

Canada



ESKETEMC

**AGREEMENT-IN-PRINCIPLE
ESKETEMC CULTURE, LANGUAGE
AND HERITAGE CHAPTER**

**Public Release Chapter
October 5, 2006**

This public release document is tabled for discussion purposes only. It is not necessarily representative of the final position which may be taken in respect of a matter, and is subject to change. It is without prejudice to the position of the parties in any proceeding before any court or in any other forum and will not be construed as an admission of fact or liability and will not be tendered or relied upon in any such proceedings.

ESKETEMC CULTURE, LANGUAGE AND HERITAGE CHAPTER

BACKGROUND

Canada, British Columbia and the Esketemc are engaged in treaty negotiations in the British Columbia Treaty Commission process. Our treaty negotiations include public consultation and internal review of documents under negotiation by the three Parties.

This document is part of a group of chapters under negotiation for the purposes of an Agreement-in-Principle.

OBJECTIVE

The Parties are releasing this document as a sample for public information. However, it is intended that the Chapters in any future Esketemc Agreement-in-Principle would be read and understood in the context of the Agreement-in-Principle as a whole.

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ESKETEMC CULTURE, LANGUAGE AND HERITAGE CHAPTER

DEFINITIONS

“Ancestral Remains” means human remains found within the Esketemc Territory that are determined to be of aboriginal ancestry.

“Associated Burial Objects” means objects which, by their attributes and location, can be demonstrated to have been placed in direct association with the burial of a human being as part of a burial practice or ritual.

“Cultural Site” means a burial, sustenance*, sacred, or spiritual site of cultural or historical significance to Esketemc.

“Esketemc Ancestral Remains” means Ancestral Remains that are reasonably considered to be of Esketemc ancestry.

“Esketemc Cultural Materials and Objects” means any object created by, traded to, commissioned by or given as a gift to an Esketemc person or Esketemc community or that originated from the Esketemc community or Cultural Site and that has a past and ongoing importance to Esketemc culture or spiritual practices.

“Esketemc Territory” means the area of land that Esketemc identified in its Statement of Intent to the British Columbia Treaty Commission, as set out in Appendix A.

“Secwepemctsin” means the traditional language of Shuswap people.

LAW-MAKING AUTHORITY / JURISDICTION*

1. The Esketemc Government may make Laws applicable on the Esketemc Lands in respect of:
 - a) the management, conservation and protection of Cultural Sites and Esketemc Cultural Materials and Objects;
 - b) the preservation, promotion, development and teaching of Secwepemctsin and Secwepemc culture;
 - c) the certification and accreditation of teachers of Secwepemctsin and Secwepemc culture;
 - d) access to Cultural Sites and Cultural Materials and Objects; and
 - e) the disposition of Esketemc Ancestral Remains and Associated Burial Objects that are not the subject of a police or coroner investigation.
2. In the event of a Conflict of Law between a federal or provincial Law and an Esketemc Law made under paragraph 1 the Esketemc Law will prevail to the extent of the Conflict of Law.

ANCESTRAL REMAINS

3. At the request of the Esketemc, Canada or British Columbia will negotiate and attempt to reach agreement with the Esketemc Government in respect of the transfer to the Esketemc Government of Esketemc Ancestral Remains, not the subject of a police or coroner investigation, and Associated Burial Objects that are or come into the permanent collection of Canada or British Columbia.
4. Transfers contemplated under Paragraph 3 will respect Esketemc laws in respect of Esketemc Ancestral Remains and Associated Burial Objects and will comply with federal and provincial laws, including the statutory mandates of Parks Canada, the Canadian Museum of Civilization and the Royal BC Museum.
5. In the event of competing claims respecting Ancestral Remains and/or Associated Burial Objects, the Esketemc and the other interested First Nation(s) will resolve the competing claim between them and will provide Canada and BC with written confirmation of the settlement of the dispute prior to further negotiation of an agreement under paragraph 3.

ESKETEMC CULTURAL MATERIALS AND OBJECTS AND ASSOCIATED RECORDS

6. For purposes of paragraphs 7 to 10 Esketemc Cultural Materials and Objects does not include any object sold or traded to, commissioned by or given as a gift, to a person or a First Nation.
7. The Final Agreement will set out provisions between Canada or British Columbia and the Esketemc Government for the disposition of or custodial arrangements for Esketemc Cultural Materials and Objects and associated records in the permanent collection of the Canadian Museum of Civilization and the Royal BC Museum.
8. If any Esketemc Cultural Materials and Objects and associated records are or come into the permanent collection of Parks Canada, the Canadian Museum of Civilization or RBCM, Parks Canada, the Canadian Museum of Civilization, or RBCM may lend, or transfer its interest in those Esketemc Cultural Materials and Objects and may copy for, lend or transfer associated records to the Esketemc Government in accordance with any agreements negotiated outside the Final Agreement.
9. Agreements contemplated under paragraphs 7 and 8 will respect Esketemc laws in respect of Esketemc Cultural Materials and Objects and will comply with federal and provincial laws, including the statutory mandates of Parks Canada, the Canadian Museum of Civilization and the Royal BC Museum.
10. In the event of competing claims respecting Cultural Materials and Objects and associated records, the Esketemc and the other interested First Nation(s) will resolve the competing claim between them and will provide Canada and BC with written confirmation of the settlement of the dispute prior to further negotiation of an agreement under paragraph 7 or 8.

ACCESS TO OTHER COLLECTIONS

11. At the request of the Esketemc Government, the federal and provincial governments will use reasonable efforts to facilitate the Esketemc Government access to other Canadian public collections that are known to hold Esketemc Ancestral Remains which are not the subject of a police or coroner investigation and/or Associated Burial Objects.
12. At the request of the Esketemc Government, the federal and provincial governments will use reasonable efforts to facilitate the Esketemc Government access to other Canadian public collections that are known to hold Esketemc Cultural Materials and Objects and associated records.

PLACE NAMES

13. Esketemc will develop a list of key geographic features to be named or renamed in Secwepemctsin and British Columbia and Esketemc will use reasonable efforts to reach agreement on the list, to be set out in the Final Agreement.
14. At the request of the Esketemc, British Columbia will record names in Secwepemctsin and historic background information submitted by Esketemc for inclusion in the British Columbia geographic names database for the geographic features that are set out in the Final Agreement, in accordance with provincial policy and procedures.
15. Esketemc may propose that British Columbia name or rename other geographic features with names in the Secwepemctsin language, and British Columbia will consider those proposals in accordance with provincial laws and policy.

RECOGNITION OF ESKETEMC CULTURE, LANGUAGE AND HERITAGE

16. Esketemc and British Columbia may mutually enter into agreements consistent with provincial programs in operation, from time to time, to erect signs within the Esketemc Territory commemorating sites of significant cultural, heritage or spiritual importance to the Esketemc or to otherwise commemorate Esketemc language, heritage and culture.

OUTSTANDING ISSUES:

Intellectual Property

*"Sustenance" as used in the definition of "Cultural Site"

*"Law-Making Authority / Jurisdiction" as used for a section heading