

# Understanding Atmospheric Benefit Agreements (ABAs) Within Crown Policy Frameworks

This document describes Atmospheric Benefit Agreements (ABAs) within British Columbia's Crown-designed carbon governance system. It is descriptive, not advisory, and does not assume Crown authority over carbon in Indigenous territories. Indigenous governments hold inherent rights recognized under Section 35 of the Constitution Act, 1982, and carbon and related revenues have not been ceded to the Crown. ABAs may establish benefit-sharing agreements within the provincial system but not resolve questions of jurisdiction, title, or carbon ownership. This resource is intended to support strategic, informed, and self-determined decision-making.

## What is an Atmospheric Benefit Sharing Agreement (ABA)?

An Atmospheric Benefit Agreement (ABA) is a provincially defined agreement used within British Columbia's carbon offset system to establish how offset credits generated from a specific carbon project are allocated. This typically applies to projects located on lands the Crown classifies as public land. As of 2024, 14 First Nations have signed ABAs.

## **ABAs are referred to as Indigenous Atmospheric Benefit Agreements (IABAs) and Atmospheric Benefit Sharing Agreements (ABSAs).**

## Why would an Indigenous government need to sign an ABA?

Under current Crown policy, the Province does not recognize an Indigenous government's entitlement to carbon credits on lands it classifies as public land. In these cases, Crown recognition of entitlement to offset credits typically requires a benefit-sharing agreement (e.g. ABA). On reserve lands, treaty-settlement lands, or Nation-owned fee-simple lands, an Indigenous government can generally structure a project to hold and manage offset credits directly.

## What benefits do ABAs have for stakeholders in a carbon project?

An ABA creates clarity for carbon projects on lands the Province classifies as public land. ABAs allow all stakeholders to clarify, for the purposes of carbon registries and offset markets, how offset credits will be allocated. This supports revenue generation through carbon credit sales and reduces uncertainty and perceived legal and commercial risk for buyers, investors and the project owner.

Offset purchasers typically require assurance that credits are not subject to unresolved disputes that could affect their validity. An ABA signals that the Province and an Indigenous government have reached a formal agreement, therefore increasing market confidence. Without an ABA, carbon projects on Crown-administered lands may face delays or legal risks due to overlapping claims or jurisdictional disputes. From the Province's policy perspective, ABAs are presented as a way to support reconciliation and forward their climate commitments while enabling participation in revenue-generating carbon markets. British Columbia is currently the only province in Canada using ABAs in this way.

## What legal and negotiation strategies can Indigenous governments use when arguing their share of carbon benefits?

According to EcoTrust<sup>1</sup>, the main barrier to Indigenous governments' participation in carbon markets is the lack of clarity around land tenure and carbon rights. EcoTrust describes three complementary approaches that Nations can use in carbon negotiations: property-based, governance-based, and rights-based claims.

- Property-based approach: Carbon stored in forests and soils is a resource never ceded to the Crown. As a result, ownership and decision-making authority remain with the Nation.
- Governance-based approach: Assertion of territorial jurisdiction over lands and forests, ensuring that carbon management decisions align with Indigenous laws, stewardship responsibilities, and governance systems.
- Rights-based approach: Invokes constitutionally protected Aboriginal and treaty rights, including rights related to land use, conservation, and environmental management. It frames participation in carbon markets as an extension of inherent stewardship responsibilities.

This three-pronged approach strengthens Indigenous governments' position in ABA negotiations. They make it more difficult for British Columbia to treat Nations as passive "beneficiaries" and instead recognize them as sovereign governing partners with authority over carbon within their territories.

## Where is an ABA signed in the development of a carbon project?

An ABA is typically negotiated after a government-to-government relationship is established and once a proposed carbon project area has been sufficiently defined to assess feasibility.

1. **Establish a government-to-government relationship** - A *Reconciliation Agreement* or protocol is not formally required, but it can support Nation-to-Nation discussions. For example, the Haida Nation's 2019 ABA built on the 2009 *KUNST'AA GUU – KUNST'AAYAH Reconciliation Protocol*, and the Kitselas Nation's 2018 ABA followed their 2017 Reconciliation Agreement.
2. **Define the project area and ensure project feasibility** - The Nation must clearly identify the proposed project area and evaluate whether a carbon project is technically and financially viable.
3. **Negotiate and sign an ABA** - Once feasibility is confirmed, and typically in parallel with baseline modelling under FCOP, the Nation negotiates an ABA with the BC Ministry of Forests. ABA negotiations can take months or even years to sign, so it is generally advisable to begin discussions as soon as project feasibility has been demonstrated.
4. **Develop the carbon project under FCOP 2.0**

## Who does an Indigenous government negotiate an ABA with?

Indigenous governments in British Columbia negotiate ABAs with the BC Ministry of Forests, with support from the Ministry of Indigenous Relations and Reconciliation.

## How long does an ABA take to negotiate?

The BC government does not publish timelines from past ABA negotiations. The Cheakamus Community Forest Society, a non-profit made up of the Squamish and Lil'wat First Nations and the Resort Municipality of Whistler, required 3 years to negotiate an ABA with the Province.

<sup>1</sup> [Advancing Indigenous Protected and Conserved Areas \(IPCAs\) through Carbon Financing](#)

<sup>2</sup> [Article on Ecosystem Marketplace: How Two First Nations And A Small Canadian Town Tapped Carbon Finance To Sustainably Manage Their Shared Forest](#)

## What is generally included in an ABA?

Based on publicly available agreements, ABAs typically include:

1. **Project Area:** Defines the geographic boundaries covered by the agreement, often aligned with the proposed carbon project area.
2. **Offset Allocation:** Specifies how generated offset credits are divided between the parties. Typically, the province retains 20% of carbon emission benefits.
3. **Revenue Use Obligations:** Sets out any obligations or restrictions on how a portion of offset revenue must be used.
4. **Risk and Liability for Reversals:** Allocated responsibility if stored carbon is lost, depending on the cause. For example, if a reversal results from unilateral Crown actions, the Province may bear responsibility.
5. **Duration:** States how long the agreement remains in force.
6. **Reporting and Governance Requirements:** Outlines administrative and compliance obligations.
7. **Termination Conditions:** Describes how and under what circumstances the agreement may end.
8. **Linkage to Reconciliation Agreements:** References any broader government-to-government agreements that frame the relationship.

## What capacity do Indigenous governments need to negotiate an ABA?

- **Governance:** clear leadership mandate, decision-making structures, and a legal entity (LP, trust, corporation) to hold and manage benefits.
- **Legal:** access to advisors on Indigenous rights, land agreements, and carbon contract law.
- **Technical:** forestry expertise (e.g. RPF), carbon modeling, GIS/mapping, and long-term monitoring systems to assess project feasibility.
- **Financial:** capacity to model revenues, manage funds transparently, and assess carbon market risks and returns.
- **Community:** processes for Free, Prior, and Informed Consent (FPIC), education, and transparent communications.
- **Inter-Nation Relations:** capacity to coordinate with neighboring Nations, governments, and external partners.
- **Capacity Funding & Staff:** secured funding for training and project management to undergo ABA process.

### Where to look for more information about the ABA process?

1. Nations that have signed an ABA.
2. BC Assembly of First Nations (BC AFN).
3. The BC Government suggests contacting [forests.carbonclimateservices@gov.bc.ca](mailto:forests.carbonclimateservices@gov.bc.ca) for more information on ABAs.

