

Sumas River Watershed Flood Mitigation Collaborative Framework

Dated for reference April 28, 2023

Between

Sumas First Nation
("Semá:th")

and

Leq'a-mel First Nation
("Leq'á:mel")

and

Matsqui First Nation
("Máthxwí")

and

The City of Abbotsford
("Abbotsford")

and

The City of Chilliwack
("Chilliwack")

and

**His Majesty the King in
Right of the Province of
British Columbia, as
represented by the
Minister of Emergency
Management and Climate
Readiness**
("British Columbia")

(individually, a "Party, and collectively, the "Parties")

Preamble

In recognition of the November 2021 extreme weather event and repeated flooding events in the Nooksack River and Sumas River watersheds and our shared interest to develop a Sumas River Watershed Flood Mitigation Plan (the "Plan"), the Parties jointly advance this framework for collaboration ("Framework") to identify and pursue actions for flood risk reduction and ecosystem restoration for our collective benefit. We are committed to working together to do things differently.

Scope

1. The Framework will apply to the Sumas River Watershed north of the Canadian border as depicted in Map 1.
2. The Parties acknowledge the historic relationship between and influence of the Chilliwack River Watershed, Nooksack River Watershed and Fraser River on flood risk within the Sumas River Watershed. While the primary role of this Framework is to address the threat of flooding from the Nooksack River, the Parties acknowledge an interest in addressing water quality and quantity risks throughout the area depicted in Map 2. The Parties will recognize the history of Semá:th Xhotsa (Sumas Lake), whose boundaries fluctuated, as depicted in Map 3.

Guiding Principles

3. This Framework will be guided by the following principles:
 - (a) We recognize that the challenge of managing flood risk in the Sumas River Watershed is bigger than any of us can solve alone. This Framework acknowledges that we will be more effective in advancing our shared priorities in relation to the Sumas River Watershed by working together and leveraging our collaborative efforts.
 - (b) We share a desire to strengthen cooperation to advance flood risk reduction in our communities, while restoring important habitat and ecosystem functions.
 - (c) Flood risk reduction and ecosystem restoration are important and require discussion, consensus building and engagement within communities and between levels of government, stakeholder and interested parties. The Parties commit to working individually and collectively with media, communities, other levels of government, stakeholders and other potentially affected groups and individuals in a manner that respects the need for transparency.
 - (d) Semá:th, Leq'á:mel and Máthxwi are Stó:lō people who hold Aboriginal Title and Rights, including the inherent right of self-government, as recognized and affirmed by s. 35(1) of the *Constitution Act*, 1982 and have inhabited S'ólh Téméxw (Map 4) since time immemorial, which includes lands, waters and resources within the Fraser Valley region of British Columbia.
 - (e) We also recognize that Canada and the Province have endorsed the United Nations Declaration on the Rights of Indigenous Peoples, and that the Province has enacted the *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019 c. 44 (DRIPA), and that we share an interest in exploring opportunities to advance the implementation of DRIPA through cooperation and collaboration.
 - (f) We recognize that Abbotsford and Chilliwack are local governments that operate through their statutory authority and obligations under the *Local Government Act*, RSBC 2015, c. 1, the *Community Charter*, SBC 2003, c. 26, and the *Dike Maintenance Act*, RSBC 1996, c. 95.
 - (g) Semá:th, Leq'á:mel and Máthxwi have jurisdiction over their reserve lands as signatories to the *Framework Agreement on First Nation Land Management* ("FAFNLM"), and pursuant to their respective Land Codes. FAFNLM is a First Nation-led government-to-government initiative that restores and recognizes Indigenous jurisdiction over reserve lands and resources. Strategic and tactical decisions or recommendations made under this framework that may impact reserve lands must comply with applicable legal requirements established by the FAFNLM, and the Semá:th, Leq'á:mel or Máthxwi Land Codes. We recognize that Federal reserve lands represent only a small fraction of the Indigenous Territories of Semá:th, Leq'á:mel and Máthxwi First Nation, and that collaborative efforts must be made to protect remaining reserve lands in Sumas Prairie, in particular Aylechootlook IR5 and Upper Sumas IR6.

- (h) We value the environment and natural resources of the Sumas River Watershed, including five Salmonid species, Pacific White Sturgeon, Steelhead, and Species at Risk (Red Legged Frog, Mountain Beaver, Barn Owl, Western Painted Turtle for example) and other species of concern.
- (i) We recognize that climate change is deeply impacting our shared communities, infrastructure, economies, ecosystems and way of life. We anticipate that extreme flooding events in the Nooksack River and Sumas River Watersheds are likely to become more frequent and more severe with climate change.
- (j) We recognize that planning for the effects of climate change requires our communities to prepare for highly variable and extreme flood conditions.
- (k) We recognize that unmitigated flood risk has significant consequences for our communities, impacting human health and safety, environment, trade, transportation, agriculture, business, and personal property.
- (l) We recognize that we each have distinct governance authorities and responsibilities toward residents and members and acknowledge that the interests of all persons living in their communities are best served by working together in the spirit of reconciliation and cooperation to achieve mutual benefits.
- (m) We recognize the importance of having a forum for us to engage in a collaborative process, recognizing Parties respective jurisdictions and statutory authority, to achieve goals under this Framework.

Cooperation (LET'SEMO:T – ONE HEART ONE MIND)

4. We will cooperate to advance solutions in support of flood risk reduction and ecosystem restoration in the Nooksack River and Sumas River Watershed. Specific areas of cooperation include:

Research and Planning

- (a) Working collaboratively to identify existing research, including existing research and studies relating to climate change, and pursue new studies to better understand flood hazards and risks in the Nooksack River and Sumas River Watersheds.
- (b) Working collaboratively to assess the scope and implications of measures to support flood resilience, habitat restoration, and improved ecosystem function in the Sumas River Watershed.
- (c) Working collaboratively to align and sequence planning of urgent, medium and longer term flood risk mitigation, to the extent feasible, considering ongoing and future environmental impacts.
- (d) Working collaboratively to develop and implement the Plan.
- (e) Working collaboratively to improve the ecosystem in the Sumas River Watershed.

Project Review, Coordination, and Capital Project Support

- (f) Reviewing flood risk reduction proposals, assessing risks and benefits to the communities, environment and economy, and coordinating, phasing and supporting projects that meet shared goals.
- (g) Working collaboratively to facilitate time sensitive, priority projects within the Plan, having regard to lead times necessary to fund, design, obtain permits for, procure, and construct aspects of these projects.

Funding Flood Resilience and Ecosystem Restoration

- (h) Working collaboratively, as appropriate, to support and pursue federal and provincial partnerships and other funding sources to support mutually agreed priorities.

Communication

- (i) Providing a forum for clear and transparent communication on flood risk reduction efforts and ecosystem restoration at the technical, steering committee and leadership levels.
- (j) Establishing a digital sharing platform for transparent information exchange.

Structure and Implementation

5. We recognize the importance of moving efficiently, responsibly and collaboratively to address flooding risks to our communities and the environment and commit to establishing the following forums to implement this Framework:

(a) Leadership

The Leadership Forum will be composed of the elected leads or heads of government agencies across Indigenous, local, provincial, and federal governments.

The Leadership Forum will commit to provide high-level leadership, coordination and direction on the shared needs and priorities, including by referring topics to the Steering Committee established in this Framework and providing direction on issues identified by the Steering Committee.

Parties will convene the first Leadership Forum within 2 months of the effective date of the Framework to confirm priorities and direction and aim to reconvene no less than once per year to evaluate progress and identify additional areas for enhanced collaboration.

Roles

- Confirm scope, mandate and high level strategic direction to Steering Committee (goals and priorities);
- Monitor progress;
- Develop and approve joint communications;
- Dispute resolution; and
- Oversee the implementation of this Framework.

(b) Steering Committee

The Steering Committee will be composed of senior policy, division or department staff across Indigenous, local, provincial and federal governments.

The Steering Committee will commit to discuss strategic and policy interests, issues and concerns; prepare project management products, draft proposals and work products for leadership; and request input and information from the Technical Forum.

The Steering Committee will be convened within one month of the effective date and will convene regularly (as needed) to ensure directions of the Leadership forum are advanced in a timely manner including the development of the Plan.

Roles

- Selecting planning/facilitation support for developing the Plan.
- Develop a process, timeline, deadlines, and workplan for developing the Plan and then regularly evaluate progress on work to meet goals.
- Establish as necessary working groups to address and implement project management products, draft proposals, terms of reference, and work products.
- Direct research required to be pursued at the Technical Forum.
- Work to confirm and ensure clear coordination and accountabilities regarding budgets and expenditures involved in achieving goals.
- Identify and recommend changes to legislation, regulation, policy and procedures that improves collaboration and effectiveness regarding flood mitigation activities in a manner consistent with DRIPA.
- Maintain connections to the Nooksack Transboundary Flood Initiative to ensure effective transboundary watershed planning.

(c) Technical

The Technical Forum will be composed of flood specialist engineers and planners, scientists, subject-matter expert consultants, natural resources, knowledge holders, and permitting review staff.

The Technical Forum will convene to summarize and share information on technical aspects of the Nooksack River and Sumas River Watersheds flood hazards, research and share information on best practices for flood risk mitigation, and respond to research questions from the Steering Committee.

The Technical Forum will aim to convene regularly (as needed) to ensure direction of the Steering Committee are advanced in a timely manner.

Roles

- Develop workplan, timelines and deadlines to respond to technical questions from the Steering Committee.
- Establish Technical working groups as needed to review and conduct research for the Plan.
- Coordinate information sharing as needed between the Plan and recovery works which have a medium or long-term impact on flood risk mitigation planning in the Sumas River Watershed.

Role of Canada

6. The Parties acknowledge the participation of the Government of Canada is required to fully achieve the shared vision of flood risk reduction and ecosystem restoration. The Parties will work diligently to get meaningful participation from the Government of Canada while maintaining their shared commitment to make meaningful progress.

Confidential Information

7. Before sharing any information which a Party wishes to remain confidential, that Party will identify for the receiving Parties any requested restrictions on current and future uses of the information. The receiving Party will keep the information confidential subject to FOIPPA or other applicable law.
8. Section 7 does not apply to information that is or becomes a part of the public domain.
9. Disclosure of confidential information may be harmful to intergovernmental relation and disclosure of confidential cultural information may harm Indigenous people's rights to maintain, control and protect cultural heritage, traditional knowledge, traditional cultural expressions and manifestations of sciences, technologies, or cultures.

Term

10. In the spirit of this agreement the parties agree to work expeditiously to reduce the risk to property, lives, and the environment; to build on and strengthen ongoing collaboration in reducing risk from flooding. This Framework shall come into effect immediately upon signature by all Parties and shall remain in effect by way of annual review to ensure ongoing efficacy of the Framework.

Amendment

11. This Framework may be amended with the express written consent of all Parties.

Termination

12. Any Party may terminate their own participation in the Framework by providing the other Parties with forty-five (45) days written notice.

Effect of Framework

13. We agree that this Framework is not legally binding as a matter of Indigenous, federal, provincial, or municipal law, and does not establish or affect any legal or equitable rights or obligations for any Party.
14. Nothing in this Framework shall limit, delay, or fetter a Party's rights, powers, and obligations, including under applicable legislation, within their statutory authority, or other sources of law.
15. We agree that this Framework and its contents will not be considered an admission with respect to the validity of any claims made by any Party.

16. Acknowledgement: The Parties enter this Framework on the basis that Aboriginal title and rights exist within S'ólh Téméxw and the Fraser Valley region of British Columbia but that the specific nature, scope or geographic extent of those Aboriginal title and rights have yet to be determined. Broader processes are required to provide a common understanding of the nature, scope and geographic extent of Semá:th, Leq'á:mel and Máthxwi Aboriginal title and rights.

On behalf of Sumas First Nation:


Dalton Silver
Chief

On behalf of the City of Abbotsford:


Ross Siemens
Mayor

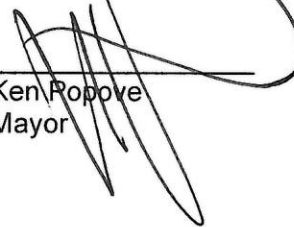
On behalf of His Majesty the King in Right of the Province of British Columbia:


Bowinn Ma
Minister of Emergency Management and Climate Readiness


On behalf of Leq'á:mel First Nation:


Alice Thompson
Chief

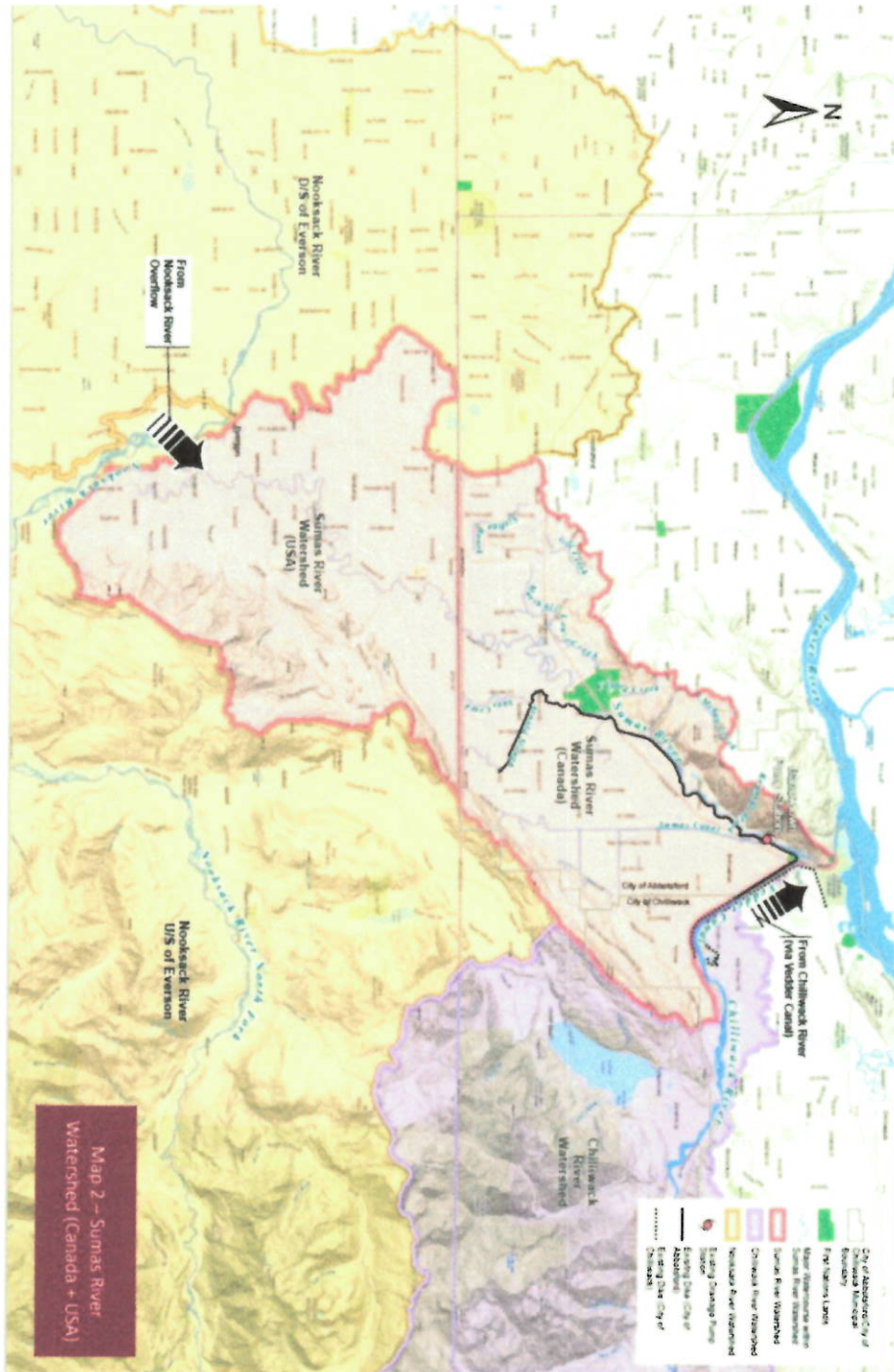
On behalf of the City of Chilliwack:


Ken Popove
Mayor

On behalf of Matsqui First Nation:

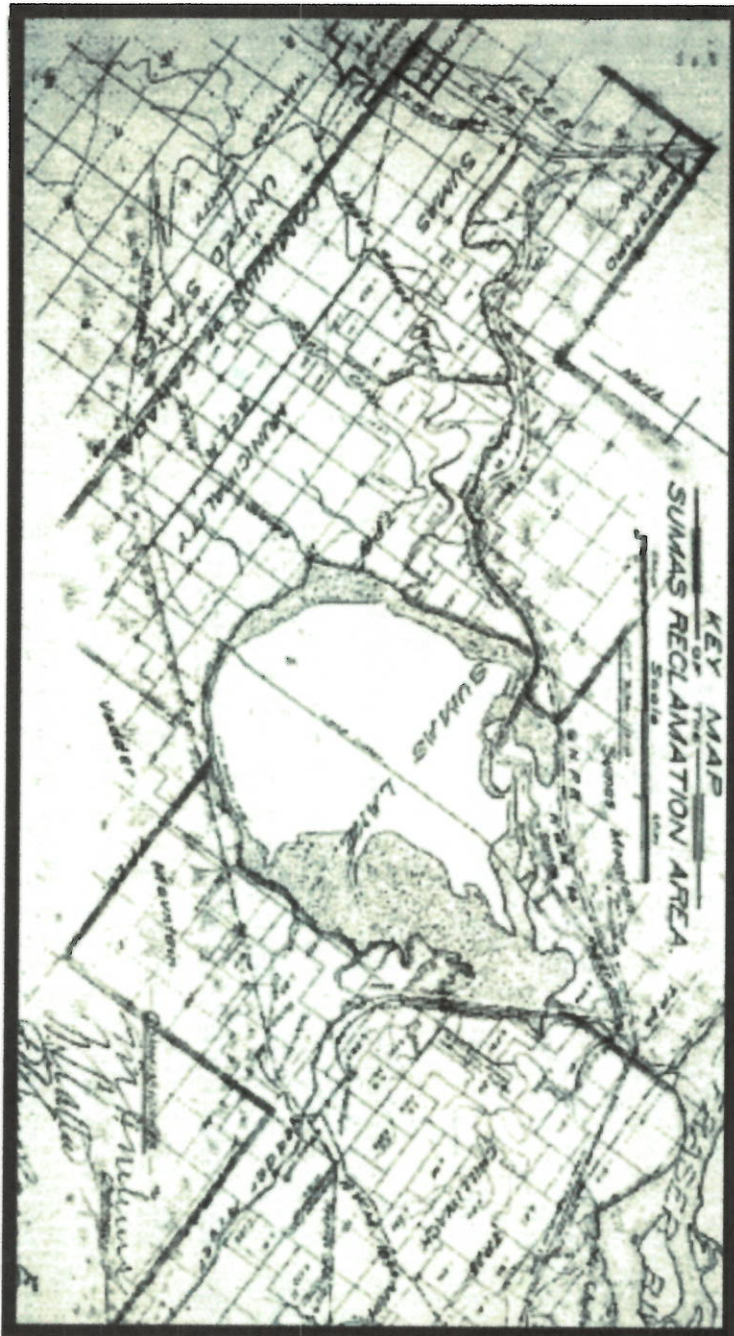

Alice McKay
Chief

Appendix Map 2 - Sumas River Watershed (Canada and USA)





Appendix Map 3 - Semá:th Xhotsa

Map 3
Semá:th Xó:tsa
(Sumas Lake) Extents
circa 1919



Legend of Critical Features

-  Full extent of Semá:th Xó:tsa (Sumas Lake)
-  Area understood to be permanently wet

- Map Notes:**
1. Original source: Royal BC Museum and Archives, CM/A 1855
 2. Copied from: Reimer, Chad. 2018. Before we lost the lake: a natural and human history. Caitlin Press. ISBN 978 1 987915 58 7. Pg 183
 3. Map developed 27 April 2023 by EboWater Consulting Inc in support of Memorandum of Understanding

Appendix Map 4 - S'ólh Téméxw

