



## **'Namgis First Nation Land Designation Process on Cheslakee I.R. #3 for Designation Vote on April 6, 2017**

### **FREQUENTLY ASKED QUESTIONS**

Council has heard many questions about the designation vote coming up. We have compiled the most common questions and tried to provide clear, short answers. We hope they help you make your decision.

If you have other questions, or would like more detailed information, here are ways to make contact:

'Namgis administration office:

[designation@namgis.bc.ca](mailto:designation@namgis.bc.ca) (This address will be active to April 6) or 250-974-5556

Indigenous and Northern Affairs Canada Electoral officers:

Petula Maxwell, 604-562-9182

Graham Ambrose, 604-364-6896

#### **What exactly is a designation vote?**

A designation vote is a vote to decide whether a parcel of land on a reserve can be made available for leasing. It's not voting on an actual lease, and it doesn't mean a lease will happen. It's a vote on whether to give permission to the federal government, the legal owner of all reserve lands, to make the designated part of our lands available for leasing. The designation vote is just first step in a process to allow any outside group to use that part of the reserve.

#### **What is the rest of the designation process?**

If members vote to approve a designation, then there are two more steps that require the approval of members.

1. The first step is for members to vote on what is called a **Head Lease**.

The Head Lease is between the federal government and the 'Namgis First Nation or a holding company it creates. 'Namgis Council and the federal government will negotiate

terms for a 110-year lease on the parcel. Then the terms of the lease will be presented to the members for approval.

2. The next step is for members to vote on what is called a **Sublease**.

If members vote to approve the Head Lease, then the 'Namgis and any group that wants to use the land will negotiate the terms for a Sublease. For this parcel, a Sublease could be negotiated with Kuterra, or with a new owner or investor in Kuterra, or another commercial interest. Alternatively, the parcel could be subdivided and leased out to more than one party.

### How long would the leases last?

The Head Lease would be for 110 years. The Sublease could be for a shorter length of time. The length of the Sublease is a matter for negotiation.

### What land would be covered by a Sublease?

The Sublease could cover all or part of Lot 1, which is the parcel that is being considered for designation. If the Sublease covers only a portion of Lot 1, the lot would have to be subdivided before this could happen.



## **How much rent would 'Namgis receive from the Sublease?**

We would have to negotiate the amount of the lease fee. There's an appraised market value of the parcel of land, but we are not bound by this value. We expect that the negotiators would get the best possible value from the lease.

## **Why do we need a Head Lease with the federal government?**

Legally, the federal government owns all 'Namgis reserve lands, but 'Namgis members are the legal beneficiaries. So the legal owner, the federal government, needs approval from 'Namgis members before it can lease our reserve lands. And that's why there are two leases. The first lease, the Head Lease, is between 'Namgis and the federal government, and this lease, allows 'Namgis to negotiate with any other party on a Sublease.

Federal laws also require the government to run the designation process, and it sets out very strict rules about information and voting.

## **Have 'Namgis reserve lands been designated before?**

'Namgis had to go through a designation process before the Cormorant Island hospital could be built. Members had to vote to approve designation of that parcel of Alert Bay Reserve #1A to be available for leasing. The designation was approved, and then the two leases were negotiated, with members being asked to approve the terms for each lease. Elsewhere, other Nations have held designations to allow for various uses of parts of their Reserves.

## **What is a timber surrender revocation?**

A revocation is an undoing, or a taking back process. Revoking a surrender means undoing or removing a surrender that has already happened. We want to undo a surrender of timber on the I.R. #3 that happened in 1947. Timber surrenders were fairly common on reserve lands at that time. They were the only legal way to cut timber on reserve lands. It's not clear, however, if there was ever any timber cut at the time, and if there was, who got the benefits. We are still looking for answers to these questions and have asked federal officials and our legal counsel to check their records further.

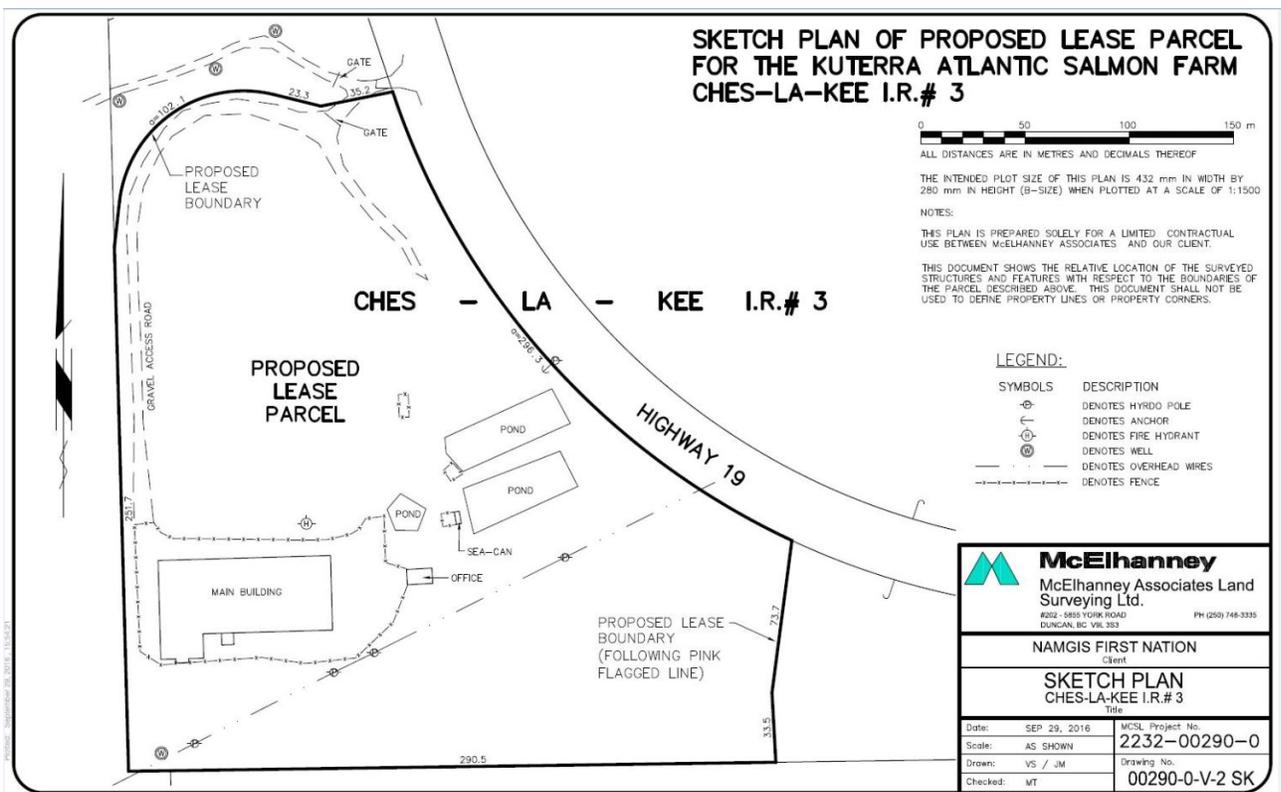
## **Why is the timber surrender revocation vote happening now?**

The revocation vote is happening now because the old timber surrender has only just been discovered on the books in Ottawa. Nothing can happen with the land until the old

timber surrender is undone. So a vote to remove, or revoke the surrender will make sure there are no legal barriers to future decisions about the land.

### Why is the designation vote being held now?

The vote is being held now to offer a pathway for removing the 'Namgis obligation for loan guarantees that the Nation took responsibility for on behalf of Kuterra. These guarantees were taken on in 2012 and 2013, while Kuterra was working through research and development. Kuterra still has to pay down the loans that the Nation guaranteed. To do this it needs to bring in outside investment. Outside investors will want security for their investment, and the way to provide security is with a lease.



### What are the odds that 'Namgis will see financial benefits if designation is approved?

There is no guarantee that the Nation will be relieved of all its financial obligations, let alone come out ahead. But the odds are much greater with a designation than without one. There is substantial interest in Kuterra from many different parties, several of whom have expressed interest in potentially buying or investing in Kuterra. They all see value in Kuterra and what it has achieved, in demonstrating a way to grow Atlantic salmon without open net-pens. Kuterra hopes to use this interest to find a deal with an investor that would allow it to pay off its loans. This in turn would free up the money that

'Namgis have set aside for the loan guarantees. But all investors need to have a lease in the company in order to invest.

### **What are happens if there is no designation?**

If there is no designation, Kuterra still has some options for its future, but they don't offer as much potential benefit to 'Namgis as the options involving an outside investor. So the odds of 'Namgis being freed of its all its loan guarantees aren't as great as with a designation.

### **Will we lose control of the land?**

No, 'Namgis will have control of the land through the terms of the leases. Council will negotiate terms in the Head Lease and the Sublease that will protect the Nation against potential risks, and members will vote on whether those protections are good enough. If members approve, and once the leases are in place, then any party leasing the land will have to live by the terms of the lease or else suffer penalties spelled out in the lease.

### **Does the leased land become alienated?**

No, leased lands will remain reserve lands. A designation is different from a surrender of reserve lands. With an absolute surrender of Reserve lands, the lands can be sold and lose their status as Reserve lands. However, with a designation, the lands can be leased but will still retain their status as reserve lands. If you vote yes to a designation of Lot 1, Lot 1 will remain Indian reserve lands.

### **Would the Sublease be only for the Kuterra operation?**

No it doesn't have to be Kuterra. The vote allows negotiation for a lease for the current aquaculture operation, and/or any other commercial purpose, except for mining. We will decide what use offers the best value for the Nation.

We can also decide whether we want to sublease only a part of the parcel. Again, we will look at the options and see what offers best value for the nation.

### **What is the environmental impact of the Kuterra operation to date, and the possible impact of a lease?**

There have been three environmental studies of the Kuterra site and the operation. All the studies show that the operation has been environmentally safe. There are no harmful substances or organisms released by the farm.

## What are the different values in the land in this parcel?

When you come to make your decision on designation for this parcel of land, Lot 1, you may want to consider these values:

**Cultural value:** Archeology done on the parcel before Kuterra was build found some stone flakes and similar artifacts. The site is not as culturally significant as Xwalkw, the old village and surroundings, located on the opposite bank of the river.

**Environmental value:** The parcel does not have as much environmental richness and diversity as the estuary and areas along the river. The environmental value it does have is protected by Kuterra operation methods, and this has been confirmed by independent monitors.

**Access to food:** As with environmental values, the parcel is not as rich in food or access as the river and its estuary.

**Commercial value:** The parcel has commercial value from both the revenues that would come from the lease fees, and from its location along the the highway, because transportation access usually has commercial potential.

**Financial value:** This is the area of strongest potential value in the parcel. As noted above, if the parcel is designated, it could be used as security for investment, which could allow Kuterra to pay off its loans. This in turn could free up 'Namgis funds that are currently set aside to guarantee those loans.

