

CHAPTER 6 ACCESS

NISGA'A PUBLIC LANDS

Nisga'a Rights and Obligations

1. Except as modified by this Agreement, the Nisga'a Nation, as owner of Nisga'a Lands, has the same rights and obligations in respect of public access to Nisga'a Lands as other owners of estates in fee simple have in respect of public access to their land, and in respect of Nisga'a Public Lands, the Nisga'a Nation has liabilities similar to those of the Crown in respect of unoccupied Crown land.

Reasonable Public Access

2. Nisga'a Lisims Government will allow reasonable public access to and onto Nisga'a Public Lands for temporary non-commercial and recreational uses, but public access does not include:
 - a. harvesting or extracting resources unless authorized by Nisga'a Lisims Government or as set out in this Chapter;
 - b. causing damage to Nisga'a Lands or resources;
 - c. causing mischief or nuisance; or
 - d. interfering with other uses authorized by Nisga'a Lisims Government, or interfering with the ability of Nisga'a Lisims Government to authorize uses of or dispose of Nisga'a Public Lands, or to designate Nisga'a Public Lands as Nisga'a Private Lands or Nisga'a Village Lands.
 3. Nisga'a Lisims Government may make laws in accordance with the Nisga'a Government Chapter regulating public access to and onto Nisga'a Public Lands, for purposes such as:
 - a. public safety;
 - b. the prevention of nuisance or damage, including fires;
 - c. the protection of sensitive habitat areas or heritage sites; and
 - d. the prevention of harvesting or extracting of resources.
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Public Access for Hunting and Fishing on Nisga'a Public Lands

4. Nisga'a Lisims Government will provide reasonable opportunities for the public to hunt and fish on Nisga'a Public Lands but, as the Nisga'a Nation is the owner of the land on the effective date, only Nisga'a citizens have the right to hunt and fish on Nisga'a Lands.
5. Hunting and fishing by the public under paragraph 4 will be in accordance with paragraphs 6 and 7, federal and provincial laws of general application, annual management plans, and any laws enacted by Nisga'a Lisims Government regulating public access.
6. An annual management plan will specify the level of harvest of each designated species, and any other species that the Minister and Nisga'a Lisims Government agree should be included in the annual management plan, that may be harvested on Nisga'a Public Lands by persons other than Nisga'a citizens, having regard to Nisga'a preferences for harvesting wildlife under Nisga'a wildlife entitlements on Nisga'a Lands, and the availability of that species in the rest of the Nass Wildlife Area.
7. Nisga'a Lisims Government may, for the purpose of monitoring and regulating public access for hunting and fishing under paragraph 4, require persons other than Nisga'a citizens to obtain a permit or licence. Those permits or licences will be reasonably available at a reasonable fee taking into account the administrative and other costs of the monitoring and regulating.

Notice of Terms and Conditions in Respect of Public Access

8. Nisga'a Lisims Government and British Columbia will take reasonable measures to notify the public of terms and conditions in respect of public access to and onto Nisga'a Public Lands.
 9. Nisga'a Lisims Government will consult with Canada and British Columbia in respect of any proposed Nisga'a laws that would significantly affect the regulation of public access to and onto Nisga'a Public Lands.
 10. Nisga'a Lisims Government will notify Canada and British Columbia of the location and boundaries of Nisga'a Village Lands and Nisga'a Private Lands.
 11. If Nisga'a Lisims Government intends to change the locations or boundaries of Nisga'a Village Lands or Nisga'a Private Lands, it will provide reasonable notice to British Columbia and Canada of the proposed changes.
 12. If Nisga'a Lisims Government intends to change the locations or boundaries of Nisga'a Village Lands or Nisga'a Private Lands, it will take reasonable steps to notify the public, and it will consider any views advanced in respect of the proposed changes by any individual who would be adversely affected, but the changes may not be set aside on the ground of
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insufficient notice.

Alternative Access

13. If the designation of Nisga'a Public Lands as Nisga'a Village Lands or Nisga'a Private Lands has the effect of preventing public access to an area or location to which there is a public right of access under federal or provincial laws of general application such as navigable waters or Crown roads, Nisga'a Lisims Government will provide reasonable alternative means of public access to that area or location.

NAVIGABLE WATERS

14. This Agreement does not affect public rights of access on navigable waters within Nisga'a Lands.

CROWN ACCESS TO NISGA'A LANDS

15. Agents, employees, and contractors of Canada or British Columbia, police officers appointed under federal or provincial legislation, and members of the Canadian Armed Forces, in accordance with federal and provincial laws of general application, may enter, cross, and stay temporarily on Nisga'a Lands to deliver and manage programs and services, to carry out inspections under law, to enforce laws, to carry out the terms of this Agreement, and to respond to emergencies.
16. Canada or British Columbia will give reasonable notice of entry onto Nisga'a Lands under paragraphs 15 or 17 to the Nisga'a Nation:
 - a. before the entry if it is practicable to do so; or
 - b. in any event, as soon as practicable after the entry.
17. This Agreement does not limit the authority of Canada or the Minister of National Defence to carry out activities related to national defence and security, in accordance with federal laws of general application.
18. Canada will give reasonable notice of entry onto the Nass Area under paragraph 17 to the Nisga'a Nation:
 - a. before the entry if it is practicable to do so; or
 - b. in any event, as soon as practicable after the entry.

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19. Persons who enter, cross, and stay temporarily on Nisga'a Lands under paragraphs 15 or 17 are subject to Nisga'a laws except to the extent that those laws unduly interfere with the carrying out of their duties, and they are not subject to payment of fees or compensation except as required by federal or provincial law in respect of the payment of fees or compensation for access on land owned in fee simple.

NISGA'A ACCESS TO OTHER LANDS

20. Agents, employees, and contractors of the Nisga'a Nation, Nisga'a Villages, and Nisga'a Corporations, and members of the Nisga'a Police Service, in accordance with laws of general application, may enter, cross, and stay temporarily on lands off of Nisga'a Lands to deliver and manage government programs and services, to carry out inspections under law, to enforce laws, to carry out the terms of this Agreement, and to respond to emergencies.
21. Persons who enter, cross, and stay temporarily on lands under paragraph 20 are not subject to payment of fees or compensation except to the extent that federal or provincial law requires the payment of fees or compensation by or on behalf of agents, employees, or contractors of federal or provincial governments.
22. The Nisga'a Nation, Nisga'a Villages, or Nisga'a Corporations will give reasonable notice of entry onto lands under paragraph 20 to Canada or British Columbia as the case may be:
- a. before the entry if it is practicable to do so; or
 - b. in any event, as soon as practicable after the entry.
23. Nisga'a citizens will have reasonable access to and onto Crown lands that are outside of Nisga'a Lands, including streams and highways, to allow for the exercise of Nisga'a rights set out in this Agreement and for the normal use and enjoyment of Nisga'a interests set out in this Agreement, including the use of resources for purposes incidental to the normal use and enjoyment of those rights or interests, provided that this access does not interfere with other authorized uses or the ability of the Crown to authorize uses or dispose of Crown land.
24. If an authorized use or disposition of Crown land would deny Nisga'a citizens reasonable access or use of resources, as contemplated by paragraph 23, the Crown will ensure that alternative reasonable access is provided.

ACCESS TO FEE SIMPLE PROPERTIES

25. If the owner of a parcel of land identified in Schedule 1 of Appendix B-2 reasonably requires a right of access to that parcel, Nisga'a Government may not unreasonably withhold consent to that right of access if:

- a. the owner of the parcel offers fair compensation; and
 - b. the owner of the parcel and Nisga'a Government agree on the terms of access.
26. If the Nisga'a Nation, a Nisga'a Village, a Nisga'a Corporation, or a Nisga'a citizen reasonably requires a right of access to a parcel of Nisga'a Fee Simple Lands, British Columbia may not unreasonably withhold consent to that access if:
- a. the Nisga'a Nation, Nisga'a Village, Nisga'a Corporation or Nisga'a citizen offers fair compensation; and
 - b. the Nisga'a Nation, Nisga'a Village, Nisga'a Corporation or Nisga'a citizen and British Columbia agree on the terms of access.
27. British Columbia or Nisga'a Lisims Government may refer a dispute respecting consent to a right of access, terms of access, or fairness of compensation under paragraph 25 or 26 to be finally determined by binding arbitration under the Dispute Resolution Chapter.

CHAPTER 7 ROADS AND RIGHTS OF WAY

RIGHTS OF WAY GENERAL

British Columbia Rights of Way Area on Effective Date

1. On the effective date, the total rights of way area of the British Columbia rights of way is deemed to equal 800 hectares, and this total is the basis of calculations under paragraph 2.

Additional Public Rights of Way

2. After the effective date, the Nisga'a Nation or a Nisga'a Village, on request by British Columbia, will grant to British Columbia, or to a public utility, rights of way on Nisga'a Lands for public purposes, including provincial secondary roads or public utilities, in order to provide access or service to Nisga'a Lands or other lands, subject to the following:
 - a. any grant must be on reasonable terms including the location of the requested right of way, its width considering the intended use, its effect on neighbouring lands, and payment of fair compensation;
 - b. British Columbia is not entitled to a grant under this paragraph if, on the date of the request, the total of the rights of way areas of all British Columbia rights of way plus the area of the requested grant would exceed the aggregate right of way maximum;
 - c. if any British Columbia right of way, or a portion of a British Columbia right of way, terminates, the right of way area of the terminated right of way will be excluded from the calculation of the total of the rights of way areas of all the British Columbia rights of way for the purposes of calculating British Columbia's entitlement in respect of the aggregate right of way maximum; and
 - d. if any dispute arises between British Columbia and the Nisga'a Nation or a Nisga'a Village in respect of the rights or obligations of either British Columbia, the Nisga'a Nation or a Nisga'a Village under this paragraph, including a dispute in respect of British Columbia's entitlement to the grant of a right of way for itself or for a public utility, or a dispute in respect of the terms of the grant, then any party to that dispute may refer the dispute to be finally determined by arbitration under Stage Three of the Dispute Resolution Chapter without having to proceed through Stage Two. The arbitrator's decision will be final on all matters in dispute, but the arbitrator will not have the authority to require British Columbia or a public utility to accept a grant of a right of way.
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Preservation of Right to Grant Rights of Way and Approve Survey Plans

3. The Nisga'a Nation, and each Nisga'a Village, will preserve their respective rights to grant rights of way to British Columbia or a public utility on all Nisga'a Lands, and to approve all survey plans as set out in paragraph 5.

Ownership of Works and Plant

4. Subject to any express provision, in respect of ownership, in a grant of a right of way, all works, including road surfacing, bridges, drainage works, public utility poles, wiring and related plant, underground piping, conduits and related plant, that are located on that right of way area:
 - a. are the property of the grantee of that grant from the Nisga'a Nation or a Nisga'a Village, for the duration of the grant; and
 - b. become the property of the Nisga'a Nation or Nisga'a Village upon the termination of the grant.

Approval of Survey Plans

5. For each grant of a right of way given on the effective date, the detailed location and dimensions of the right of way area will be deemed to be described conclusively in survey plans approved by the Nisga'a Nation and the grantee, as follows:
 - a. a survey plan attached to a grant given on the effective date will be deemed to be approved by the Nisga'a Nation and the grantee; and
 - b. for any portion of a right of way area that is not described in any survey plan attached to the grant given on the effective date, either the Nisga'a Nation or the grantee may deliver to the other, at any time, a survey plan for approval in writing. If approval is not given within 30 days, then the Nisga'a Nation or the grantee may refer the matter in dispute to dispute resolution for final determination, as set out in the grant.

Application of Nisga'a Law

6. Nisga'a laws apply to secondary provincial road rights of way areas, public utility rights of way areas, and works under licence to British Columbia or a public utility from the Nisga'a Nation or a Nisga'a Village, to the extent that the Nisga'a laws do not:
 - a. impair the ability to use and occupy a right of way area for the purposes for which the right of way was granted;
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- b. specify a more stringent standard of design or operation for road or utility works that are on a right of way area, or under licence, than is set out in federal or provincial laws of general application in British Columbia; or
 - c. impair the ability to use any works under licence for the purposes for which the licence was granted.
7. Any right of way, other interest, or licence, granted under this Chapter on the effective date, will be in the applicable form set out in Appendix C-3 or C-4 and will include any modification agreed upon in writing before the effective date by the Nisga'a Tribal Council and the person entitled to the right of way, other interest, or licence.

NISGA'A HIGHWAY

Ownership of the Nisga'a Highway Corridor

8. As of the effective date, British Columbia owns the Nisga'a Highway corridor to use as a public highway, and the Parties will execute documents and take reasonable steps to the extent necessary to provide British Columbia administration, control, and ownership of the Nisga'a Highway corridor.

Description of Nisga'a Highway Corridor

9. As of the effective date, the Nisga'a Highway corridor consists of the lands set out in Schedule A. The detailed location and dimensions of the Nisga'a Highway corridor are deemed to be described conclusively in survey plans approved by the Nisga'a Nation and British Columbia, as follows:
- a. on or after the effective date, either the Nisga'a Nation or British Columbia may deliver to the other a survey plan of all or any portion of the Nisga'a Highway corridor for approval by the other in writing; and
 - b. if approval is not given within 30 days, then either the Nisga'a Nation or British Columbia may refer the matter to be finally determined by arbitration under Stage Three of the Dispute Resolution Chapter.

Nisga'a Highway Corridor Dimensions

10. Unless otherwise described in a survey plan approved under paragraph 9, the width of the Nisga'a Highway corridor is 30 metres, except that the width is greater than 30 metres where required to include those:

- a. bridges, drainage, and support works, and other road works; and
- b. cuts and fills, plus an additional three metres on both sides, measured from the toe of the fill, and from the top of the cut

that are part of the Nisga'a Highway existing on the effective date.

Closure of Nisga'a Highway

11. If British Columbia discontinues and closes any portion of the Nisga'a Highway corridor:
 - a. it will transfer to the Nisga'a Nation the estate in fee simple, as described in paragraph 3 of the Lands Chapter, for that portion of the Nisga'a Highway corridor;
 - b. that portion of the Nisga'a Highway corridor will cease to be a part of the Nisga'a Highway corridor; and
 - c. the Nisga'a Nation may make that portion of the Nisga'a Highway corridor Nisga'a Lands, in accordance with the process referred to in paragraph 9 of the Lands Chapter.

Relocation of Nisga'a Highway

12. If the Nisga'a Nation or a Nisga'a Village requires a portion of the Nisga'a Highway corridor for another purpose, the Nisga'a Nation or that Nisga'a Village may request British Columbia to relocate that portion of the Nisga'a Highway corridor and, if:
 - a. the new location is reasonably suitable for use as a highway of a comparable standard considering construction, maintenance, operation, and costs; and
 - b. the Nisga'a Nation or that Nisga'a Village pays all reasonable costs, including costs of design, planning, supervision, land, and construction

British Columbia will not unreasonably refuse to undertake the relocation.

13. If a portion of the Nisga'a Highway corridor is relocated:
 - a. British Columbia will transfer to the Nisga'a Nation or Nisga'a Village, as the case may be, the estate in fee simple, as described in paragraph 3 of the Lands Chapter, to that portion of the Nisga'a Highway corridor that is abandoned;
 - b. that portion of the Nisga'a Highway corridor will cease to be a part of the Nisga'a Highway corridor;

- c. the Nisga'a Nation may make that portion of the Nisga'a Highway corridor Nisga'a Lands, in accordance with the process referred to in paragraph 9 of the Lands Chapter; and
 - d. the Nisga'a Nation or that Nisga'a Village, as the case may be, will transfer to British Columbia the estate in fee simple, as described in paragraph 3 of the Lands Chapter, to the area of land in the relocated portion of the Nisga'a Highway corridor and that area of land will no longer be Nisga'a Lands.
14. A relocation under paragraph 12 does not affect the calculation of the total area of all British Columbia rights of way.

Highway Alignment

15. British Columbia will exercise its expropriation powers in respect of fee simple lands, on the alignment of the Nisga'a Highway, that are not Nisga'a Lands in the same manner as it exercises those powers in respect of comparable highways elsewhere in British Columbia.

Nisga'a Highway Extension to Highway 37

16. British Columbia will consider the extension of the Nisga'a Highway from Nass Camp to connect with Highway 37, in accordance with provincial priorities and having regard to British Columbia's long term goal of completing that extension.

SECONDARY PROVINCIAL ROADS

Secondary Provincial Roads Rights of Way Grants

17. On the effective date, the Nisga'a Nation will grant to British Columbia, in accordance with this Agreement, the rights of way for secondary provincial roads as set out in Appendix C-1, Part 3.

Form of Grant

18. Grants for secondary provincial road rights of way on the effective date will be substantially in the form of Appendix C-4, Document 1 and will include by reference all of the provisions of this Agreement that apply to secondary provincial road rights of way, which provisions will be subject to any express provisions in the grant.
19. Unless the Nisga'a Nation and British Columbia otherwise agree, grants for secondary provincial road rights of way granted after the effective date will be in the form and on the
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terms referred to in paragraph 18.

Rights and Privileges

20. A grant of a right of way for a secondary provincial road right of way area will provide British Columbia with the full, free and uninterrupted right, liberty and right of way, in perpetuity, for the purposes of using, constructing, re-constructing, repairing, improving, upgrading, and maintaining, as provided in this Agreement:
 - a. a secondary provincial road on the right of way area as a road open to the public;
 - b. a secondary provincial road on the right of way area as a road open to industrial or resource users and, as safety permits, to the public; or
 - c. works for public utility purposes.
21. The grant in paragraph 20 will provide British Columbia, its employees, representatives, agents, contractors, and permittees the right to enter onto the secondary provincial road rights of way areas for the purposes referred to in paragraph 20.

Secondary Provincial Road Rights of Way Area Dimensions

22. Unless otherwise described in a survey plan approved under paragraph 5, the width of a secondary provincial road right of way area is 20 metres, except that the width is greater than 20 metres where required to include those:
 - a. bridges, drainage, and support works, and other road works; and
 - b. cuts and fills, plus an additional three metres on both sides, measured from the toe of the fill, and from the top of the cut

that are part of the secondary provincial road existing on the effective date.

Nisga'a Assignment of Secondary Provincial Road

23. The Nisga'a Nation may not, without the written consent of British Columbia, assign or transfer any of its interest in any Nisga'a Lands that are subject to a secondary provincial road right of way except to a Nisga'a Village.
 24. Upon an assignment or transfer to a Nisga'a Village:
 - a. the Nisga'a Nation will, subject to a re-transfer or re-assignment of the interest to the
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Nisga'a Nation, be deemed to be released of its obligations under the secondary provincial road right of way; and

- b. the Nisga'a Village will not assign or transfer the interest to any third party without the written consent of British Columbia.

British Columbia Assignment of Secondary Provincial Road

25. British Columbia may not without the written consent of the Nisga'a Nation assign or transfer any of its interest in any secondary provincial road right of way area except for an assignment to:

- a. a British Columbia Crown corporation or other British Columbia entity; or
- b. to a lender as security for a borrowing by British Columbia

and no assignment or transfer will act as a release of any of British Columbia's obligations as set out in this Agreement, or delegate, alter, or affect any of the regulatory powers of British Columbia.

Indemnity For Secondary Provincial Roads

26. British Columbia will indemnify and save harmless the Nisga'a Nation and each Nisga'a Village, as the case may be, from any:

- a. costs, excluding fees and disbursements of solicitors and other professional advisors;
- b. damages;
- c. losses; or
- d. liabilities

that the Nisga'a Nation or a Nisga'a Village, respectively, may suffer or incur in connection with, or as a result of, any claims, demands, actions, or proceedings arising out of or relating to a secondary provincial road right of way area, except to the extent that those costs, damages, losses, and liabilities were caused by the Nisga'a Nation or that Nisga'a Village.

Abandonment of Secondary Provincial Roads

27. British Columbia may abandon any secondary provincial road by giving written notice to the Nisga'a Nation.

28. Subject to:
- a. the express provisions in the grant of a right of way of a secondary provincial road referred to in paragraph 27; and
 - b. agreement by the Nisga'a Nation or a Nisga'a Village to assume responsibility for that secondary provincial road

British Columbia will be responsible to decommission that road, remove any structures from it, or take the steps required under federal and provincial laws of general application that apply to comparable roads adjacent to private lands.

29. If, under paragraph 28, there are no applicable federal or provincial laws of general application, British Columbia will take the steps reasonably required to protect adjacent Nisga'a Lands and the public from damage or injury that might result from the continued existence of the secondary provincial road.
30. The grant of a right of way will be terminated on the date set out in the termination notice given under paragraph 27, except that British Columbia's liability obligations, and obligations under paragraphs 28 and 29 existing at the date of termination, will survive the termination.

Rights of Way for Secondary Provincial Road Extensions

31. On request of British Columbia and subject to the aggregate right of way maximum, the Nisga'a Nation or a Nisga'a Village will give a grant substantially in the form of Appendix C-4, Document 1 granting:
- a. rights of way for secondary provincial roads for the three roads connecting the North Hoodoo Road with the easterly boundary of Nisga'a Lands as shown generally in Appendix C-1, Part 3; and
 - b. rights of way to extend or add to the provincial secondary roads in accordance with paragraph 2.

CROWN ROADS

Public Utilities on Crown Road Rights of Way Areas

32. British Columbia will permit public utilities to use the Nisga'a Highway corridor and the secondary provincial road rights of way areas to install, operate, and maintain utility transmission and distribution works to the extent that, in the reasonable judgement of British Columbia, those works will not interfere with the safe and prudent use of the existing road or existing public utility works.
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Other Uses within Crown Road Rights of Way Areas

33. British Columbia will authorize the use of the Nisga'a Highway corridor and the secondary provincial road rights of way areas for uses other than road and public utility uses as follows:
- a. British Columbia will issue a permit for a use if:
 - i. the Nisga'a Nation or a Nisga'a Village has issued a permit for that use, and
 - ii. in the reasonable judgment of British Columbia, the use will be safe and will not interfere with the existing road or existing public utility works; and
 - b. British Columbia may:
 - i. attach to a permit issued under subparagraph (a) conditions in respect of safety or interference,
 - ii. terminate a permit issued under subparagraph (a) without compensation if the use is unsafe or interferes with the existing or proposed road or existing or proposed public utility works, or
 - iii. charge fees for a permit issued under subparagraph (a), which do not exceed British Columbia's actual reasonable costs of issuing the permit.

Entry on Nisga'a Lands Outside Crown Road Rights of Way

34. In addition to the provisions of paragraph 15 of the Access Chapter, and subject to the provisions of a grant of a secondary provincial road right of way, British Columbia, its employees, agents, contractors, or representatives may enter onto Nisga'a Lands outside the Nisga'a Highway corridor, or outside a provincial secondary road right of way area, for the purpose of undertaking works, including:
- a. constructing drainage works;
 - b. maintaining slope stability; or
 - c. removing danger trees or other hazards
- as required for the protection, care, maintenance, or construction of road or public utility works.
35. Before commencing any work referred to in paragraph 34, British Columbia will deliver a written work plan describing the effect and extent of the proposed work on Nisga'a Lands to the Nisga'a Nation or a Nisga'a Village, as the case may be, for approval.
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36. The Nisga'a Nation or a Nisga'a Village, as the case may be, will not unreasonably withhold approval of the work plan delivered by British Columbia, considering the effect of the proposed work, including the cost of the proposed work compared to the cost of alternate solutions, the extent of the risk of not undertaking the proposed work, and the impact of the proposed work on Nisga'a Lands.
37. If British Columbia and the Nisga'a Nation or a Nisga'a Village, as the case may be, do not agree on a work plan requested by British Columbia within 30 days of receipt by the Nisga'a Nation or that Nisga'a Village of the proposed work plan, either party may refer the disagreement to be finally determined by arbitration under Stage Three of the Dispute Resolution Chapter, without having to proceed through Stage Two.
38. In undertaking works referred to in paragraph 34, British Columbia will minimize the damage to, and time spent on, Nisga'a Lands.
39. British Columbia will pay fair compensation for any interference with, or damage to, Nisga'a Lands adjacent to the work referred to in paragraph 34. Either party may refer a disagreement in respect of compensation to be finally determined by arbitration under Stage Three of the Dispute Resolution Chapter.
40. Notwithstanding any other provision of this Agreement, in an emergency, British Columbia may undertake works and take steps, on Nisga'a Lands, that are reasonably required to be taken immediately in order to protect works constructed on the Nisga'a Highway corridor or a secondary provincial road right of way area, or to protect persons or vehicles using the Nisga'a Highway or a secondary provincial road.
41. In the event of an emergency referred to under paragraph 40, British Columbia will, as soon as practicable, notify the Nisga'a Nation or the relevant Nisga'a Village, as the case may be, in writing that it has undertaken emergency work on Nisga'a Lands.

Consultation Regarding Traffic Regulation

42. Upon request of the Nisga'a Nation or a Nisga'a Village, British Columbia will consult with the Nisga'a Nation or that Nisga'a Village with respect to regulation of traffic and transportation on the Nisga'a Highway or a secondary provincial road that is adjacent to a settled area on Nisga'a Lands.

Access and Safety Regulation

43. British Columbia has the right to regulate all matters relating to:
- a. the location and design of intersecting roads giving access to the Nisga'a Highway or secondary provincial roads, including:
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- i. regulating or requiring signs, signals, and other traffic control devices on Nisga'a Highway corridor and the secondary provincial road rights of way areas,
 - ii. regulating or requiring merging lanes, on ramps and off ramps, or
 - iii. requiring contributions to the cost of (i) and (ii) above; and
 - b. the height and location of structures on Nisga'a Lands immediately adjacent to the Nisga'a Highway corridor, or to a secondary provincial road right of way area, only to the extent reasonably required to protect the safety of the users of the Nisga'a Highway and secondary provincial roads.
44. Subject to other provisions of this Agreement, British Columbia has no authority to zone or otherwise regulate land use on Nisga'a Lands adjacent to the Nisga'a Highway corridor or secondary provincial road rights of way areas.
45. The Nisga'a Nation or a Nisga'a Village, as the case may be, will consult with British Columbia on land use decisions relating to the development of Nisga'a Lands adjacent to the Nisga'a Highway corridor.

Temporary Closure of Crown Roads

46. Subject to paragraph 47, British Columbia may temporarily close a portion of the Nisga'a Highway or a secondary provincial road for reasons of safety, or for reasons of care and maintenance of the Nisga'a Highway or a secondary provincial road.

Administration of the Nisga'a Highway and Secondary Provincial Roads

47. British Columbia will administer the Nisga'a Highway and secondary provincial roads, including closing, abandoning, and maintaining them, in the same manner as it administers comparable roads elsewhere in British Columbia.

Relocation of Secondary Provincial Roads

48. If the Nisga'a Nation or a Nisga'a Village requires a portion of a secondary provincial road right of way area for another purpose, the Nisga'a Nation or that Nisga'a Village may request British Columbia to relocate that portion of the right of way area, and if:
- a. the new location is reasonably suitable for use as a road of a comparable standard considering construction, maintenance, operation, and costs; and
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- b. the Nisga'a Nation or that Nisga'a Village pays all reasonable costs, including costs of design, planning, supervision, land, and construction

British Columbia will not unreasonably refuse to undertake the relocation.

49. If a portion of a right of way is relocated under paragraph 48, the right of way will be terminated for the portion of the road right of way area that is abandoned, and the Nisga'a Nation or Nisga'a Village will grant a new right of way for the relocated secondary provincial road.
50. A relocation under paragraph 48 does not have any impact on the calculation of the total rights of way area of British Columbia rights of way.

Maintenance

51. Subject to any agreement between British Columbia and the Nisga'a Nation or a Nisga'a Village in respect of a secondary provincial road, the Nisga'a Nation and each Nisga'a Village has no responsibility or liability for maintenance or repair of the Nisga'a Highway or a secondary provincial road.

Use of Existing Gravel Pits on Nisga'a Lands

52. British Columbia may enter, without charge, onto Nisga'a Lands to extract gravel materials from pits existing on the effective date to construct and maintain the Nisga'a Highway or secondary provincial roads.
 53. As soon as practicable after the effective date, British Columbia will prepare gravel management plans for the gravel materials pits existing on the effective date as set out in Schedule B, and submit them to the Nisga'a Nation or a Nisga'a Village, as the case may be, for approval, which approval will not be unreasonably withheld.
 54. British Columbia, the Nisga'a Nation and each Nisga'a Village will comply with the provisions of an approved gravel management plan.
 55. Without preparing a gravel management plan, British Columbia may continue to use a gravel materials pit that is not listed in Schedule B and that, as of the effective date, British Columbia has been using intermittently as a source of gravel materials for local road maintenance, but if the rate of extraction from that pit increases materially, British Columbia will prepare a gravel management plan for that pit in accordance with paragraph 53.
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Development of New Gravel Materials Pits on Nisga'a Lands

56. Subject to paragraph 57, British Columbia may enter, without charge, onto Nisga'a Lands to locate and extract sufficient quantities of unprocessed gravel materials from natural deposits as may exist on Nisga'a Lands for use by British Columbia to construct and maintain the Nisga'a Highway or secondary provincial roads.
57. Before undertaking any excavation for gravel material samples or other exploration work on Nisga'a Lands under paragraph 56, British Columbia will prepare a written exploration plan, indicating generally the proposed location of exploration and the method and extent of proposed work, for approval by the Nisga'a Nation or the Nisga'a Village, as the case may be, which approval will not be unreasonably withheld.
58. In respect of a written exploration plan under paragraph 57:
- a. British Columbia will select a proposed location to explore for a gravel materials pit, taking into account the effect of a development at that proposed location on:
 - i. the lands adjacent to the proposed location, and
 - ii. any unique attributes of the lands at the proposed location and adjacent lands; and
 - b. in considering whether to approve that plan, the Nisga'a Nation or a Nisga'a Village, as the case may be, will take account of the cost efficiencies of the proposed location in relation to alternate locations.
59. After approval is obtained under paragraph 57 for an exploration plan, British Columbia will prepare and obtain approval for a gravel management plan in accordance with paragraph 53 before commencing the development of any gravel materials pit.

NISGA'A ROADS GENERAL**Public Use and Right to Close Nisga'a Roads to Public**

60. Nisga'a roads will be administered as follows:
- a. the Nisga'a Nation may close to the public any portion of a Nisga'a road that is not within Nisga'a Village Lands; and
 - b. a Nisga'a Village will permit public use of those Nisga'a roads on its Nisga'a Village lands that would be open to the public in comparable communities elsewhere in British Columbia, and accordingly may close a Nisga'a road in a Nisga'a Village for safety reasons.
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Maintenance

61. British Columbia is not responsible or liable for maintenance or repair of a Nisga'a road.

Development of Gravel Materials Deposits on Crown Lands for Nisga'a Use

62. Subject to paragraph 63, the Nisga'a Nation may enter onto Crown lands to locate and extract, without charge, sufficient quantities of unprocessed gravel materials from natural deposits as may exist on Crown lands for use by the Nisga'a Nation for public purposes.
63. The rights and obligations of British Columbia set out in paragraphs 52 to 59 and, as appropriate, British Columbia's normal application procedures, will apply to the Nisga'a Nation, in respect of the location, development, and extraction of gravel materials on Crown lands, under paragraph 62.
64. British Columbia will not unreasonably withhold approval for any exploration plan or gravel management plan prepared and submitted by the Nisga'a Nation under paragraph 63.

PRIVATE ROADS**Grant of Private Road Rights of Way as of the Effective Date**

65. On the effective date, the Nisga'a Nation will grant private road rights of way for the private roads listed in Appendix C-1, Part 3.

Form of Grant for Private Road Rights of Way

66. Grants for private road rights of way given on the effective date will be substantially in the form of Appendix C-4, Document 2.

Termination of Private Rights of Way

67. Subject to the express provisions of a grant of a private road right of way, upon the termination of the interest or right to which that private road right of way provides access, the private road right of way will terminate.

UTILITIES GENERAL**Public Utility Rights of Way as of the Effective Date**

68. On the effective date:
- a. for public utility works located on a Crown road right of way area on Nisga'a lands, British Columbia will be deemed to have granted the public utility the right to use the Crown road right of way area for the installation, operation, and maintenance of the existing utility transmission and distribution works, subject to regulation by British Columbia in the same manner as British Columbia regulates public utilities on road rights of way elsewhere in British Columbia;
 - b. for Hydro works not located on a Crown road right of way area, the Nisga'a Nation will give the grants to Hydro, as set out in Appendix C-1, Part 2, substantially in the form set out in Appendix C-3, Document 1;
 - c. for BC TEL works not located on a Crown road right of way area, the Nisga'a Nation will give the grants to BC TEL as set out in Appendix C-1, Part 2, substantially in the form set out in Appendix C-3, Document 2; and
 - d. to provide access across Nisga'a Lands to Hydro rights of way areas and works, the Nisga'a Nation will grant to Hydro rights of way as set out in Appendix C-1, Part 3, substantially in the form contained in Appendix C-4, Document 3.

Public Utilities on Crown Roads

69. Subject to this Chapter, public utilities may, with the prior written approval of British Columbia, locate utility transmission and distribution works on Crown roads rights of way areas.

Public Utilities on Nisga'a Lands

70. Subject to this Chapter, Hydro and BC TEL may, with the prior written approval of the Nisga'a Nation or a Nisga'a Village, locate distribution works on Nisga'a Lands to meet demands for service.
71. Hydro or BC TEL may, with the prior written approval of the Nisga'a Nation or a Nisga'a Village, install new works on Nisga'a Lands and provide new service connections after the effective date on terms substantially as set out in:
- a. Appendix C-3, Document 1 for Hydro; and

- b. Appendix C-3, Document 2 for BC TEL
- so that Hydro and BC TEL have the opportunity to extend their distribution systems according to their policies in other comparable communities in British Columbia.
- 72. The Nisga'a Nation and each Nisga'a Village will not unreasonably withhold approval for Hydro or BC TEL works referred to in paragraph 71.
 - 73. Nothing in paragraph 71 or 72 requires Hydro or BC TEL to obtain approval from the Nisga'a Nation or a Nisga'a Village for usual service extensions or connections to works on a Crown road right of way area or a public utility right of way area.

Alterations to Hydro Rights of Way Areas

- 74. If under the terms of a grant of a Hydro right of way the Nisga'a Nation or a Nisga'a Village requires Hydro to:
 - a. relocate a portion of the Hydro right of way area for Hydro transmission or distribution works existing on the effective date; or
 - b. include within a Hydro right of way area Hydro transmission or distribution works that:
 - i. are located on Nisga'a Lands outside of a Crown road right of way area or Hydro right of way area; and
 - ii. exist on the effective date

the relocation or inclusion will not have any impact on the calculation of the total rights of way area of British Columbia rights of way.

SCHEDULE A -- NISGA'A HIGHWAY CORRIDOR

- Section A - Kincolith to that part of the southerly boundary of former Lachkaltsap Indian Reserve No. 9, shown as being the southerly boundary of Block A of District Lot 7051, Cassiar District, on Plan 12431, excluding the portion within District Lot 2 and District Lot 3965, being Red Bluff Indian Reserve No. 88, both in Range 5 Coast District
Maps 103I.091, 103I.092, 103P.001, 103P.002, and 103P.003
- Section B - From the southerly boundary of former Lachkaltsap Indian Reserve No. 9 shown as being Block A of District Lot 7051, Cassiar District, on Plan 12431, to the southerly boundary of former Zaulzap Indian Reserve No. 29, being the southerly boundary of *Anhluut'uksim Laxmihl Angwinga'Asanskwhl Nisga'a* (a.k.a Nisga'a Memorial Lava Bed Park)
Maps 103P.003, 103P.004, and 103P.014
- Section C - Anlaw Road (Gitwinksihlkw Access Road) between the easterly boundary of former Gitwinksihlkw Indian Reserve No. 7 and the left natural boundary of Nass River, which is also a portion of the boundary of *Anhluut'uksim Laxmihl Angwinga'Asanskwhl Nisga'a* (a.k.a Nisga'a Memorial Lava Bed Park) as shown on *Land Act* Survey Plan 11 Tube 1711
Map 103P.014
- Section D - Section running between the right natural boundary of Tseax River and the northerly boundary of the BC Hydro right of way lying within District Lot 1726, as shown on Plan 7237 on deposit in the Land Title Office in Prince George
Maps 103P.025 and 103P.026
- Section E - Aiyansh Road No. 180 between the Nisga'a Highway running through the Southeast 1/4 of District Lot 4011, Cassiar District, and the northerly boundary of the Northeast 1/4 of District Lot 4012, being part of the boundary of former New Aiyansh Indian Reserve No. 1 as shown on RS5608 (52-09-14)
Map 103P.025
- Section F - Nass Forest Service Road (FSR 7876.01 - Section 01) running from junction of Nisga'a Highway with Road No. 325 northeasterly to its intersection with the boundary of Nisga'a Lands within District Lot 1751, Cassiar District
Maps 103P.026 and 103P.036

SCHEDULE B -- GRAVEL MATERIALS PITS ON NISGA'A LANDS

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| Aiyansh Pit (Sandhill) | Pit No. 5221 103P.025 |
| Anudol Pit | Pit No. 5223 103P.003 |
| Ansedagan Pit | Pit No. 5233 103P.014 |
| Ginlulak Quarry | Pit No. 5224A 103P.003 |
| Ksedin Pit | Pit No. 5222 103P.004 |
| Kwinhak Pit | Pit No. 5256 103P.003 |
| Zaulzap Quarry | Pit No. 5206 103P.014 |