

# **STRATEGIC LAND USE PLANNING AGREEMENT**

## **BETWEEN**

### **WUIKINUXV FIRST NATION**

(The 'Wuikinuxv' or the 'First Nation')

## **AND**

### **THE PROVINCE OF BRITISH COLUMBIA**

(The 'Province')

as represented by  
the Minister of Agriculture and Lands

(Each a 'Party' and collectively the 'Parties')

## **WHEREAS:**

- (a) The Wuikinuxv and the Province entered into the *General Protocol on Land Use Planning and Interim Measures* (the 'General Protocol' April 2001), wherein the Parties committed to work together in a spirit of mutual recognition, respect, and reconciliation to resolve land use conflicts and implement interim measures initiatives.
- (b) The Wuikinuxv has developed a land use plan (Wuikinuxv Land and Marine Use Plan, November 2003).
- (c) The Province acknowledges that this Agreement does not fully address all land use interests of the Wuikinuxv.
- (d) During Government to Government discussions, the Parties compared the Central Coast LRMP recommendations with the Wuikinuxv Land Use Plan and attempted to harmonize them and reach understandings on issues that were not fully resolved at the Central Coast LRMP planning table.
- (e) The Parties are signatories to the Land and Resource Protocol and in the manner contemplated in this Agreement and the Land and Resource Protocol are committed to fostering a respectful, coordinated working relationship in the implementation of their respective land use plans in the Central Coast LRMP area as which falls within the Traditional Territory of the Wuikinuxv First Nation.
- (f) The Wuikinuxv asserts that:



- It holds existing Aboriginal rights, including title and other interests, to the Traditional Territory, including the right to make decisions on how the land and its resources are used and the responsibility to steward such land and resources on behalf of this and future generations;
  - The lands, waters and resources belong to the Wuikinuxv and are subject to the inherent sovereignty, jurisdiction, and the collective rights of the Wuikinuxv;
  - The Wuikinuxv has never ceded, sold, or surrendered the Traditional Territory to the Crown or otherwise; and
  - The Wuikinuxv intends to approve and implement the Wuikinuxv Land and Marine Use Plan in accordance with its laws, policies, customs and traditions, in order to promote a strong and healthy environment in which this and future generations can thrive within healthy communities.
- (g) The Province asserts that:
- The lands, waters and resources included in its Central Coast LRMP area are Crown lands, waters and resources, and are subject to the sovereignty of Her Majesty the Queen and the legislative jurisdiction of the Province of British Columbia; and
  - The Province intends to approve and implement the Central Coast LRMP in accordance with provincial legislation and policy, in order to promote a strong and vibrant provincial economy, healthy communities, and a sustainable environment.
- (h) The Parties acknowledge that senior Provincial officials and First Nations representatives are engaged in discussions regarding new relationships between the Province and First Nations that may result in new arrangements for land and resource decision-making and management.

## THE PARTIES AGREE AS FOLLOWS:

### 1. Definitions

#### 1.1. In this Agreement and any Attachments:

- a) **“Adaptive Management”** means a systematic approach to resource management that engages the Parties and stakeholders in structured, collaborative research and monitoring with the goal of improving land and resource management policies, objectives and practices over time. Adaptive Management is a component of EBM and includes passive and active management approaches;



- b) **"Coastal First Nations"** means the First Nations signing the Land and Resource Protocol;
- c) **"Detailed Strategic Plan"** means a plan developed pursuant to this Agreement and the Land and Resource Protocol and may include Sustainable Resource Management Plans and other area specific plans for landscapes, watersheds and cultural areas whose content is consistent with EBM, but does not include plans that will be approved under the *Forest Act* or the *Forest and Range Practices Act*;
- d) **"EBM Working Group"** means the EBM Working Group established under section 2 of Schedule A of the Land and Resource Protocol;
- e) **"Economic Objective"** means a clearly stated description of a measurable standard, desired condition, trend, goal or indicator to be achieved for a social or economic value, feature or attribute;
- f) **"Ecosystem-Based Management"** (herein "EBM") in the Central Coast and North Coast LRMP areas means an adaptive, systematic approach to managing human activities, guided by the Coast Information Team EBM Handbook, that seeks to ensure the co-existence of healthy, fully functioning ecosystems and human communities;
- g) **"Government to Government"** means formal opportunities for bilateral discussions between the Parties which seek to resolve land use and resource management issues and includes the bilateral discussions between the Parties held pursuant to this Agreement and the Land and Resource Protocol which seek to foster a cooperative relationship amongst the Parties related to land use and resource policy, planning and management, including implementation of any Strategic Land Use Planning Agreement;
- h) **"Land and Resource Management Plan "** (herein "LRMP") means a strategic land use plan developed and approved by the Province in accordance with its laws and policies which identifies land use zones and defines objectives, strategies and/or policies that will provide guidance and direction for the planning, management and use of land and resources within a specific geographic area;
- i) **"Land and Resource Protocol Agreement"** (herein the "Land and Resource Protocol") means the agreement between the Coastal First Nations and the Province of British Columbia;
- j) **"Land Use Zone"** means an area of land as shown on Attachment B that has been assigned a strategic land and resource management direction that is distinct from adjacent areas;
- k) **"Legal Objective"** means a Management Objective or Economic Objective that is established by the Province under the *Land Act*, *Land Amendment*



Act, 2003, the *Environment and Land Use Act* or the *Forest Practices Code of BC Act*;

- l) **"LRMP Implementation"** means implementation and monitoring activities undertaken by the Province to implement its Central Coast and North Coast LRMPs and includes preparation and implementation of Detailed Strategic Plans;
- m) **"Management Area"** means an identified geographic area with distinct values that require establishment of distinct objectives to address those values. Management Objectives for Management Areas are a refinement of, and must be consistent with, the Land Use Zone for the area;
- n) **"Management Objective"** means a clearly articulated description of a measurable standard, desired condition, threshold value, amount of change or trend to be achieved for a specific resource value, feature or attribute. Management Objectives may have general application across the planning area or apply only to specific areas. With reference to any Attachment E of this Agreement, Management Objectives encompass all text under the headings "objective", "measure/indicator", "targets" and "comment/management consideration";
- o) **"Sustainable Resource Management Plan "** (herein "SRMP") means a Detailed Strategic Plan which identifies landscape and/or watershed level management zones and identifies specific and measurable objectives for the management of specific resources within those areas;
- p) **"Traditional Territory"** means the land territory over which the Wuikinuxv asserts aboriginal rights, including title, as shown on the map attached in Attachment A to this Agreement; and
- q) **"Wuikinuxv Land and Marine Use Plan"** (herein "**Wuikinuxv LUP**") means the strategic land use plan developed and approved by the Wuikinuxv to provide its guidance and direction for the planning, management and use of land and resources within the Traditional Territory.

## 2. Purpose

2.1. This Agreement is intended to:

- a) confirm the outcome of Government to Government discussions held to date on strategic land use planning between the Wuikinuxv and the Province;
- b) provide a framework that will assist the Parties to work collaboratively to implement the Land and Resource Protocol in the Traditional Territory of the Wuikinuxv; and



- c) provide a framework that will assist the Parties to work collaboratively to implement this Agreement and any subsequent land use planning and management activities, including implementation of EBM and the preparation and implementation of Detailed Strategic Plans.

### **3. Parts of this Agreement**

- 3.1. This Agreement includes sections 1 to 14 and the following attachments:
  - a) Attachment A – Traditional Territory of the Wuikinuxv
  - b) Attachment B – Land Use Zones: Map
  - c) Attachment D – Management Areas: Map
- 3.2. The Attachments to this Agreement are an integral part of this Agreement, as if set out at length in the body of this Agreement. Defined terms used in the Attachments shall have the same meaning as that set out in this Agreement

### **4. Relationship to the Land and Resource Forum**

- 4.1. Where the Parties agree, aspects of this Agreement may be implemented more efficiently and effectively by working collaboratively, as appropriate, through the Land and Resource Forum, on specific matters including:
  - a) consultation on establishment of Land Use Zones and Legal Objectives, including consultation referenced in sections 6.2 and 6.3 of this Agreement and sections 3.6, 3.7 and 3.8 of the Land and Resource Protocol;
  - b) negotiations to develop a consultation protocol, referred to in sections 7.6 and 7.7 of this Agreement and section 3.5 (e) of the Land and Resource Protocol;
  - c) negotiations to reach the related agreements referred to in sections 8.1, of this Agreement and section 3.5 (e) of the Land and Resource Protocol;
  - d) coordination of detailed strategic planning and the development of templates and workplans for Detailed Strategic Plans, referred to in section 9.0 of this Agreement; and
  - e) the matters referred to in section 7.3 of this Agreement.
- 4.2. Only with the prior written agreement of the Wuikinuxv and the Province, will specific discussions that take place in the Forum or in the smaller version of the Forum be considered part of consultation towards meeting lawful obligations.



## **5. Ecosystem Based Management**

- 5.1. The Parties agree to work cooperatively to implement and further develop the application of EBM in their respective land and resource use planning and management in accordance with the Land and Resource Protocol, including Schedules A, B and C and this Agreement.

## **6. Implementation of Land Use Zones and Management Objectives**

- 6.1. The Parties will implement the Land Use Zones, Management Areas and the Management Objectives set out in this Agreement (including any Attachments) and in Schedule B (Management Objectives) and Schedule C (Economic Objectives) of the Land and Resource Protocol, in accordance with each of their respective laws, policies, customs and traditions.
- 6.2. Without restricting the Province's lawful obligations to consult with the Wuikinuxv on other land and resource matters, the Province confirms its intention to consult with the First Nation, regarding any potential for infringement of the First Nation's interests arising from:
  - (a) the establishment of, or changes to, Legal Objectives; and
  - (b) changes proposed to a Land Use Zone or Management Area.
- 6.3. The consultation referred to in section 6.2 will be conducted consistent with lawful requirements and any consultation protocols agreed to by the Parties.
- 6.4. The Parties may amend this Agreement in writing at a later date to include any Attachment C (Allowable Uses-table) or E (Management Areas Objectives-table).

## **7. Implementation**

- 7.1. Upon signing this Agreement, and subject to the Land and Resource Protocol, the Wuikinuxv will implement this Agreement, which may include implementation in accordance with its laws, policies, customs and traditions.
- 7.2. Upon signing this Agreement, and subject to the Land and Resource Protocol, the Province will implement this Agreement, which may include:
  - (a) preparation of final Central Coast LRMP consistent with this Agreement;
  - (b) designation of land under provincial legislation in a manner consistent with this Agreement and the Land and Resource Protocol; and
  - (c) the establishment of Legal Objectives under provincial legislation in a manner consistent with this Agreement and the Land and Resource Protocol.



7.3. The Parties will dedicate sufficient technical staff to cooperatively and efficiently undertake the following activities:

- a) negotiating the related agreements described in sections 8.1 and 8.2 of this Agreement;
- b) confirming protected area and Management Area boundaries at a more detailed scale, consistent with any Attachments to this Agreement;
- c) preparing SRMPs or Detailed Strategic Plans;
- d) implementing EBM within the Traditional Territory, including collaborating with the EBM Working Group on technical issues, and the further development of EBM; and
- e) identifying issues related to the implementation or interpretation of this Agreement and developing recommendations for their resolution.

7.4. Each Party will, upon execution of this Agreement, name a contact and together the contacts will be responsible for jointly overseeing the technical activities in section 7.3 and these contacts will also:

- a) prepare for the Parties' approval, an annual workplan and budget to guide the work;
- b) strive for consensus in their joint work; and
- c) forward recommendations to the First Nation, the Province and/or the Land and Resource Forum, as appropriate, for consideration, ratification and approval.

7.5. The contacts or their designates, where authorized by their governments, may collaborate with other First Nations and third parties to accomplish their tasks more efficiently and effectively.

7.6. The Province and the Wuikinuxv will work with the assistance of the Land and Resource Forum to negotiate and work diligently to reach agreement on a consultation protocol with respect to land and resource use, management and decisions, including:

- a) LRMP Implementation and amendment;
- b) Detailed Strategic Plan implementation and amendment;
- c) establishment, implementation, and future amendment of Legal Objectives and resource management policies;



- d) the further development and implementation of EBM; and
- e) implementation of this Agreement and the Land and Resource Protocol, as appropriate.

7.7. In addition, the consultation protocol will address issues related to:

- a) the processes that will be used to undertake consultation;
- b) mechanisms for the First Nation's participation;
- c) mechanisms for the participation of other First Nations;
- d) resources; and
- e) seeking workable accommodation where required.

7.8. The Parties acknowledge that the successful implementation of this Agreement depends upon dedicating adequate human and financial resources to cooperatively undertake the activities described in this Agreement.

7.9. If the Wuikinuxv establishes its own internal management structure to undertake the implementation and monitoring of this Agreement, then the Province will respect that structure when engaging with the Wuikinuxv pursuant to this Agreement and the Land and Resource Protocol.

## **8. Related Agreements**

8.1. At the request of either Party, the Parties will negotiate and work diligently to reach agreement on collaborative arrangements for the management of the protection areas identified in Attachment B to this Agreement.

8.2. Within 6 months of signing this Agreement and using a template developed through the Land and Resource Forum, the Parties will negotiate and work diligently to reach agreement on specific matters related to land and resource use and management within the Traditional Territory, including:

- a) tenuring and site selection for commercial recreation;
- b) archaeological and heritage site inventory, impact assessment and site alteration permitting; and
- c) stewardship of cedar and other cultural forest resources.

8.3. The Parties acknowledge that the successful implementation of this Agreement, the Land and Resource Protocol, the Central Coast LRMP and any Detailed Strategic Plan is dependent upon completing the outstanding matters set out in this section.



## **9. Detailed Strategic Plans**

- 9.1. On initiation of an SRMP or other Detailed Strategic Plan, the Parties will seek to collaboratively determine the methods and process for completion of such plans, including the nature and scope of Wuikinuxv's participation and the methods by which an EBM approach to landscape and watershed planning will be applied within the Traditional Territory.
- 9.2. The Parties will work cooperatively to address the Wuikinuxv more detailed land use interests by collaboratively developing and implementing Detailed Strategic Plans or SRMPs that are within or encompass Wuikinuxv's Traditional Territory and that may include:
  - a) designations under provincial legislation;
  - b) identification of landscape and/or watershed planning units and development and implementation of related landscape-specific and/or watershed-specific Management Objectives;
  - c) establishment of smaller scale management areas for cultural resources, including cedar, old growth forests and wildlife; and
  - d) road access planning.
- 9.3. If the Province independently initiates a Detailed Strategic Plan, it will consult with the Wuikinuxv in accordance with any consultation protocol that has been agreed to by the Province and the Wuikinuxv.

## **10. LRMP Monitoring Arrangements**

- 10.1. The Province intends to establish one or more committees involving provincial agency staff, representatives from local government and other sectors in assessing implementation of the Central Coast LRMP and, if necessary, making recommendations on amendments to these LRMPs (herein "Plan Implementation Committee" or "PIC").
- 10.2. Upon Wuikinuxv's request, the Province will provide a seat for a representative from the Wuikinuxv on the Plan Implementation Committee.
- 10.3. The terms of reference for the Plan Implementation Committee will confirm that the Wuikinuxv is participating in the Plan Implementation Committee on a Government to Government basis.
- 10.4. Plan Implementation Committees will make recommendations to the Land and Resource Forum, the Tsimshian Stewardship Committee and the KNT Forum (the "3 Forums") as appropriate.



10.5. Issues the Wuikinuxv raises with respect to LRMP Implementation and monitoring that are not resolved at the Plan Implementation Committee level may be the basis for additional Government to Government discussions in accordance with:

- a) this Agreement;
- b) any applicable consultation protocol agreed to by the Parties; and
- c) the Coastal First Nations Land and Resource Protocol.

## **11. Funding**

11.1. Following the execution of this Agreement, the Province will provide the Wuikinuxv with a minimum of \$50,000, subject to:

- a) preparation of a workplan, developed in collaboration with and approved by the Land and Resource Forum;
- b) an appropriation by the Legislature; and
- c) the *Financial Administration Act*.

11.2. The Province will provide the Wuikinuxv with sufficient funding to support ongoing implementation of this Agreement, after March 31, 2006, subject to:

- a) preparation of a workplan developed in collaboration with and approved by the Land and Resource Forum;
- b) an appropriation by the Legislature; and
- c) the *Financial Administration Act*.

11.3. The Province, subject to an appropriation by the Legislature and in accordance with the *Financial Administration Act*, may provide funding for Wuikinuxv's participation in the Plan Implementation Committee.

11.4. Where the Province and the Wuikinuxv agree to enter into projects and innovative funding arrangements to implement this Agreement, the Parties may collaborate with other First Nations and seek funding from other sources to undertake those projects more effectively.

11.5. The Parties agree to diligently pursue the financial and human resources necessary to successfully implement this Agreement.

## **12. Dispute Resolution**

12.1. The Parties recognize that the successful implementation of this Agreement and the Land and Resource Protocol, and the building of cooperative working



relations, will depend upon their ability and willingness to recognize, explore and resolve differences which arise between them.

- 12.2. The Parties will endeavour to resolve the issues which will arise in a manner that allows for and fosters an improved ongoing respectful Government to Government relationship between the Province and the First Nation. Where appropriate, the Parties will endeavour to use interest-based discussions.
- 12.3. If the Parties are unable to reach an agreement or solve an impasse, they may:
  - a) bring the matter to the attention of the Land and Resource Forum;
  - b) exchange in writing a full description of the impasse, together with their concerns and interests and the proposed specific actions that could be taken to address the concerns and interests;
  - c) use non-binding facilitation and/or mediation;
  - d) seek other appropriate dispute resolution measures, including court proceedings or other binding decision-making processes for specific matters; and/or
  - e) forward the issue to the Minister and the Chief of the First Nation, or other senior representatives of the Parties for direction and/or assistance.
- 12.4. Where mediation or any other facilitated process is agreed upon, the terms of reference and choice of mediator or facilitator will be mutually agreed upon by the Parties.
- 12.5. In circumstances where the Parties have been unable to resolve their dispute pursuant to section 12.3, either Party may provide notice of the dispute to the Minister.
- 12.6. The Parties will consider and may adopt any recommendations provided by the Land and Resource Working Group pursuant to section 4.1.a) vi) of the Land and Resource Protocol.

### **13. Term, Termination and Amendment**

- 13.1. This Agreement will take effect once the Parties have obtained their necessary authorizations and have signed the Agreement.
- 13.2. This Agreement will remain in effect until:
  - a) it is terminated by either Party on sixty (60) days notice to the other Party in writing, stating the reasons for termination. Upon receipt of such notice either Party may, within the 60 days, resort to the dispute resolution process set out in section 12, or such further time as mutually agreed upon; or



- b) the date on which the Parties mutually agree to terminate the Agreement; or
- c) the execution of other agreements or outcomes (such as a treaty or settlement agreement) that replace or supersede this Agreement.

13.3. This Agreement may be amended from time to time by mutual written agreement of the Parties.

#### **14. General Provisions**

14.1. The Wuikinuxv agrees that the Province has consulted adequately on the provisions of this Agreement and on the Land and Resource Protocol.

14.2. The Province has continuing lawful obligations to consult and seek workable accommodation with the Wuikinuxv in accordance with an applicable consultation protocol, if any, including:

- a) approval of resource development plans, land and resource tenures and other administrative or operational resource development decisions;
- b) the preparation and implementation of Detailed Strategic Plans;
- c) the implementation of the Central Coast LRMP;
- d) proposed amendments to this LRMP; and
- e) the establishment and amendment of any Legal Objectives.

14.3. Except as the Parties may agree otherwise in writing, this Agreement will not limit the positions that either Party may take in future negotiations or court actions.

14.4. Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute and its regulations.

14.5. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.

14.6. The word "including" when following any general statement or term is not to be construed to limit the general statement or term to the specific items which immediately follow the general statement or term to similar items whether or not words such as "without limit" or "but not limited to" are used, but rather the general statement or term is to be construed to refer to all other items that could reasonably fall within the broadest possible scope of the general statement or term.

14.7. This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the



other Party by fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

- 14.8. This Agreement is a legal agreement that is intended to clarify and improve the working relationships and communications between the Parties. It is not a treaty or land claims agreement within the meaning of ss. 25 and 35 of the *Constitution Act, 1982*.
- 14.9. Other than as expressly indicated in this Agreement, this Agreement does not create, recognize, define, deny, limit or amend any of the rights or responsibilities of the Parties.
- 14.10. This Agreement between the Parties does not define, deny, limit or amend any of the rights or responsibilities of any other aboriginal group.
- 14.11. The Parties will monitor progress in the "New Relationship" discussions and, at the request of either Party, consider jointly whether to amend this Agreement to reflect developments in those discussions.
- 14.12. Nothing in this Agreement affects the ability of the Parties to respond to any emergency circumstances.
- 14.13. The Parties may jointly agree in writing to invite other governments, including First Nations, to participate in implementation of this Agreement.
- 14.14. When the Parties engage in negotiations and discussions, or any other action to implement this Agreement, those negotiations, discussions or other actions will be conducted in good faith.
- 14.15. This Agreement does not change or affect the positions either Party has, or may have, regarding its jurisdiction, responsibilities and/or decision-making authority, nor is it to be interpreted in a manner that would affect or unlawfully interfere with that decision-making authority.



14.16. Section 14.15 is not intended to prevent a statutory decision maker from considering this Agreement and its Attachments in the exercise of a statutory discretion.

Signed on behalf of the Province by:

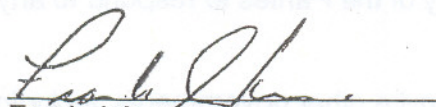


Honourable Pat Bell  
Minister of Agriculture and Lands

June 27/06

Date

Signed on behalf of the Wuikinuxv by:



Frank Johnson  
Chief, Wuikinuxv Nation

Date



## Attachment A - Wuikinuxv Traditional Territory

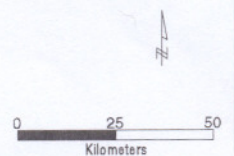


### Data Sources:

Basemapping: ILMB  
 First Nations Traditional Territory:  
 Individual First Nations Land Use Plans  
 Statement of Intent Areas Database (ILMB)  
[http://maps.bcgov/apps/cbd/htm/Ministry/min\\_main.jsp](http://maps.bcgov/apps/cbd/htm/Ministry/min_main.jsp)

Produced by Hillcrest Geographics

- First Nation Traditional Territories
- Existing Protected Area
- LRMP Boundary

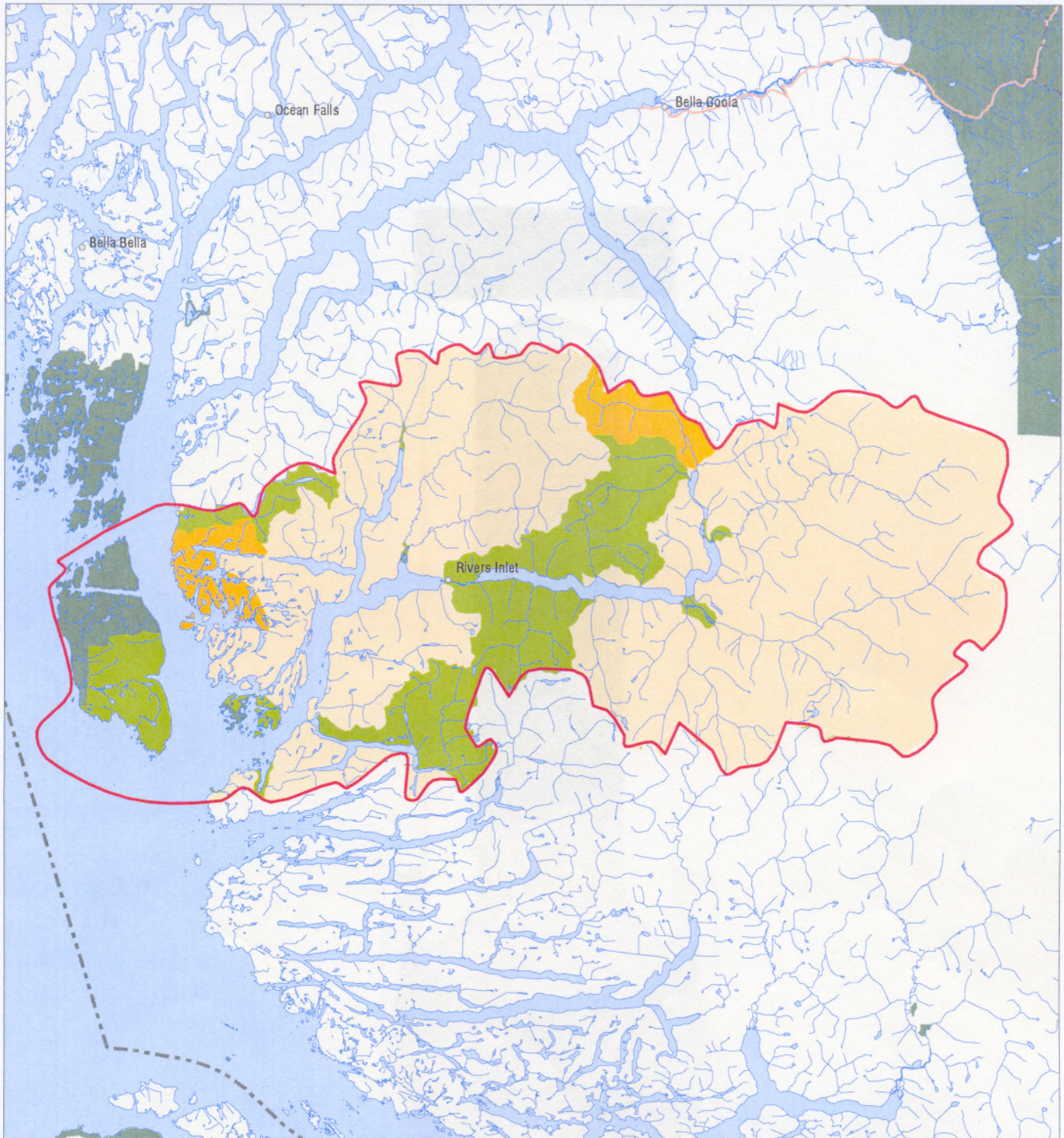


The Wuikinuxv First Nation claims the lands, waters and resources within the boundary marked in red.

March 20, 2006



## Attachment B



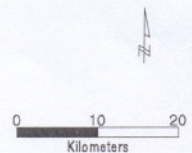
### Data Sources:

Basemapping: ILMB  
 First Nations Traditional Territory:  
 Individual First Nations Land Use Plans  
 Statement of Intent Areas Database (ILMB)  
[http://maps.bcgov.ca/cbd/html/Ministry/min\\_main.jsp](http://maps.bcgov.ca/cbd/html/Ministry/min_main.jsp)

Produced by Hillcrest Geographics

- Existing Protected
- Protection
- Biodiversity (Tourism/Mining)
- Operating

- First Nation Traditional Territory (approximate)
- LRMP Boundary









The Wuikinuxv First Nation claims the lands, waters and resources within the boundary marked in red.

March 20, 2006



# Attachment D



- |  |  |
|--|--|
|  Grizzly Management Area  |  Existing Protected Area                          |
|  Visual Classification Area   |  First Nation Traditional Territory (approximate) |
|  Management Area  |  LRMP Boundary                                    |
| <ul style="list-style-type: none"> <li>- Cultural Management Area</li> <li>- Cedar Stewardship Area</li> <li>- Special Forest Management Area</li> <li>- Kermode Stewardship Area</li> </ul> |  |

## Data Sources:

Basemapping: ILMB  
 First Nations Traditional Territory:  
 Individual First Nations Land Use Plans  
 Statement of Intent Areas Database (ILMB)  
[http://maps.bogov/apps/cbd/html/Ministry/min\\_main.jsp](http://maps.bogov/apps/cbd/html/Ministry/min_main.jsp)

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