determine how that right will be exercised, so the legal basis of the right is now set out in the Final Agreement.

3. When will the Governance provisions come into effect and how long will it take to become effective?

All provisions of the treaty come into effect on the Effective Date, which will be agreed to by the three Parties after all have ratified the Final Agreement. The Band Council that is in place prior to the Effective Date will continue in office until it is replaced by the first election under the treaty, which must take place within six months of the Effective Date.

4. Who is going to make the Governance laws?

Lheidli T'enneh laws will be made by the elected members of the Lheidli T'enneh government.

5. Can we sue our Government?

Yes. Under the Final Agreement, the Lheidli T'enneh Government becomes a complete legal entity, which includes the right to sue and be sued. The actual ability to sue in a particular circumstance will depend on the applicable legal principles and rules of court.

6. Will we have our own Child and Family Services Department and our own justice system?

Both of these responsibilities can be exercised under the Final Agreement. Whether and when they are implemented will depend on decisions made by the Lheidli T'enneh Government on behalf of its Citizens.

7. Are we going to be under provincial Government legislation?

Federal and provincial laws, other than local government bylaws, will apply concurrently on Lheidli T'enneh Lands. The Final Agreement sets out how these laws will relate to Lheidli T'enneh laws and which laws have priority application in particular circumstances.

8. Who will manage and enforce these laws?

Each government is responsible for administering and enforcing its own legislation. However, the treaty enables various agreements between the parties to share administration and enforcement of laws.

9. Is there a foundation for policing and will we police ourselves or utilize the RCMP?

The Final Agreement provides that Lheidli T'enneh could establish a police force under provincial legislation. However this would be a costly and complex process, so it is likely that for the foreseeable future, Lheidli T'enneh will be protected by the RCMP through the usual policing arrangements.

Local Government Relations

The Local Government Relations chapter describes the relationship under the treaty between Lheidli T'enneh, the City of Prince George, the Regional District of Fraser-Fort George and the Cariboo Regional District. The primary relationship is in service delivery which can be from local government to Lheidli T'enneh or from Lheidli T'enneh to local government.

All residents of Lheidli T'enneh Lands will have the right to vote in elections and referenda of local governments in accordance with provincial law. This means that residents on treaty settlement lands will be able to vote in regional district elections but not in municipal elections. The Lheidli T'enneh Government may participate on the board of the Regional District of Fraser-Fort George in the same way that a city does.

The details of the relationship between Lheidli T'enneh and local governments will be worked out through negotiation of a comprehensive master agreement that sets out principles, actions and guidelines for coordinating and harmonizing land use planning, tax, laws and law enforcement, environmental protection and payment for services. This agreement will also create processes for consultation and dispute resolution.

Community Questions and Answers about Local Government Relations

1. Who are the local governments?

The Final Agreement defines local government to include a municipality and the board of a regional district. The primary relationship is with the municipality of Prince George and the Regional District of Fraser-Fort George. The Stony Lake parcel of treaty settlement lands is located on the border of the Cariboo Regional District, but there is unlikely to be a need for specific arrangements there in the near future.

2. Will the local governments provide services on treaty settlement lands?

Local governments provide a wide range of services that are available to treaty settlement lands provided that mutually acceptable agreements can be reached for administration and payment. The comprehensive master agreement that is being negotiated between Lheidli T'enneh, the city and the regional district is intended to provide the framework for such agreements, as well as for other matters necessary to harmonize the new relationship created by the Final Agreement.

3. Will treaty settlement lands have the same services as the city of Prince George?

That is the clear and common intention of both Lheidli T'enneh and the city.

4. When the treaty comes into effect are we under local government jurisdiction or will we manage the lands ourselves?

Local government will have no jurisdiction on Lheidli T'enneh Lands. Certain aspects of land management may be shared for reasons of cost and capacity, but that will be done through mutual agreements rather than the exercise legal jurisdiction.

5. Will the local governments be taxing treaty settlement lands?

No. Local government has no jurisdiction on Lheidli T'enneh Lands, including tax authority. Lheidli T'enneh will have the only ability to tax property on its lands.

6. Is Lheidli T'enneh going to have the same laws as the municipality?

Lheidli T'enneh and the city of Prince George each have their own law-making authority. Lheidli T'enneh's authority is set out in the treaty and the city's is set out in provincial

legislation. Under the comprehensive master agreement, there will be a process for Lheidli T'enneh to review local government legislation, and if it agrees with that legislation, to enact similar provisions under Lheidli T'enneh law. The intention is to ensure that each government retains its authority while still trying to establish legal consistency for people who live, work and invest in this area.

7. When we enter into a service agreement do we become board members?

No. Service agreements and participation on the board of the Regional District of Fraser-Fort George are not matters that are directly related to each other.

8. Can Lheidli T'enneh citizens vote in elections for city council and the mayor?

Lheidli T'enneh citizens who live in the city, but not on Lheidli T'enneh Lands are eligible to vote in civic elections and run for office. However, we interpret provincial legislation to make it impossible for residents of Lheidli T'enneh Lands to vote for mayor and council or run for city office. Those persons will instead vote in elections for the Lheidli T'enneh government, and are also eligible to vote in regional district elections.

9. Who collects the taxes and who gets the tax dollars?

Each taxing jurisdiction is responsible for collecting its own taxes. It may be possible for Lheidli T'enneh to agree to contract the city to administer the property tax system, since it already has a system set up for that very complex process. The money collected would be turned over to Lheidli T'enneh.

10. If Lheidli T'enneh sits on the board of the regional district, who will sit and how will they be selected and paid?

Appointment to the board would be the responsibility of the Lheidli T'enneh Government.

11. How would Lheidli T'enneh pass by-laws?

Lheidli T'enneh will enact laws, not pass by-laws. By-laws are passed under delegated legislation like the *Indian Act* or provincial local government legislation. Lheidli T'enneh will have independent jurisdiction, so its legislative instruments will be known as laws.

12. Can Lheidli T'enneh citizens sit on city and regional district committees and boards and vice versa?

Yes, but only in accordance with the terms of reference for those committees and boards.

13. Will Lheidli T'enneh be able to do things like grading the roads?

Yes, Lheidli T'enneh will be responsible for maintaining Lheidli T'enneh roads and for raising the necessary funds to carry out that activity.

14. Who will pay for services, supplies, equipment and preparation?

As a general rule, the persons who receive services pay for them, either through user fees or through taxes.

15. Will we be covered by fire protection and house insurance?

Fire protection for Lheidli T'enneh Lands is a priority for Lheidli T'enneh in the service agreement negotiations. This will involve reaching agreement with the regional district and the city, depending on the lands to be covered. Lheidli T'enneh may also be in a position to deliver some of its own fire protection services. Home insurance is an individual choice, but is a condition of mortgaging property. One of the main factors in home insurance costs is the availability of fire protection, so if fire protection services are improved, home insurance availability should also improve.

15. Do we sign protocols with other organizations in the city?

That is possible now and after the treaty comes into effect.

Transition

The Transition chapter deals with a number of matters that are required to change over from the *Indian Act* to the treaty.

One of these matters relates to the wills and estates of Lheidli T'enneh band members. If a member passes away before the treaty takes effect, the *Indian Act* will continue to apply as it relates to the estate of that person. Efforts will be made to make sure that all wills of Lheidli T'enneh band members will still be legally valid after the treaty takes effect.

Any bylaws of the Lheidli T'enneh band, the *Land Code* and laws enacted under the *Land Code* will remain in effect for 30 days after the treaty takes effect, giving the Lheidli T'enneh Government time to pass new laws to replace the existing laws and bylaws.

On the Effective Date, all of the assets, rights, interests, liabilities and obligations of the Lheidli T'enneh band are transferred to the Lheidli T'enneh as a whole, and the Lheidli T'enneh band ceases to exist.

Community Questions and Answers about Transition

1. What is transition?

Transition refers to the change from being governed under the *Indian Act* to being governed under the treaty.

2. What happens during transition?

Lheidli T'enneh moves from being under the *Indian Act* to being a self-governing First Nation under the treaty. Within six months after the effective date, the first elections will take place for the new Lheidli T'enneh Government. The band affairs will be wrapped up and transferred to the Lheidli T'enneh Government. By-laws and *Land Code* laws will be replaced with laws enacted under the treaty.

3. Who will be in control?

The Band Council remains the government of the Lheidli T'enneh until the new Lheidli T'enneh Government is elected, which is agreed to occur no more than six months after the Effective Date. A tripartite treaty Implementation Committee will be available for support as necessary.

4. When will it start and when will it end?

After all the Parties have ratified the Final Agreement, transition begins. It ends no more than six months after the Effective Date when the new Lheidli T'enneh Government is elected.

5. What do we need for tools, ideas and concepts in order to have transition?

Canada, BC and Lheidli T'enneh each have obligations that are identified in a Closing Plan, an Implementation Plan, the Final Agreement and the Lheidli T'enneh Constitution. For example, there are a number of laws that must be drafted and brought into effect on the Effective Date. Capacity must be developed and recruited as necessary so that on the Effective Date the new government has all the personnel necessary to effectively govern.

6. How do we monitor our transition and evaluate if it is right?

An Implementation Committee will be established on the Effective Date for a term of ten years which will be renewed or extended upon agreement by the Parties. This Committee will, among other things, act as a forum for the Parties to discuss the implementation of

the Final Agreement and monitor the operation and implementation of the Final Agreement. Lheidli T'enneh and the other parties will of course be monitoring the operational effectiveness of the transition process, and there will be considerable political and academic attention.

7. Who is paying for it?

Canada and British Columbia contribute to the implementation process and provide one-time funding for the start up of new government and the development of laws. Lheidli T'enneh will also be contributing through its governance funding and, if it so chooses, its own revenues.

8. What is the structure of Lheidli T'enneh Government under the treaty?

The Lheidli T'enneh Government is described in the draft Lheidli T'enneh Constitution. It is composed of a legislature that will enact laws, an executive that will administer the government and a judiciary that will perform independent justice functions. The majority of the Legislature and the Executive will be elected.

The Legislature will consist of six Lheidli T'enneh members elected at large and one non-Lheidli T'enneh member elected by non-Lheidli T'enneh persons who reside on Lheidli T'enneh Lands. The Executive will consist of the head of the Lheidli T'enneh Government and officials responsible for lands and natural resources, programs and services, finance and tax and planning and priorities.

9. Will there be a “Chief”?

The Lheidli T'enneh Government will have a head of government whose formal title will be decided when the government is formed.

10. Will Lheidli T'enneh be acquiring outside agencies' help for programs like health and family services?

Lheidli T'enneh will have all necessary ability to acquire services through agreement with other agencies and to delegate law-making powers to other institutions to help deliver programs like Health and Family Services.

11. Who is responsible for Certificate of Possession land that hasn't been dealt with?

There are no Certificates of Possession on Lheidli T'enneh reserve lands. It is intended that any existing land disputes will be dealt with prior to the Effective Date through dispute resolution or other measures provided under the *Lheidli T'enneh First Nation Land Code*.

12. Does this mean that the Land Authority will cease?

Yes. The Land Authority is established under the *Land Code*, which can operate only on reserve land. Once the Indian reserves are converted to Lheidli T'enneh fee simple lands and the transition period has ended, the *Land Code* has no more authority. However, nothing prevents the Lheidli T'enneh Government from establishing a similar body under the authority of the Final Agreement.

Fiscal Relations

The purpose of the Fiscal Relations chapter is to set out how Canada, BC and the Lheidli T'enneh Government will fund the activities and functions of the Lheidli T'enneh Government. In addition, the chapter sets out the essential mechanisms for funding the Lheidli T'enneh Government through the Fiscal Financing Agreement and Own Source Revenue contributions.

The Fiscal Financing Agreement (“FFA”) consolidates most of the funding for the Lheidli T'enneh Government into one single document instead of several bilateral funding agreements with different federal and provincial government departments. It sets out the technical details regarding funding for the Lheidli T'enneh Government, such as:

- the responsibilities of the Lheidli T'enneh Government under the Fiscal Financing Agreement, such as maintaining assets, delivering programs and services, and performing financial audits
- how Canada and BC will transfer funding to the Lheidli T'enneh Government, for example, when payments will be made
- funding arrangements for unexpected circumstances, natural disasters, and emergencies
- funding for programs and services, such as education, social assistance, health and capital construction
- to whom, and where, programs and services funded in the FFA will be delivered
- funding for treaty implementation activities
- adjustments to funding over time, for example, as the cost of living increases
- how the Parties will resolve disputes relating to funding matters
- how the Parties will share information relating to funding matters
- other technical or legal issues

The FFA will last for five years, unless the Parties agree otherwise. Before the agreement expires, the Parties will begin negotiating a new Fiscal Financing Agreement.

The FFA is not part of the treaty, although terms for how they are negotiated are set out in the Fiscal Relations chapter. These terms include factors to take into account when negotiating funding levels, such as the responsibilities of the Lheidli T'enneh Government and the accessibility of Lheidli T'enneh Lands and required content of the FFA, such as funding, dispute resolution, and auditing and reporting requirements.

An Own Source Revenue (“OSR”) Agreement will set out the technical detail of how the Lheidli T'enneh Government will contribute to its own costs as provided for in the FFA. Based on the amount of revenue that the Lheidli T'enneh Government receives in a given year, the FFA payments from Canada will be reduced according to an agreed percentage called the “offset rate”. The Lheidli T'enneh Government will then contribute a portion of the revenues it has earned to make up the difference, and use the rest of the money earned for other priorities, programs and services.

The Own Source Revenue Agreement will set out:

- the amounts to be excluded from Own Source Revenue
- the offset rate to be used in calculating the Lheidli T'enneh Government's contribution
- the amount of Lheidli T'enneh Government Own Source Revenue to be exempt from the offset rate (the "exemption")
- how the Lheidli T'enneh Government will report its revenues
- the basic amount of funding that governments will contribute to the Lheidli T'enneh Government, regardless of how much money the Lheidli T'enneh Government earns (the "funding floor")
- how the Parties will resolve disputes relating to Own Source Revenue
- how the Parties will share information relating to Own Source Revenue
- other technical or legal issues

Not all of the revenues raised by the Lheidli T'enneh Government will be subject to Own Source Revenue contributions. The OSR Agreement is not part of the Final Agreement so negotiations for determining what will be excluded from Own Source Revenue are still ongoing. However, the following amounts of money are not anticipated to be included in calculating the Lheidli T'enneh Government's OSR contribution:

- capital transfer and revenue-sharing payments
- special purpose funds
- revenues from provincial taxes, including property taxes, and other revenue arrangements with the provincial government
- sale of Lheidli T'enneh Lands
- FFA payments from Canada or BC, or other program and service funding arrangements
- major maintenance and replacement dollars
- a specific claim settlement
- other funds agreed to by the Parties

In addition to these excluded revenues, there will also be a basic OSR exemption in the amount of the first \$130,000 dollars of income plus a per capita amount for each citizen. This exemption will be subtracted from the total amount of Own Source Revenue earned by the Lheidli T'enneh Government each year. The offset rate will then apply to the Own Source Revenue amount after the exemption has been subtracted. The Lheidli T'enneh Government will then use these exempted revenues to pay for other activities and priorities outside of those covered in the Fiscal Financing Agreement.

The initial Own Source Revenue Agreement will last for 20 years, unless the Parties agree otherwise.

The Own Source Revenue Agreement is not part of the Final Agreement, although terms for how they are negotiated are set out in the Fiscal Relations chapter. The Fiscal Relations chapter provides guidelines for future negotiators of Own Source Revenue Agreements, including principles for what Own Source Revenue is meant to achieve, such as not discouraging the Lheidli T'enneh Government from raising revenues, and the types of revenues earned by the Lheidli T'enneh Government that are not included in calculating the Lheidli T'enneh Government's Own Source Revenue contribution.

Community Questions and Answers about Fiscal Relations

1. What is meant by Fiscal Relations?

Fiscal relations is a short way of describing the relationships between Canada, Lheidli T'enneh and BC as described in the Fiscal Relations, Taxation, Capital Transfer and Resource Revenue Sharing Chapters of the Final Agreement and the specifics as contained in the Fiscal Financing Agreement (FFA), the Own Source Revenue Agreement (OSRA) and the various taxation agreements.

To understand how this all works you must first understand how the band is currently funded to provide programs and services. Right now, the band receives funding from three federal departments, Indian Affairs (INAC), Fisheries and Oceans (DFO) and Health (HC). The majority of the funding comes from INAC and covers such programs as k-12 education, income assistance, post secondary education, band funding and so on.

The INAC funding comes in two ways. The first method is based on actual costs, for example, kindergarten to grade 12 education and income assistance are funded based on actual expenditures, so the band acts as an agent and just flows income assistance funding to recipients and k-12 funding to the provincial school board. This funding is risk free, since actual costs are funded, but provides no savings or incentive to deliver better or more efficient programming, as any savings would be kept by Canada.

The second method is based on grants. In this case, which applies to most other program areas, savings can be kept and allocated to other program areas. However, the funding amounts are generally low and are all determined by application of federal funding formulas. In all cases, the band has to fill out lengthy reports to INAC to explain how the funding was spent and INAC audits and reviews the band's files. Funding from Health Canada and DFO also flows under different agreements and have their own terms, conditions, and reporting requirements. All these agreements are one year in length and few programs have any longer term guarantee.

Once the Final Agreement is completed, the way Lheidli T'enneh is funded will change. The first big change will be that all ongoing funding will flow from a single source and all the amounts and responsibilities will be set out in a single funding agreement. This agreement is called the Fiscal Financing Agreement or "FFA". This FFA is based on negotiations with Canada and BC, and the Lheidli T'enneh Government will be able to spend the money as it sees fit and to keep any savings and apply them to other program areas as need be. The amount of funding will also be larger, as the treaty results in more responsibility for Lheidli T'enneh. Another change is in the term of the agreement. It is longer, five years with a two year extension period if needed. That provides a lot of certainty that programs will continue to be funded year after year.

Finally, the reporting requirements are much simpler and INAC will no longer review and audit how the Lheidli T'enneh Government spends money. However, while INAC is

generally “out of the picture” Lheidli T'enneh will be responsible for any shortfalls in funding so there is some risk if the negotiated funding amount is too low or if circumstances change so that costs increase more than anticipated. The FFA does contain a clause that allows the parties to renegotiate amounts in case of exceptional circumstances but how that will really work in practice is unknown.

2. Who negotiates the FFA?

The first FFA has been negotiated by the Lheidli T'enneh treaty negotiating team based on provisions contained in the Fiscal Chapter of the Final Agreement.

The Fiscal chapter of the Treaty will spell out the principles by which Canada, BC and Lheidli T'enneh will renegotiate the FFA once it expires. Therefore, this is a very important chapter. It provides direction to future negotiators on how to re-negotiate the FFA and what factors the parties agree must be considered when the FFA is renegotiated. These factors include such things as cost of government, population, location, special circumstances and the revenues of the Lheidli T'enneh. Future FFAs will be negotiated by whoever is responsible in the Lheidli T'enneh Government.

3. Who approves the FFA, Council or the membership?

The FFA will be signed on the Effective Date by the Lheidli T'enneh Government.

4. Where is the money coming from?

The Department of Indian Affairs and Northern Development administer the FFA. They will be combining their funding with funding from DFO and Health Canada.

5. What is OSR?

Own Source Revenue is the way that the independent revenues of the Lheidli T'enneh Government are to be taken into account. It is outlined in the Fiscal Chapter and its determination is set out in detail in the Own Source Revenue Agreement (“OSRA”).

The rationale underlying the OSRA is that as Lheidli T'enneh income increases then it begins to put some of those dollars toward the costs of programs covered in the FFA. In other words, Lheidli T'enneh shares in the cost of FFA programs along with Canada and BC and achieves increasing independence from reliance on their funding policies.

The OSRA amount will be calculated under the OSRA and will exclude numerous sources of income as explained in the above chapter summary.

6. Is there funding for capacity training?

The FFA includes special purpose funds for training and capacity building. Two funds in particular, the implementation and infrastructure fund with an initial value of \$6,652,654 and the Capacity building fund of \$1,400,000 contain training components explicitly in their terms and descriptions. As well, after ratification and prior to the Effective Date there is slightly more than \$1.2 million available to ensure that Lheidli T'enneh has the required laws, communications, health and capital plans in place.

Actual training plans and eligibility will be decided by the Lheidli T'enneh Government.

7. How are the ongoing FFA funds to be spent?

The ongoing funding contained in the FFA will be spent according to the priorities set by the Lheidli T'enneh Government. However there is a requirement that the responsibilities agreed to in the FFA be met.

8. What programs and services are included in the FFA?

The FFA lists all the programs and services for which it contains funding. Generally those programs are education, social services, health, capital, fisheries and government functions. Some programs are not included, for example non-insured health benefits, provincial Medical Services Plan premiums and institutional care. These programs are too risky to take on, as costs can quickly escalate without being controllable.

9. Is there place to amend the FFA Agreement?

Yes, the FFA contains amendment procedures to change programs, terms and conditions and funding amounts.

10. How long is the term?

The FFA will start on Effective Date and will expire on March 31 of the year that contains the fifth anniversary of the Effective Date. It also contains a provision that if a new FFA is not renegotiated by that expiry date, the FFA will continue for up to two more years or as the parties otherwise agree.

11. Does this cover policing and the training for it?

Policing is not included in the FFA. Delivery will continue as it does currently.

12. Do we get schools?

Lheidli T'enneh could decide to develop a school program but FFA funding is only provided at a level to support the costs of Lheidli T'enneh children who attend provincial schools at the school block rate.

13. What would be the requirements for education?

For k-12 the education requirement is set by the province of BC. For post secondary funding Lheidli T'enneh can set the rules by which it will provide funding support.

14. Can we have a healing centre at Hutda Lake and do we get a health unit?

Health Canada will provide \$180,000 annually in program funding and up to \$100,000 for health infrastructure. How this money will be spent will be decided by the Lheidli T'enneh Government on behalf of Lheidli T'enneh citizens.

15. Will funding go up with the health issues?

Health Canada will provide \$180,000 annually in program funding. This amount will increase by approximately 4.5% per year as a result of population and price adjusters. Lheidli T'enneh remains able to access other Health Canada funding that may be generally available through application.

16. Can extended health benefits be purchased for all members?

Status Indians already have extended health care benefits. Subject to cost, there is no reason why additional health insurance cannot be purchased. It would be up to the Lheidli T'enneh Government to decide to provide this to members.

17. What happens if the Band spends all of the money?

If there was an exceptional circumstance that caused the expenditure of all available funds then the FFA contains an "opener clause" to address such circumstances. If the Government overspends, then like other governments in Canada, it will run a deficit and have to borrow funds.

18. Will not enrolling for membership affect our annual fiscal funding?

Yes and no. There may be an increase in program demand if additional status Indians from other bands become Lheidli T'enneh citizens and become eligible for programs and services. However this is offset by the fact that most programs and services are focused on treaty settlement lands, so unless these new members also take up residence there, the only possible program impact of note is post secondary education.

19 Is there a back-up plan if money is spent on the wrong issues?

The FFA only contemplates exceptional circumstances. It would be up to the Lheidli T'enneh Government to institute any "contingency" accounts and to manage its expenditures.

20. Will there be an annual fiscal report?

Yes the *Lheidli T'enneh Financial Management Act* that will be drafted and enacted by the Lheidli T'enneh Government will require an annual financial report.

21. How will fire suppression be implemented on treaty settlement lands?

There is a fire suppression agreement between Canada, BC and Lheidli T'enneh in which Lheidli T'enneh assumes responsibility for one-third of the fire suppression costs of fires originating on Lheidli T'enneh lands. This cost is limited to the fire suppression costs on Lheidli T'enneh Lands alone and is subject to a cap of \$10,000 per annum. The balance of the costs is shared by Canada and BC.

22. Are there provisions in the FFA for emergency funds?

There are no emergency funds as such provided for in the FFA. However, there should be program savings as well as income from Lheidli T'enneh own sources and those funds will be at the discretion of the Lheidli T'enneh Government.

Capital Transfer and Negotiation Loan Repayment (Including Other One Time Funding)

The capital transfer of \$13.3 million will be paid by Canada and BC to the Lheidli T'enneh Government over a nine-year period. The negotiation support loans incurred by the Lheidli T'enneh will be repaid over the same period, and deducted from the capital transfer payments. The Capital Transfer payment is indexed to inflation.

In addition to the capital transfer, there is further one time funding of \$14,498,251. This includes the \$3 million dollar Lheidli T'enneh Fisheries Fund and other Special Purpose Funds. The Special Purpose Funds are to be used for Capacity Building, Economic Development, Implementation, etc. In addition, there is a list of capital projects that have been approved, subject to Lheidli T'enneh following up with the appropriate applications and reporting.

The total amount of one time funding is thus approximately \$27.7 million. Most of this amount will be received after the Effective Date, but some is for communications and law making and will be received after Lheidli T'enneh ratifies the Final Agreement and prior to the Effective Date. Some capacity development monies may also be available in advance of the Effective Date.

The one time funding is in addition to the revenue sharing which is discussed in the next part of this handbook.

Community Questions and Answers about Capital Transfer and Negotiations Loan Repayment

1. What is the Capital Transfer and how are the payments determined?

The settlement of land claims has two components. The first component is land, which is referred to as treaty settlement lands or Lheidli T'enneh Lands. The other component is money and that money is referred to as the "capital transfer".

The capital transfer is paid primarily by Canada although BC may be contributing to the payments as well. The amount was agreed to in 2003 at the time of the Agreement in Principle and it is the cash component of the land and cash agreement made at that time.

The Final Agreement contains a schedule of payments which basically allows for a \$5,000,000 payment on the Effective Date and the balance paid in equal annual installments over the following nine years.

The capital transfer payment schedule is negotiated between the parties and reflects both the desire for Lheidli T'enneh to receive cash in a timely manner and Canada's ability to manage the payments within its financial authorities.

Once received by Lheidli T'enneh the capital transfer funds will be placed in an account called the Settlement Trust.

2. How is the capital transfer determined?

The amount was negotiated. The amount agreed to at the time of Agreement in Principle was \$12.8 million. Canada and BC, as part of their closing offer, increased this amount by \$500,000 so the final amount of the Capital Transfer is \$13.3 million. This amount is expressed in 2002 dollars so it will be increased to account for inflation between 2002 and the year in which the Effective Date occurs. The rate of inflation is measured by an index known as FDDIPI.

3. What is FDDIPI?

FDDIPI is short for the Final Demand Implicit Price Index. This is the price index for all demand throughout Canada for final goods and services and is a broad measure of inflation in the economy.

4. Do we repay the negotiating loan in payments or all at once?

The negotiation support loans will be repaid over the same nine-year period as the capital transfer, and will be deducted from the capital transfer payments.

5. Does this pay for programs?

The Capital Transfer is not intended to pay for programs and services. That funding comes through the Fiscal Financing Agreement. However, the capital transfer can be spent as the community and their government decides. The advice is to maintain the capital in a revenue-generating trust in perpetuity, but we cannot rule out that the community and government may decide to spend some or all of this money on some type of programming.

6. Can they force us to sign the treaty at any time?

No one can force Lheidli T'enneh to sign the treaty. The Lheidli T'enneh will hold a vote to ratify the Final Agreement and if that vote is passed then the governments of BC and Canada will bring legislation to their parliaments. After that the treaty would come into effect.

7. How long will the capital transfer last?

The money in the capital transfer Settlement Trust will last as long as Lheidli T'enneh wants it to last.

8. Does the interest from the capital transfer have anything to do with OSR?

If interest income from the capital transfer Settlement Trust is transferred directly to Lheidli T'enneh citizens then there is no OSR impact. However, if the interest income is transferred to the Lheidli T'enneh Government then it will be considered as OSR under the Own Source Revenue Agreement.

9. Who will implement the Capital Transfer?

The capital transfer is not a program to be implemented but rather a string of payments from Canada and BC. They will make the appropriate calculations and payments in accordance with the Final Agreement.

10. What would happen to the band if the funds ran out?

That would depend on a large number of circumstances including why the money ran out.

11. Will there be a long-term plan for capital investment?

That will be up to the Lheidli T'enneh Government, but it would be good practice.

12. What will the interest be?

During the payment period interest on money still held by Canada and BC will be at the rates described in the latest consolidated revenue fund for nine-year commercial loans less 1/8 percentage point. Interest on monies already transferred and in the hands of the Lheidli T'enneh will depend on how and where that money is invested.

13. Where do we receive the capital transfer from?

Payments are made by Canada and BC, as outlined and described in the Capital Transfer and Negotiation Loan Repayment Chapter of the Final Agreement.

14. How will the capital transfer Settlement Trust funds be spent?

The Lheidli T'enneh Government will decide how to deal with the capital transfer Settlement Trust subject to the provisions of the Lheidli T'enneh constitution. The constitution contains the following provision that would require community input into capital transfer Settlement Trust expenditure decisions:

“In addition to receiving advisory services under section 52(a), the Lheidli T'enneh Government will enact no Law, enter into no agreement and complete no other transaction that would have the effect of:

- (a) removing lands from Lheidli T'enneh Lands;
- (b) reducing the amount of the Settlement Trust below the amount as of the Effective Date; or
- (c) amending the Final Agreement,

without the approval of the Community Council.”

Basically that means that the successor body to the Community Treaty Council would be the body that advises the Lheidli T'enneh Government on how it can spend the capital transfer and would have to approve any expenditure that resulted in decreasing the settlement trust below the amount agreed to as of Effective Date.

Resource Revenue Sharing

The Resource Revenue Sharing chapter describes how Canada and BC will make \$400,000 payments each year for fifty years to Lheidli T'enneh, indexed to inflation. This amounts to \$20 million over the 50 year period.

Taxation

The Taxation chapter sets out:

- who the Lheidli T'enneh Government can collect taxes from
- the content of agreements outside the treaty about:
 - who the Lheidli T'enneh Government can collect taxes from (Tax Agreements)
 - how the Lheidli T'enneh Government will be taxed (Tax Treatment Agreements)
- tax exemptions of the Lheidli T'enneh Government
- phase-out of the tax exemption for status Indians on reserve

The Lheidli T'enneh Government will have direct taxation powers over Lheidli T'enneh citizens on Lheidli T'enneh Lands. This means that the Lheidli T'enneh Government can pass laws to create taxes for Lheidli T'enneh citizens to raise money to help support the activities of the Lheidli T'enneh Government. This power of direct taxation does not affect the taxation powers of Canada or BC. Any new Lheidli T'enneh Government tax would apply at the same time as federal and provincial taxes.

The Parties may negotiate a Tax Agreement to determine how Lheidli T'enneh Government taxes may apply to non-members on Lheidli T'enneh Lands and how Lheidli T'enneh, federal, and provincial taxes will be coordinated.

There are two tax exemptions set out in the Taxation chapter. The first is related to Lheidli T'enneh Lands. The Lheidli T'enneh Government will not be taxable on any lands it holds that either:

- have no improvements, or
- have improvements that are used for a public purpose and not for profit, for example, a government building or a public park

The second exemption is for the Lheidli T'enneh capital transfer under the treaty. If the Lheidli T'enneh Government pays out a part of the capital transfer to a Lheidli T'enneh citizen, that citizen will not have to pay taxes on that payment if the payment to the citizen is made within nine months from the date that the capital transfer is received by the Lheidli T'enneh Government.

Currently, status Indians on reserve are exempt from paying taxes, including sales and income taxes, under section 87 of the *Indian Act*. Through the treaty, these tax exemptions will be phased out in eight years for sales taxes, and in twelve years for other taxes.

Community Questions and Answers about Taxation

1. Why do we pay taxes?

Taxes have been described as “the cost of civilization”. They are a way to centralize relatively small amounts of individual wealth into relatively large amounts of public wealth so that government can pay the costs of governing, including infrastructure and services.

To understand why the treaty affects taxation, it is important to understand what the situation is today.

Status Indians are subject to the same tax rules as other Canadian residents unless their income is eligible for the tax exemption under section 87 of the *Indian Act*. That exemption applies to the income of an Indian that is considered to be earned on a reserve, as well as to goods bought on, or delivered to, a reserve.

So in general:

- if you are a status Indian employed on reserve, you do not have to pay income tax
- if you are a status Indian and are receiving goods delivered to a reserve you do not have to pay GST (the federal Goods and Services Tax) or PST (Provincial Sales Tax)

However if you are a status Indian and live, work and shop off reserve you will pay taxes just like all other residents living in BC. The Treaty makes two changes that impact the tax situation of Lheidli T'enneh citizens:

- after Effective Date there is no longer a reserve and all the land is Lheidli T'enneh Lands
- the Tax chapter states that Section 87 of the *Indian Act* will have no application to a Lheidli T'enneh Citizen after a phase in period

Therefore once the phase in period is over Lheidli T'enneh Citizens will be subject to tax regardless of where they live.

2. We should be exempt after Treaty, but if not, shouldn't we have a few years to work into it?

Yes, that is why there is a phase in period.

3. Who wants to pay taxes?

Very few people want to pay taxes, but it is the way society has chosen to achieve our quality of life.

4. When do the taxes for Lheidli T'enneh begin?

The phase out period for exemptions starts on the Effective Date. For transaction taxes (GST and PST), the exemption ends as of the first day of the first month following the eighth anniversary of the Effective Date. In respect of all other taxes, including income tax, the exemption ends as of the first day of the first calendar year starting after the twelfth anniversary of the Effective Date.

5. Why a phase out period?

The period provides time for adjustment. People will have an opportunity to structure their affairs to take advantage of tax savings and to get accustomed to paying taxes.

6. What will be taxable?

As is the case off reserve, what are generally included are employment and investment income, sales taxes (GST, PST) and property tax.

7. How will our taxes compare to others and how will they be determined?

After the phase-in period Lheidli T'enneh citizens will pay taxes on the same basis as non-Indian residents in BC. Depending on individual circumstances, this could include income tax, sales tax and property tax. The governments of Canada and BC set income tax and sales tax rates. Property tax rates will be set by the Lheidli T'enneh Government in accordance with a harmonization agreement with local government.

8. What happens with the tax money?

Lheidli T'enneh will enter into a side agreement with Canada and BC so that 100% of the tax paid to Canada and 50% of the taxes paid to BC will be transferred from Canada and BC back to the Lheidli T'enneh Government. The Lheidli T'enneh Government will then use the money to provide infrastructure and services to Lheidli T'enneh Citizens and residents on Lheidli T'enneh Lands.

9. Will I have to pay taxes on my house and land?

Lheidli T'enneh will be responsible for property taxation on Lheidli T'enneh Lands. There will be a property tax regime coming into effect, but its application to particular properties may vary. That will be a decision of the Lheidli T'enneh Government.

10. Who would receive our property taxes?

Property tax will be levied and received by the Lheidli T'enneh Government.

11. Does the band pay taxes if they sell gas?

That will depend on the business structure the Lheidli T'enneh Government establishes to sell gas. If it is through a corporation then it will be taxable. If it is through a government agency then it is exempt, but may then have to consider OSR implications.

12. Who is responsible for penalties in taxation?

The tax-payers are responsible to pay taxes and if they do not then they may be charged fees and penalties by the government that is responsible for the tax.

13. What is the cost if I don't pay on time?

That depends on the tax that is late. For income tax and GST, the Canada Revenue Agency will charge late fees depending on the amount owed and period of arrears. For property tax, the Lheidli T'enneh Government will be responsible for enforcement, and will take the same approach as local government, which also involves late fees.

14. Who will benefit from our taxes?

As most of the taxes collected are received by the Lheidli T'enneh Government, they would be spent for the benefit of Lheidli T'enneh Citizens and residents on Lheidli T'enneh Lands.

15. What happens if the tax assessment is too high and people move and work in town?

The property tax rate on Lheidli T'enneh Lands will be harmonized with the rate in Prince George, according to the same standards that are applied in the rest of BC. There will thus be no tax advantage to moving. There will also be a right to appeal tax rates that are considered to be unfair.

16. If we shop in Prince George will we have to pay taxes in the future?

Yes, you will have to pay PST and GST on goods purchased in Prince George or delivered to treaty settlement lands once the phase in period is over.

17. Is it possible to be double taxed on reserve lands and treaty settlement lands?

No. Income taxes will be based on income, regardless of location. There will be no reserve lands after the treaty is in effect and only Lheidli T'enneh will tax Lheidli T'enneh Lands so there is no possibility of double property taxation.

19. Will the Taxation amount be different for the band or Development Corporation companies?

This will depend on how the Lheidli T'enneh Government organizes itself for business and tax planning. Corporations will pay corporate tax but Lheidli T'enneh Government will have tax exemptions on its direct activities on treaty settlement lands. (Note that there will be no "band" after the Effective Date. It will be replaced by the Lheidli T'enneh Government.)

20. How will taxes be collected?

Canada and BC will levy income and sales taxes from residents on treaty settlement lands and will remit a portion of the money collected back to the Lheidli T'enneh Government. In the area of property taxes the Lheidli T'enneh Government will levy the tax directly on landholders. To save costs and capacity, Lheidli T'enneh may agree with the City of Prince George to have the city administer the collection system and remit the money collected to the Lheidli T'enneh Government.

21. If we do have tax, we should only have the one tax, not both!

Canada, BC and Lheidli T'enneh base taxes on the concept of tax room which is shared. While there are several taxes all are sharing the same tax room.

22. Due to poor leadership in the past and the economy how do we tax Lheidli T'enneh?

Taxes are based on income earned, income spent or property held. If circumstances are such that income is below taxable levels, or no property is held then there will be no income tax or property tax payable.

23. Can we tax all other user groups in our territory?

Lheidli T'enneh can only tax on its treaty settlement lands, but it will have authority to charge property tax on Lheidli T'enneh residents and land users.

24. Can we charge our own First Nation for tax evaluation?

Property tax valuation rates will be based on property values determined by the BC Assessment Authority which will undertake the property assessments on Lheidli T'enneh Lands and charge a small levy for the service.

Tax Treatment Agreement

The Tax Treatment Agreement sets out various tax exemptions that will apply to the Lheidli T'enneh Government. It sets out how the Lheidli T'enneh Government, its entities or corporations, donations, and the capital transfer account ("Settlement Trust") will or will not be taxed by Canada or BC. This agreement must be negotiated before the treaty is completed, and will come into effect on the same day as the treaty does.

Although the Taxation chapter sets out the requirement for having a Tax Treatment Agreement between the Lheidli T'enneh, Canada and BC, the actual Tax Treatment Agreement is not part of the treaty.

There are a number of tax exemptions for the Lheidli T'enneh Government set out in the Tax Treatment Agreement, including:

- **Income Tax:** The Lheidli T'enneh Government, for income tax purposes, will be deemed to be "a public body performing a function of government in Canada". This means that the Lheidli T'enneh Government will have the same income tax exemption as municipalities.
- **Cultural Property:** The Lheidli T'enneh Government and any non-profit organization it creates to receive, store and display cultural artifacts, such as a museum, will be treated as an institution designated under the federal *Cultural Property Export and Import Act*, so long as a proper facility is in place to store the artifacts. This means that any person who gives cultural property or artifacts to the Lheidli T'enneh Government or its non-profit organization will get tax benefits under the federal *Income Tax Act*. This creates an incentive to support Lheidli T'enneh culture.
- **Goods and Services Tax (GST):** The Lheidli T'enneh Government will be entitled to a refund of GST paid to Canada in the course of conducting Lheidli T'enneh Government business.
- **Social Service Tax and Motor Fuel Tax:** The Lheidli T'enneh Government will be entitled to a refund of social service and motor fuel taxes paid to BC while conducting Lheidli T'enneh Government business.
- **Property Transfer Tax:** The Lheidli T'enneh Government will not have to pay property transfer tax to BC relating to Lheidli T'enneh Lands. Lheidli T'enneh citizens will not have to pay property transfer tax before the *Indian Act* tax exemption is phased out.
- **Property Tax:** The Lheidli T'enneh Government will not have to pay property tax on Lheidli T'enneh Lands if those lands are used for government or non-profit activities, such as a Lheidli T'enneh Government office.

- **Resource Taxes:** The Lheidli T'enneh Government, a Lheidli T'enneh Government Corporation and certain other persons are exempt from paying mineral taxes, petroleum taxes and natural gas taxes on Lheidli T'enneh Lands held by the Lheidli T'enneh Government or a Lheidli T'enneh Government Corporation.
- **Lheidli T'enneh Settlement Trust:** If the Lheidli T'enneh Government sets up a Lheidli T'enneh Settlement Trust for its capital transfer, the trust, beneficial interests in the trust, and amounts distributed from the trust to a beneficiary are not taxable as long as the investment rules of the Settlement Trust are followed, except for GST.
- **Lheidli T'enneh Capital:** If the Lheidli T'enneh Government and a Lheidli T'enneh Government corporation transfer capital other than cash between them, it will not be taxable.
- **Capital Property:** These provisions protect status Indians who reside on Lheidli T'enneh Lands before the tax exemption is phased out from paying too much tax on capital property that they sell or dispose of after the *Indian Act* tax exemption is phased out. Basically, the status Indian will not have to pay tax on the value that the property had while the tax exemption still applied.

The Tax Treatment Agreement lasts until one of the Parties notifies the others that it wants the agreement to terminate. The Parties will then use best efforts to negotiate a new Tax Treatment Agreement.

Implementation

To help put the treaty into effect Canada, BC and Lheidli T'enneh have developed an Implementation Plan. This Plan describes the responsibilities set out in the treaty, the steps that will be taken to fulfill those responsibilities and who will take the steps, and the timelines. The Plan also includes provisions describing how it can be changed, renewed, or extended.

To monitor progress on the Implementation Plan, an Implementation Committee will be formed for a ten-year term with one representative each from Lheidli T'enneh, Canada and British Columbia. The Implementation Committee will create a communications plan for the treaty, provide a place where the Parties can discuss progress under the treaty, review the Implementation Plan and make recommendations to improve the implementation process and prepare an annual report.

Community Questions and Answers about Implementation

1. What is Implementation?

Implementation is the process of putting the treaty into effect by fulfilling the obligations that are set out in each of the chapters of the Final Agreement. Canada, British Columbia and Lheidli T'enneh each have obligations that must be fulfilled.

2. Why have an Implementation Chapter?

To bring the treaty into effect in a clear and orderly manner.

3. How long does Implementation take?

The first Implementation Plan will be in place for ten years, but it may be renewed by agreement. Within that period, there are some obligations that must be fulfilled prior to the Effective Date. These are called Closing Plan issues. An example of a Closing Plan obligation is “each Party will ratify the Final Agreement in accordance with conditions set out in the Ratification Chapter.”

There are other obligations that must be fulfilled on the Effective Date so that there are no gaps in Lheidli T'enneh rights. An example of this is “Lheidli T'enneh will make Laws requiring all persons who harvest or transport Wildlife to carry and produce documentation on request”. The Law must be in place immediately after the Effective Date and harvesters must be issued documentation.

Finally, there are some obligations that get fulfilled only when Lheidli T'enneh has the capacity to bring down these law-making powers. An example of this is “May make Laws in respect of Child Protection Services on Lheidli T'enneh Lands.” Lheidli T'enneh needs 250 children in order to exercise this law-making power.

5. Who will implement the Implementation Chapter?

The three parties to the treaty are responsible for its implementation. Canada, British Columbia and Lheidli T'enneh each have identified a representative to work on the Implementation Working Group. This group is tasked with looking at each paragraph in each chapter to identify all definite or permissive (“will or may”) obligations and to identify activities and responsible parties required to fulfil that obligation.

On the Effective Date, an Implementation Committee will be established for a period of ten years. Canada, British Columbia and Lheidli T'enneh will each appoint a representative. The Implementation Committee will monitor and oversee the

implementation of the treaty, providing a forum for the Parties to discuss implementation and to resolve disputes between the Parties.

6. Who determines who sits on committees and working groups?

Canada, British Columbia and Lheidli T'enneh each appointed a representative to sit on the Implementation Working Group and each will appoint a representative to the Implementation Committee. These are management decisions that in Lheidli T'enneh's case are made by the treaty office and band council as appropriate.

7. Who will the Implementation chapter affect and how will it affect Lheidli T'enneh?

Everything in the treaty that affects Lheidli T'enneh depends on the treaty being implemented. It will affect every Lheidli T'enneh citizen, the Lheidli T'enneh Government, our relationships with the Regional District of Fraser Fort George, the City of Prince George, Canada and British Columbia.

8. Who will benefit from Implementation?

Lheidli T'enneh Government, Lheidli T'enneh citizens, the Regional District of Fraser Fort George, the City of Prince George, Canada and British Columbia all benefit from implementation of the Final Agreement because all will have certainty. Lheidli T'enneh will benefit most from the land, funding and self-government authorities that the treaty provides. Everyone else benefits from certainty and economic development opportunities.

9. How is Implementation funded?

Implementation is funded through the Fiscal Financing Agreement. There is one time funding provided in advance to ensure that laws that must be in place on the Effective Date are developed and ready for enactment and that adequate capacity is available.

10. Will the community be in on Implementation?

The Lheidli T'enneh community will determine who represents them in the Lheidli T'enneh Government. Lheidli T'enneh citizens will benefit from programs and services that will be delivered on Lheidli T'enneh Lands. Every time a Lheidli T'enneh citizen hunts wildlife, migratory birds or fish, they will be exercising a right that is entrenched in the treaty.

11. How do you know whether or not Implementation is working?

The Implementation Committee will monitor the implementation process to ensure the Parties have avenues to address concerns raised on implementation of obligations. Lheidli T'enneh will know it is working if it is able to implement its obligations identified in the treaty and if it begins to benefit from the programs, services and rights provided by the Final Agreement.

12. How will we develop capacity?

Lheidli T'enneh will receive one-time funding as follows:

- Fish Fund of \$3,000,000
- Implementation and Infrastructure Fund of \$6,652,654
- Capacity Building Fund of \$1,400,000
- Economic Development Fund of \$1,400,000
- Governance funding of \$200,000
- Land Management of \$300,000
- Fishery Equipment of \$275,000

The total of \$13,227,654.00 is intended to support development of capacity to implement the treaty as of the Effective Date. A Treaty Related Measure is also in place to complete individual baseline capacity inventories and strategic planning. Capacity building is an ongoing process, and Lheidli T'enneh will continue to build capacity until it maximizes all of the benefits that this treaty has to offer.

13. What happens if Implementation fails?

It is not possible to answer this question in the abstract. It would depend on what components of the implementation plan failed, and for what reasons. The three parties will work to ensure that implementation of this treaty doesn't fail.

14. Is the city going to be involved in Implementation?

The City of Prince George and the Regional District of Fraser Fort-George will be involved in implementing this treaty through the comprehensive master agreement that is being negotiated under the Local Government Relations chapter. The master agreement sets out principles, procedures and guidelines to assist Lheidli T'enneh and local government to implement the provisions of the chapter, including coordination and harmonization of tax and land use powers.

15. Are there going to be joint ventures?

Joint ventures are one way of undertaking economic development. These are business decisions that will have to be made by the Lheidli T'enneh Government, its economic development agencies or individual entrepreneurs in the future.

Dispute Resolution

The Dispute Resolution chapter sets out the process to settle disagreements between Lheidli T'enneh, Canada and BC that may arise relating to the treaty. The Parties agree that disagreements should be avoided as much as possible, but where they cannot, disputes should be resolved quickly, cost-effectively and in a friendly manner.

Only certain types of disagreements can be resolved under the Dispute Resolution chapter. These are disputes in respect of interpreting or implementing the treaty, any breach of the treaty, or where the Parties cannot reach agreement when the treaty requires them to negotiate an agreement.

There are three stages in the dispute resolution process. The process can be stopped at any stage if an agreement is reached. This agreement must be recorded in writing and signed by authorized representatives of the Parties. The three stages are:

1. Collaborative Negotiations

If there is a disagreement that can't be resolved informally, a party will provide written notice to another party, or both other Parties, requesting collaborative negotiations. The Parties will then sit down together to try and negotiate a solution to the disagreement.

2. Facilitated Processes

If collaborative negotiations do not resolve the dispute, the Parties may enter into a facilitated process to reach a solution. A facilitated process may include mediation, receiving advice on specific issues from a technical panel of experts, neutral evaluation, or recommendations from a community advisory council. These discussions must be held in good faith, which includes timely and accurate information-sharing between the Parties involved in the disagreement.

3. Arbitration

If, through stages one and two, the Parties are unable to resolve their disagreement, the matter will be referred to arbitration. This could include identifying an arbitrator to speak with the Parties and make a final and binding decision to end the dispute. It could also include referring the disagreement to the Supreme Court of British Columbia to resolve.

Each party to any disagreement must cover their own costs of participating in the dispute resolution process. The Parties will share any common costs, including fees of a mediator or arbitrator, meeting rooms, and secretarial support.

If the Parties still cannot reach agreement once these processes have been utilized, the Parties may still use the ordinary courts in order to bring a resolution to the dispute.

Community Questions and Answers about Dispute Resolution

1. What is dispute resolution?

Dispute resolution is an out of court process to settle disagreements between Lheidli T'enneh, Canada and British Columbia that may arise relating to the treaty.

2. Where is the foundation for dispute resolution located?

The foundation for dispute resolution lies in the chapter and the desire of all the parties to resolve disagreements in a non-adversarial, collaborative and informal atmosphere.

3. Why is it important?

Alternate dispute resolution is a growing trend in many areas of modern society. It is intended to provide an alternative to resolving disputes through costly and divisive court proceedings. Instead, alternate dispute resolution helps people work out their differences themselves, and tries to find solutions that are acceptable to everyone.

4. Who is involved in dispute resolution?

Lheidli T'enneh, Canada and British Columbia, or any combinations of them, are involved in resolving disputes under this chapter.

5. Who will benefit from dispute resolution?

All parties and others who rely on the treaty will benefit. The treaty is a complicated arrangement and there will inevitably be disagreements. Lheidli T'enneh has built working relationships with Canada, British Columbia, the City of Prince George and the Regional District of Fraser-Fort George during negotiation of the Final Agreement. The intention is to implement the treaty to the satisfaction of all Parties, but when disagreements arise, to resolve them within those working relationships.

6. What issues can be covered by the Dispute Resolution Chapter?

The disagreements that can be resolved under this chapter are those regarding interpreting or implementing the treaty, breach of the treaty, or where the Parties cannot reach agreement when the treaty requires them to “negotiate and attempt to reach agreement.”

7. Where will the proceedings be held?

The Dispute Resolution chapter is silent on where dispute resolution meetings will take place. The Parties would likely meet in Victoria, Vancouver or Prince George.

8. Does the court system override this process?

The chapter specifies the relationship with the courts. Judicial proceedings can be commenced at any time provided that the parties must attempt the applicable dispute resolution processes first. As well any party can apply to a court at any time to preserve their rights under a limitation period, to obtain interim relief pending resolution of the disagreement or to get a ruling on a legal question.

9. Are all decisions final or can someone appeal?

Every decision can be appealed to the courts except for a stage three arbitration award.

10 Will there be a committee?

It is open to Lheidli T'enneh to form a community advisory council as one of the optional facilitated processes in the second stage.

11. Will there be a timeline?

Yes, the process is very structured. There are specified timelines for the commencement and conclusion of each stage of the processes, as well as for notice periods, information exchange, appeals, and various administrative steps.

12. Why can't Lheidli T'enneh have its own dispute resolution committee?

The dispute resolution process described in this chapter is the process that Canada, BC and Lheidli T'enneh have collectively developed for specific kinds of disputes under the Final Agreement. In addition to the stage two community council, Lheidli T'enneh can establish other internal dispute resolution process under its Constitution for matters that are completely within its jurisdiction.

13. Should Lheidli have laws concerning dispute resolution?

There are no law-making provisions in this Chapter. However, establishment of a community council and any internal processes would require Lheidli T'enneh law-making.