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January 12, 2017

Kitsumkalum members please read the latest December 07, 2016 view on how British Columbia Government determines use as a Tsimshian.

Canada Perviously through Trans Port Canada has similar views.

Both have ignored Kitsumkalum evidence provided.

They say we ask for Permission on the Skeena River and Marine Coast of the Tsimshian Peninsula, that we also own.

Thank you, please read.

Don Roberts

To: john.rustad.mla@leg.bc.ca; Mark.Lofthouse@gov.bc.ca; 'Leece; Robert ABR:EX'; stephen.winn@gov.bc.ca

Cc: rich.coleman.mla@leg.bc.ca; john.horgan.mla@leg.bc.ca; r.austin@leg.bc.ca; nathan.cullen.p9@parl.gc.ca; kalum.treaty@kitsumkalum.bc.ca; Gerald Wesley; Mark Stevenson; Dudoward Vera; Wayne Robinson Sr.; Sim'oogit Nis Waatk; squadaree@gmail.com; Jim Cooley (Sim'oogit Nisgankwadzek); rinkster@kitsumkalum.bc.ca; sroberts@kitsumkalum.bc.ca; Troy Sam; Mark Smith; Tom Happynook; BCTC Commissioner; Sasha Leung; mcu@justice.gc.ca; Charlotte Guno; dhaggard1@shaw.ca; 'Gerry Fleming'; John Munro; Nicole Halbauer

Subject: Kitsumkalum response to the DRAFT British Columbia December 07, 2016 referral "ref: 40768" AIP negotiations with Metlakatla Band.

Attachments: FINAL_DRAFT Kitsumkalum Overlap Consultation re Metlakatla AiP.PDF

Re: Kitsumkalum response to the DRAFT British Columbia December 07, 2016 referral "ref: 40768" AIP negotiations with Metlakatla Band.

Attention: British Columbia (BC) and Canada

Once again BC has ignored Kitsumkalum as full Tsimshian in the Tsimshian Nation, BC on your letter you reference the important mile stone of Metlakatla Band in the treaty process for their Agreement In-Principle, Kitsumkalum applauds that , we all took that major step together during the Tsimshian Tribal Council era.

We were at that same table Kitsumkalum entered into a Triparty agreement with BC and Canada in 1993 but have been working at the Kitsumkalum Treaty Research since 1970 – 1972 a long time we are still at treaty in stage 5 in 2017 a lot of our time and money.

BC Government could have peacefully and respectfully worked a proper engagement process with the Tsimshian overlap issue, but no BC Government choose to continue down a paper trail with their assertion contradicting Kitsumkalum traditional history as Tsimshian, that is where this December 07, 2016 letter leads to, when BC and Canada know absolutely nothing about what is Tsimshian.

Truth and reconciliation means nothing to BC and Canada Governments as we have documented for the past 10 years on how you view Kitsumkalum tribe of the Tsimshian Nation and continue to deny our place on the Skeena River – Ksiyan, Tsimshian – Ts'msyen meaning people inside the river from up river of Kitselas down Skeena River and Marine Coast of the Tsimshian Peninsula after the Temlaham era Kitsumkalum and Kitselas were the original first Tsimshian tribe and then split then there was only two crests the Gispudwada and Ganhada that is why you see a lot of Skeena and Marine Coast Tsimshian history of the two crests, then years later the greater Tsimshian came or formed out of the Kitsumkalum and Kitselas now there is four crests the other two are Laxgibuu and Laxsgiik and 11 tribes of Skeena Tsimshian and 3 make up the Tsimshian Nation today of 14 tribes.

The first Colonial acts are still alive with BC and Canada despite the 5 BIG Supreme Courts of Canada ruling, the Colonial act was all about kill the Indian in the Indian and that act is called "Gradual Civilization Act of Canada" (check the link: <http://www.thecanadianencyclopedia.ca/en/article/gradual-civilization-act/>) a document written in 1857 this act talks about take the Indian out of the Indian first this action was done by United States then Canada followed with all the residential schools and the miserable church actions, prior Government before this was called the "British Royal Proclamation of 1763 put in place by King George the 3rd labeled the Indian Rights, this is where the term of word comes from to protect Indian Rights – "aboriginal title and rights have never been extinguished by treaty, or superseded by law or by any agreement with the Crown" .

There is no mistake that Kitsumkalum tribe of the Tsimshian Nation has territories and are also the rightful owners of territory; which is the watershed of the Kitsumkalum valley and River, Zimagotitze River, Feak Creek, Skeena River (*Salvus area*) Kitsumkalum ancient village Ts'iwaan Loop, village Spokechute – Port Essington, as well as certain lands and waters used as in – common on the Skeena River, Ecstall River, Telegraph Passage, Grenville Channel, Edye Passage – Arthur Island – Porcher Island (*north side*), Chatham Sound into Prince Rupert Harbour ancient villages Casey Point down to Barrett Rock, Dzagaedil's Kitsumkalum village on Watson Island both sides of Zenardi Rapids, Lelu Island a small camp village section and Work Channel.

Our Aboriginal Rights and Titles to these lands, and waters, and their natural resources have never been extinguished by treaty, or superseded by law, or, by any agreement with the Crown.

BC and Canada are so wrong with the Tsimshian history the way they understand and assume that only Metlakatla a missionary village and Port Simpson a trading post village are the only Tsimshian on the coast, all the government fears is losing the Prince Rupert Port Authority and the LNG industries, Kitsumkalum ancient village documented sites were there thousands of years before settlers arrived not at contact of 1846.

On paragraph three you mention concerns that Kitsumkalum might have if any of the identified parcels were to be included in a treaty land offer to Metlakatla. Yes there is a concern Arthur Island – Simoogit Wiidildal of the Kitsumkalum Gispudwada Lagaax owned and lived there, his name was Arthur Stevens he was given that English name and that's how the Island became Arthur Island not only that the Kitsumkalum Lagaax Gispudwada (Black Fish) are a Royal House of the Tsimshian it takes in the North Hecate Straights to inside Ocean of the Tsimshian Peninsula, Black Fish originate from Coastal waters and Oral History on how we came to Kitsumkalum, Porcher Island North Side belong to the Kitsumkalum Laxsgiik McLean, Scotia River was also Jimmy Lawson a Kitsumkalum Laxsgiik related to the McLean's and Starr family, Prescott passage sites on Stephens Island is important to Kitsumkalum we do not ask for permission, Smith Island is a major salmon fishery zone completely all the way around there will have to be rules, Salvus Kasiks – Ts'iwaan Loop a Kitsumkalum mid Skeena River village was a big village till the Grand Trunk destroyed and leveled off there was almost a war with Kitsumkalum - DIA sent in their tough army, read it on your shameful period autograph documents., **Kitsumkalum does not ask for permission with these lands and ocean waters.**

Chatham Sound and shores into Prince Rupert Harbor, Casey Point is an important coastal village (*another Grand Trunk and the support of Canada Indian Affairs disaster for Kitsumkalum*) of Kitsumkalum - meaning people of the Robin our legend and Oral History – a time when just was two crest the legend of Robin woman at Casey Point 5 to 6 thousand years evidence uncovered our leading Kitsumkalum Ganhada (Raven) Xpilaxha with no English name eventually was Charles Nelson is now Gerald Wesley today was the Simoogit at Casey Point also at Casey Point was Simoogit Wiidildal of the Kitsumkalum Gispudwada Lagaax our village crest to Barret Rock before the coming of the Laxsgiik we are way back in history but they were there, Watson Island Dzagaedil's one of Kitsumkalum villages oldest ancient sites Xpilaxha one of our ancient matriarch Addie lived there – Kitsumkalum ancient village and Lelu Island inside mud flat passage at high water Kitsumkalum ancient village site.

The leading Kitsumkalum oldest and in high rank Ganhada Simoogit Xpilaxha, Ganhada Niisho'ot and Ganhada Gitzaxlaal are all of Kitsumkalum ancestors from the same Ganhada Wil'naat'al, Wil'naat'al means develop another branch of the family -look at your archival genealogy charts on who is who – Kitsumkalum it is documented.

Also within the Ganhada group encompassed under Simoogit Xpilaxha was Sigdimhanax'a - Ligiudziws, Simoogit Niskimaas, Simoogit K'oom of Kitsumkalum side and Charles Nelson brother Xpinon.

Now about Lakelse River and Lake.

I've seen some wandering anthropologist comments before but this one may have won the prize.

What do you mean by Kinship relationship,
What do you mean, "and joined", you don't know what the devil your talking about, in old ancient Tsimshian traditional ayaawx meaning Tsimshian Laws. The Niskiimas Waap of the Giluts'aaw, Niskiimas was my mother's dad James Bolton

and the Sigeedimhana x'a – Uksp'uu – Mah Rebecca (nee Anderson) Bolton is my great grandmother I grew up with her, she was arranged to be married to Mark Bolton my great grandfather.

The Tsimshian ideal marriage for a chief would be his mother's – brothers daughter to keep that direct decedent blood connection to the lands.

Years ago you didn't just marry anybody you were chosen who you marry to keep the blood lines in you had the Tsimshian ayaaw you had to be direct descended in the circle originally it went back and forth with the Kitsumkalum Gispudwada and Ganhada and at one time the blood line was real tight. *(It is not JOINED Kitsumkalum in the early twentieth century ,your wandering anthropologist comments)*

Because of the Canada Colonial act of 1857 -to now a fair amount of Indians look like white people an lot of mixed blood lines now a lot of this happened from the outcome of the Residential school era and a lot of Indians signed a white paper to be called no longer an Indian but become a white Indian so you can have privileges, and if this would have happened way back in history we would have seen a whole different mixed history today. So BC and Canada continue today the similarity to the Colonial act of 1857 of the past despite the 5 Major Court Cases.

The Giuts'aaw Niskiimas Waap (house) is part of Kitsumkalum from ancient Tsimshian historical time immemorial , what does the wandering anthologist think and describe that they were part of the nine Allied tribes, the Giluts'aaw went back and forth from Lakelse to the winter village on the coast. **At 1846 you comment at a time of contact, I'll provide you on what was at contact there was a Tsimshian tribe of Kitsumkalum, there was no Nine Allied Tribes, no Fort Simpson, no Port Simpson, no Lax'Kw'Àlaams, no Coast Tsimshian name and no missionary village of Metlakatla, but what was documented was Tsimshian as a whole Skeena Tsimshian, including Kitsumkalum and even drew out where we lived in Prince Rupert Harbour and Porpoise Harbour.**

Metlakatla was a mixed group of Tsimshian being converted to Christianity and Kitsumkalum had members at Metlakatla and are still there , I respect the one's I know of that are Kitsumkalum, and past members now claim the same Kitsumkalum territories that is not good at all when a huge Kitsumkalum population live at the Coast they don't recognize anymore, all for BC and Canada's doing the Colonial act of 1857.

What else does the wondering anthologist describe that Giluts'aaw migrated back to Metlakatla for winter and back up to fish and pick berries, and Kitsumkalum had to ask permission to fish and pick berries.

The Kitsumkalum Giluts'aaw tribe always and will be always a part of Kitsumkalum through our direct decedent blood connections and Uksp'uu - Sigeedimhanax'a - Title name –Oral History- comes from the big rock in front of Work Channel her territory and inside Ecstall River and at Lakelse River and Lake, Kitsumkalum and Giluts'aaw Kitsumkalum both migrated back and forth to our historical lands at the Coast for winter and the spring coastal foods, Kitsumkalum do not ask permission with these land and ocean waters , never had to and never will ask permission.

And while we are at the comments at Lakelse Lake the Simoogit Nis Waatk Wayne Robinson sr. *(on this email listing)* of the Kitsumkalum Laxsgiik own the territory on Lakelse Lake that borders with Simoogit Niskiimas Richard Inkster and have direct blood decedents of the Ganhada circle. And not to forget Kitsumkalum Tribe had two Indian Reservations (IR) at the mouth of Lakelse River, that got swindled away over a bottle of Whiskey, back in the year of 1959 – don't ever forget that.

Further; you wrote a BC Referral Letter on December 05, 2016 ref: #40564 you wrote of agreements of land transfers of the headwater's Lakelse, the history of Simoogit Niskiimas and the Simoogit Nis Waatk of the Lakelse are written here in this email.

On paragraph 11 you mention that Metlakatla will have law - making authority on the Treaty settlement lands set out in the Treaty, based on your description that we have a low strength of claim and no Impacts, Metlakatla will not have law making authorities or own the lands belonging to Kitsumkalum you are required to be respectful of our Kitsumkalum Simoogit's by law.

On paragraph 12 it says "In consideration of the above information, British Columbia has assessed that these proposed land transfers to Metlakatla will result in a minor overall impact on Kitsumkalum Aboriginal interests", and further you simply say Kitsumkalum is at the low end of the spectrum and you continue to push Kitsumkalum aside BC Government Mark Lofthouse and John Rustad, the Colonial act of 1857 continues.

On Paragraph 12 you throw in for more research you're so full of it Mark Lofthouse you got so much evidence now you ignore, and you mention new case Law is that a threat there is so much case law out the next case law will be one that you don't want to see.

In closing you mentioned to keep alert for Canada's letter to Kitsumkalum, I should then alert not to have the same damaging letter to Kitsumkalum as BC Government did.

There will be a legal letter of response to follow.

Thank you

Cc: Kitsumkalum Community and web page.
Kitsumkalum Hereditary Chief's and Sigeedimhana'x'a
Kitsumkalum Treaty
Kitsumkalum legal authority.
Kitsumkalum Research Department.
Kitsumkalum Band Council Government.
Canada Crown Justice
British Columbia Government

Don Roberts / Sm'oogyit Wiidildal Waap Lagaax / Gispudwada
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December 07, 2016

Ref: 40768

Chief Don Roberts
Kitsumkalum First Nation
PO Box 544
Terrace, BC V8G 4B5

Re: Agreement-in-Principle negotiations with Metlakatla First Nation

Dear Chief Don Roberts,

British Columbia and Canada are presently engaged in negotiations towards an Agreement-in-Principle (AIP) with the Metlakatla First Nation (Metlakatla) under the British Columbia Treaty Commission process. When concluded, this AIP will form the basis for negotiation of a final agreement, which will set out treaty settlement lands (TSL), self-government provisions, and other rights, responsibilities and authorities to be exercised by the treaty First Nation. The post-effective date status of any lands contained in a Metlakatla treaty will be subject to negotiations between Metlakatla, British Columbia and Canada (the parties) and the final agreement will set out any terms and conditions that may apply to Metlakatla lands.

The parties are currently engaged in negotiations addressing which provincial Crown lands may ultimately transfer to Metlakatla as part of a treaty. Metlakatla has provided British Columbia and Canada with areas of its land interests. British Columbia is reviewing the areas of Metlakatla interest and anticipates the tabling of a land and cash offer in early 2017. At this time, no land and cash offer has been made to Metlakatla.

The purpose of this letter is to inform the Kitsumkalum Indian Band (Kitsumkalum) of the areas of Metlakatla interest under review and to initiate consultation with Kitsumkalum respecting those areas. In particular, British Columbia would like to begin a discussion regarding any concerns that Kitsumkalum might have if any of the identified parcels were to be included in a treaty land offer. Metlakatla's areas of interest that fall within the traditional territory identified by Kitsumkalum are shown in Appendix A.

Please note this letter sets out British Columbia's initial view of the nature of Kitsumkalum's claimed aboriginal rights and title (Aboriginal Interests) that may be impacted by a transfer to Metlakatla as part of a final agreement of any lands in the areas identified, and assessment of seriousness of impacts to those Aboriginal Interests. British Columbia's consultation with

Kitsumkalum regarding proposed TSL will be informed by considering the nature of Aboriginal Interests that may be impacted, as well as the nature of the potential impacts. In addition to any information that you may provide during the consultation process, British Columbia will rely on information currently available to government to better understand Kitsumkalum's Aboriginal Interests (see Appendix B). British Columbia recognizes that the information available to us is not conclusive or exhaustive; therefore, any supplementary information about your Aboriginal Interests and how they may be impacted is welcome. This initial view is subject to change should case law change or additional information become available. For the purposes of this letter, British Columbia's initial view regarding the strength of any *prima facie* claim to aboriginal rights or title is intended solely to inform the level of consultation required with Kitsumkalum.

In considering aboriginal rights claims, information relating to activities, practices, traditions or customs integral to the distinctive culture prior to contact by Europeans was considered (late 1700s or early 1800s). In considering aboriginal title claims, currently available information regarding areas that were sufficiently or exclusively occupied at 1846 was considered. Ethnographers describe Kitsumkalum traditional territory as centred on Kitsumkalum Lake, and included the Kitsumkalum River and tributary watersheds. Kitsumkalum is understood to have engaged in the annual oolichan fishery in the Nass River (at Red Bluff). Kitsumkalum likely first interacted with maritime fur-traders at the Nass River mouth during the late 1700s. The earliest European foray to the Kitsumkalum territory is understood to have occurred during the early to mid-1830s. It is recognized that Kitsumkalum's use of the lower Skeena River and adjacent coast is important to Kitsumkalum today, and had increased in importance to Kitsumkalum after several Kitsumkalum members joined the Christian mission at Metlakatla established in 1862, and after the establishment of canneries and other industries in the Prince Rupert region. British Columbia understands that by the late eighteenth century, ten Tsimshian groups had relocated their winter villages on the Skeena River to village sites in the Prince Rupert Harbour area. It is understood that Metlakatla and Lax Kw'alaams are descendants of the surviving nine Tsimshian Tribes ("Nine Allied Tsimshian Tribes"). Kitsumkalum maintained winter villages near the modern-day community of Terrace and did not historically relocate to winter villages in Prince Rupert Harbour.

As shown on the attached map (Appendix A), British Columbia has identified the following areas of Metlakatla interest that are within the traditional territory identified by Kitsumkalum: Outer Islands, Lower Skeena & North Coast and Lakelse Lake.

Outer Islands:

- Arthur Island
- Porcher Island
- Prescott Island
- Stephens Island
- Lucy Islands
- Rachel Islands

British Columbia understands that Kitsumkalum use of the area adjacent to the mouth of the Skeena River at the time of contact and 1846 was based substantially on accessing the Nass River oolichan fishery each spring. Areas used include the mouth of the Skeena and the coast area generally northwards to the mouth of the Nass River. British Columbia is aware that Kitsumkalum has provided information regarding Kitsumkalum use of some of these areas.

British Columbia understands that the areas listed above may have been used by Kitsumkalum to harvest marine resources. However, ethnographic sources indicate access to these islands would have been subject to kinship ties, whereby explicit permission would have been sought from the lineage head who owned the area. At this time, British Columbia does not have any specific information indicating Kitsumkalum presence or use of these particular areas at the time of contact or at 1846. Based on this information, it is BC's initial view that Kitsumkalum has a weak *prima facie* claim of aboriginal rights and a weak *prima facie* claim of aboriginal title in these areas.

Lower Skeena & North Coast:

- Exchamsiks East
- Exchamsiks Skeena
- Khyex
- Kwinita
- Metlakatla Pass
- Rainbow Summit
- Scotia River
- Smith Island
- Tsimshian Peninsula
- Metlakatla Pass

Existing ethnographic and historical materials indicate that the coast between the Lower Skeena River and the Nass River was, at the time of contact and at 1846, territory belonging to the Nine Allied Tsimshian Tribes, with all the ethnographically reported sites attributed to one or another of the groups which now make up the Lax Kw'alaams and Metlakatla. This information is not contradicted by the very specific descriptions of Kitsumkalum territory recorded in the twentieth century.

Information indicates a canoe route historically extended from Kitsumkalum's traditional territories, along the lower Skeena and along the coast to the Nass River and oolichan fishery. Existing ethnographic and historical materials indicate Kitsumkalum may have used sites on the lower Skeena for harvesting marine resources. However, Kitsumkalum presence and use of the lower Skeena and north coastal areas, at the time of contact and at 1846, would likely have required the permission of, as well as perhaps compensation to, Nine Allied Tsimshian Tribes, or would have drawn on kinship ties. Available information indicates Kitsumkalum's regular and permanent presence in the vicinity of Prince Rupert largely began in the 1880s, particularly after the establishment of the mission village of Metlakatla in 1862, with some references to Kitsumkalum members living in this area prior to that time.

British Columbia is aware that Kitsumkalum disagrees with our assessments of Kitsumkalum strength of claim in the Prince Rupert area and along the coast. We acknowledge Kitsumkalum's connections to the coast and relationships with the Nine Allied Tsimshian Tribes, but our understanding of the law is that these connections do not support the strength of claim that Kitsumkalum asserts. British Columbia continues to be open to receiving additional information from Kitsumkalum but our underlying understanding of the law remains unchanged and will continue to inform our analysis and approach to consultation on the ongoing projects. Based on the available information, it is BC's initial view that Kitsumkalum has a weak-to-moderate *prima facie* claim of aboriginal rights and weak *prima facie* claim of aboriginal title in these areas.

Lakelse Lake:

British Columbia understands that at time of contact and at 1846 the Lakelse Lake watershed was the territory of the Giluts'aaw tribe, one of the Nine Allied Tsimshian Tribes. Even after the Giluts'aaw relocated their primary (winter) village to Metlakatla Passage, members returned to the territory in this area in the summer to hunt, gather and fish for salmon through the nineteenth century. It is understood that the leadership of the Giluts'aaw *Ganhada* house of *Niiskiimas* left Lax Kw'alaams and joined Kitsumkalum during the early twentieth century. While there is information supporting some historical use of this area by Kitsumkalum for hunting and gathering purposes, British Columbia understands that Kitsumkalum presence and use of the Lakelse Lake area around the time of contact and at 1846 would have been based on kinship relations or permission from the Giluts'aaw. British Columbia previously provided its initial assessment of Kitsumkalum's *prima facie* claim to Aboriginal Interests in the Lakelse Lake area in our December 5, 2016 letter to you regarding LNG benefit negotiations between British Columbia and the Kitselas First Nation.

On the Effective Date of a Metlakatla treaty, Metlakatla will own its respective TSL in fee simple and will have law-making authorities over those lands as set out in the treaty. The fee simple transfer of Provincial Crown lands to Metlakatla as TSL would result in the permanent alienation of that Crown land. Under a Lands Chapter, Metlakatla will have the authority to manage, plan, zone and develop its TSL. Under an Access Chapter, the public will continue to have reasonable access to Metlakatla public lands for temporary recreational and non-commercial purposes, including hunting and fishing, in accordance with Metlakatla laws regulating public access. The Access chapter will also provide Metlakatla the ability to designate TSL as private, subject to conditions outlined in the treaty. Metlakatla will also own the forest and subsurface resources on or under its TSL.

In consideration of the above information, British Columbia has assessed that these proposed land transfers to Metlakatla will result in a minor overall impact on Kitsumkalum's Aboriginal Interests. Therefore, it is British Columbia's view that its obligation to consult Kitsumkalum in relation to the transfer of TSL to Metlakatla lies at low end of the consultation spectrum. British Columbia invites Kitsumkalum to review the information contained in this letter and inform us within thirty (30) days of receiving this letter of concerns you may have, if any, if the lands identified were included in an AIP land offer to Metlakatla. British Columbia will reconsider its initial view of the nature of Kitsumkalum Aboriginal Interests if additional information is received from Kitsumkalum through the consultation process or from other sources such as site-specific research or new case law.

British Columbia views consultation as a process that will continue over the life of a treaty negotiation process. Please note that the lands selected for the AIP land offer are subject to change pending ongoing negotiations with Metlakatla and consultations with other First Nations. As negotiations progress British Columbia will continue to engage with Kitsumkalum on other treaty topics, including the nature and location of Metlakatla's treaty harvesting rights. It is our understanding that you will also be receiving a letter from the Government of Canada regarding these negotiations. While British Columbia and Canada are initiating these discussions separately for administrative purpose, the intent is that both governments will work together as we move forward through these discussions and the consultation process.

Should you require additional information or wish to meet to discuss this letter, please contact:

Stephen Winn, Negotiator
Ministry of Aboriginal Relations and Reconciliation
PO Box 9100 Stn Prov Govt
Victoria, BC V8W 9B1
Tel: (250) 356-8857
Email: stephen.winn@gov.bc.ca

Yours sincerely,



Mark Lofthouse, Chief Negotiator
Ministry of Aboriginal Relations and Reconciliation

Cc: Frank Osendarp, Chief Federal Negotiator

Appendix A

Map of Areas of Interest Identified by Metlakatla First Nation And
Kitsumkalum Claimed Territory.

Metlakatla Area of Interest and Traditional Territory Identified by Kitsumkalum

- Metlakatla Area of Interest
- Metlakatla Indian Reserve
- Lax Kw'alaams, Metlakatla Indian Reserve
- Lax Kw'alaams Indian Reserve
- Other First Nation
- Conservancy
- Park or Protected Area
- Traditional Territory Identified by Kitsumkalum

The Traditional Territory Database is intended for use by provincial government staff only. Digital data is copyright of the Province of British Columbia, and files cannot be copied or redistributed without the permission of the Province.

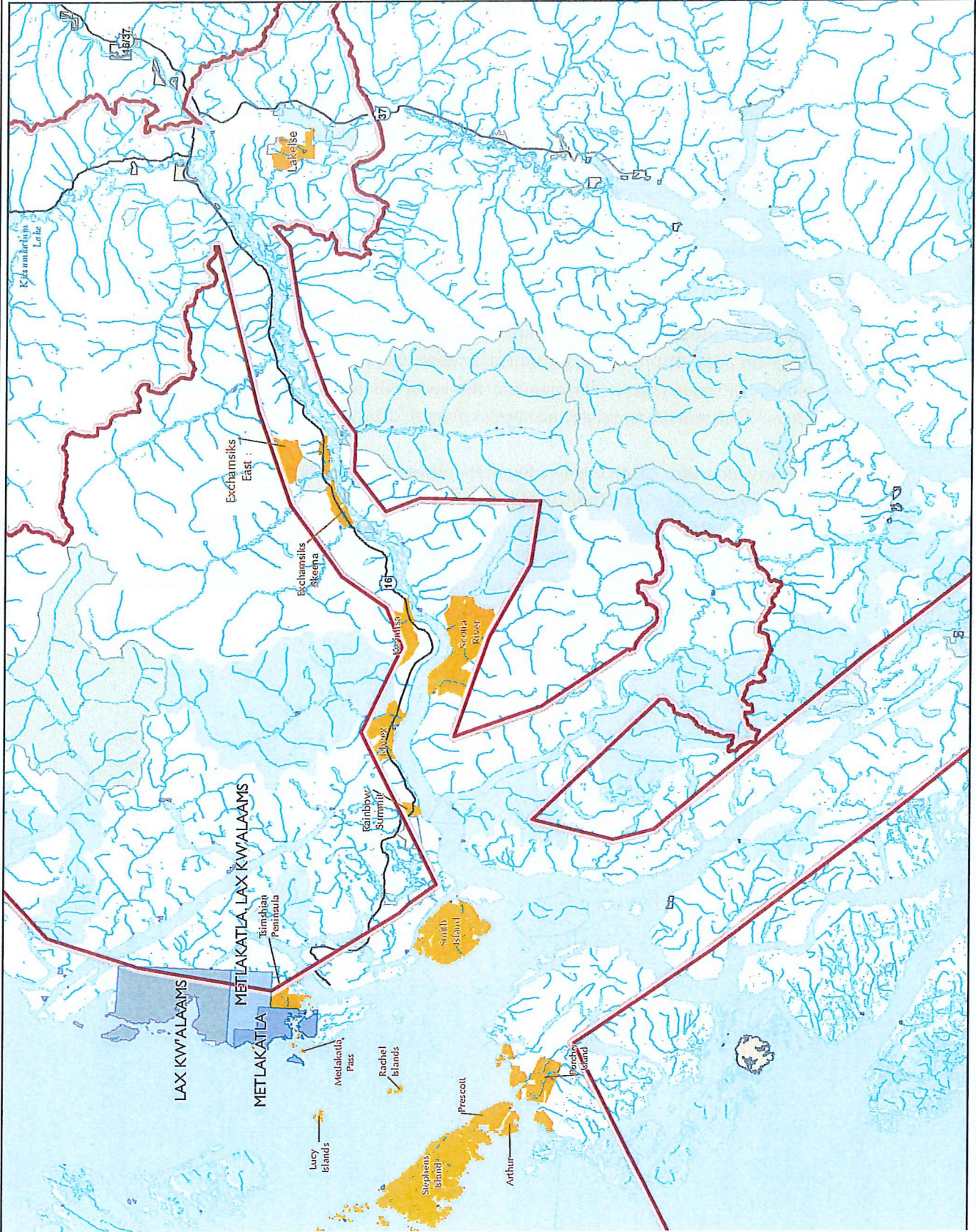
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Ratio scale is correct at 11"x17" page size.



Produced by: GeoBC
 Created by: Decision Support Section, f.m
 Coordinate System: BCAlbers
 Date: November 29, 2016
 Produced for:
 Ministry of Aboriginal Relations and Reconciliation



Appendix B

Readily Available Information Reviewed

The initial view presented in this report considers readily available information, including the following documents:

- Ministry of Attorney General (2010). *Kitsumkalum First Nation: Review of Anthropological and Historical Sources Relating to the Use and Occupation of Land* (2010) (shared with you in February 2013);
- Ministry of Justice (2013). *North End of Tsimpsean Peninsula: A Review of Anthropological and Historical Sources* (2013) (shared with you in December 2013);
- Ministry of Justice (2013). *Review of "Kitsumkalum Declaration"* (October 2013) (shared with you in December 2013); and
- Ministry of Justice (2013). *Memorandum: Review of 'BC228' Information Provided by Wolfhard* (May 2014) (shared with you in October 2014);
- Ministry of Justice (2014). *Memorandum: Review of Ethnohistorical Sources about the Gitxon Lineage in Kitsumkalum and Kitselas* (August 2014) (shared with you in October 2014);
- Ministry of Justice (2014). *Memorandum: Narratives of 'Robin Woman' and her Residence on Kaien Island* (July 2014) (shared with you in October 2014);
- Ministry of Justice (2014). *Memorandum: Preliminary Review of 'Kitsumkalum Submission' by Wolfward* (October 2014) (shared with you in December 2014);
- Wolfhard (2014). *No Permission Required: Title and Rights in the Traditional Territory of the Kitsumkalum Indian Band* (October 2014)



December 5, 2016

Ref. 40564

Chief Don Roberts
Kitsumkalum Indian Band
PO Box 544
Terrace, BC V4G 4B5

Dear Chief Roberts,

As you know, British Columbia (BC) is working to ensure that First Nations have the opportunity to benefit from Liquefied Natural Gas (LNG) development projects in their traditional territory. In that context, we have been engaged in discussions with potentially affected First Nations regarding benefit agreements in support of proposed LNG development, including discussions BC has initiated with the Kitsumkalum Indian Band (Kitsumkalum) regarding benefits to your community from LNG development.

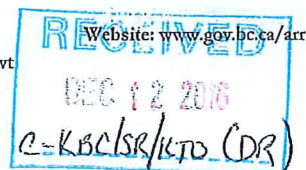
This letter serves two purposes. First, it serves to formally advise you that in February 2016 BC concluded a non-binding term sheet (Term Sheet) with the Kitselas First Nation (Kitselas). The Term Sheet outlines the key elements of LNG benefits negotiations for Kitselas in relation to potential LNG development in the areas of Prince Rupert and Kitimat, including the proposed transfer of provincial Crown lands to Kitselas in fee simple. Further, negotiations between BC and Kitselas are nearly complete on a LNG benefits agreement. The Kitselas LNG benefits agreement includes a provision that any lands transferred to Kitselas will be subject to consultation with other First Nations and this letter is an initiation of that process.

The second purpose of this letter is to provide BC's initial view of Kitsumkalum's strength of claim in the areas of the provincial Crown lands proposed for transfer to Kitselas and assessment of potential impacts on Kitsumkalum's claimed aboriginal rights and title (Aboriginal Interests), to inform the scope of our consultation with Kitsumkalum on this proposal.

The maps attached to this letter depict the provincial Crown lands proposed for fee simple transfer to Kitselas as LNG benefits, including the Kitselas Incremental Treaty Agreement (ITA) Opportunity Lands, which were included in the Kitselas Agreement in Principle that was signed in August 2015 under the BC Treaty Commission process.

Ministry of Aboriginal Relations
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Victoria BC V8W 9B1



Under the LNG benefits agreement, BC commits to negotiate and attempt to reach agreement on an ITA that would transfer the Kitselas ITA Opportunity Lands to Kitselas in advance of reaching final agreement on a treaty. If Kitselas requests to initiate ITA negotiations pursuant to the LNG benefits agreement, Kitsumkalum will have continuing opportunities for consultation.

BC is committed to meeting its duty to consult alongside with meeting its objectives to provide benefits to First Nations potentially affected by LNG development. We recognize that these processes will require careful balancing of different interests. I invite you to review the information provided in this letter, including the attached maps, and provide us with your views and information on how these proposed transfers of provincial Crown lands to Kitselas may affect the Aboriginal Interests of Kitsumkalum.

In considering aboriginal rights claims, we reviewed and assessed readily available information relating to activities, practices, traditions or customs integral to the distinctive culture prior to contact by Europeans (during the late 1700s). In considering aboriginal title claims, we reviewed and assessed readily available information regarding sufficient and exclusive occupation at 1846.

As shown on the attached map, the provincial Crown lands proposed for fee simple transfer to Kitselas as LNG benefits that are within the traditional territory identified by Kitsumkalum are located south of the Skeena River, in the Thornhill, Terrace Airport and Dubose areas.

Thornhill: There is some uncertainty about whose territory the area of the proposed parcel near the community of Thornhill was considered to be at contact and 1846. Some sources consider the area between the Zymoetz River and Terrace to be within the historical territory of the Nine Allied Tsimshian Tribes, although others associate the area with Kitselas.

Terrace Airport & Dubose: The Lakelse River drainage is considered by ethnographers and Tsimshian narratives to be the pre-contact and historical territory of the Giluts'aaw (a tribe of the Nine Allied Tsimshian Tribes). Even after the Giluts'aaw relocated their primary (winter) village to Metlakatla Passage, members returned to the territory in this area in the summer to hunt, gather and fish for salmon through the nineteenth century. There is evidence of Kitsumkalum use of the Lakelse River drainage to fish and harvest berries; however, it is likely these activities were predicated on social relationships and kinship ties with the resident Giluts'aaw. BC understands that the leadership of the Giluts'aaw *Ganhada* house of *Niiskiimas* left Lax Kw'alaams and joined Kitsumkalum during the early twentieth century.

Where the proposed fee-simple Kitselas LNG lands overlap the traditional territory identified by Kitsumkalum, the above information supports an initial view of a weak-to-moderate *prima facie* claim of aboriginal rights for resource harvesting activities and a weak *prima facie* claim of aboriginal title for Kitsumkalum.

Given the size and location of the Thornhill, Airport, and Dubose parcels in relation to the Kitsumkalum traditional territory, and lack of information on Kitsumkalum traditional activities in those locations, the Province has initially assessed the potential impacts on Kitsumkalum Aboriginal Interests as low.

Based on the above discussion, BC is of the view that its obligation to consult Kitsumkalum in relation to these potential land transfers lies at the low end of the consultation spectrum.

I welcome your views on the information provided to you in this letter, including the attached maps, and ask that you notify us if Kitsumkalum has any concerns or requires additional information within 30 days of receipt of this letter. Should you require additional information or wish to meet to discuss this letter, please contact:

Robert Leece, Senior Negotiator
Ministry of Aboriginal Relations and Reconciliation
PO Box 9100 Stn Prov Govt
Victoria, BC V8W 9B1
Tel: 250-387-3216
Email: Robert.Leece@gov.bc.ca

In closing, I look forward to continuing negotiations with Kitsumkalum regarding benefits to your community from LNG development.

Yours truly,



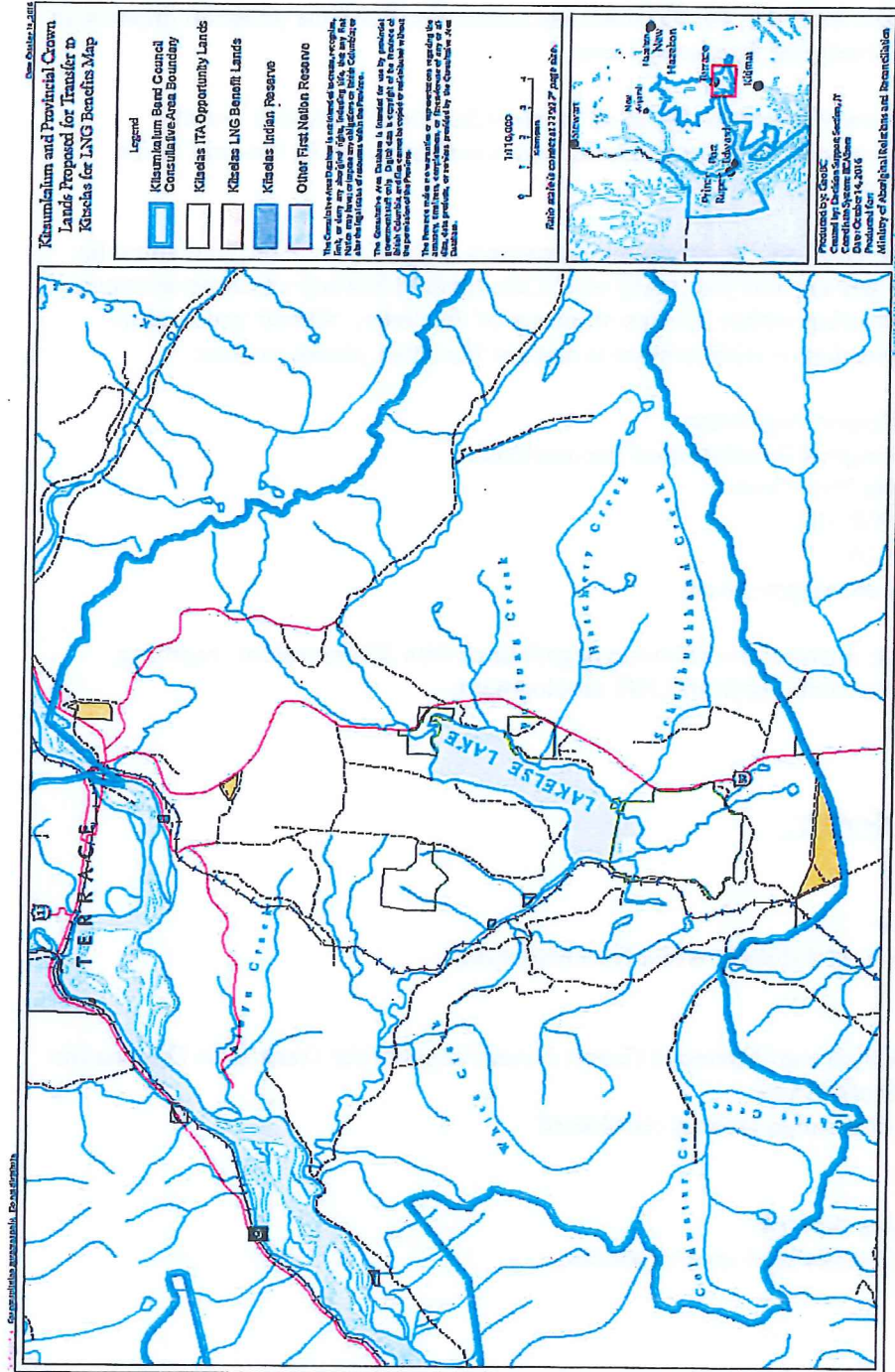
Mark Lofthouse
Chief Negotiator
Ministry of Aboriginal Relations and Reconciliations

Enclosures:

1. Kitsumkalum and Provincial Crown Lands Proposed for Transfer to Kitselas for LNG Benefits Map
2. List of information sources considered

cc: Bram Rogachevsky
Bram Rogachevsky Law Corporation

1: Kitsumkalum and Provincial Crown Lands Proposed for Transfer to Kitselas for LNG Benefits Map



2: List of information sources considered

'An Historic Event in the Political Economy of the Tsimshian: Information on the Ownership of the Zimacord District.' *British Columbia: A Place for Aboriginal Peoples. A Special Issue of BC Studies (57)*. McDonald, J.A., 1983.

'Declaration of the Kitsumkalum Indian Band of the Tsimshian Nation of Aboriginal Title and Rights to Prince Rupert Harbour and Surrounding Coastal Areas.' Kitsumkalum Indian Band, October 2013.

'Kitsumkalum First Nation: Review of Anthropological and Historical Sources Relating to the Use and Occupation of Land.' Aboriginal Research Division, February 2010.

Memorandum from Dusseault to Dunae (MARR). 'Re: Review of "BC228" Information Provided by Wolfhard (3 May 2014).' May 9, 2014.

Memorandum from Dusseault to Lofthouse. 'Re: Review of the "Kitsumkalum Declaration" (October 2013).' November 25, 2013.

Memorandum from Dusseault to Waters (EAO). 'Re: Preliminary Review of "Kitsumkalum Submission" by Wolfward (22 October 2014).' December 11, 2014.

'No Permission Required: Title and Rights in the Traditional Territory of the Kitsumkalum Indian Band.' Wolfhard, E., October 22, 2014.

'Northwest Transmission Line: Review of Ethnographic, Historical and Archaeological Resources relating to the Tsetsaut, Tahltan, Gitksan, Nisga'a, Kitsumkalum, Kitselas and Lax Kw'alaams First Nations.' Aboriginal Research Division, February 2007, Revised to January 12, 2011.

