



BRITISH
COLUMBIA



Ktunaxa Kinbasket Treaty Council

Canada

Ktunaxa Kinbasket Treaty Council Treaty Negotiations

SUBSURFACE RESOURCES CHAPTER

Public Information Draft #1

MARCH 30, 2005

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SUBSURFACE RESOURCES CHAPTER

BACKGROUND

Canada, British Columbia and the Ktunaxa Kinbasket Treaty Council are engaged in treaty negotiations in the British Columbia Treaty Commission process. Our treaty negotiations include public consultation and internal review of documents jointly drafted by the three Parties.

The preparation of this public information draft is one step in the negotiation process leading to the completion of a chapter that will be included in the Agreement-in-Principle.

The Parties are releasing this document for public information and for consultation purposes.

For further information on the negotiations, please contact any of the following people:

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DEFINITIONS

In this Agreement:

“Dimension Stone” means a rock or stone product that is cut or split on 2 or more sides, including, without limitation, tiles, facing stone, crushed rock that is reconstituted into building stone, headstones, monuments, statues, ornamental furnishings and other similar components, but not including crushed, cut or split rock that is used for a construction purpose;

“Fossils” means remains, traces or imprints of animals or plants that have been preserved in rocks and includes bones, shells, casts and tracks;

“Geothermal Resources” means the natural heat of the earth and all substances that derive thermal energy from it, including steam, water or water vapour, but does not include hydrocarbons or water that has a temperature of less than 80 degrees Celsius at the point where it reaches the surface;

[“Ktunaxa Lands”] means...

[“Ktunaxa Nation”] means...

“Minerals” means an ore of metal or a natural substance that can be mined, including:
a) rock and other materials from mine tailings, dumps and previously mined deposits of minerals; and
b) Dimension Stone;

“Natural Gas” means all fluid hydrocarbons that are not defined as Petroleum, and includes coalbed gas and hydrogen sulphide, carbon dioxide and helium produced from a well;

“Petroleum” means crude petroleum and all other hydrocarbons, regardless of specific gravity, that are or can be recovered in liquid from a pool or that are or can be recovered from oil sand or oil shale;

“Placer Minerals” means ore of metal and every natural substance that can be mined and that is either loose or found in fragmentary or broken rock that is not talus rock and occurs in loose earth, gravel and sand, and includes rock or

other materials from placer mine tailings, dumps and previously mined deposits of placer minerals;

“Subsurface Resources” means:

- a) earth, including diatomaceous earth, soil, peat, marl, sand and gravel;
- b) slate, shale, argillite, limestone, marble, clay, gypsum, volcanic ash, rock, riprap and stone products;
- c) Minerals, including Placer Minerals;
- d) coal, Petroleum and Natural Gas;
- e) Fossils; and
- f) Geothermal Resources;

KKTC is reviewing this definition to ensure it includes all subsurface resources that may be used for domestic use purposes.

OWNERSHIP OF SUBSURFACE RESOURCES ON [KTUNAXA LANDS]

- 1. The [Ktunaxa Nation] owns Subsurface Resources on [Ktunaxa Lands][with the exception of parcels listed in Appendix X].

The exception would only apply if some Ktunaxa Land does not include title to subsurface resources.

FEES, RENTS [, ROYALTIES] AND OTHER CHARGES

- 2. [Subject to subsection (4), as owners of the Subsurface Resources, the [Ktunaxa Nation] may set fees, rents [, **royalties**] or other charges prior to the development and extraction of Subsurface Resources owned by the [Ktunaxa Nation] on [Ktunaxa Lands].]

The KKTC are considering the addition of Royalties to this section.

Taxation issues related to this clause to be addressed when taxation is negotiated.

LAW-MAKING

- 3. [Nothing in the Final Agreement will confer an authority to make laws on the [Ktunaxa Nation] in relation to the exploration for, development, production, use and application of nuclear energy and atomic energy and the production and use, for any purpose, of nuclear substances, prescribed substances, prescribed equipment and prescribed information.]

- 4. [For greater certainty, nothing in the Final Agreement will limit or restrict the operation of federal or provincial laws with respect to Subsurface Resources on [Ktunaxa Lands].]

DOMESTIC USE FOR FOOD, SOCIAL AND CEREMONIAL PURPOSES

TRADE AND BARTER

ECONOMIC ACCESS

MANAGEMENT AND PLANNING PROCESSES

KKTC exploring need for law-making authority

The parties will discuss options for addressing, these topics in a general way.