

Land and Resource Stewardship Policy



Kitselas First Nations

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Kitselas First Nation Land and Resource Stewardship Policy

Introduction:

Kitselas First Nation is pleased to provide our Land and Resource Stewardship Policy to all interested parties, governments and businesses that may have interests within our traditional territory. The policy applies to all lands, water and resources within the Kitselas First Nation traditional territory as shown on the attached map (Appendix A). This policy takes effect on March 31, 2009 and replaces all previous Kitselas First Nation land and resource policy statements.

This policy reflects the evolution of the common law as articulated in part in the *Haida* and *Taku River Tlingit* cases. It acknowledges the obligation of government to consult



with Kitselas in respect of land and resource decisions within our traditional territory and accommodate our interests in the event of impact or infringement. This policy provides a specific process for dealing with that obligation in what we hope will be collaborative and non-adversarial ways.

Kitselas has pioneered the development of new collaborative working relationships with businesses, governments and individuals in our traditional territory.

We want this policy statement to be a mechanism to further the growth of those relationships. It is an invitation to work together with the full knowledge of our needs and expectations up front and transparent.

Kitselas Land and Resource Stewardship Policy:

This policy is a statement of the principles and processes for land, water and resource management in the Kitselas traditional territory. It is predicated on Kitselas First Nation aboriginal rights and title. It is also based on the teaching of our elders that ownership carries with it a responsibility for stewardship and sharing. It is our intention to reverse the trend that has seen our people marginalized both socially and economically within our lands. However, it is not our intention to cause undue hardship and dislocation to others. We have experienced the effects of such hardship and dislocation and understand what it means.

This policy carries with it an invitation to non-native people in our territory to participate in a process of reconciliation. If you hold interests in the lands, water and resources in the Kitselas First Nation territory, granted to you by other governments, we wish to talk to you



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about ways in which those interests can be used to better serve your needs and those of the Kitselas First Nation.

This policy does not constitute a blanket approval for land, water and resource decisions that have been made in the past in which the Kitselas First Nation did not participate. Those decisions and the tenures or interests that have been created from those decisions need to be dealt with through individual processes involving the Kitselas First Nation, the responsible governments and the various tenure holders in our territory.

For governments, this policy sets out certain criteria, which we can use to forge more balanced and effective inter-governmental working arrangements, ensure meaningful consultation and appropriately engage the “honour of the Crown” in all our dealings regarding lands, water and resources.

General principles for land, water and resource development and use:

Kitselas believes that the following principles must apply to all land, water and resource use and land, water and resource development projects planned, designed, and implemented within the Kitselas First Nation traditional territory.



- Assurance that the proposed development or land, water and resource use will not pose a threat of irreparable environmental, cultural or resource damage;
- Assurance that the development will not jeopardize, prejudice or otherwise compromise Kitselas First Nation aboriginal rights, titles and interests;
- Assurance that the project will provide more positive than negative social impacts for Kitselas people;
- Provision, through negotiations between Kitselas and the project proponent or regulator for:
 - the widest possible opportunity for education and direct employment related training for Kitselas people in connection with any agreed upon development project;
 - the greatest possible employment opportunities for Kitselas people with respect to all phases of development;



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- equity participation by the Kitselas First Nation where possible, in commercial and industrial development projects;
- opportunities for Kitselas to provide contract services and supplies to land and resource projects either directly or in conjunction with Kitselas joint venture partners;
- Assurance that any development will maximize and promote the development of new Kitselas business opportunities and the utilization of existing Kitselas businesses which may be associated with that development; and
- Provision for the proponent to assist the Kitselas First Nation to accomplish the objectives stated above by providing financial assistance and advice where deemed necessary.

Where the Crown proposes a sale, lease or licence of Crown land, assurance that the Kitselas First Nation will have at least an equal opportunity to purchase or lease Crown lands within the traditional territory, and, that any alienation of provincial or federal land first be the subject of meaningful consultation.

Kitselas First Nation Community Objectives:

The Kitselas First Nation has adopted this resource development policy for our traditional territory as part of an overall strategy designed to achieve the following objectives over time:

- promote Kitselas First Nation social and economic sustainability;
- revitalise Kitselas First Nation culture;
- recognise key areas of Kitselas First Nation jurisdiction;
- develop balanced and effective inter-governmental relations;
- build Kitselas First Nation capacity - fiscal, human, technical and informational;
- promote a balance between development and the environment;
- establish mutually beneficial partnerships with non-aboriginal interests, government and others in the Kitselas First Nation traditional territory.



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Specific Provisions of the Kitselas Land, Water and Resource Development Policy:

The policy is divided into four sub categories: Planning, Development Assessment, Consultation/accommodation, and Resourcing.

Planning:

- Effective planning is an important tool for the sustainable use of lands and resources.
- Land use planning areas should be established so as to conform to the Kitselas First Nation traditional territory boundaries to the extent possible and should be built on an eco-system based approach.
- Land use planning processes must be structured to reflect Kitselas First Nation participation on a government-to-government basis.
- All current planning processes and land use plan implementation processes should be evaluated and adjusted to be consistent with this policy.
- New planning processes should consider Kitselas First Nation's potential role as:
 - process facilitator,
 - the entity best suited to provide a balanced perspective on development and the environment,
 - adding a cultural and historical perspective, and
 - participating on the basis of our aboriginal rights and title.
- Planning participation requires financial, technical, informational and human resource capacity. Government needs to ensure that the required capacity is available to Kitselas.

Development:

- Sustainable development is key to supporting the social and economic objectives of the Kitselas First Nation and others.
- All proposed developments or changes to existing developments should be submitted to Kitselas First Nation well in advance of licensing or permitting. This advance notice must ensure adequate time for Kitselas First Nation to assess the economic and social impacts of the proposal and to enter into negotiations with government and/or the project proponent to ensure that reasonable benefits from the development accrue to Kitselas. These benefits may include, but are not limited to:
 - equity,
 - revenues,



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- employment,
 - training,
 - business opportunities,
 - social initiatives,
 - cultural components.
- Existing tenure holders and licensees are invited to contact Kitselas. We wish to work with you to structure a more effective working relationship that will add value to your activities and at the same time, contribute to achieving Kitselas First Nation objectives.
- Project proponents are invited to contact Kitselas First Nation prior to submitting your project for municipal, regional or provincial approval. We are interested in negotiating arrangements which may serve to strengthen your proposal and contribute to achieving shared objectives.
- Development assessment and approval processes must reflect the potential role of the Kitselas First Nation as:
 - process facilitator,
 - best suited to provide a balanced perspective on development and the environment,
 - adding a cultural and historical perspective, and
 - participating on the basis of our aboriginal rights and title.
- As with planning, the issue of development assessment has a resourcing component for Kitselas First Nation participation. Governments must assist with the engagement or acquisition by Kitselas First Nation of adequate technical, informational and human resource capacity to be able to respond effectively to issues related to the development of lands and resources within the traditional territory. Private sector and non-government organisations are requested to recognise these resourcing requirements and be prepared to assist in the development of equitable relationships.

Consultation:

- Governments have a legal obligation to avoid or mitigate against the infringement of aboriginal rights and title and to accommodate First Nation interests.
- In all cases, consultation with Kitselas First Nation with a view to seeking our informed consent is the desired objective.



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- Consultation with the Kitselas First Nation means:
 - provision of notice by the responsible agency and proponent to the Kitselas First Nation of the matter to be decided.
 - provision of information about the matter to be decided in sufficient form and detail to enable Kitselas to understand the nature of the matter to be decided and its potential impact on Kitselas interests and to prepare and present their views on the matter;
 - identify and resource the requirements for Kitselas First Nation to participate effectively in the information and consultation process generally, and specifically in preparing and presenting a response to the matter to be decided;
 - provide a reasonable period of time in which Kitselas First Nation may prepare and present their views of the possible impact of the matter to be decided on their asserted aboriginal rights, titles and interests;
 - provide for the responsible agency and the proponent to respond to the issues raised by Kitselas ;
 - establish an issue resolution process to deal with any disagreements arising from Kitselas First Nation views and the response of the agency and proponent;
 - provide for full and fair consideration by the responsible agency and the proponent of the information provided by Kitselas; any outstanding issues not resolved through the issue resolution process referred to above; including notification, in writing, of the final decision by the statutory decision maker identifying how Kitselas interests were considered and addressed.
- The consultation procedures outlined above will include an accommodation process in the event of unavoidable impact or infringement of First Nations interests including, but not limited to;
 - economic,
 - cultural,
 - social.



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- The consultation and accommodation process will focus on identifying means for involving the First Nation as early in the planning process and decision-making process as possible.

Resourcing consultation:

Kitselas First Nation is currently funded only to participate in the management of our reserve lands. That means that, at present, we have no core resource capacity to participate in the land, water and resource planning and management processes throughout our traditional territory.

This creates a serious imbalance and a basic unfairness. Up to now, we have been participating in dialogue with governments and proponents using borrowed treaty negotiation funding or trying to use other administration or program funding from already overstretched budgets.

Kitselas has developed a competent and professional resource management department and have built relationships with professionals in the resource management field with whom we have trust based on a base of shared information about Kitselas interests. Our difficulty is in committing those resources to the analysis of policies, plans and projects referred to us by others at the expense of our own programs.

Consequently, under this policy, agencies and proponents will be required to assist with resourcing consultation on a case-by-case basis. Kitselas First Nation has established a fee structure for various levels of consultation. The fee structure is attached, as Appendix B.

This is not intended to create a barrier to consultation and accommodation, but is necessary to enable Kitselas First Nation to engage in these processes.

Summary:

We sincerely hope that those who read this policy will understand and accept it as it is meant. It is meant as an invitation to work together with the clear knowledge of Kitselas goals, objectives and views regarding sustainable land and resource use. We do not intend this policy approach to be one sided. We will try to be flexible and take the process interests of others into fair consideration.

Please contact Glenn Bennett, Director, Administration and Finance at (250) 635 5084 local 233 to inquire about any element of this policy. Kitselas First Nation staff would be pleased to meet with you to discuss more detailed working arrangements.



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Approved and authorized by Chief and Council this 2nd day of June 2006 (revised March 2009)

“Original signed by Chief and Council”



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Appendix A: Kitselas Traditional Territory





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Appendix B: Kitselas Consultation Fee Structure

General:

Over time, as the parties develop experience and a more systematized approach to issues requiring regular consultation, costs will regularize. Perhaps to the extent where a fee structure may be able to set fees for certain types of resource use review. Until then, we have attempted to cover standard administrative management activities in a “referral set up fee”. From there, we have used a per hour approach with sufficient flexibility built into the fee to cover staff time plus some outside assistance of a general nature. In step 2, we contemplate an exchange of views with respect to identifying additional funding requirements for more specialized technical and/or professional capacity.

1. Referral set up fee \$250.00
 - Must accompany letter initiating consultation
 - Covers costs of diarizing, distribution, and initial screening by Resource staff as well as review of final notification by decision maker
2. Information sharing meeting (if required) \$250.00/hr
 - Questions of clarification and additional information
 - Identification of additional information requirements
 - Assessment of capacity requirements for analysis and preparation of Kitselas response (additional costs to be estimated at this stage and cost estimate to be submitted with additional information by proponent or decision maker)
3. Review of additional information and technical analysis (if required)
 - Will depend on estimate above.
 - Estimate may have to be adjusted depending on level of complexity and need for contract technical or professional reviews.
4. Meeting(s) to present Kitselas views \$250.00/hr
 - Covers Resource Department staff time and resource policy advice
5. Meeting(s) to resolve issues \$250.00/hr
 - As above
6. Review and final remarks respecting notification by decision maker
 - Cost covered in item 1 above



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Staff and Equipment charge out rates:

1. Resource Technicians and Administration	\$50.00/hr
2. Senior Resource Technicians	\$75.00/hr
3. GIS Technicians and Mappers	\$75.00/hr
4. Resource Managers	\$100.00/hr
5. Contracted technical or professional services	at cost plus 12% administration
6. Vehicles (radiophones, Satcom, first aid kits)	\$ 100/day + .52/km
7. Snowmobiles	\$ 100.00/day
8. ATV's	\$ 100.00/day
9. Riverboats + operator	\$ 600/day + fuel
10. Chainsaws	\$ 50.00/day
11. Generator Plant – 5500	\$ 75.00/day

Prices are in effect until further notice