KITSELAS
TREATY INFORMATION SOURCE

Dispute Resolution & Kitselas Treaty

As with any complex, long-term relationship, sometime we just won't agree on everything.

The Dispute Resolution Chapter, Chapter 26, of the Kitselas Treaty sets out – in advance – just how we will handle those situations, with a process designed around working out our disagreements.

WHEN MIGHT THIS HAPPEN?

Dispute Resolution might be called on to resolve issues such as:

- new developments in law or policy related to any aspect of the Kitselas Treaty;
- disagreement in interpreting clauses, application or implementation of Treaty, or
- the failure, by any party, to follow Treaty. For example, the annual Kitselas Fish Plan, which requires the Parties "will negotiate and attempt to reach agreement".

GOOD FAITH NEGOTIATIONS

All parties, including Kitselas, are required to, among other things:

- enter into negotiations with the goal of reaching a mutually acceptable outcome;
- provide timely and full disclosure of information;
- respond appropriately, and in a timely manner, to bargaining positions;
- not unreasonably reject a position of the other Party; and
- act consistently with the standard of 'good faith' as laid out by the Courts

STAGES

Disagreements which cannot be resolved informally (i.e. pre-dispute) will progress, until resolved, through the following three stages:

STAGE ONE

Formal, but unassisted efforts to find solutions between the Parties, in collaborative negotiations

STAGE TWO

More structured efforts to resolve issue with assistance of a neutral person – e.g. a mediator, who has no authority to resolve the dispute; and

STAGE THREE

Appointment of an arbitrator to provide a final, binding decision on the Parties. This could include the Courts for certain issues.

COOPERATION

All each stage, the Parties share information and commit to the following:

- cooperate with each other to maintain harmonious working relationships;
- prevent, or, alternatively, to minimize Disagreements;
- resolve issues in timely manner, and in most cost-effective approach reasonably possible;
- resolve disagreements in a non-adversarial, collaborative, and informal atmosphere.

COSTS

- Kitselas will cover our own costs of participating or representation (e.g. our lawyers); and
- We share equally all joint costs of collaborative negotiations, mediation or arbitration.

IN SUMMARY

There will be disagreements – it's inevitable… Having a well thought out process to resolve disputes, respectfully, cooperatively and collaboratively, is one more element of a modern Treaty, supporting our people over the long-term.