
Lheidli T'enneh Final Agreement

Governance & Other Provisions
April 1 - 3

Rick Krehbiel, J.D.



Governance - Introduction

Four Components of a Treaty

Self-government

Lands

Resources

Fiscal Relationship

Governance - Introduction

The Importance of Governance

- Sustainable communities depend on sustainable economies
- Sustainable economies depend on five things:
 - Jurisdiction
 - Functional Institutions
 - Culturally Appropriate Connections
 - Strategic Thinking
 - Leadership

(Harvard Project on American Indian Economic Development)

Self-Government

- Final Agreement Provisions
 - Governance chapter
 - Lands and natural resources
 - Language, Heritage and Culture
 - Other chapters: General Provisions, Eligibility and Enrolment, Ratification, Transition, Implementation, Dispute Resolution
 - Lheidli T'enneh Constitution
 - Comprehensive Master Agreement
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Self-Government

Final Agreement Provides:

- Right to Self-government entrenched in Final Agreement
- Full legal status and capacity
- Concurrent law model
- Final Agreement prevails over other laws
- Conflict provisions – “paramountcy”
- Process for provincial laws that may affect LT jurisdiction
- Role for Non-Lheidli T’enneh residents on LT lands
- Lheidli T’enneh Constitution
- Comprehensive agreements with Local Government

Law Making Authority

Law-Making in Governance Chapter

- Government Administration (L)
- Lheidli T'enneh Citizenship (L)
- Possession, use and management of assets (L on TSL)
(FP off TSL)
- Adoption of Lheidli T'enneh children in BC (L)

[L = LTN, F = Federal, P = Provincial, TSL = Treaty Settlement Lands]

Law Making Authority

- Child Protection on TSL (L)
 - Health Services for Lheidli T'enneh citizens and Institutions on TSL (L)
 - Family and Social Services by Lheidli T'enneh Institutions on TSL (FP)
 - Liquor Control on TSL (FP)
 - Solemnization of marriages (FP)
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Law Making Authority

- Child Care on TSL (FP)
 - K-12 for Lheidli T'enneh citizens and Lheidli T'enneh Institutions on TSL (L)
 - Post Secondary on TSL (FP)
 - Emergency Preparedness on TSL (FP)
 - Regulation of Business on TSL (FP)
 - Public Order, Peace and Safety on TSL (FP)
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Law Making Authority

- Building and Structures on TSL (FP)
 - Public Works on TSL (FP)
 - Trespass on TSL (L)
 - Nuisance on TSL (L)
 - Land use, administration and management on TSL (L)
 - N.B. *Land Code* under Framework Agreement on First Nations Land Management
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Other Law Making Powers

Law-Making in other chapters

- Environmental Protection
 - Forestry
 - Wildlife
 - Migratory Birds
 - Fish
 - Water
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Law Making Authority

Language, Culture and Heritage

- Right to Carrier Language and Culture
 - Designation of Heritage Sites
 - Repatriation and custody of artifacts
 - Right to make laws on TSL for:
 - Conservation, protection and management of Cultural Heritage Resources
 - Access to Heritage Sites
 - Preservation, promotion and teaching of Lheidli T'enneh dialect
 - Certification of language teachers
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Lheidli T'enneh Constitution

- Declaration
 - Preamble – Fundamental Law
 - Values: equality, fairness, trust and respect
 - Role of elders and youth
 - *Charter of Rights and Freedoms* applies
 - Political rights
 - participation, review and appeal, access to information
 - Management of land and resources
 - Ownership, expropriation, planning,
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Lheidli T'enneh Constitution

- Legislative authority
 - Principles of good governance
 - Code of Ethics
 - Social and economic goals – education, health, income
 - Composition of LT Government
 - Legislature – Law-making
 - Executive – administration
 - Judicial – dispute resolution
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Lheidli T'enneh Constitution

- Legislature – Law Making
 - 7 members elected at large, one non - LT
 - Reduce within ten years
 - Community council with some veto powers
 - Urban Locals
 - General Procedures
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Lheidli T'enneh Constitution

- Executive – Administration
 - Head
 - Lands and Resources
 - Programs and Services
 - Finance and Tax
 - Planning and Priorities

 - Values and principles for employees
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Lheidli T'enneh Constitution

- Judiciary – Dispute Resolution
 - Dispute resolution mechanisms
 - Judicial Justices of the Peace



Lheidli T'enneh Constitution

- Financial Administration
 - Principles
 - Finance committee – advise on side agreements
 - Settlement trust for Capital Transfer
 - Special purpose funds, e.g. revenue sharing
 - Budgets
 - General Provisions
 - Amendment
 - Schedules – Oath of Office, Transition Rules
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Financial: “Money and Power” (CAD\$2006)

- Capital transfer - \$13.2 million
 - Special Funds & Implementation - \$14.5 million
 - Revenue Sharing - \$20 million
 - (\$400K x 50 yrs.)
 - Capital Project Funds – to be negotiated
 - Ongoing - \$1.8 million (70% increase)
 - Total asset value > \$60 - 65 million
 - Plus Land Value > \$13 million
 - Total Value approximately \$76 million
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Self-government

Comprehensive Master Agreement

- Status of Land issue
 - City, then Regional District
 - 2002 Protocols and “C2C” Forums
 - Harmonization of:
 - Legislation with mutual effects
 - Default provisions vs. regulatory vacuum
 - Harmonized planning and development
 - OCP/CCP/Comprehensive Neighbourhood Plans
 - Taxes, Development Cost Charges
 - Service Agreements
 - Access
 - Dispute Resolution
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Governance

***“We are only as strong as we are united,
and as weak as we are divided.”***

- Professor Albus Percival Wulfric Brian Dumbledore

“We are all here to stay.”

- CJC Antonio Lamer
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Treaty Chapters

- Preamble
 - Definitions
 - General Provisions
 - Eligibility and Enrolment
 - Ratification
 - Lands
 - Land Title
 - Access
 - Roads and Rights of Way
 - Forest Resources
 - Water
 - Fisheries
 - Wildlife
 - Migratory Birds
 - Environmental Protection
 - Lheidli T'enneh Rights and Roles Outside LT Lands
 - Culture and Heritage
 - Governance
 - Local Government Relations
 - Transition
 - Fiscal Relations
 - Capital Transfer and Negotiation
 - Loan Repayment
 - Resource Revenue Sharing
 - Taxation
 - Implementation
 - Dispute Resolution
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Other Provisions

- General Provisions
 - Eligibility and Enrolment
 - Ratification
 - Transition
 - Implementation
 - Dispute Resolution
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General Provisions

- The legal “heart” of the treaty
 - Treaty and land claims agreement under the Constitution
 - Certainty:
 - Comprehensively sets out all rights of Lheidli T’enneh
 - Aboriginal title modified and continued
 - Federal and provincial laws apply to Lheidli T’enneh
 - Treaty prevails if there is conflict
 - Lheidli T’enneh citizens entitled to rights, benefits and programs available to all Canadians & other aboriginal people
 - No effect on rights of other aboriginal people
 - No party will challenge the treaty, or support a challenge, in court
 - Consultation
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Eligibility and Enrolment

- Eligibility - criteria that determines whether someone can become a Lheidli T'enneh Citizen
 - Enrolment - the process for signing up for the treaty
 - An individual is eligible to be enrolled if they:
 - Are of Lheidli T'enneh ancestry (maternal or paternal); or
 - Are a current Lheidli T'enneh band member; or
 - Are a descendant of the above, including any adopted children and their descendants; or
 - Have been adopted under Lheidli T'enneh custom.
 - Enrolment Process
 - Application to Lheidli T'enneh E & E Committee
 - Appeal process
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Ratification

- Vote on collective rights
 - Tripartite Ratification Committee
 - “keepers of the process”
 - Final Agreement
 - 50% + 1 of the Eligible Voters who participate in the Ratification Vote must vote “yes”
 - Constitution
 - 50% +1 of the Eligible Voters who participate in the Ratification Vote must vote “yes”
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Transition

- Change-over from *Indian Act* to treaty
 - Effective Date - negotiated
 - wills and estates of Lheidli T'enneh
 - band bylaws, *Land Code* and laws enacted under the *Land Code* remain in effect for 30 days
 - All band assets, rights, interests, liabilities and obligations transfer to Lheidli T'enneh
 - Indian band ceases to exist
 - First Nation commences
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Implementation

- Tripartite Implementation Plan describes:
 - responsibilities set out in the treaty,
 - steps that will be taken to fulfill those responsibilities
 - who will take the steps
 - timelines
 - 10-year Tripartite Implementation Committee
 - communications plan
 - forum to discuss progress, review implementation and make recommendations to improve
 - annual report
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Dispute Resolution

- Formal process to settle disagreements related to:
 - interpreting or implementing the treaty
 - breach of the treaty
 - Failure to reach a required negotiated agreement
 - Three stage process.
 - Collaborative Negotiations – informal resolution
 - Facilitated Processes - mediation, technical panel of experts, neutral evaluation, or recommendations from a community advisory council
 - Arbitration - final binding decision or referral to BC Supreme Court
 - Individual and common costs
 - Preserves access to courts
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Thank You! Mussi Cho!

- **Questions?**
- **Follow-up**



rbkrehbiel3@gmail.com
