



Ministry of
Aboriginal Relations
and Reconciliation



Ministry of
Natural Resource
Operations

**Consultative Areas Database (CAD)
Public Map Service**

**User Guidance
Frequently Asked Questions**

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Introduction:

Welcome to the Consultative Areas Database (CAD) public map service!

The CAD Public Map Service is an online, interactive mapping tool that allows the general public, industry, other levels of government and First Nations to identify First Nations who have treaty rights or asserted or proven rights or title on the land base. This tool represents the first step in establishing respectful working relationships with B.C.'s First Nations.

What the CAD service will do for you:

- The CAD service will allow you to draw a point, line or polygon in iMapBC and generate a list of First Nations with treaty rights or asserted or proven Aboriginal rights or title in that area.

Recommended Use:

- Use the tool to develop a list of First Nations in any area of interest.
- Then, seek information and support from the ministry to which you will be apply for applications or contact the Ministry of Aboriginal Relations and Reconciliation manager in your area. The list of managers is available here:
ftp://ftp.geobc.gov.bc.ca/pub/outgoing/CAD/MARR_Managers_List.pdf
- A map of Regions is located here:
ftp://ftp.geobc.gov.bc.ca/pub/outgoing/CAD/NRS_Regions.pdf

What the CAD service will not do for you:

- The CAD service will not provide any opinion on the strength of the Aboriginal rights and title assertions made by the First Nations; and
- The CAD service will not provide information on any agreements reached with First Nations, such as forestry or mining agreements or treaties. Often, these agreements lay out specific consultation practices. See Question 16 below on how to access information on these agreements with First Nations.

Frequently Asked Questions:

1. What is the purpose of the CAD Public Map Service?

Many First Nations and proponents have asked the Province to put them in touch with each other during the project planning phase, to better understand all parties' interests as early as possible. While not an exhaustive or definitive list, the CAD service produces a First Nations contact list to help facilitate this connection.

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2. Why are the First Nations traditional territory boundaries not viewable in the CAD Public Map Service?

Traditional territory boundaries are not displayed in the CAD Public Map Service or in the public version of iMapBC due to sensitivities that some parties have with their distribution.

3. Where do I find help for using the iMapBC tool?

The CAD Public Map Service is a theme within a web mapping tool called iMapBC. To find general help for navigating around iMapBC and using all the available tools click on the help icon on the top right hand side of the iMapBC window.



4. Where do I find technical help for using the CAD Public Map Service Report Tools?

Technical assistance for using the CAD Public Map Service Report Tools is available here: ftp://ftp.geobc.gov.bc.ca/pub/outgoing/CAD/CAD_Public_Map_Service-User_Guidance-Technical_Instructions.pdf

5. Why does the Province consult First Nations?

Section 35 (1) of the *Constitution Act, 1982* recognizes and affirms existing Aboriginal and treaty rights in Canada. Court decisions continue to clarify the nature of these rights and legal consultation obligations. For example, the 2004 Supreme Court of Canada decision in the *Haida* case established the duty of government to consult with First Nations and, if necessary, to accommodate potential impacts to asserted Aboriginal rights.

6. What is First Nations consultation?

Consultation is the discussion that occurs between government and First Nations to:

- identify treaty rights or asserted or proven Aboriginal rights and title in an area of proposed activity;
- understand how that activity could impact treaty rights or asserted or proven Aboriginal rights and title; and
- if appropriate, avoid, mitigate or accommodate the potential impact of the activity.

Depending on the First Nation's rights and the potential impact, consultation discussions may be minimal (e.g., notification of a proposed activity with an opportunity for First Nation comment) or extensive (e.g., numerous letter exchanges, discussions and/or meetings).

For more information, see "Updated Procedures for Meeting Legal Obligations When Consulting First Nations" at: <http://www.gov.bc.ca/arr/reports/default.html>

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7. Do I need to consult?

The legal obligation to consult First Nations lies with government. However, engagement by proponents can support the consultation process, facilitate mutually beneficial outcomes and establish important relationships.

While seeking the input of First Nations is very important, it can be difficult for all parties, whether First Nations, industry or government, to agree on every aspect of a proposed project. This does not mean that a project will not proceed.

8. If I am not required, why would I contact a First Nation about my project?

Forming a positive working relationship early may assist with timely adjudication of Crown authorizations and project completion. Often, proponents will have more detailed project information than government and will be better able to respond to First Nations' questions. Often, the relationships built early on are maintained and benefit the parties in the long run.

If the Province's consultation reveals that accommodation of an Aboriginal interest is necessary, there is potential that a project may need to be modified in order to proceed. From a business perspective, engaging with First Nations early – even prior to government's consultation – provides a better understanding of potential issues and possible project mitigation that is mutually agreeable and cost efficient.

9. Why is the First Nation contact list produced by the CAD service considered a preliminary list of First Nations?

As the Province becomes aware of new information or enters into new agreements with First Nations, First Nation consultative areas can and do change. The tool will be updated regularly if/when boundaries are modified.

Also, there may be ministry-specific agreement boundaries that are not identified in the CAD service and would require consultation discussions with a different list of First Nation(s). For example, Ministry of Forests and Range agreements may have different boundaries than those in CAD.

10. How should I proceed with the list of First Nations?

Before you begin, it is recommended that you contact your local government office for specific advice. From there, a positive, respectful first step would be to contact each First Nation and determine their willingness to discuss the proposed project.

The contact list of First Nations generated by the CAD service is only one source of information. It is based on the information currently available to government at the time.

11. There is an overwhelming number of First Nations identified in the contact list I generated. Should I contact each one?

It may be that not all First Nations will have the same level of concern for that particular area. For example, a First Nation may have certain key areas within its consultative area used

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extensively by its members to exercise Aboriginal or treaty rights. First Nations are the most appropriate source to provide information about an area's significance to their communities and the nature of their Aboriginal interests there.

Generally, where there are multiple First Nations with consultative areas overlapping an area, government will consult at a deeper level with those First Nations who traditionally used an area more intensely than others, or who have a treaty or proven right. The ministry contact for your business sector can provide advice as to where you should focus your efforts.

12. What is a First Nation asserted traditional territory?

A First Nation asserted traditional territory is the area in which the Province of British Columbia is aware of asserted Aboriginal rights and/or title. This awareness triggers a legal obligation on the Crown to consult First Nations on proposed activities. It is not unusual in British Columbia for First Nations' asserted traditional territories to overlap, or for areas of Crown land to be subject to shared-use by First Nations.

13. What is an Aboriginal right and Aboriginal title?

An Aboriginal right is a practice, custom or tradition integral to the distinctive culture of a First Nation. Examples include hunting, fishing and gathering plants for food, social or ceremonial purposes.

Aboriginal title is a unique interest in the land that includes a right to exclusive use and occupation. Although there are instances of proven Aboriginal rights in British Columbia, Aboriginal title has not been proven in court.

14. What are treaty rights?

Treaty rights are those rights set out in the treaties. Government is obligated to take these rights into account when considering or proposing any activities that might affect these rights.

There are both historic and modern treaties in British Columbia. Historic treaties include Treaty No. 8 in the Peace area in north-eastern B.C. and the 14 Douglas Treaties on parts of Vancouver Island.

Modern treaties include the Nisga'a Final Agreement in the Nass area and the Tsawwassen Final Agreement in the Lower Mainland. Treaties with the five Maa-nulth First Nations on the west coast of Vancouver Island are anticipated to take effect in April 2011. Additional treaties are under negotiation through the BC Treaty Commission (BCTC) process. For further information on the BCTC process, visit: <http://www.bctreaty.net>

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15. Are there other resources available to learn more about First Nation consultation in British Columbia and the role of a project proponent?

The Association for Mineral Exploration British Columbia has developed an Aboriginal Engagement Toolkit, available at: <http://www.amebc.ca/toolkit/toolkit.htm>

Other industry professional associations may have similar information available.

Questions and concerns may be directed to the relevant Ministry of Aboriginal Relations and Reconciliation sub regional manager: <http://www.ilmb.gov.bc.ca/FNID/contacts.html>

16. Obtaining Copies of Agreements with First Nations

Copies of modern treaties are available at: <http://www.gov.bc.ca/arr/treaty/final.html>

Copies of Reconciliation Protocol Agreements are available at:
http://www.newrelationship.gov.bc.ca/agreements_and_leg/reconciliation.html

Copies of Strategic Engagement Agreements are available at:
http://www.newrelationship.gov.bc.ca/agreements_and_leg/other.html

Copies of Forest and Range Agreements are available at:
http://www.for.gov.bc.ca/haa/FN_Agreements.htm

Copies of Mining Economic and Community Development Agreements are available at:
<http://www.empr.gov.bc.ca/Titles/firstNations/Pages/Agreements.aspx>

A copy of Treaty No. 8 is available at: <http://www.ainc-inac.gc.ca/al/hts/tgu/tr8-eng.asp>

Copies of the Douglas treaties are available at:
<http://www.ainc-inac.gc.ca/al/hts/tgu/pubs/trtydg/trtydg-eng.asp>

17. Why does First Nations contact report use the term ‘Conflicting Features’?

The ‘Conflicting Features’ heading above the First Nation contact list on the CAD report is a technical term. The term refers in general to any spatial features that intersect an area of interest being queried, and is not relevant for CAD purposes.