

CHAPTER 10 - WILDLIFE

GENERAL

1. The Tla'amin Nation has the right to harvest Wildlife for Domestic Purposes within the Wildlife and Migratory Birds Harvest Area set out in Appendix P throughout the year in accordance with this Agreement.
2. The Tla'amin Right to Harvest Wildlife is limited by measures necessary for conservation, public health or public safety.
3. Canada or British Columbia will give notice of its intent to implement a public health or public safety measure identified under paragraph 2 to the Tla'amin Nation:
 - a. before the measure is implemented if it is practicable to do so; or
 - b. as soon as practicable after the measure is implemented.
4. The Tla'amin Right to Harvest Wildlife is held by the Tla'amin Nation and cannot be alienated.
5. Tla'amin Citizens may exercise the Tla'amin Right to Harvest Wildlife except as otherwise provided under Tla'amin Law.
6. This Agreement does not alter Federal or Provincial Law in respect of property in Wildlife.
7. The Minister retains the authority for managing and conserving Wildlife and Wildlife habitat.

HARVEST AREAS

8. The exercise of the Tla'amin Right to Harvest Wildlife in Area A of the Wildlife and Migratory Birds Harvest Area set out in Appendix P is subject to a protocol in effect between the Tla'amin Nation and the Homalco Indian Band.
9. The exercise of the Tla'amin Right to Harvest Wildlife in Area B of the Wildlife and Migratory Birds Harvest Area set out in Appendix P is subject to a protocol in effect between the Tla'amin Nation and the Klahoose First Nation.
10. The exercise of the Tla'amin Right to Harvest Wildlife in Area C of the Wildlife and Migratory Birds Harvest Area set out in Appendix P is subject to a protocol in effect between the Tla'amin Nation and each of the Homalco Indian Band and the Klahoose First Nation.
11. The Tla'amin Nation will provide a copy of the protocols referred to in paragraphs 8 to 10 and any amendments to Canada and British Columbia and will notify Canada and British Columbia if a protocol is cancelled.
12. The Tla'amin Right to Harvest Wildlife may be exercised on lands that are owned in fee simple, other than Tla'amin Lands, within the Wildlife and Migratory Birds Harvest Area but that harvesting is subject to Federal and Provincial Law in respect of access to fee simple lands.

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13. Notwithstanding paragraph 1, the Tla'amin Nation may exercise the Tla'amin Right to Harvest Wildlife on an Indian Reserve within the Wildlife and Migratory Birds Harvest Area, if the Indian Band for whom the Indian Reserve was set aside agrees in writing to provide such access, but any such agreement:
- a. will not cause an Indian Reserve to be included within the Wildlife and Migratory Birds Harvest Area; and
 - b. does not prevent the Indian Band for whom the Indian Reserve is set aside, in its absolute discretion, from revoking such access.
14. This Agreement does not preclude the Tla'amin Nation from entering into an agreement with a federal department or agency in respect of access by Tla'amin Citizens to and harvesting of Wildlife on land owned by Canada or in use by the Department of National Defence in accordance with that agreement and Federal and Provincial Law.

HARVESTING ON AHGYKSON

15. The Tla'amin Nation may exercise the Tla'amin Right to Harvest Wildlife on and around Ahgykson by any method authorized by the Tla'amin Nation under subparagraph 32.c.
16. The Tla'amin Nation may restrict or prohibit public access to Ahgykson for purposes of hunting Wildlife.

DESIGNATED HARVESTER

17. The Tla'amin Nation may designate individuals other than Tla'amin Citizens to exercise the Tla'amin Right to Harvest Wildlife on behalf of a Tla'amin Citizen who is unable to exercise the Tla'amin Right to Harvest Wildlife.
18. The designated individual must not pay any remuneration to the Tla'amin Nation, the Tla'amin Government or a Tla'amin Citizen.
19. The designated individual must:
- a. possess a hunting licence that under Provincial Law may only be issued to a “resident” as defined in the *Wildlife Act*; or
 - b. be a British Columbia “resident” as defined in the *Wildlife Act* and be exempt from the requirement to possess a British Columbia resident hunting licence while hunting in British Columbia.
20. The designated individual must:
- a. be the spouse or a Child or a grandchild of the Tla'amin Citizen;
 - b. be qualified to possess and operate a firearm under Federal and Provincial Law;
 - c. have provided to the Tla'amin Nation, a signed agreement to provide harvested Wildlife to Tla'amin Citizens for Domestic Purposes;

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- d. carry on his or her person and present to an authorized individual upon request, any documentation issued by the Tla'amin Nation as evidence of the designation; and
 - e. harvest in accordance with this Agreement.
21. Each year, if requested by the Minister, the Tla'amin Nation will provide to the Minister a list of all individuals who are authorized under paragraph 17.

HARVESTING WILDLIFE OUTSIDE THE WILDLIFE AND MIGRATORY BIRDS HARVEST AREA

22. Nothing in this Agreement precludes Tla'amin Citizens from harvesting Wildlife throughout Canada in accordance with:
- a. Federal and Provincial Law; or
 - b. Federal and Provincial Law and:
 - i. any agreements between the Tla'amin Nation and other aboriginal groups;
 - ii. any arrangements between other aboriginal groups and Canada or British Columbia; or
 - iii. any agreements between the Tla'amin Nation and British Columbia.

INCIDENTAL USE OF RESOURCES

23. Tla'amin Citizens may use resources on provincial Crown land within the Wildlife and Migratory Birds Harvest Area for purposes reasonably incidental to the exercise of the Tla'amin Right to Harvest Wildlife, subject to Federal and Provincial Law.

SALE, TRADE AND BARTER

24. Tla'amin Citizens may, in accordance with Federal and Provincial Law, sell Wildlife and Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife.
25. The Tla'amin Nation has the right to Trade and Barter Wildlife and Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife:
- a. among themselves; or
 - b. with other aboriginal people of Canada.
26. The right to Trade and Barter under paragraph 25 is held by the Tla'amin Nation and cannot be alienated.
27. Tla'amin Citizens may exercise the right to Trade and Barter under paragraph 25 except as otherwise provided under Tla'amin Law.

TRANSPORT AND EXPORT

28. Any transport of Wildlife or Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife will be in accordance with Federal and Provincial Law and Tla'amin Law under paragraph 35.

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29. Any export of Wildlife or Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife will be in accordance with Federal and Provincial Law.

LICENCES AND FEES

30. Subject to paragraph 31, Tla'amin Citizens are not required to have federal or provincial licences or pay any fees or royalties to Canada or British Columbia relating to the exercise of the Tla'amin Right to Harvest Wildlife.
31. Nothing in this Agreement affects Canada's ability to require Tla'amin Citizens to obtain licences for the use and possession of firearms under Federal Law on the same basis as other aboriginal people of Canada.

LAW-MAKING AUTHORITY

32. The Tla'amin Nation may make laws in respect of the Tla'amin Right to Harvest Wildlife for:
- a. the administration of documentation to identify Tla'amin Citizens as harvesters of Wildlife;
 - b. the designation of Tla'amin Citizens as harvesters of Wildlife;
 - c. the methods, timing and geographic location of the harvest of Wildlife;
 - d. the distribution among Tla'amin Citizens of harvested Wildlife;
 - e. the Trade or Barter of Wildlife and Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife; and
 - f. other matters agreed to by the Parties.
33. Tla'amin Law under paragraph 32 prevails to the extent of a Conflict with Federal or Provincial Law.
34. The Tla'amin Nation will make laws to require Tla'amin Citizens harvesting under the Tla'amin Right to Harvest Wildlife to comply with any conservation measures established by the Minister.
35. The Tla'amin Nation will make laws to require all individuals who harvest or transport Wildlife or Wildlife parts, including meat and furs, in accordance with this Agreement to carry documentation issued by the Tla'amin Nation and produce that documentation upon request by an authorized individual.
36. Federal or Provincial Law prevails to the extent of a Conflict with Tla'amin Law under paragraph 34 or 35.

DOCUMENTATION

37. The Tla'amin Nation will issue documentation to identify:
- a. Tla'amin Citizens who are authorized by the Tla'amin Nation to exercise the Tla'amin Right to Harvest Wildlife;
 - b. individuals designated under paragraph 17; and

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- c. individuals who transport Wildlife or Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife.
38. The documentation issued under paragraph 37 will:
- a. be in the English language which will be the authoritative version and, at the discretion of the Tla'amin Nation, in the Tla'amin language;
 - b. include sufficient information to identify the individual; and
 - c. meet any other requirements under Tla'amin Law.

REASONABLE OPPORTUNITY

39. British Columbia may authorize the use or disposition of provincial Crown land and any such authorized use or disposition may affect the methods, times and locations of harvesting Wildlife under the Tla'amin Right to Harvest Wildlife, provided that British Columbia ensures that any such authorized use or disposition does not deny the Tla'amin Nation the reasonable opportunity to harvest Wildlife under the Tla'amin Right to Harvest Wildlife.
40. For the purposes of paragraph 39, British Columbia and the Tla'amin Nation will negotiate and attempt to reach agreement on a process to evaluate the impact of authorized uses or dispositions of provincial Crown land on the Tla'amin Nation's reasonable opportunity to harvest Wildlife.
41. The Tla'amin Right to Harvest Wildlife will be exercised in a manner that does not interfere with authorized uses or dispositions of provincial Crown land existing as of the Effective Date or authorized in accordance with paragraph 39.

CONSERVATION MEASURES

42. The Minister will Consult with the Tla'amin Nation regarding a conservation measure, proposed by the Minister or the Tla'amin Nation, in respect of a Wildlife species within the Wildlife and Migratory Birds Harvest Area including the Tla'amin Nation's role in the development and implementation of the conservation measure.
43. When considering a conservation measure proposed under paragraph 42, the Minister will take into account:
- a. the conservation risk to the Wildlife species;
 - b. the population of the Wildlife species:
 - i. within the Wildlife and Migratory Birds Harvest Area; and
 - ii. within its normal range or area of movement outside the Wildlife and Migratory Birds Harvest Area; and
 - c. the necessity for and the nature of the proposed conservation measure.
44. Before authorizing the implementation of a conservation measure that will affect the Tla'amin Right to Harvest Wildlife, the Minister will use reasonable efforts to minimize the impact of the conservation measure on that right.

45. The Minister will provide to the Tla'amin Nation:
- a. a copy of any approved conservation measure in respect of a Wildlife species within the Wildlife and Migratory Birds Harvest Area; and
 - b. at the request of the Tla'amin Nation, written reasons for the adoption of that conservation measure.

TLA'AMIN ALLOCATION

46. Where the Minister determines that establishing a Tla'amin Wildlife allocation is a necessary conservation measure, British Columbia and the Tla'amin Nation will negotiate and attempt to reach agreement on that allocation.
47. Where British Columbia and the Tla'amin Nation fail to agree on a Tla'amin Wildlife allocation under paragraph 46, the dispute will be finally determined by arbitration under the Dispute Resolution Chapter.
48. In determining the Tla'amin Wildlife allocation under paragraph 47, the arbitrator will take into account all relevant information provided by the Tla'amin Nation and British Columbia.

ELK ALLOCATION

49. The Tla'amin Wildlife allocation for Roosevelt elk in the Wildlife and Migratory Birds Harvest Area is set out in Schedule 1.

MANAGEMENT

50. The Tla'amin Nation and British Columbia may enter into information sharing agreements regarding Wildlife and Wildlife management.
51. The Tla'amin Nation and British Columbia will share information in respect of the harvesting of any Wildlife species that are subject to a conservation measure.
52. In the absence of an agreement under paragraph 50, the Minister may request information concerning the activities of the Tla'amin Nation and Tla'amin Citizens in respect of Wildlife harvested under the Tla'amin Right to Harvest Wildlife.
53. When making a request for information under paragraph 52, the Minister will provide the Tla'amin Nation with sufficient information to enable it to be adequately informed of the purpose for the request.
54. Where the Tla'amin Nation declines to provide information requested under paragraph 52:
- a. the Tla'amin Nation will provide the Minister with reasons for so declining; and
 - b. the Minister may refer the dispute as to whether the Tla'amin Nation will provide the requested information for resolution under the Dispute Resolution Chapter.

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REGIONAL MANAGEMENT PROCESS

55. Where British Columbia establishes a public or First Nation regional Wildlife management process for an area that includes any portion of the Wildlife and Migratory Birds Harvest Area:
- a. the Tla'amin Nation has the right to participate in that process; and
 - b. the Minister may request recommendations from that process before determining:
 - i. whether a Wildlife species will be, or continue to be, subject to a conservation measure; and
 - ii. the total allowable harvest for any Wildlife species.

GUIDING

56. Guide outfitter licences and guide outfitter certificates that exist on the Effective Date and are set out in Part 4 of Appendix F-3 are retained by individuals who hold them and may be transferred or renewed in accordance with Provincial Law.
57. Angling guide licences that exist on the Effective Date are retained by individuals who hold them and may be transferred or renewed in accordance with Provincial Law.
58. British Columbia will Consult with the Tla'amin Nation before approving any proposed transfer or change in boundaries of any guide outfitter area that applies to any portion of the Wildlife and Migratory Birds Harvest Area.
59. The Tla'amin Nation will not unreasonably restrict access to Tla'amin Lands for the purpose of carrying out guiding activities to any individual who:
- a. holds a guide outfitter licence or guide outfitter certificate set out in Part 4 of Appendix F-3, an angling guide licence that exists on the Effective Date or any renewal or replacement thereof by transfer; or
 - b. is an agent or employee of any individual described in subparagraph 59.a.
60. Where a guiding territory that is wholly or partly located on Tla'amin Lands becomes vacant by reason of abandonment or operation of law, British Columbia will not issue a new guide outfitter licence or guiding territory certificate for that portion of the guiding territory located on Tla'amin Lands without the consent of the Tla'amin Nation.
61. Where an angling guide area that is wholly or partly on any portion of a watercourse or water body within Tla'amin Lands becomes vacant by reason of abandonment or operation of law, British Columbia will not issue a new angling guide licence for that portion of the watercourse or water body within Tla'amin Lands without the consent of the Tla'amin Nation.

SCHEDULE 1 - ELK ALLOCATION

1. The Tla'amin Wildlife allocation for Roosevelt elk in the Wildlife and Migratory Birds Harvest Area is 50% of the total allowable harvest of Roosevelt elk for each of the Powell-Daniels Harvest Area, the Theodosia Harvest Area and the Lois Harvest Area.

2. The Tla'amin Nation may enter into an agreement or protocol with another aboriginal group to authorize members of that aboriginal group who are aboriginal people of Canada resident in British Columbia to harvest all or part of the Tla'amin Wildlife allocation of Roosevelt elk.