

February 25, 2008

SHARED TERRITORY PROTOCOL

BETWEEN:

**The Tla'amin First Nation also known as
The Sliammon First Nation;
("Tla'amin")**

AND:

**The K'ómoks First Nation also known as
the Comox Indian Band
("K'ómoks")**

(Collectively, the "First Nations")

Preamble:

Whereas the peoples of Tla'amin and K'ómoks, (the "First Nations") have used and occupied our traditional territories for countless generations and have shared resources with one another in a spirit of mutual respect and cooperation according to our traditional laws;

Whereas it is recognized by the First Nations that we are willing to share certain geographic areas;

Whereas the First Nations to this Protocol desire to resolve all issues concerning our Shared Territories in relation to Treaty Negotiations; and

Whereas the First Nations wish to cooperate and coordinate with respect to the Crown's duty to consult and accommodate First Nations regarding section 35 rights and other interests;

THEREFORE THE FIRST NATIONS AGREE AS FOLLOWS:

Purpose

1. The Purpose of this Protocol is to resolve any potential issues between the First Nations in relation to Treaty negotiations including:
 - (a) confirming the area in which both K'ómoks and the Tla'amin may exercise our aboriginal or treaty resource harvesting rights, including the harvesting of fish, wildlife, migratory birds and gathering plants and medicines ("Section 35 Harvesting Rights").
 - (b) confirming the areas in which K'ómoks and Tla'amin may select Treaty Settlement Lands;
 - (c) clarifying responsibilities respecting consultation and accommodation for Section 35 Harvesting Rights, and
 - (d) ensuring that other matters related to Shared Territories are resolved.

General

2. Subject to this Protocol, each of the First Nations, in general, acknowledges and supports each other's aboriginal rights and title and any treaty rights to our respective traditional territories, including within the Shared Territories.
3. This Protocol only applies to the K'ómoks-Tla'amin relationship and is not intended to affect other First Nations.
4. This Protocol does not affect in any way the Crown's obligation to consult and accommodate either or both First Nation with respect to section 35 rights.
5. This Protocol is entirely without prejudice to all past, present and future Specific Claims of Tla'amin and K'ómoks.
6. References in this Protocol to harvesting by Tla'amin or K'ómoks include our members.

7. A copy of the K'ómoks Statement of Intent ("SOI") Map including the area referred to as the K'ómoks Core Areas as well as the K'ómoks Marine Harvest Area is attached as Appendix "A" to this Protocol.
8. A copy of the Sliammon (Tla'amin) Statement of Intent Map and the Tla'amin Resource Harvest Area is attached as Appendix "B" to this Protocol.
9. A copy of the map showing the Shared Harvesting Area is attached as Appendix "C" to this Protocol (the "Shared Harvesting Area"). For greater certainty, the Shared Harvesting Area is the area where the Statement of Intents of both First Nations overlap, excluding the K'ómoks Core Area on Vancouver Island.

Core Areas

10. The First Nations agree that, as between ourselves, K'ómoks shall have primary responsibility for all consultations, referrals and accommodations in the K'ómoks Core Areas as set out in Appendix 'A'.
11. The First Nations agree that, as between ourselves, Tla'amin shall have primary responsibility for all consultations, referrals and accommodations outside of the K'ómoks Core Areas and within the Sliammon (Tla'amin) Statement of Intent area.
12. Within the K'ómoks Core Areas it is the sole responsibility of K'ómoks to deal with:
 - (a) all forestry and forestry-related referrals, consultations and accommodations; and
 - (b) small-scale resource and development-related referrals.
13. Within the Sliammon (Tla'amin) Statement of Intent area outside of the K'ómoks Core Areas it is the sole responsibility of Tla'amin to deal with:
 - (a) all forestry and forestry-related referrals, consultations and accommodations; and

- (b) small-scale resource and development-related referrals.

Consultation in the Shared Harvesting Area

14. The following projects and issues continue to be a shared responsibility of the First Nations throughout the Shared Harvesting Area. Non-forestry projects including those which:
 - (a) Are of a significant magnitude in monetary value;
 - (b) May have a significant effect on either First Nation's Aboriginal or Treaty rights or interests;
 - (c) May have a significant environmental impact;
 - (d) Trigger environmental assessments under either federal or provincial legislation;
 - (e) Relate to Parks, Protected Areas, Marine Protected Areas, or land or marine use planning; or
 - (f) The First Nations agree in writing should be dealt with jointly.

Treaty Settlement Lands

15. K'ómoks will select Treaty Settlement Lands within the K'ómoks Core Area. Any Treaty Settlement Lands selection by K'ómoks outside of the K'ómoks Core Areas and within the Shared Harvesting Area will require the written consent of Sliammon (Tla'amin) Council.
16. Tla'amin will only select Treaty Settlement Lands within the Sliammon (Tla'amin) Statement of Intent Area that is outside of the K'ómoks Core Areas. Any Treaty Settlement Lands selection by Tla'amin that is inside the K'ómoks Core Areas will require the written consent of K'ómoks Council.

Section 35 Harvesting Rights

17. Tla'amin and K'ómoks are entitled to exercise Section 35 Harvesting Rights in each other's Statement of Intent Area, in accordance with this Agreement.
18. Subject to paragraphs, 23-24 (surplus salmon), and 25-30 (shellfish areas), no consent is required by Tla'amin or K'ómoks from each

other for exercising Section 35 Harvesting Rights in the Shared Harvesting Area.

19. Except for the harvest of marine finfish as set out in paragraph 21, Tla'amin requires the written consent of K'ómoks Council to exercise Section 35 Harvesting Rights within the K'ómoks Statement of Intent area, outside of the Shared Harvesting Area.
20. Except for the harvest of marine finfish as set out in paragraph 21, K'ómoks requires the written consent of Sliammon (Tla'amin) Council to exercise Section 35 Harvest Rights within the Sliammon (Tla'amin) Statement of Intent area, outside of the Shared Harvesting Area.

Marine Fin Fish

21. Except for provisions regarding surplus salmon in paragraphs 23-24, no consent is required by either First Nation to harvest unallocated marine finfish or allocated salmon anywhere in the Statement of Intent areas.

Allocations

22. Where there are allocations of fish or wildlife, neither Tla'amin nor K'ómoks will harvest under the other First Nation's allocation without written consent from the First Nation that has the allocation.

Surplus Salmon

23. Tla'amin recognizes the exclusive interests of K'ómoks to harvest surplus salmon from the Salmon, Oyster and Courtenay (Puntledge) Rivers.
24. K'ómoks recognizes the exclusive interests of Tla'amin to harvest surplus salmon from the Sliammon, Theodosia and Okeover Rivers.

Shellfish Areas and Shellfish Aquaculture

25. The First Nations will endeavor to share information with respect to Shellfish aquaculture.
26. Tla'amin recognizes the exclusive interest of K'ómoks to shellfish aquaculture tenures in the area referred to as the Comox Bar.
27. K'ómoks recognizes the exclusive interest of Tla'amin to shellfish beaches and aquaculture tenures around Harwood Island.
28. K'ómoks may negotiate exclusive shellfish areas within the K'ómoks SOI.
29. Tla'amin may negotiate exclusive shellfish areas outside the K'ómoks SOI.
30. The First Nations will respect each other's commercial shellfish aquaculture tenures

Cultural Resources

31. The First Nations will work cooperatively and share information respecting burial sites, the identification and protection of archeological sites, cultural and heritage sites, the repatriation of artifacts, and the identification and establishment of place names.

Other Matters

32. The First Nations may enter into more detailed Protocols or agreements respecting the implementation of the provisions of this Protocol, including;
 - (a) matters related to the exercise of Section 35 Harvesting Rights;
 - (b) non-section 35 resource harvesting for commercial purposes;
 - (c) the harmonization of harvest plans;
 - (d) Protocols for sharing allocated species of fish, wildlife, migratory birds or plants; and
 - (e) the application of the respective laws of K'ómoks and Tla'amin related to resource harvesting.

33. From time to time the First Nations may alter this Protocol or add sub-Protocols to this Protocol provided this is done in writing, with appropriate ceremonies as required.
34. Each of the First Nations to this Protocol supports each other's Treaty Negotiations, provided that such negotiations are consistent with this Protocol.
35. Except for the Provisions relating to shellfish aquaculture tenures, and exclusive shellfish areas, nothing in this Agreement is intended to prevent the First Nations from harvesting resources pursuant to ordinary commercial tenures or licenses.

Dispute Resolution:

36. For the purpose of this Protocol, a Dispute means any controversy, dispute, disagreement or claim whatsoever arising out of or relating in any way to this Protocol, including any matter concerning the effect, content, interpretation or application of this Protocol, or rights and obligations of Tla'amin or K'ómoks.
37. Tla'amin and K'ómoks will do everything we can to resolve any Disputes in a respectful and cooperative manner in accordance with our cultures, traditions, and teachings and guidance from Elders wherever possible.
38. In the event of a Dispute that has not been resolved under paragraph 37, Tla'amin or K'ómoks may provide notice to the other party describing the nature of the Dispute and, in that event, the First Nations shall:
 - (a) Immediately proceed to negotiate in good faith in order to resolve the matter to the mutual satisfaction of the First Nations; and
 - (b) If a resolution satisfactory to the First Nations is not achieved within 30 days of the notice referred to herein being delivered to the other Party, the First Nations may agree to refer the Dispute to a third party mediator. The mediator shall be jointly appointed and equally paid for by the First Nations to the dispute.

- 39. This Protocol is without prejudice to each First Nation's right to advance and assert our respective aboriginal or treaty rights and title for any purpose and in any proceeding, except as against each other.
- 40. Each Party represents and warrants that it has the authority to enter into this Protocol on behalf of our respective First Nation.
- 41. The First Nations agree that either or both of them may share this Protocol with Canada, British Columbia and other First Nations and organizations.

The First Nations have signed this Protocol this 25th day of February, 2008.

Tla'amin First Nation

K'ómoks First Nation

Chief Walter Paul

Chief Ernie Hardy

Councillor Gloria Francis

Councillor Stewart Hardy

Councillor Steven Galligos

Councillor Barbara Mitchell

Councillor John Hackett Jr.

Councillor L. Maynard Harry

Councillor Vern Pielle

Councillor Bruce Point

Councillor Tracy Timothy

Councillor Clint Williams

Councillor Allison Wilson