

TE'MEXW TREATY ASSOCIATION TRIPARTITE NEGOTIATIONS
AGREEMENT-IN-PRINCIPLE
FOREST RESOURCES CHAPTER
MAY 2010

Without Prejudice, For Discussion Purposes Only. Subject to Internal Review. This document represents the work of the Parties to date. It contains no admissions and is subject to change. It may not be tendered or relied upon in any Court or other proceeding. This Chapter is part of a working Agreement-in-Principle document. Any final Chapter in a Te'mexw First Nation Final Agreement should be read and understood in conjunction with the rest of that Final Agreement.

CHAPTER 9 – FOREST RESOURCES

DEFINITIONS

“Forest Practices” means Timber harvesting, road construction, maintenance, use, and deactivation for forest purposes, silviculture treatments, including grazing for the purposes of brushing, botanical forest products collecting and fire use, but does not include Timber marking or scaling, manufacture of Timber or export of Timber;

“Forest Resources” means all Timber Resources and Non-Timber Resources, including all biota, but does not include Wildlife, Migratory Birds, water, Fish or Aquatic Plants;

“Non-Timber Resources” means all Forest Resources other than Timber Resources;

“Private Lands” means, for the purposes of this Chapter, land that is not Crown land, privately owned land within a tree farm license or woodlot license issued under the Forest Act, or private managed forest land within the meaning of the *Private Managed Forest Land Act*;

“Range Practices” means

- a) grazing of livestock;
- b) cutting of hay;
- c) activities related to grazing of livestock or cutting of hay; or
- d) activities carried out for the purposes of range development related to constructing, modifying, or maintaining a structure, an excavation, a livestock trail, or an improvement to forage quality or quantity;

“Range Resources” means those plant communities that are associated with grazing;

“Timber” or **“Timber Resources”** means trees, whether living, standing, dead, fallen, limbed, bucked, or peeled.

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FOREST RESOURCES ON TREATY SETTLEMENT LANDS

1. On the Effective Date, a Te'mexw Member First Nation will own all Forest Resources on its Treaty Settlement Lands.
2. Treaty Settlement Lands will be treated as Private Lands for the purposes of Provincial Laws in respect of Forest Resources, Forest Practices, and Range Practices.
3. No provincial requirement for obtaining a licence, permit or other authorization or paying a fee in respect of any Forest Practice on Treaty Settlement Land is intended to apply on Treaty Settlement Land.
4. Each Te'mexw Member First Nation Government will have authority to determine, collect and administer any fees, rents, or other charges relating to the harvesting of Forest Resources on Treaty Settlement Lands.

LAW MAKING

5. Te'mexw Member First Nation Government may make laws in respect of Forest Resources and Forest and Range Practices on Treaty Settlement Lands.
6. In the event of a Conflict between a Federal or Provincial Law and a Te'mexw Member First Nation Law made under paragraph 5, the Federal or Provincial Law will prevail to the extent of the Conflict.
7. Te'mexw Member First Nation Laws in respect of Timber Resources under paragraph 6 will provide for Forest Practices that meet or exceed those applicable to Private Lands established under provincial legislation, as they may exist from time to time.

TIMBER MARKING AND SCALING

8. Nothing in the Final Agreement will confer jurisdiction on Te'mexw Member First Nation Governments to make laws applicable to timber marks and scaling, and, for greater certainty, Provincial Laws applicable to timber marks and scaling will apply to Timber harvested on and transported off Treaty Settlement Land.

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9. Provincial Laws applicable to timber marks and scaling will not impose any condition on the issuance of a timber mark for Treaty Settlement Lands not imposed for Private Lands.

EXPORT AND MANUFACTURE

10. Timber harvested from Treaty Settlement Lands will not be subject to any legal requirement for use or manufacturing in British Columbia.
11. Timber from Treaty Settlement Lands may be proposed for export pursuant to Federal Law and policy as if the Timber had been harvested from an Indian Reserve in British Columbia.

PROVINCIAL CONSIDERATION OF EFFECTS ON TSL OF FOREST PRACTICES

12. The Parties agree to share information relating to Forest Practices and Range Practices on Treaty Settlement Nation Lands and on Crown land immediately adjacent to Treaty Settlement Lands from time to time.

EXISTING INTERESTS

13. Except as provided in Appendix X, British Columbia will ensure that on the Effective Date, any portion of:
 - a) any agreement under; and
 - b) any plan, permit or authorization associated with any agreement under the *Forest and Range Practices Act*, or other legislation that governs forest practices, that applies to Treaty Settlement Lands ceases to be valid.
14. Except for those obligations described in Appendix X, British Columbia will ensure that on the Effective Date or as soon as practicable, all obligations on Treaty Settlement Lands in respect of Forest and Range Practices, including road deactivation, will be fulfilled in accordance with Provincial Law.
15. Te'mexw Member First Nations will provide access to Treaty Settlement Lands at no cost to British Columbia and to any tenure holder whose rights to Forest and Range Resources under paragraph 13 cease to be valid, and to their

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respective employees, agents, contractors, successors or assigns, so that they may fulfill the obligations referred to paragraph 14.

16. On the Effective Date, Te'mexw Member First Nations will be responsible for those obligations described in Appendix Y.

COOPERATION AND COORDINATION OF FORESTRY PRACTICES

17. Prior to the Final Agreement, the Parties may negotiate provisions for cooperation and coordination in respect of on and off Treaty Settlement Lands Forestry Practices.

ECONOMIC OPPORTUNITIES

18. Prior to the Final Agreement, the Parties may negotiate provisions with regard to economic opportunities in forest related undertakings for a Te'mexw Member First Nation.

FIRE SUPPRESSION AND CONTROL

19. Arrangements for forest fire suppression and control on Treaty Settlement Lands will be addressed before the Final Agreement.

FOREST HEALTH

20. Te'mexw Member First Nations are responsible and will take reasonable measures to control insects, diseases, invasive plants, animals or abiotic factors on Treaty Settlement Lands which may affect the health of Forest and Range Resources on Treaty Settlement Lands.
21. If Canada, British Columbia, or a Te'mexw Member First Nation becomes aware of insects, diseases, invasive plants, animals, or abiotic factors on Crown land or Treaty Settlement Lands that threatens the health of Forest Resources on Crown land or Treaty Settlement Lands, Canada, British Columbia, or the Te'mexw Member First Nation, as the case may be, will notify the other parties and the affected parties will use reasonable efforts to reach an agreement on an appropriate co-operative response to minimize the impacts of such insects, diseases, invasive plants, animals, or abiotic factors on Forest Resources on Treaty Settlement Lands or Crown land.

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22. Nothing in paragraphs 20 or 21 will be construed so as to limit the application of Federal or Provincial Law in relation to the health of Forest or Range Resources.