

Questions & Answers - February 28 - Treaty Information Session



Thank you to the Kitselas Members who joined us in person and via Zoom for our 28th Treaty Information Session community meeting on February 28, 2024.

The meeting recording from the February 28 meeting is available in the Members' Area of the www.kitselastreaty.ca website.

Below, please find the Q&As from the meeting.

Q – Should Kitselas approve our Constitution and Treaty? What happens to Chief and Council? And the Band Administration system? Do they disappear? Because they weren't created by our people.

A – CHIEF AND COUNCIL - In the draft Constitution, the Chief and Council are replaced with a Legislature - democratically elected officials, but with more power than under the Indian Act. Kitselas members will still run in an election but the title of the positions change to President (from Chief) and Legislators (from Council) to signal that we are no longer under the Indian Act.

The current proposal is not to have a separate election for President and Legislators. What is proposed is to elect seven or nine people, and the people who are elected will decide who will be the President.

When the Legislature first meets, of those seven or nine who are elected, one is chosen to be the Speaker. The Speaker will chair all meetings and make sure all the laws and rules are followed by the Legislature. For example, they will make sure new Kitselas laws have followed the law-making process fully, that budgets are approved, etc. They are a non-voting member. If you want to see an example, you can watch the BC or Canada legislature on your TV when they are in session (meeting) to see the role their Speaker plays in the legislature.

For the President, if they are not doing a good job or if that person no longer wishes to have that position and resigns, the Legislators can simply appoint another of the 7 or 9 people to take over the role. The person stepping down will continue to be a Legislator.

Another proposed change is adding a Traditional Leadership representative (Elder) elected only by Kitselas Elders, who will be a full voting member of the Legislature.

ADMINISTRATION – Every job in the current Kitselas First Nation Administration will remain. The Administration will continue to deliver services to Kitselas members, such as snow removal, social services, housing, and others. Every program and service you currently receive will continue in Treaty. For example, right now as an Indian Act Band we have a

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Membership Clerk, after the Treaty, we will have an Enrolment Clerk do a similar job. The Enrolment Clerk will work under the guidance of Kitselas laws regarding who is eligible to become a Kitselas Citizen, not the Indian Act / Canada policy.

With the Treaty, we will create 22+ new positions within the Administration to oversee the powers that the Treaty would give Kitselas - new programs, a lot of additional land to manage, law-making and policy development, improved community engagement, responsibility for a lot more money, a bylaw enforcement officer, and many more new jobs

No current employee has to worry at all about losing their job. Nothing will change for the existing staff, but we will have many new opportunities for Kitselas Citizens to consider. As an aside, if we get to Treaty, I might be the only person to become unemployed as my job as Treaty Negotiator will be done!

Q – I am curious. You mentioned the law-making after Treaty; that they are going to build on years of surveys and consultations. Where can we see those laws and that work? Where can we look them up? Do you have community members/representatives when these laws are being discussed and developed? Can we see what you are discussing?

A – Kitselas does have laws created under the Indian Act and the Kitselas Land Code. You can find them on the Kitselas website.

We haven't done any law-making yet. There are no laws that have been passed yet because the Treaty is not in effect. There is a Kitselas Law Review Committee that meets, and we advertise these meetings. It's open to anyone who wants to come, and they receive compensation for their time.

The Committee is helping us understand how to pass a law. I can bring a list of laws that are needed on the Effective Date next month, as well as laws we will need eventually (post-Treaty). Please note, we do have 3 or 4 years to get ready for the Effective Date. Our proposed law-making process will involve full community engagement, with draft laws mailed to every household and multiple opportunities for feedback and community discussion. As well, since these laws will be written by lawyers, we will send you a plain language version, too. No laws have happened yet. It will go slowly, and we want to be as transparent as we can.

The next Law Review Committee will probably meet in April. Please watch in your April mailout for dates and join us if you're interested in how the development process will work

Comment - I have heard two sides. One for and one against the Treaty. One for any nation that does not have a treaty will be known to Canada only as a number. And the number speaking against said that why sign a treaty when there are billions and billions of dollars to be used by First Nations? My rebuttal to that comment, if we don't sign the Treaty, we'll still be answerable to the Government of Canada. I just wanted to share those comments that I heard with my own ears.

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Q - At the bottom of the page, it says that Treaty is an evergreen document. What is that?

A – The Nisga'a Treaty was a *Final Agreement*. It was a final settlement. The Kitselas Treaty is more flexible and can be re-opened every 10 years. Not the whole Treaty, but any section or part that Kitselas / Canada or BC wish to discuss. Why? Most likely because if the Courts or Canada give more power to First Nations over and above what is in the Treaty, we can re-open and include it in our Treaty going forward.

We can request a meeting to discuss specific issues and the government must meet with us and discuss this issue. This has teeth, as a failure to meet/discuss can result in fines. By the way, it works both ways, Canada/BC can request a meeting to discuss items, too. That does not mean that we would get everything we ask for on the 10-year anniversary. But this is a way that we can have a nation-to-nation discussion. This is one of the innovations Kitselas has led in Treaty-making in Canada

Q – I have a question about the land. Canada says that all of the land belongs to Canada, but we have never ceded it or lost a war. I am troubled by the lands that we have been offered, especially since the community has no role in deciding what land to ask for.

A – The Treaty land package/offer was basically negotiated by 2010, 14 years ago, it was part of the package sent to everyone before the Agreement-in-Principle vote of 2012, where the community gave the Treaty Team authority to complete negotiations of a Treaty to bring to the People for a vote (ratification).

Since that time, we negotiated and added more additional land, somewhere between 5-10% more land, as outlined in the Final Land and Cash offer (available June 2023, on the Treaty website).

We have two types of lands:

- 1) The Treaty Settlement Lands (TSL) are the lands that Kitselas will simply own outright after the Treaty, like any other Canadian land owner. How did they decide how much land to offer? Canada has a model and based on Kitselas' population (about 700 today) that says how much total land and money we will receive. If we were bigger (more people), we'd get more. Does that make this fair? No, it doesn't. But it is the way that Treaty-making has always been done in Canada.

In negotiation, we could have opted for more land and less cash. I can't speak to why this is this particulate split between land/cash. In Treaty, we can buy more land and make it part of our TSL. This will always be a choice available to us.

The TSL land that we requested and that is included in our land offer, in my opinion, has a high potential value for Kitselas. A lot of this land package offer includes land near highways and roads, near rivers, near hydro, near high-speed Internet, near drinkable water. This creates opportunities for housing (sub-divisions) and business development (you usually need a road and electricity to create a successful business!). Other parts of TSL are quite remote for hunting, gathering, fishing, preservation, and cultural purposes.

- 2) The second type of land, our Traditional Territory (Kitselas Area), is the area in which we currently have rights. With the Treaty, Kitselas will have exactly the same rights in this area as we do now, to hunt, fish, and be consulted if anything is going to happen. Only with Treaty

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are these rights protected in law for all time. The Traditional Territory/Kitselas Area is huge, it extends from our easternmost reserve to 50 km out into the ocean. This land goes up to the Nisga'a territory and far south of Prince Rupert. We won't lose Section 35 rights or other rights on any of these lands. And for most of these lands, those rights are shared with other neighbouring First Nations, as much of these lands are their Traditional Territories, too.

I accept, as a negotiator, that we didn't get everything we hoped for. But I believe we got everything we could. On every side, there are other First Nations with claims, both lands and Traditional Territory, of their own. These are called overlap areas or shared areas. We are having meetings with the Nisga'a, Kitkatla, Metlakatla, and Haisla. You are welcome to come to these meetings and see what is happening for the lands.

Kitselas has received the most generous offer of land and money offered in any Treaty in Canada. And as a negotiator, I think we have done all that we can do for lands. I believe it is soon time to bring the Treaty and land offer to the People for their decision. And, if the Treaty is approved, we can buy more land with the money we'll receive if that is the People's priority.

Q – Thank you for your presentation tonight. It has been helpful. There are a lot of land-based questions in the room. And given that Kitselas are oral, history-based and visual-based people, will we have a chance to do land tours with spring and summer coming? In 2012, I had the opportunity to go on the land with Morris Mason. And we would all have maps, and we would be able to know where we were on those maps. He would mention, where we were, what we were negotiating, and our people voted for the AIP vote. And we were very successful with that vote in 2013. Morris also took the time to go out on the lands close to Kitimat. He would mention, how far out. You couldn't always see everything from the road, but we understood. There is a special agreement between Kitsumkalum and Kitselas but going out towards Port Essington. There are lands there, and they are very special and specialized. If we were to develop there, we would have to work with Kitsumkalum. And this is a special relationship in the eyes of BC and Canada.

Eva, the president of the Nisga'a nation, I had the opportunity to work with her in the Nass. She is the spokesperson for her Nation in Ottawa. That's how they advocate for more funding in their territory. I think having a visual with our president, and if we have the Chamber, we need to have it as a visual. I just want to share those comments and express the need to have more land tours and to know what we are negotiating.

A – We are planning for more land tours this summer. We have a bus, too, so we're ready to go. We could explore a day trip to Port Essington for interested parties, but Port Essington is no longer a town, it is mostly overground forest.

I also want to mention that next month will focus on a Kitselas Treaty Lands update. At this meeting, we will update everyone on the current land offer, various aspects of lands, and discuss all land questions you may have. There will be lots of maps to make it easy to understand.

Q – I want to mention that the Nisga'a Treaty was outside the current BC Treaty process. We always mention it, and I thought I would say that. If another Treaty were to get something, then Nisga'a would get it. They and other Treaty Nations will have a nation-to-nation relationship.

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We talk about how they operated because we have family members and community members who are Nisga'a citizens. I think initially it felt a lot like us and them, and I wanted to make the point that they are two different processes.

Another comment, we lose nothing with the Treaty, but comparing the total land area of the original Traditional Territory claim, with what land is in the Treaty now, there is less. As we met with Kitkatla this past week, and they said that if the Treaty is fine for Kitselas, that's fine. They are going a different way, because their land is tied to Chiefs and Matriarchs and have decided to go a different way to negotiate for all of the territory and not a portion. Like the Gitksan who are doing this. I think you're right though, I think it needs to go for a vote.

I think these meetings bring the other side of the information so that they can decide. I don't know if the meetings are being shared or recorded in other communities on Shared Territory. To have that point of information, would be helpful.

And our comments about the Constitution, I think Kitselas should have a Constitution to hold account for the finances and avoid conflicts and anything that could happen. If the Treaty doesn't go through, to have a Constitution, regardless, with what the people feel needs to be done and protected in regards to our resources.

I always wonder about the negotiations. You mentioned that the governments limit what is up for negotiations. If Kitselas is saying what we want, and the government is saying no, then how is this a true negotiation? Again, with Kitkatla, they mentioned that being in Treaty is like a tricky treaty, that money and land are being put on the table. But to say no, then that's it. But I think on the flip side of that, are they negotiating with us to have us feel like we negotiated a good agreement that clears them of our fiducial responsibility to us. Does the Treaty allow them to wipe their hands clean of us? It may or not be true, but just a question.

But often it's part of the negotiations process, where the process is thirty years for us, but for others, there are only negotiations for two to three years. They don't have the relationship that we have. They get to know us. And pretty soon, start spoon-feeding us what we want and negotiate what we want. Again that's just a thought, but I thought I would share.

The comment about land tours, Lands and Economic Development have a new drone. I think it would be great to have video on the ground and overhead of all the lands for everyone who can't make it out on the tours to at least see what's out there.

A - Sorry I am mistaken about the Nisga'a treaty. I know they have had the opportunity to renegotiate certain aspects of their Treaty, like tax exemptions being restored, but I am not an expert in their treaty at all. Kitselas has a "me too" clause.

The plan is to vote on the Constitution first, then the Treaty. Nothing is stopping us from adopting a Constitution without a Treaty; however, the Treaty provides us with the TSL.

In March, we'll have all the maps available, including paper copies for all, so we can all talk about the TSL and Traditional Territory.

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Why these lands? I wish I had been there 14 years ago when the land was selected and chosen. As you may know, certain lands are privately owned, and we can't get those in Treaty. There are lands that are contested, and they are not easy to get either. The meeting with Gitsan went well, and an agreement on small things was reached. Negotiation is a slow process, and you never get everything you want.

Q – How much land does Kitselas have now?

A – Kitselas currently has:

1. IR lands - Kitselas IR 1 to IR 7 = approx. 2,600 acres
2. Port Essington Shared IR = approx. 10 acres
3. The Airport industrial park = approx. 170 acres
4. LNG lands (including Onion Lakes, Airport, & Thornhill Parcels) = approx. 3,030 acres
5. Interim Treaty Agreement - Gitselasu Way, Thunderbird, Cat Point Lands = approx. 610 acres

For a total (based on my calculations) of = approx. 6,400 acres

Q – The February mailout included a copy of a historic document of lands that we requested by Kitselas Chiefs to become additional IRs, way back in the early 1900s. I'm curious how much additional land they were asking for at the time?

A – Unfortunately, I am not sure. The document you are referring to was presented to the McBride Commission in 1916. Kitselas asked for additional land, but I have no idea how much land in total. I think those lands, were locations or areas where we had some historical use – fishing camps, etc.

Kitselas has seven IRs, and I'm not sure whether those seven were on the list of 20 or not. I got the impression that they were spots, I got the impression that they were like fishing spots. I know the list was brought to the McBride commission in 1916, but never acted upon. They gave us no extra reserves. Different culture, very different times, and different governments. I will be covering all things Lands in some depth next month.

Comment – Just a comment and clarity regarding what the government calls overlap. When we met with Kitkatla last Monday, we had a mutual understanding of using the term “shared” and not overlapping/overlap. Because they were shared areas, as opposed to a line in the sand with hard boundaries.

Comment - Thank you for your presentation. I thank Glenn for contacting us. I see that Treaty has been going on for 30 years, but it's only in the last four years that we have been receiving regular information/updates. Up to then, we were dismayed, and talking among ourselves about how we could get more involved in Treaty.

I thank you for this. We met with Kitkatla Chiefs, and it was our second meeting. And the next meeting, we will be in contact with your office about dates and times. I look forward to our discussions.

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We were asked, before going into a meeting, to listen to them and to see what they would say. As you said, the overlaps, we understood that they were shared. It's always been that way and people who came to our territories to meet with the Chiefs of this land and get permission to do things on their lands with permission from the Chiefs. And we can come up here, and it would be the same.

I was pleased to hear from Glenn, that they don't see this, and we understand that it's a government tactic to have us fight over the lands between ourselves. I'm glad that Glenn understands that this was not the case between us. We need to be aware of the government's tactics and what they have done in the past. Thank you for inviting us.

Q – [RCMP Constable] I want to start by thanking you for the invite to be here. I am glad to be part of the conversation and see your passion. I have a question, and it's not to put you on the spot, but it's about the law portion. My question was that when we were talking about breaking laws, with a maximum consequence of breaking a law of up to 2 years in jail, what resources would be needed? And where people would be put in jails. There's an additional challenge because of what I deal with. Bill C-75, basically says that if First Nations individuals are held in custody, they have to be released as soon as safely possible. So how would this work? How would this work with Bill C-75 if you put someone in jail? Just wondering if there has been a conversation about this.

A – If someone has to be taken into custody, the RCMP would be doing this. I'm stretched to think of a scenario where someone could break a Kitselas law and would end up in jail, but we can have laws and possible punishment up to this level. We would be counting on the RCMP to take people in protective custody. We would have access to the jails, the courts, and the government's processes to collect fines. We won't be building a jail on Kitselas lands. My own sense is that the Kitselas laws and consequences would be mostly 'by-laws.' For example, if you don't clean your yard, and this is a contravention of a 'Clean Yard' Kitselas Law. We will clean it up and give you the bill. I will follow up with our guest offline because I didn't know about Bill C-75.

Comment [Linda Morven] – *Thank you for letting me sit and listen to your presentation and your questions. I'd like to thank the Best Western for the delicious meal. Thank you very much. It's exciting to be so close to Treaty. I'm Nisga'a, as you heard earlier, so I've worked in Treaty for about 20 years. It's quite different than what it was before Treaty. To be able to move away from the Indian Act, and grow independent and embrace the opportunities ahead of us. It's exciting to see that you can develop this together.*

I know there are a lot of questions about elections. You can develop an Elections Act and change the term of the elected term from 2 to 4 years, and having a code of conduct in respect to how councillors act in their elected capacity like we do in Nisga'a. You can also change if they can be an employee or an elected official. With Nisga'a I can't be both. It's a conflict of interest for me, and I have to choose one or the other. With respect to the funding, all programs continue as is and Treaty doesn't stop us from accessing any additional funding out there. It comes down to the opportunities and entities to ensure we are accessing as much funding as we can. It has really helped us with these requirements.

I'm very grateful for your administration and the proactiveness of what you do. You heard about our housing and infrastructure. You heard about our departments in their diligent work in their management, and we see a lot of that strength in the Treaty. If we don't ratify

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the Treaty, it will be difficult to go back. I think we really need to consider fully the implications of how we will vote. It's a huge decision, and exciting to move away from the Indian Act and become the independent and self-sufficient nation that we can be. As I said earlier, we have a proactive Chief and council.

I also wanted to note that Mark Stevenson is coming to do a presentation in April. He provided a presentation to the Chief and Council and Directors about our Treaty. He is going to be doing a presentation to all staff on April 18, and it will be mandatory for the staff, so they know about the Treaty and its requirements for them. Mark will also be doing a community session that evening. We will be getting out to the community, and I'm excited to get it out to everyone and be a part of the work that's ahead of us.

Comment – [Glenn Bennett] I think the work that has been done to date is well done. We are open and respectful We listen to other Nations, but we are respectful. My mother is from Kitkatla First Nation, but she chose to marry into Kitselas. I was born in Kitkatla. I know their population, maybe 500 live in the village, and most of their 1,500 membership live in Prince Rupert. I know their challenges. No education. And when their kids want to further their education, they have to move away. You look at Kitselas, people want to move home, but we don't have the housing availability. Gitgatla, their population, maybe 150 people live in the village. It is a challenge to live in rural communities.

We recently had a strategic planning session and brought together the Council and Directors, and they sat at the table and listened to each other. Two days was not long enough. We will have a follow-up session here in Terrace next week. We heard from our staff, our own members, that certain areas were not going to be included as co-management area. Our staff and Council expressed their concerns, why isn't it part of our Treaty.

The upper Kitimat, that's where a number of our traplines are located. Existing traplines are protected by treaty. However, this area wasn't included as a co-management area, our staff and council expressed their concerns. So, we said we would go back to BC and asked for this co-management area. BC accepted it and is pleased that we're making headway. We're not going to give up our rights. We know the families that own those areas. The Hunter Creek, the late Mark McKay. He didn't have any decedents. So the trapline reverted the Band. If you want to learn more about hunting and trapping, please come and ask us. The Seymours, have a trap line there. My father has one too. He was added when SGL pulled out a map that would be impacted by a pipeline, and here's \$5,000. We don't need your permission. If you want more money, then go talk to your nation. It's unacceptable that the industry is so disrespectful to our people. I am honest and open with them. We want to train our people for the long term, not just for low-paying jobs. Our people need to be part of the discussions and training opportunities. Our development corporation. We have people to do the best job they can for our people, to ensure our people have prosperity going forward. I tell my family, CJ, that Treaty won't be around forever. You need to further your education. People tell me – your nephew should be a lawyer or teacher. It's going to cost a lot to raise four daughters.

I'm proud of our staff, of our late Chief Negotiator Mel Bevan. We want to listen to you. He did the best that he could for our people. Or staff that are recording things and we will analyze and understand what you say and know.

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I would love to see our own community TV channel. To advertise and share things with our people. I know Dr. Try and his staff will look into this option. We have high-speed internet. Everyone is connected, especially with smartphones. That's how we keep in contact with our families who don't live here anymore. I believe it will only get better going forward.

I firmly believe that we have to look after our people. No one will do it for us. What Mel did, and I want to continue this. He implemented a pension plan for Elders. It's small, but I'm sure they appreciated it. Dr. Try made sure to invest it wisely. That's important.

Our villages are important. Endudoon is important. I know our people believe that we have to be aware and make sure we consult with you at Endudoon to make sure we get it right. We want to hear from you. We know the importance of Endudoon. My late father was born there.

Spokshuut, that village at the mouth was important to our families. We will continue to migrate like our families did in the past. We will have access to the resources. Our people want to get a feed of oolichan. Then salmon, clams, and cockles. There are people who sell it. It's gone in a day. I would love to have a vessel so that we can show our people where we harvest it. I think that we can do it. I've talked to other nations. We're the only nation that doesn't have a boat to protect marine resources, and monitor them.

I see the federal government with wild salmon. DFO is telling us that wild salmon stocks are only going to be worse. What you catch on the river is enhanced. We have people counting the fish. The work that is being done is important. It's important to us to hear your ideas and suggestions. I think our hereditary system is important. I appreciate those who join us at meetings with other nations. It was an opportunity to hear from our neighbours. All of the nations will do their best to protect their territories. Kitkatla, has concerns, about our lands on the coast. It was unfortunate that CJ isn't here because he has the knowledge. There are places on the coast, that are named after our people, like Kennedy Island. Spokshuut. He was taken away when his parents perished he was taken to St. Michaels. He lost the language. There are few today who still speak Sm'algyax.

There are many communities who are learning who are part of the Tsimshian Tribal Council. We have the connection, we are all interconnected. We are family. My late aunt Mildred, she spoke Sm'algyax, she taught it. She got her education at UNBC. We will make sure we that our students are taken care of. There should be no money left over in the education budget. So tonight is important, and our staff want to move forward. Thank you.