

Whitecap Dakota Self-Government Negotiations



An Overview

The Government of Canada and Whitecap Dakota First Nation are working together through negotiations toward a final self-government agreement. Self-government agreements give First Nations greater control over the decisions that affect their communities and ensure democratic accountability, laying the foundation for sound governance and an improved quality of life for their members.

Whitecap Dakota First Nation: At a glance

Whitecap Dakota First Nation is located 26 kms south of Saskatoon and has over 600 members living both on- and off-reserve, as well as about 180 non-members living on reserve. Whitecap Dakota First Nation created its own Land Code in 2004 and is currently operating under the *First Nation Land Management Act*. A second generation Land Code was ratified in 2010, which further enhances the investment and security environment for investors and lenders. Whitecap Dakota First Nation has established an accountability and governance track record, which has led to over \$100 million of investment, 650 jobs and an unemployment rate of 4% on-reserve.

Past Negotiation Milestones

Self-government discussions between the Government of Canada and Whitecap Dakota began in March of 2010, which led to Framework Agreement negotiations. The parties signed a Framework Agreement in January 2012. This Agreement sets out a process for Canada and the First Nation to negotiate a self-government agreement.

What is self-government?

Unless they have negotiated alternate self-government arrangements, most First Nations are currently governed by the *Indian Act*. The *Indian Act* establishes a limited and dependent form of local administration that is overseen by a federal Minister and does not take into account the specific circumstances of the community. Under the *Indian Act*, Band Councils are primarily accountable to the Minister of Aboriginal Affairs and Northern Development, rather than to their own community members.

Self-government brings First Nations out from under the *Indian Act*. It is about First Nations taking greater control over and making their own decisions about matters that affect their communities within the Canadian constitutional framework. Self-governing First Nations make laws and policies and exercise decision-making power in a broad range of matters internal to their communities and integral to their cultures and traditions.

While self-government arrangements are intended to replace the *Indian Act's* outdated governance and economic provisions, at the individual level, Whitecap Dakota First Nation members will continue to be recognized and treated as Status Indians under the *Act*. Self-government agreements ensure that the *Canadian Charter of Rights and Freedoms*, the *Canadian Human Rights Act* and other laws of general application such as the *Criminal Code* continue to apply to protect the interests of all residents on First Nation land.

Self-government agreements address the structure and accountability of First Nation governments, their law-making powers, financial arrangements and their responsibilities for providing programs and services to their members. Fostering good government and strong accountability in First Nation communities increases investor confidence, supports economic partnerships and can help to improve living conditions.



Current Status of Negotiations

Canada and Whitecap Dakota First Nation are now working toward an Agreement-in-Principle (AIP) that will identify what law-making powers the First Nation will have and how its government will be structured. An AIP is a non-binding agreement that sets out all of the key elements of an eventual final agreement, but without the technical and legal detail. The AIP and the final agreement will not create, abolish or modify any Aboriginal or treaty rights of Whitecap Dakota First Nation.

The AIP is the second step in a four-stage process.

The negotiations are progressing well, but much work remains to be done before an AIP can be concluded. This includes consultation with Whitecap Dakota First Nation members and those with direct interests, as well as information sharing with the public. Internally, Whitecap Dakota First Nation continues to develop its Constitution and foundational laws through its advisory committees. As well, it has already initiated steps in capacity building, co-governance and enhanced services – partnering with other levels of government – in its health and education programming.

Steps Toward a Final Agreement

- No self-government agreement is possible without the approval of Whitecap Dakota First Nation members.
- Once an AIP is reached, the next step will be approval by the First Nation and Canada. Following approval of the AIP, the parties will set a target date for completing the negotiation of a final agreement, including financial arrangements and an implementation plan.
- Once the final agreement is completed, the next steps would be the approval by First Nation members, then approval by the Parliament of Canada.

Looking Ahead

The negotiations mark the start of a process for determining the scope of Whitecap Dakota First Nation's law-making powers, including how they will manage their resources, preserve their culture, and build on their successes in community and economic development. The final agreement will increase the autonomy of Whitecap Dakota First Nation and strengthen the accountability of the First Nation government to Whitecap members. Building on current accountability practices, Whitecap Dakota First Nation will continue to provide audited financial statements to its members.

A self-government agreement will replace the outdated governance regime of the *Indian Act* and create new opportunities for the First Nation and its members. Moving toward full self-government is a continuation of Whitecap Dakota First Nation's broader nation-building strategy.



Chief Darcy Bear of Whitecap Dakota First Nation at the Framework Agreement signing ceremony. Ottawa, January 25, 2012.

Quick Facts about Aboriginal Self-government

- The negotiations with Whitecap Dakota are one example among a broad set of initiatives across Canada which enable First Nations to replace the outdated and unsuitable governing arrangements of the *Indian Act*.
- Self-government has been negotiated and implemented in a variety of forms in Canada. In collaboration with its Aboriginal and provincial/territorial partners, Canada has completed 19 comprehensive self-government agreements involving 33 Aboriginal groups and another establishing a public government in Nunavut involving 26 communities.
- There are currently about 85 self-government negotiation processes ongoing across the country. In many cases, self-government arrangements are negotiated in conjunction with comprehensive land claims.
- Negotiating and implementing self-government agreements is key to achieving reconciliation and rebuilding relationships with Aboriginal communities in Canada. Self-government also provides sound governance tools that can promote economic development.