



# Kitselas Lands and Resources Department

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**July 31, 2023**

BC Environmental Assessment Office  
836 Yates Street  
Victoria, BC  
V8W 1L8

**ATTN:** Tara Narwani, Director of Strategic Initiatives and Effectiveness

**RE: Dispute Resolution Regulation Development**

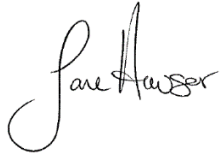
Kitselas would like to provide comments on the development of the Dispute Resolution Regulation.

Our principal comments relate to the opportunity provided by the Dispute Resolution (DR) Regulation to specify other application for DR where it can benefit the environmental assessment (EA) process, as per s.5(2)(c) of the Environmental Assessment Act (2018). In addition to the application of DR at procedural steps currently specified in the Act, we propose two additional uses for DR. Each of these cases are steps or procedural decisions that, in our experience, have been subject to frequent disputes, and can therefore benefit from structured DR process:

1. **Acceptance of a revised application** (s.27(5) of the Act). Achieving consensus or resolving a dispute at this step is important to the success of the rest of the assessment. Once the decision is made to accept an application and proceed to the effects assessment, there is time pressure (150-day period) to complete the effects assessment and referral package for decision makers. Ensuring that the Application is complete from the perspective of the Indigenous Nations should be required to enable free, prior and informed consent (FPIC) decisions at the end of the effects assessment. If Kitselas disagrees with EAO that the application is acceptable to advance (consensus is not achieved on the decision to move ahead), then it seems as beneficial to the process to use DR here as it does anywhere else in the process. The alternative is to ignore or defer resolution of conflict, which does not align with the intentions of the Act and hinders FPIC. We feel it is important to note that we requested DR at this stage of the process during negotiation of our s.41 agreement and the EAO was not willing to adopt the provision. Nevertheless, we have recently come to understand that Tahltan Nation's s.41 agreement has included this provision.
2. **Certificate Amendment process** (s.32 of the Act). An Amendment process, particularly a complex amendment, can be as complicated, impactful, and prone to conflict as a new project assessment. It would be an oversight if the DR process did not apply to complex amendment assessments, as these processes seek consensus around key decision points (i.e., amendment procedures, adequacy of amendment application, amendment decision, etc.) and seek to apply FPIC.

If you have any further questions regarding the comments above, please do not hesitate to contact me.

All my best,

A handwritten signature in black ink that reads "Jane Hauser". The signature is written in a cursive style with a large, looping initial "J".

Jane Hauser  
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