

K'ómoks First Nation



Agreement in Principle Summary

November 2010







Message from the Chief

To the people of the K'ómoks First Nation, as a nation we stand before a great opportunity. The following is a summary of the Agreement in Principle (AIP) that has been negotiated by our treaty team. The AIP presents us with many opportunities for freedom and prosperity through our lands, and returns to us the right to govern ourselves. This AIP is the beginning of a treaty for our people. There is much more negotiation to come.

Our elders fought for our lands, and it is our responsibility to continue to fight for our lands and to protect our Aboriginal rights. It is our responsibility to provide for our people and to promote meaningful employment. We must help the people who are destitute and without the basic necessities of life.

I want to see our future generations have a better life and better opportunities than I had growing up. We would all like to see this. The AIP speaks to these issues and provides the means to accomplish this with full land ownership, rights to water, protection of our Aboriginal rights, secure programs and services provided to us by Indian Affairs, and the freedom for our people to decide what is best for our nation.

I urge each and every one of you to review the contents of this summary, ask questions, and as we move towards the end of this stage of negotiations, come out and vote on the AIP in the spring of 2011.



Chief Ernie Hardy





Your Vision, Your AIP

We know the K'ómoks people came together this summer to build a vision for the community. You said:

“K'ómoks First Nation is a prosperous community where each member has the opportunity for self-sufficiency. We will move forward in partnership, exercising our rights and title, and respecting our historical connection to our lands and to one another.”

We believe this Agreement in Principle is true to the values of the K'ómoks people and provides us with the tools we need to make our community vision a reality. We have negotiated self-government and law-making authority, along with a strong land base and the right to collect taxes. We have also negotiated education and cultural rights that speak to our ancient traditions.

This booklet sets out in plain language the key elements and many direct benefits of this AIP. It points to a brighter future for the K'ómoks people.

Please take the time to read it carefully. And get back to us with your questions. We promise to answer them right away.

And please look for future pamphlets and brochures on treaty topics such as taxes, capacity building, and economic development. We are also developing Chapter Summaries for a more in-depth look at treaty. Every member will receive a copy of these materials when they're released, and we will mail copies to all off-reserve members.

Your Treaty Team

What is an AIP?

An Agreement in Principle (AIP) represents an opportunity for growth and prosperity for K'ómoks. We have worked very hard at the negotiating table to get the best deal for our people.

This AIP provides the framework we need to finish negotiating a treaty. With a treaty, we can take our place among the social, political and economic powers of Canada.

We have negotiated firmly with the Government of British Columbia (BC) and the Government of Canada. Both have agreed to the conditions in this AIP.

K'ómoks people must decide whether to accept the AIP. If we vote "yes" next spring, we will move on towards a Final Agreement.

Read on to learn more about what's in our AIP.

Q: Is the AIP legally binding?

A: No. Approving the AIP means that we want to continue down the road towards a treaty. But the Final Agreement requires more negotiations and another vote by the K'ómoks people.

General Provisions

The K'ómoks AIP says K'ómoks members will keep their Indian Status, and will continue to receive programs and services provided by Indian Affairs. Aboriginal rights will continue under the treaty.

K'ómoks members will also still be eligible for programs and services that all other Canadians are entitled to.

And, while the AIP is not legally binding, it gives K'ómoks, BC and Canada a good idea of what the Final Agreement will look like.

A Final Agreement will be legally binding.

Q: Do we lose our Aboriginal rights?

A: No. We do not give up our Aboriginal rights. Aboriginal rights will not be extinguished. We will also continue to be eligible for all programs and services available to all Aboriginal people, and we will continue to be Status Indians.





Governance

The K'ómoks AIP says K'ómoks will be self-governing and self-determining. We will no longer be governed under the Indian Act. Instead, we will have new governance authority. We will be responsible for making our own governance decisions. We will develop and adopt our own Constitution so we can have our own laws relating to education and membership. Many of these initiatives are now under way.

Q: Can the K'ómoks First Nation really be self-governing? Do we have the capacity to do this?

A: K'ómoks has the potential to become self-governing because its members have the proven skills to develop and manage proper training, education and mentorship and build relevant experience. A capacity plan has been developed and will be set in place before the Effective Date, the day the treaty becomes law.

The AIP also says a system of self-government will be developed by us, the K'ómoks people. We will govern ourselves using the traditional teachings of our ancestors. These, and many other rules of governance, will be set out formally in our Constitution, which is now being drafted.



Local and Regional Relations

The AIP says K'ómoks First Nation has the right to enter into service agreements with neighbouring municipalities and Regional Districts. Local service agreements with the City of Courtenay, the Town of Comox and the Village of Cumberland will continue. However, K'ómoks will not be subject to the governing authority of these municipalities or the Regional Districts unless we choose to follow their laws.

Culture and Heritage

The AIP says K'ómoks First Nation may make laws to preserve, protect and develop our culture and language. It also explains how we can make laws to protect heritage sites on our lands. Additionally, we may rename geographical features in our territory according to provincial law.

The AIP also says BC will return K'ómoks artifacts held in BC and Canadian museums. BC will also enter into an agreement with K'ómoks to provide us access to monumental cedars for cultural purposes, such as making canoes and totem poles, or building big houses, longhouses and community buildings.

Q: Will there be a mechanism to protect heritage sites on our lands?

A: Yes. K'ómoks government will protect heritage sites on our lands from land development projects. And, until the Effective Date, BC's heritage site protection laws will protect our lands.

Best of the K'ómoks AIP

1. Governing Ourselves

This AIP returns to the K'ómoks people the right to govern ourselves. We will no longer be under the Indian Act, and no longer required to ask permission before making decisions.

The governance powers in the AIP are a strong expression of our Aboriginal rights in a modern world. With this AIP we will have a treaty right to self-government. The K'ómoks people will be able to:

- make laws that apply to K'ómoks treaty lands and K'ómoks people
- decide how to use and develop our land, sea and freshwater resources
- collect taxes
- educate our children in ways that reflect our language and culture
- determine citizenship in our nation
- care for our children in need, including providing foster care and adoption services
- preserve, protect and develop our culture and language
- fish, hunt and gather in the traditional way

2. Open for Business

The heart of the K'ómoks culture is our relationship with our land, sea and freshwater resources. In this AIP we have negotiated the return of 18 parcels of land, four of which are reserve lands, throughout our traditional territory. This amounts to a total of 2,036.39 hectares or 5,029.88 acres. We have also negotiated a role for our people on all of our traditional territory. This AIP enables us to maintain and grow our relationship with the land for generations to come. The K'ómoks people have been offered the following parcels of land:

Parcel	Hectares	Acres*
H'kusam	159.74	394.55
Williams Beach Woodlot, western portion	38.97	96.25
Williams Beach Woodlot, eastern portion	240.18	593.244
Brown's River	36.70	90.64
Hornby Island gravel pit	10.82	26.72
Hornby Island 2	2.49	6.15
Salmon River	74.70	184.50
Royston Forest	662.70	1,636.86
Mount Washington gravel pit	58.96	145.63
District Lot 7 (Union Bay) "B"	18.75	46.31
Williams Beach Forest	269.41	665.44
Wood Mountain	101.62	251.00
Sandy Island	33.00	81.51
District Lot 7 Union Bay "A"	18.09	44.68
Reserve	Hectares	Acres*
Comox IR #1	61.51	151.92
Pentledge IR #2	83.31	205.77
Goose Spit IR #3	5.38	13.28
Salmon River #1	159.86	394.85

Approximately*

This land base is the future of our economic growth. If we approve this AIP, land at the base of Mount Washington and District Lot 7 in Union Bay will be transferred to the K'ómoks people immediately. We will be able to develop and grow businesses on that land, and train and employ our people. We will gain invaluable experience in economic development and capacity building. And that experience will guide us in the best use of our lands under a treaty.

3. Water

Access to freshwater is very important to our economic future. A reliable supply of clean, fresh drinking water will mean we can develop our lands. We will be able to build businesses, housing and infrastructure. Without water, none of these things will be possible. People cannot live in houses without water and businesses can't do work in buildings without water. This AIP makes the K'ómoks people a major supplier of freshwater in the Comox Valley. We have negotiated access to enough water to supply 50,000 people with their yearly water needs.

Lands

If the K'ómoks members vote “yes” to the AIP, K'ómoks will own all its current reserves. The K'ómoks land base will also increase substantially.

K'ómoks will own a total of 2,036.19 hectares (5,029.38 acres) of K'ómoks treaty lands:

- 310.06 hectares (765.84 acres) of reserve lands
- 1,726.13 hectares (4,263.54 acres) of former Crown lands

Under the treaty, K'ómoks will privately own these lands. We will also own and control all mineral resources and mineral royalties that were owned by the Crown on our land. We will have the ability to add new lands in the future.

Q: What does private ownership mean to K'ómoks?

A: K'ómoks citizens will have full title to their land and this land could be sold according to the K'ómoks Land Use Plan (LUP). Under the treaty, we will own both the surface and subsurface resources previously owned by the Crown. K'ómoks will have law-making and taxation authority over these lands.

Q: What about Goose Spit?

A: As our Chief and Council have said repeatedly: No Spit, No Deal.

Land Title

Once K'ómoks has full ownership of land, we may register our land with the BC Land Registry. Registered land has higher value, provides certainty, can be mortgaged and has much better economic advantages and opportunities for the owner.

Q: If we register land in the provincial system, will K'ómoks still have authority over the land?

A: Yes, K'ómoks will still have authority, jurisdiction and law-making authority on land when we register with the BC Land Registry.

Q: Will K'ómoks homeowners have “clear title”? Will they be able to sell their homes on the open market?

A: Yes. K'ómoks homeowners will have “clear title” to their lands and homes. K'ómoks members will have to discuss which lands can be sold on the open market and which can only be sold to K'ómoks members.

Q: Will K'ómoks people be able to get mortgages? How will those mortgages work?

A: Yes. K'ómoks people will be able to get mortgages to build their homes if they wish, by going to the bank and using their land as security for the mortgage.

Roads and Rights of Way

In this chapter, we set out the ownership of roads that pass through K'ómoks treaty lands. We also set out the responsibilities for maintaining the roads and providing access to K'ómoks treaty lands for repairing and maintaining roads. K'ómoks may make laws aimed at traffic, transportation and parking.

Q: The Back Road and the Dyke Road were built on land taken from our reserve. Will we have a say over those roads?

A: No, the Back Road and the Dyke Road belong to the province. K'ómoks people will have a say over roads on K'ómoks treaty lands.

Fisheries

K'ómoks will have a treaty right to fish for those species we have always fished. All treaty negotiations relating to fish are currently “on hold” because of a federal government order. However, we will continue to catch, trade and barter fish according to K'ómoks, provincial and federal laws — as we have always done.

We are also seeking a Shellfish Aquaculture Interim Measures Agreement that will include geoduck licences and shellfish harvesting in areas set aside specifically for K'ómoks.

Q: When it comes to fish, what exactly will be negotiated?

A: We will negotiate a guaranteed right to fish for all species for food, social and ceremonial purposes, and a greater access to the commercial fishery. We will also negotiate a fisheries management system and law-making authority.

Wildlife

The AIP says K'ómoks has the right to hunt wildlife such as elk, deer and grouse throughout our traditional territory (Wildlife Harvest Area). We may trade and barter wildlife in accordance with K'ómoks, provincial and federal laws as we have always done. K'ómoks will also have management authority and law-making rights inside our traditional territory.

Q: Can we hunt outside our traditional territory?

A: Yes.



Migratory Birds

Similarly, K'ómoks will have a treaty right to hunt ducks and geese for food throughout our traditional territory (Migratory Bird Harvest Area). We can continue to trade and barter migratory birds according to K'ómoks, provincial and federal laws, as we have always done. And we will have management authority and law-making rights in this area.

Q: Will we be consulted if there is a conservation problem?

A: Yes. Canada will consult with K'ómoks if there is a concern about conservation or if a particular species is designated as endangered.

Q: Can K'ómoks people gather in provincial parks, such as Strathcona Park?

A: Yes. We can gather in provincial parks as long as we follow the laws of conservation and public safety.

Q: Can we gather outside our traditional territory?

A: Yes.

Gathering Rights

The AIP says K'ómoks has the right to gather plants for medicinal, cultural and food uses, within our traditional territory. We will also have management authority and law-making rights over gathering.

Forest Resources

The AIP says we will own all forest resources on K'ómoks treaty lands.

We will also have access to monumental cedars from provincial crown lands for cultural purposes, such as building canoes, totem poles, bighouses, longhouses and community buildings.

Q: Will the treaty include a forest licence for K'ómoks?

A: We are negotiating a forest licence that will provide sustainable economic opportunities in the forest industry.

Q: Will we have the right to export logs from our Treaty Settlement Lands (TSL)?

A: Yes.

Water

The AIP provides K'ómoks with far more access to freshwater. We will have protected access to freshwater with a water reservation of 10,245 cubic decametres of freshwater (enough to supply 50,000 people with their annual water supply). Water will come from streams flowing through K'ómoks treaty lands, as well as Puntledge River, Trent River, Oyster River, Tstable River, Salmon River and Hart Creek.

Q: Is water really that important to us?

A: Yes, water is very important. Our allocation of water from the Puntledge is not enough to meet current demand, let alone any demands from future development. We need to secure and protect freshwater in order to grow economically.

Q: Does this agreement provide us with enough water?

A: Yes, this agreement will make K'ómoks one of the largest water holders in the Comox Valley.

Parks and Planning

K'ómoks will have a right to participate in land use planning outside of our treaty lands. BC will consult with us before making decisions about resource management and development. We will have the right to participate in public planning processes.

Q: What role will we have in parks within our traditional territory?

A: We will participate in co-managing parks in our traditional territory.

Q: Can we exercise our hunting and fishing rights in parks?

A: Yes.

Environmental Assessment and Protection

The AIP says K'ómoks will be consulted and have input before decisions are made about major development and the management of resources in our traditional territory. K'ómoks will have the right to participate in environmental assessments of all major projects. We will also take a role in protecting our environment. No federal or provincial project will take place on our lands without our consent.

Fiscal Relations

The AIP says BC and Canada will provide funding for agreed-upon programs and services through Fiscal Financing Agreements (FFAs). This includes K-12, post-secondary education, social assistance and other funding. It is expected funding will be provided primarily by Canada. It is important to emphasize that current funding of all existing programs and services will continue.

Cash

The cash payment section of the AIP sets out the commitment for governments to provide cash under what is called the Capital Transfer Fund. Canada will make a \$17.5-million cash payment to K'ómoks. This payment may be provided as one lump sum on the Effective Date, or at annual intervals.

Q: Will K'ómoks be forced to use the Capital Transfer Fund to pay for programs and services?

A: No. Programs and services are separate from the Capital Transfer Fund, and BC and Canada will continue to fund all current programs. This includes education, health, public works and all other ongoing programs.

Taxation

This chapter sets out the taxation authority of the K'ómoks government. Sales taxes will come into effect eight years after the Effective Date, and property and income taxes will come into effect after 12 years. K'ómoks will also enter into a number of taxation agreements with BC and Canada that will be of direct benefit to the K'ómoks people.

The K'ómoks First Nation will receive most of the income and sales tax paid by K'ómoks members on and off treaty lands. K'ómoks will also collect property tax from anyone living on K'ómoks treaty lands. This tax money will be a source of revenue for the K'ómoks government, and will be used to improve programs and services and the quality of life for K'ómoks members.

Approval of Agreement in Principle (AIP)

Next spring, registered K'ómoks members who are 18 years of age or older will vote on the AIP. If approved by 50 per cent plus one of those voting, then the Chief and Council, BC and Canada will also sign the AIP.

An approved AIP will create many economic development opportunities for the K'ómoks people. We will need to decide how quickly we want to grow those opportunities, and how quickly we want to negotiate a final treaty. We will see the full economic benefit of our agreement only after the final treaty. In the meantime, the rest of the land that has been identified in the AIP will be protected for the direct benefit of K'ómoks.

Q: What else happens when the AIP is approved?

A: The land at the base of Mount Washington and lot DL 7 in Union Bay will be transferred to K'ómoks immediately, and we will have access to \$4 million to purchase private lands.

Q: What happens if the AIP is not approved?

A: We may be asked to repay our negotiation loan, and Canada and BC may withdraw the land and cash offer.



Eligibility and Enrollment

K'ómoks treaty members must officially enroll in order to become treaty participants and receive treaty benefits.

All band members and people of K'ómoks ancestry will also be eligible. Later, K'ómoks people will need to officially register in order to be able to vote on the Final Agreement.

Q: Is enrollment automatic?

A: No. Eligible K'ómoks treaty members must first register with the enrollment committee.

Capacity

This AIP recognizes that a successful treaty means the K'ómoks people must be prepared to be a self-governing First Nation. Our Capacity Building Strategy will guide the creation of programs and services, including education and training programs, to ensure we have the skills to take advantage of all the opportunities the treaty has to offer.

Q: What is capacity development?

A: Capacity development is creating the human and institutional ability to be self-sufficient.

Q: How do we create capacity?

A: By ensuring our people are healthy, employed, educated and trained.

Q: How will K'ómoks pay for developing capacity?

A: A portion of the funds received from treaty will be allocated for capacity building. K'ómoks will also establish an Education and Training fund for members.

Indian Act Transition

On September 8, 2010, the Comox Indian Band officially changed its name to the K'ómoks First Nation. This is a first step away from the Indian Act. Only after the treaty will K'ómoks no longer be an Indian Act band. All current rights, titles, interests, assets, obligations and liabilities of the Comox Indian Band will be transferred to K'ómoks First Nation.

Ratification

To be formally ratified, the Final Agreement needs 50 per cent plus one of eligible voters to vote "yes." Later, the K'ómoks Constitution will also go to a community vote. Voters in both cases must be K'ómoks band members and people of K'ómoks ancestry who are enrolled as treaty members and are 18 years or older. The Final Agreement will then be signed by K'ómoks, BC and Canada.





K'ómoks First Nation Treaty © 2010

This booklet is one of a series and provides a summary of the K'ómoks Agreement in Principle. Future pamphlets discuss Taxes, Capacity Building and Economic Development. We hope you will collect them all. AIP Chapter Summaries will also be available, and will be sent to every K'ómoks member.

Meanwhile, a K'ómoks Home Visit Team will soon be knocking at your door to make sure you have these documents and to answer any questions you have about the AIP. We are convinced this AIP leads directly to a brighter future for the K'ómoks people. We hope this information will inform your decision at the AIP vote in the spring of 2011.



K'ómoks First Nation

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