

**FRAMEWORK AGREEMENT FOR A
WHITECAP DAKOTA TREATY
TO ADVANCE DAKOTA RECONCILIATION**



Canada

**FRAMEWORK AGREEMENT FOR A WHITECAP DAKOTA
TREATY TO ADVANCE DAKOTA RECONCILIATION**

between

WHITECAP DAKOTA FIRST NATION

**as represented by Whitecap Dakota First Nation Chief and Councillors
(hereinafter referred to as "WDFN")**

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,

**as represented by the Minister of Indian Affairs and Northern Development
(hereinafter referred to as "Canada")**

Whereas s. 35 of the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and Treaty rights of the Aboriginal peoples of Canada;

Whereas WDFN is a Dakota First Nation descended from the Dakota, who according to archeological and documentary evidence, place names and oral history, since time immemorial, traditionally used and were present on lands that would become Canadian after Confederation;

Whereas the Dakota were long-standing allies of the British Crown prior to Canadian Confederation, and enjoyed agreements of peace, friendship, trade, and alliance with Britain since at least 1787, including during the American Revolution and the War of 1812;

Whereas the British Crown sought and obtained alliance and military support from the Dakota during the War of 1812 and, in so doing, promised to preserve and protect Dakota territories;

Whereas Canada acknowledged and recognized the descendants of Britain's First Nation allies from the War of 1812 at a bicentennial commemoration ceremony in Ottawa which included WDFN;

Whereas the British concluded the Treaty of Ghent in 1814, establishing peace between Britain and the United States, which had the effect of surrendering jurisdiction over Dakota territory south of the 49th parallel to the United States without consulting the Dakota;

Whereas the Convention of 1818 established the 49th parallel as the boundary between British North America and the United States;

Whereas WDFN is not Party to any of the Numbered Treaties entered into between Canada and various First Nations;

Whereas Chief Whitecap was present at Treaty discussions for both Treaty 4 and Treaty 6, but was not invited to sign either of these Treaties because of Government of Canada policy concerning the Dakota at that time;

Whereas Chief Whitecap, along with John Lake, has been publicly recognized as one of the founding fathers of Saskatoon;

Whereas the Order-in-Council that provided for the creation of the WDFN reserve allotted 80 acres per family of five, while the terms of Treaties 4 and 6 in the vicinity allotted one square mile per family of five;

Whereas, because of their exclusion from treaty, WDFN Members do not enjoy the same Treaty recognition and benefits as do the members of neighbouring First Nations that are Treaty signatories;

Whereas members of Treaty First Nations who transfer their membership to WDFN lose their Treaty status and benefits, as do their children;

Whereas Canadian courts have stated, and WDFN and Canada agree, that the reconciliation between the prior presence of Indigenous peoples and the assertion of sovereignty by the Crown is best achieved through negotiation and agreement;

Whereas WDFN and Canada wish to re-affirm and recognize their history of alliance and friendship, and to reconcile their respective rights and interests honourably and in a spirit of mutual respect;

And whereas Canada and WDFN seek meaningful reconciliation and to establish a new relationship between them;

Therefore, WDFN and Canada enter into this Framework Agreement to advance Dakota reconciliation, including with the intention to bring forward for the approval of the respective Parties a mandate to negotiate a Whitecap Dakota Treaty.

Purpose

1. This Framework Agreement outlines the objectives, scope and process for exploratory discussions between WDFN and Canada.

Objectives

2. The Parties' objective is to co-develop a negotiation mandate for a Treaty between Canada and WDFN that will:
 - a) uphold with Honour of the Crown with respect to its relationship with WDFN;
 - b) reconcile the assertion of Crown sovereignty with any prior use and occupation of lands by the Dakota peoples from whom WDFN is descended;
 - c) advance enduring reconciliation within the Crown-WDFN Relationship;
 - d) recognize WDFN's rightful place within the fabric of Canadian society;
 - e) re-affirm and recognize the Parties' history of alliance and friendship and the Dakota contributions to Canada, past and present;
 - f) provide WDFN sufficient community infrastructure investments to accommodate future growth;
 - g) restore and protect WDFN culture and language;
 - h) establish a community land base adequate to support a sustainable community and economy and that provides economic opportunities for WDFN members; and
 - i) create the foundation for WDFN to actualize its vision for self-determination.
3. In relation to establishing an adequate land base, the Parties may consider, among other things, the following approaches:
 - a) the transfer of existing federal and/or provincial Crown lands;
 - b) the acquisition of lands in urban areas; and
 - c) the resources to enable WDFN to acquire additional lands.

At WDFN's option, and subject to Canada's Addition to Reserve Policy, the Parties will agree to a process to transfer some or all newly acquired lands to reserve status.

Scope

4. Items for discussion in the co-development of a mandate will include:
 - a) the means to recognize WDFN's rightful place within Canada, including the expression of that recognition in a Whitecap Dakota Treaty;

- b) an acknowledgement of the contributions made by the Dakota in the founding and subsequent development of Canada, including the contemporary contributions of WDFN;
- c) appropriate measures to realize equitable treatment and benefits as between WDFN and Treaty First Nations
- d) access for WDFN to the resources necessary to support sustainable governance and community development, including determining the land base required to support a sustainable community;
- e) the consideration of mechanisms to enable WDFN to restore and protect the Dakota language and culture in the WDFN community;
- f) the identification of necessary elements to support a renewed government-to-government and nation-to-nation relationship, including the mechanisms to effectively implement a Whitecap Dakota Treaty;
- g) an examination of the means and process by which a Whitecap Dakota Treaty would be recognized constitutionally;
- h) the consideration of other approaches for reconciliation, including adhesion to existing Treaties or other forms of agreement; and
- i) other initiatives and projects that reflect the spirit and intent of this Framework Agreement.

Distinct from the WDFN Governance Agreement

5. The Whitecap Dakota Treaty will be complementary to but distinct from the WDFN Governance Agreement currently being negotiated, supporting the Parties' ongoing relationship.

Role of the Province of Saskatchewan

6. The Parties acknowledge that some matters may fall under provincial jurisdiction fully or partially. Therefore, the Parties will examine what involvement of the Province of Saskatchewan is necessary to support the arrangements being considered including the possible need for parallel agreements, either concurrent with or subsequent to the Whitecap Dakota Treaty.
7. WDFN will continue its bilateral meetings with the Government of Saskatchewan and facilitate tripartite discussions where it would help advance the Parties' objectives in advancing reconciliation.

Process

8. The Parties acknowledge that they have their own policies to govern their approaches in future negotiations, have their own internal consultation and approvals processes, and their own necessary signing authorities for any resultant agreement.
9. The federal team will coordinate the participation of other federal departments where it would help advance the Parties' objectives in relation to advancing reconciliation.
10. The Parties agree to target the completion of the co-development of a negotiation mandate under this Framework Agreement within 180 days of signing.
11. The Parties recognize that a Final Agreement may be comprised of a series of incremental or interim agreements or arrangements that achieve the objectives of this Framework Agreement.
12. In the course of discussions under this Framework Agreement, the Parties will annually agree on a joint table work plan that:
 - a) will identify initiatives and establish target dates to achieve the Parties' objectives;
 - b) determine the schedule and budget for meetings, and the approaches to communications, as necessary;
 - c) may be revised from time to time as the Parties' priorities evolve without requiring an amendment of this framework agreement; and
 - d) can serve as the basis for an annual funding proposal by WDFN.

In order to achieve administrative efficiencies, the joint table work plan may be incorporated into the annual work plan for the self-government agreement negotiation table.
13. The Parties recognize that WDFN requires reasonable capacity to participate in the negotiation process contemplated under this Framework Agreement. Subject to federal eligibility and program requirements, WDFN may access federal policies, funding and initiatives that support the participation of Indigenous groups in negotiations with Canada, which are subject to yearly appropriations of funds by Parliament.
14. This Framework Agreement will continue until such time as one or the other Party should wish to suspend or terminate discussions, or by mutual agreement.
15. This Agreement is not legally binding on either Party; and the discussions conducted within its parameters will be conducted without prejudice to any legal position that may be taken by either Party in a legal proceeding, negotiation, or other process.

16. While the Parties may disclose publicly the Parties involved in this table and any signed agreements, all discussions and documents shared in the course of discussions under this Framework Agreement will be confidential unless both Parties expressly agree to release information to outside stakeholders or the general public.

Signed at Whitecap Dakota First Nation this 22 day of Jan., 2018.

For Whitecap Dakota First Nation

For Canada

<Original signed by>

Chief

<Original signed by>

Councillor

<Original signed by>

Councillor

<Original signed by>

Minister