

CHAPTER 9 WILDLIFE AND MIGRATORY BIRDS

GENERAL

Nisga'a Wildlife Entitlements

1. Nisga'a citizens have the right to harvest wildlife throughout the Nass Wildlife Area in accordance with this Agreement subject to:
 - a. measures that are necessary for conservation; and
 - b. legislation enacted for the purposes of public health or public safety.
 2. The entitlement set out in paragraph 1 is a right to harvest in a manner that:
 - a. is consistent with:
 - i. the communal nature of the Nisga'a harvest for domestic purposes, and
 - ii. the traditional seasons of the Nisga'a harvest; and
 - b. does not interfere with other authorized uses of Crown land.
 3. Notwithstanding paragraphs 1 and 2, the Crown may authorize uses of or dispose of Crown land, and any authorized use or disposition may affect the methods, times, and locations of harvesting wildlife under Nisga'a wildlife entitlements, provided that the Crown ensures that those authorized uses or dispositions do not:
 - a. deny Nisga'a citizens the reasonable opportunity to harvest wildlife under Nisga'a wildlife entitlements; or
 - b. reduce Nisga'a wildlife allocations.
 4. Subject to paragraph 3, Nisga'a citizens may harvest wildlife under Nisga'a wildlife entitlements on lands that are owned in fee simple off of Nisga'a Lands, but that harvesting will be in accordance with laws of general application in respect of harvesting wildlife on fee simple lands.
 5. Subject to paragraphs 70, 92, and 93, Nisga'a wildlife entitlements are for domestic purposes.
 6. Notwithstanding that Nisga'a wildlife entitlements are treaty rights, a Nisga'a wildlife allocation that is set out as a percentage of the total allowable harvest has the same priority as the recreational and commercial harvest of the total allowable harvest of that species.
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7. This Agreement is not intended to alter federal or provincial laws of general application in respect of property in wildlife or migratory birds.
8. Nisga'a wildlife entitlements are held by the Nisga'a Nation.
9. The Nisga'a Nation may not dispose of Nisga'a wildlife entitlements.

Licences, Fees, Charges, and Royalties

10. Canada and British Columbia will not require Nisga'a citizens:
 - a. to have federal or provincial licences; or
 - b. to pay fees, charges, or royalties

in respect of the harvest of wildlife or migratory birds under Nisga'a wildlife entitlements. This paragraph does not restrict Canada's ability to require licences for the use and possession of firearms under federal laws on the same basis as applies to other aboriginal people of Canada.
11. From time to time the Nisga'a Nation and British Columbia will negotiate and attempt to reach agreements concerning the Nisga'a Nation contributions to any provincial fund dedicated to wildlife conservation and habitat protection, at a level that is commensurate with and takes into account:
 - a. the contributions made by licensed hunters throughout British Columbia;
 - b. the application of the provincial fund to the Nass Wildlife Area; and
 - c. the performance of similar wildlife management activities by Nisga'a Lisims Government.

Harvesting Under Other Laws and Agreements

12. This Agreement does not preclude Nisga'a citizens from harvesting wildlife or migratory birds throughout Canada in accordance with:
 - a. federal and provincial laws;
 - b. any agreements that are in accordance with laws of general application between the Nisga'a Nation, a Nisga'a Village, a Nisga'a Corporation on the one hand, and other aboriginal people on the other; or
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- c. any arrangements between other aboriginal people and Canada or British Columbia.

NASS WILDLIFE AREA

13. British Columbia and the Nisga'a Nation may agree to alter the boundaries of the Nass Wildlife Area from time to time.
14. Provincial laws in respect of the designation of wildlife management areas and critical wildlife areas do not apply on Nisga'a Lands.

DESIGNATED SPECIES

Initial Designated Species

15. On the effective date, the Minister will designate moose, grizzly bear, and mountain goat as the initial designated species.

Designation of Wildlife Species and Determination of Total Allowable Harvests

16. Nisga'a Lisims Government or British Columbia may request the Wildlife Committee to recommend whether a wildlife species should be, or continue to be, a designated species.
17. The Minister may designate a wildlife species, other than the initial designated species, only if the Minister determines that, in order to address a significant risk to a wildlife population, there should be a total allowable harvest of that wildlife species.
18. The Minister may determine that a wildlife species is no longer a designated species only if the Minister determines that the significant risk to the wildlife population no longer exists.
19. The Minister will request and consider recommendations from the Wildlife Committee before determining whether a species will be, or continue to be, a designated species.
20. British Columbia and Nisga'a Lisims Government will provide the Wildlife Committee with the information that is reasonably available and necessary to enable the Wildlife Committee to recommend whether a wildlife species should be, or continue to be, a designated species.

Total Allowable Harvests

21. The Minister will request and consider recommendations from the Wildlife Committee before determining the total allowable harvest for any designated species.
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22. In determining the total allowable harvest for a designated species, the Minister will, in accordance with proper wildlife management, take into account:
- a. the population of the species within the Nass Wildlife Area; and
 - b. the population of the species within its normal range or area of movement outside the Nass Wildlife Area.

ENTITLEMENTS AND ALLOCATIONS

Nisga'a Wildlife Entitlements

23. Before:
- a. a wildlife species is designated in accordance with this Agreement;
 - b. a Nisga'a wildlife allocation of that wildlife species is established; and
 - c. a total allowable harvest of that wildlife species is determined,
- subject to paragraph 70, Nisga'a citizens have the right to harvest that wildlife species for domestic purposes.

Nisga'a Wildlife Allocations

24. If:
- a. a wildlife species is designated in accordance with this Agreement;
 - b. a Nisga'a wildlife allocation of that wildlife species is established; and
 - c. a total allowable harvest of that wildlife species is determined
- Nisga'a citizens have the right to harvest that designated species, in accordance with that Nisga'a wildlife allocation.
25. The Nisga'a wildlife allocations of the initial designated species are set out in Schedule A.
26. A Nisga'a wildlife allocation that is determined or varied under this Agreement, and any review provisions agreed to under paragraph 28, will be added to Schedule A.
27. Unless British Columbia and the Nisga'a Nation otherwise agree, or it is otherwise determined by arbitration under paragraph 33, the Nisga'a wildlife allocation of a species that
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is designated after the effective date:

- a. will, at or below the estimated harvest level at the time of the designation of the species, reflect the share of the harvest that was harvested by the Nisga'a Nation before the designation;
 - b. will provide for an increasing share of the total allowable harvest by persons other than Nisga'a citizens as the total allowable harvest increases above the level at which the species was designated; and
 - c. may provide for a maximum amount for the Nisga'a harvest.
28. If the Minister designates a species after the effective date, British Columbia and the Nisga'a Nation will negotiate and attempt to reach agreement on a Nisga'a wildlife allocation of that designated species, and they may also agree to provisions to review that Nisga'a wildlife allocation.
29. Any determination or variation of a Nisga'a wildlife allocation, including a determination or variation by an arbitrator under paragraph 33, will take into account all relevant information presented by British Columbia and the Nisga'a Nation and in particular information presented in respect of:
- a. the status of the species;
 - b. conservation requirements;
 - c. current and past Nisga'a harvest for domestic purposes;
 - d. change in Nisga'a harvesting effort; and
 - e. the effect on the species of harvesting by others.

Review of Nisga'a Wildlife Allocations of Initial Designated Species

30. Within 15 years of the effective date, British Columbia and the Nisga'a Nation will review the Nisga'a wildlife allocation of an initial designated species:
- a. once at the request of either British Columbia or the Nisga'a Nation at any time after five years from the effective date; and
 - b. if there has been a review under subparagraph (a):
 - i. once at the request of British Columbia, and
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- ii. once at the request of the Nisga'a Nation

at any time after five years from the date the review under subparagraph (a) was requested.

- 31. British Columbia and the Nisga'a Nation may agree to vary the Nisga'a wildlife allocation of an initial designated species after any review under paragraph 30.
- 32. Notwithstanding paragraphs 30 and 31, British Columbia and the Nisga'a Nation may agree to review and vary the Nisga'a wildlife allocation of an initial designated species at any time.

Arbitration

- 33. If British Columbia and the Nisga'a Nation fail to agree on:
 - a. the Nisga'a wildlife allocation of an initial designated species following a review under paragraph 30; or
 - b. the Nisga'a wildlife allocation of any other designated species under paragraphs 27 to 29

the allocation will be finally determined by arbitration under the Dispute Resolution Chapter.

- 34. The Party requesting a review of the Nisga'a wildlife allocation of a designated species has the onus of establishing that the Nisga'a wildlife allocation should be varied.

WILDLIFE MANAGEMENT

Responsibilities of the Parties

- 35. Subject to this Agreement, the Minister is responsible for wildlife.
- 36. The Minister will manage all wildlife harvesting within the Nass Wildlife Area in a manner consistent with any total allowable harvest and harvest objectives established under this Agreement.
- 37. Nisga'a Lisims Government may make laws that are in respect of the Nisga'a Nation's rights and obligations in respect of wildlife and migratory birds under, and that are consistent with, this Agreement and that are not inconsistent with the annual management plans, including matters such as:
 - a. the distribution among Nisga'a citizens of Nisga'a wildlife entitlements;

- b. the establishment and administration of licensing requirements for the harvest of wildlife and migratory birds under the Nisga'a wildlife entitlements;
 - c. the methods, timing, and locations of the harvest of species of wildlife included in the annual management plan, and migratory birds under the Nisga'a wildlife entitlements;
 - d. the methods, timing, and locations of the harvest of species of wildlife not included in the annual management plan;
 - e. the designation and documentation of persons who harvest wildlife and migratory birds under the Nisga'a wildlife entitlements;
 - f. the trade or barter of wildlife and migratory birds harvested by Nisga'a citizens under the Nisga'a wildlife entitlements; and
 - g. other matters agreed to by the Parties.
38. In the event of an inconsistency or conflict between a law made under paragraph 37, other than a law made under subparagraph 37(d), and a federal or provincial law, the Nisga'a law will prevail to the extent of the inconsistency or conflict.
39. Nisga'a Lisims Government may make laws in respect of any sale of wildlife, migratory birds, or the inedible by-products or down of migratory birds, that are harvested under this Agreement.
40. In the event of a conflict between a law made under subparagraph 37(d) or paragraph 39 and a federal or provincial law of general application, the federal or provincial law will prevail to the extent of the conflict.
41. Nisga'a Lisims Government will make laws to require:
- a. that any wildlife or wildlife parts, including meat, harvested under this Agreement, that are transported outside Nisga'a Lands for the purpose of trade or barter be identified as wildlife for trade or barter; and
 - b. Nisga'a citizens to comply with the annual management plan.
42. Nisga'a Lisims Government may develop and carry out training programs for hunters in relation to conservation and safety, that are comparable to training programs that are carried out under provincial laws of general application, and successful completion of these programs will be deemed to satisfy any training requirements in relation to conservation and safety under those provincial laws.
43. Nisga'a Lisims Government may develop and carry out training programs for hunters in
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relation to conservation and safety, that are comparable to training programs that are carried out under federal laws.

44. The person authorized under federal or provincial legislation to designate persons to administer tests in respect of firearms use or safety, will designate any person nominated by Nisga'a Lisims Government for the purpose of carrying out the responsibilities of administering federal and provincial tests in respect of firearms use or safety, if the person nominated by Nisga'a Lisims Government has the firearms licence and the firearms use or safety testing qualifications:
- a. generally required of all persons who administer those tests in British Columbia; or
 - b. required of aboriginal persons who administer those tests in British Columbia, if specific qualifications have been established for aboriginal persons to administer those tests.

Wildlife Committee

45. On the effective date, the Parties will establish a Wildlife Committee to facilitate wildlife management within the Nass Wildlife Area. For this purpose, the Wildlife Committee will carry out the responsibilities assigned to it under this Agreement, including:
- a. recommending to the Minister and Nisga'a Lisims Government any conservation requirements it considers advisable for wildlife species within the Nass Wildlife Area;
 - b. recommending to the Minister and Nisga'a Lisims Government whether any wildlife species should be, or continue to be, a designated species;
 - c. recommending to the Minister and Nisga'a Lisims Government each year the total allowable harvest levels for designated species, including the objectives for:
 - i. the geographic distribution of the harvest within the Nass Wildlife Area,
 - ii. the sex and age composition of the harvest,
 - iii. monitoring, reporting, and auditing requirements, and
 - iv. other similar matters;
 - d. recommending to the Minister and Nisga'a Lisims Government whether there should be an annual management plan for any wildlife species other than designated species;
 - e. recommending to the Minister and Nisga'a Lisims Government annual management
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- plans, that are consistent with this Agreement and proper wildlife management, for the Nisga'a harvest of designated species and any other wildlife species for which the Minister and Nisga'a Lisims Government have agreed that there should be an annual management plan;
- f. advising the Minister and Nisga'a Lisims Government in respect of the design of any studies necessary to carry out the terms of this Chapter or to facilitate proper wildlife management within the Nass Wildlife Area;
 - g. advising the Minister and Nisga'a Lisims Government in respect of amendments to laws that apply to the management of wildlife and wildlife harvests within the Nass Wildlife Area;
 - h. advising the Minister and Nisga'a Lisims Government on wildlife management policies, projects, plans, and programs, that significantly affect the Nass Wildlife Area and its wildlife populations;
 - i. developing long-term wildlife management plans it considers necessary for carrying out its responsibilities;
 - j. facilitating sharing of information and plans for existing and proposed wildlife harvesting that could affect or be affected by Nisga'a wildlife harvesting;
 - k. communicating with other management or advisory bodies about matters of mutual interest; and
 - l. carrying out other activities agreed to by the Nisga'a Nation and British Columbia or Canada, as the case may be.
46. The Wildlife Committee has up to nine members. The Nisga'a Nation and British Columbia will each appoint an equal number of members, to a maximum of four each, and Canada will appoint one member, to represent them on the Wildlife Committee. The members of the Wildlife Committee representing the Nisga'a Nation, Canada and British Columbia are responsible for functions in respect of wildlife fish. The members of the Wildlife Committee representing the Nisga'a Nation and British Columbia are responsible for functions in respect of all other wildlife.
47. The Wildlife Committee will meet as often as necessary to carry out its responsibilities and will establish its procedures.
48. Whenever possible, the Wildlife Committee will carry out its responsibilities by consensus. If there is no consensus, the Wildlife Committee will submit the recommendations or advice of each Party's representatives.

49. If it is impracticable for the Wildlife Committee to address an issue, each Party's representatives may submit the recommendations or advice.
50. British Columbia or Canada, as the case may be, will consult with the Nisga'a Nation before enacting regulations or adopting policies that will significantly affect wildlife management or harvesting within the Nass Wildlife Area. Unless the Nisga'a Nation and British Columbia or Canada, as the case may be, otherwise agree, this consultation will take place through the Wildlife Committee.
51. Nisga'a Lisims Government and the Minister will provide the Wildlife Committee with all relevant data in their possession in respect of all wildlife harvesting and other matters relevant to wildlife management within the Nass Wildlife Area.

Other Wildlife Management Bodies

52. The Parties acknowledge that wildlife management may involve the consideration of matters on a regional or watershed basis.
53. If Canada or British Columbia proposes to establish a wildlife or migratory birds management advisory body:
 - a. for an area that includes any portion of the Nass Wildlife Area; or
 - b. in respect of wildlife or migratory bird populations whose normal range of movement includes any portion of the Nass Wildlife Area

Canada or British Columbia, as the case may be, will consult with the Nisga'a Nation in developing that body.

54. The Nisga'a Nation is entitled to appropriate representation on any regional or provincial advisory body established by Canada or British Columbia to provide advice or recommendations to the Minister in respect of:
 - a. matters pertaining to wildlife or migratory birds in an area that includes any portion of the Nass Wildlife Area; or
 - b. wildlife or migratory bird populations whose normal range of movement includes any portion of the Nass Wildlife Area.

Annual Management Plans

55. An annual management plan will set out the management provisions in respect of the Nisga'a harvest under this Agreement of designated species and other species that the Nisga'a
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Nation and British Columbia or Canada, as the case may be, have agreed should be included in the annual management plan. The plan will include, as appropriate, provisions consistent with this Agreement in respect of:

- a. the identification of Nisga'a harvesters;
 - b. the methods, timing, and locations of the harvest;
 - c. the sex and age composition of the harvest of designated species and other species as agreed;
 - d. monitoring of the harvest and data collection;
 - e. possession and transportation of wildlife or wildlife parts;
 - f. the level of harvest of any designated and any other species that may be harvested on Nisga'a Public Lands by persons other than Nisga'a citizens, in accordance with the Access Chapter;
 - g. angling guiding under paragraph 83; and
 - h. other matters in respect of wildlife that the Nisga'a Nation and British Columbia or Canada, as the case may be, agree to include in the annual management plan.
56. Each year Nisga'a Lisims Government will propose an annual management plan, for designated species and any other species that the Nisga'a Nation and British Columbia or Canada, as the case may be, have agreed to include in the annual management plan, that will:
- a. be consistent with Nisga'a wildlife entitlements to wildlife;
 - b. set out any Nisga'a preferences for methods, timing, and locations of harvest; and
 - c. take into account any management concerns identified by the Minister or Nisga'a Lisims Government.
57. Nisga'a Lisims Government will forward the proposed annual management plans to the Wildlife Committee on a timely basis.
58. The Wildlife Committee, on a timely basis, will:
- a. consider the proposed annual management plans, taking into account the matters set out in paragraph 59;
 - b. make any appropriate adjustments that are necessary to integrate the Nisga'a annual

management plans with other wildlife conservation and harvesting plans, while giving effect to the Nisga'a preferences in respect of methods, timing, and locations of harvest, to the extent possible; and

- c. make recommendations in respect of the proposed annual management plans to the Minister and Nisga'a Lisims Government.

Review of Recommendations

59. In considering the recommendations of the Wildlife Committee or its members, the Minister will take into account:
 - a. conservation requirements and availability of wildlife resources;
 - b. any Nisga'a preferences in respect of harvest locations, methods, or times stated in the recommendations;
 - c. utilization of the wildlife resources for the benefit of all Canadians;
 - d. efficient and effective management of wildlife resources;
 - e. requirements for the integration and efficient management of the overall wildlife resources;
 - f. accepted scientific procedures for wildlife management; and
 - g. other relevant statutory considerations.
 60. The Minister will not delegate the authority to reject recommendations of the Wildlife Committee, or its members, in whole or in part, below the Assistant Deputy Minister level.
 61. If special circumstances make it impracticable to receive recommendations or advice from the Wildlife Committee, the Minister:
 - a. may make the decision or take the action that the Minister considers necessary, without receiving recommendations or advice from the Wildlife Committee;
 - b. will advise Nisga'a Lisims Government and the Wildlife Committee as soon as practicable of that decision or action; and
 - c. will provide Nisga'a Lisims Government and the Wildlife Committee with written reasons for that decision or action if the matter is one about which the Wildlife Committee is required to make a recommendation.
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62. If an annual management plan, or any amendment to an annual management plan, recommended by the Wildlife Committee or its members is consistent with this Agreement, the Minister will approve the annual management plan or the amendment.
63. If the Minister receives, from the Wildlife Committee, more than one recommendation that is consistent with this Agreement, in respect of an annual management plan, or any amendment to an annual management plan, the Minister will approve the recommendation that, in the Minister's opinion, best takes into account the matters set out in paragraph 59.
64. If the Minister does not approve an annual management plan, or any amendment to an annual management plan, recommended by the Wildlife Committee or its members, the Minister will provide written reasons and specify what changes are necessary for its approval.
65. The Minister, on a timely basis and in a manner consistent with this Agreement, will:
- a. approve or reject, in whole or in part, all recommendations, other than recommendations in respect of an annual management plan, made by the Wildlife Committee or its members; and
 - b. provide written reasons for rejecting any recommendations.
66. Notwithstanding paragraph 62, the Minister will not approve any method of harvest that differs from those permitted under federal or provincial laws of general application unless the Minister is satisfied that the method is consistent with public safety.

Federal and Provincial Laws of General Application

67. In order to:
- a. avoid duplication of requirements between an annual management plan and federal and provincial laws of general application; and
 - b. otherwise facilitate the management of Nisga'a wildlife harvesting
- if there is an inconsistency between an annual management plan and a federal or provincial law of general application, the annual management plan prevails to the extent of the inconsistency.

TRADE, BARTER, AND SALE OF WILDLIFE

68. Nisga'a citizens have the right to trade or barter among themselves, or with other aboriginal people, any wildlife or wildlife parts harvested under this Agreement.
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69. Notwithstanding paragraphs 37, 38, and 68, any export of wildlife or wildlife parts from British Columbia or Canada will be in accordance with federal and provincial laws of general application.
 70. Any sale of wildlife or wildlife parts, including meat, harvested under this Agreement will be in accordance with federal and provincial laws of general application, and with any Nisga'a law in respect of sale of wildlife.

TRAPPING

71. On the effective date, the traplines wholly or partially on Nisga'a Lands that are, on the effective date, not registered to any person, and are listed in Schedule B, are registered to the Nisga'a Nation.
 72. If the holder of a trapline within the Nass Wildlife Area agrees to transfer the trapline to the Nisga'a Nation, a Nisga'a Institution, or a Nisga'a Corporation, British Columbia will consent to the transfer.
 73. If a trapline that is wholly or partially on Nisga'a Lands becomes vacant by reason of abandonment or by operation of law, British Columbia will register the trapline to the Nisga'a Nation, a Nisga'a Institution, or a Nisga'a Corporation, as designated by Nisga'a Lisims Government.
 74. Nisga'a citizens who hold traplines that are wholly outside Nisga'a Lands continue to hold those traplines in accordance with federal and provincial laws of general application. Those traplines are set out in Schedule C.
 75. British Columbia will not register any new traplines within Nisga'a Lands without the consent of the Nisga'a Nation.
 76. British Columbia will consult with the Nisga'a Nation before approving any proposed transfer of, or change in terms and conditions of, an existing trapline that is wholly or partially within Nisga'a Lands.
 77. British Columbia and the Nisga'a Nation will negotiate and attempt to reach agreement in respect of Nisga'a Lisims Government authority for the management of some or all of traplines that are registered to the Nisga'a Nation, a Nisga'a Village, a Nisga'a Institution, a Nisga'a Corporation, or Nisga'a citizens, in the Nass Wildlife Area.
 78. Subject to paragraph 79, trapping on Nisga'a Lands is regulated in the same manner as trapping is regulated on fee simple land in British Columbia.
 79. Trapping on traplines that are held by an individual and are on Nisga'a Lands, is regulated in the same manner as trapping on Crown land in British Columbia, but construction of
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cabins or other structures associated with traplines is subject to Nisga'a laws.

80. For greater certainty, in accordance with paragraph 13 of the General Provisions Chapter, federal and provincial laws of general application apply to the sale of furs.

GUIDING

81. If a guide outfitter's certificate registered to a person other than the Nisga'a Nation ceases to apply to an area wholly or partially on Nisga'a Lands by reason of abandonment or operation of law, British Columbia will issue to the Nisga'a Nation a guide outfitter's licence and a guide outfitter's certificate for the area set out in Appendix K. This licence and certificate will be subject to federal and provincial laws of general application.
82. British Columbia will not issue a new guide outfitter's certificate or licence that applies to any portion of Nisga'a Lands without the consent of the Nisga'a Nation. British Columbia will consult with the Nisga'a Nation before approving any proposed transfer, or change in terms and conditions, of any guide outfitter's certificate or licence that applies to any portion of the Nass Wildlife Area.
83. On the effective date, British Columbia will issue an angling guide licence to the Nisga'a Nation, for the watercourses outside of Nisga'a Lands that are identified in Schedule D.
84. British Columbia will not:
- a. issue any new angling guide licences that apply to watercourses within Nisga'a Lands; or
 - b. include any watercourses within Nisga'a Lands in the angling guide licences set out in Appendix C-7, other than those watercourses that are listed in those angling guide licences on the effective date
- without the consent of the Nisga'a Nation.
85. British Columbia will consult with the Nisga'a Nation before approving any proposed transfer, or change in terms and conditions, of an existing angling guide licence that applies to watercourses within Nisga'a Lands.
86. The annual management plan will include provisions in respect of Nisga'a guiding of anglers within Nisga'a Lands that are comparable to those provisions applicable outside of Nisga'a Lands in respect of matters such as training, insurance, and reporting.

MIGRATORY BIRDS**Nisga'a Wildlife Entitlement**

87. Nisga'a citizens have the right to harvest migratory birds within the Nass Area throughout the year for domestic purposes, in accordance with this Agreement, subject to:
- a. measures that are necessary for conservation; and
 - b. legislation enacted for the purposes of public health or public safety.
88. The entitlement set out in paragraph 87 is a right to harvest in a manner that:
- a. is consistent with the communal nature of the Nisga'a harvest for domestic purposes, and
 - b. does not interfere with other authorized uses of Crown land.
89. Notwithstanding paragraphs 87 and 88, the Crown may authorize uses of or dispose of Crown land, and any authorized use or disposition may affect the methods, times, and locations of harvesting migratory birds under Nisga'a wildlife entitlements, provided that the Crown ensures that those authorized uses or dispositions do not deny Nisga'a citizens the reasonable opportunity to harvest migratory birds under Nisga'a wildlife entitlements.

Trade, Barter, and Sale

90. Nisga'a citizens have the right to trade or barter among themselves, or with other aboriginal people, any migratory birds harvested under this Agreement.
91. Notwithstanding paragraphs 37, 38, and 90:
- a. any export of migratory birds from British Columbia or Canada; and
 - b. the identification of migratory birds that are transported outside Nisga'a Lands for trade and barter
- will be in accordance with federal and provincial laws of general application.
92. Any sale of migratory birds will be in accordance with federal and provincial laws of general application and with any Nisga'a law in respect of sale of migratory birds harvested under this Agreement.
93. Nisga'a citizens have the right to sell inedible by-products, including down, of migratory birds harvested under this Agreement.
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94. Any collection and sale of down of migratory birds other than down of migratory birds harvested under this Agreement will be in accordance with federal and provincial laws.

Management

95. Canada will consult with the Nisga'a Nation in respect of the management of the harvest by aboriginal people of migratory birds within the Nass Area.
96. Canada will consult with the Nisga'a Nation in respect of the formulation of Canada's positions relating to international agreements that may significantly affect migratory birds or their habitat within the Nass Area.

OTHER

97. The Parties may negotiate agreements for purposes of managing habitat critical for conservation of migratory birds or endangered species.
98. The Nisga'a Nation may negotiate agreements with Canada or British Columbia concerning enforcement of federal, provincial, or Nisga'a laws in respect of wildlife and migratory birds.
99. Nisga'a laws enacted in accordance with this Chapter may be enforced by persons authorized to enforce federal, provincial, or Nisga'a laws in respect of wildlife or migratory birds in British Columbia.

SCHEDULE A -- NISGA'A WILDLIFE ALLOCATIONS OF DESIGNATED SPECIES**General**

1. If the calculation of a Nisga'a wildlife allocation results in a fractional number, the Nisga'a allocation will be:
 - a. the next higher whole number, if the number is 0.5 or greater; and
 - b. the next lower whole number, if the number is less than 0.5.

Moose

2. The Nisga'a wildlife allocation of moose from the total allowable harvest is:
 - a. 80% of the first 50 moose; plus
 - b. 32% of the next 50 moose; plus
 - c. 56% of all remaining moose, to a maximum of 170 moose.

Mountain Goats

3. The Nisga'a wildlife allocation of mountain goats is 25% of the total allowable harvest.

Grizzly Bears

4. The Nisga'a wildlife allocation of grizzly bears is:
 - a. if the total allowable harvest is six or fewer grizzly bears, 40% of the total allowable harvest;
 - b. if the total allowable harvest is seven or eight grizzly bears, 50% of the total allowable harvest;
 - c. if the total allowable harvest is nine or ten grizzly bears, 40% of the total allowable harvest; or
 - d. if the total allowable harvest is greater than 10 grizzly bears, 40% of the first 10 grizzly bears, plus 30% of the remainder of the total allowable harvest.
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**SCHEDULE B -- UNREGISTERED TRAPLINES WHOLLY OR PARTIALLY ON NISGA'A
LANDS ON THE EFFECTIVE DATE**

Trapline Number

616 T 014

**SCHEDULE C -- TRAPLINES WHOLLY OUTSIDE NISGA'A LANDS HELD BY NISGA'A
CITIZENS**

614T 010	614T 079	614T 112
614T 016	614T 083	615T 018
614T 017	614T 084	615T 026
614T 018	614T 085	615T 030
614T 048	614T 086	616T 006
614T 078	614T 087	616T 007
614T 090	614T 093	614T 096
614T 092	614T 094	614T 097
	614T 099	

SCHEDULE D -- STREAMS IN NISGA'A ANGLING GUIDE LICENCE

Nass River Watershed

Bell-Irving River
Bowser River
Burton Creek
Cranberry River
Kinskuch River
Kiteen River
Kwinageese River
Meziadin River
Nass River
Oweege Lake
Welda Creek
Tchitin River

Portland Canal

Bear River

Observatory Inlet

Illiance River
Kitsault River

CHAPTER 10

ENVIRONMENTAL ASSESSMENT AND PROTECTION

ENVIRONMENTAL ASSESSMENT

1. At the request of any Party, the Parties will negotiate and attempt to reach agreements:
 - a. to coordinate any Nisga'a, federal, and provincial environmental assessment requirements that will meet the Parties' legal requirements concerning environmental assessments; and
 - b. to avoid duplication of environmental assessment requirements.
 2. Agreements under paragraph 1 may be between the Nisga'a Nation and one or both of the other Parties, and may cover the environmental assessment of one or more projects, including an assessment referred to in paragraph 4.
 3. Nisga'a Lisims Government may make laws in respect of the environmental assessment of projects on Nisga'a Lands. In the event of a conflict between a Nisga'a law under this paragraph and a federal or provincial law of general application, the federal or provincial law will prevail to the extent of the conflict.
 4. A project on Nisga'a Lands that requires an environmental assessment under Nisga'a law and the law of another Party will be assessed only under the process prescribed by Nisga'a law if the Nisga'a Nation and the other Party agree under paragraph 1 that the Nisga'a environmental assessment will provide the information that the other Party requires to make its decisions concerning the project. In the absence of an agreement, the Parties may carry out concurrent environmental assessments.
 5. If a proposed project on Nisga'a Lands may reasonably be expected to have adverse environmental effects, the Nisga'a Nation will ensure that Canada and British Columbia:
 - a. receive timely notice of, and relevant available information on, the project and the potential adverse environmental effects;
 - b. are consulted regarding the environmental effects of the project if there may be adverse environmental effects off Nisga'a Lands, or on federal or provincial interests referred to in this Agreement; and
 - c. receive an opportunity to participate in any environmental assessment under Nisga'a laws related to those effects, in accordance with those laws, if there may be significant adverse environmental effects off Nisga'a Lands, or on federal or provincial interests referred to in this Agreement.
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6. If a proposed project that will be located off Nisga'a Lands may reasonably be expected to have adverse environmental effects on residents of Nisga'a Lands, Nisga'a Lands or Nisga'a interests set out in this Agreement, Canada or British Columbia, or both, as the case may be, will ensure that the Nisga'a Nation:
 - a. receives timely notice of, and relevant available information on, the project and the potential adverse environmental effects;
 - b. is consulted regarding the environmental effects of the project; and
 - c. receives an opportunity to participate in any environmental assessment under federal or provincial laws related to those effects, in accordance with those laws, if there may be significant adverse environmental effects.
 7. If Canada or British Columbia establishes a board, panel, or tribunal to provide advice or make recommendations with respect to the environmental effects of a project on Nisga'a Lands or a project off Nisga'a Lands that may reasonably be expected to have adverse environmental effects on residents of Nisga'a Lands, Nisga'a Lands, or Nisga'a interests set out in this Agreement, the Nisga'a Nation will:
 - a. have standing before the board, panel, or tribunal; and
 - b. be entitled to nominate a member of the assessment board, panel, or tribunal, unless the board, panel, or tribunal is a decision-making body, such as the National Energy Board.
 8. All environmental assessment processes referred to in this Agreement will, in addition to the requirements of applicable environmental assessment legislation:
 - a. coordinate to the extent possible the environmental assessment requirements placed by the Parties upon a project proponent;
 - b. require the project proponent to provide information or studies, as appropriate, about the project and its potential environmental effects and the measures that can be taken to prevent or mitigate those effects;
 - c. ensure that all information relevant to the assessment of the project is available to the public, other than information that is required to be kept confidential under applicable law;
 - d. provide for public participation in the assessment process, including public notice of the project, an opportunity to make submissions, and, when deemed appropriate by the Party conducting the assessment, public hearings conducted by an independent review panel;
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- e. assess whether the project can reasonably be expected to have adverse environmental effects on residents of Nisga'a Lands, Nisga'a Lands, or Nisga'a interests set out in this Agreement and, where appropriate, make recommendations to prevent or mitigate those effects;
 - f. assess the effects of the project on the existing and future economic, social and cultural well-being of Nisga'a citizens who may be affected by the project;
 - g. set out time periods within which the assessor must make its recommendation in respect of whether or not the project should proceed;
 - h. provide for recommendations, based on the assessment, to the Party or Parties with decision-making authority over the project, in respect of whether the project should proceed;
 - i. take into account any agreements between the project proponent and the Nisga'a Nation or a Nisga'a Village concerning the effects of the project; and
 - j. be conducted and completed by a Party before that Party issues final approval.
9. Decisions by any Party regarding the issuance of a permit or approval for a project will take into account the recommendations of the environmental assessment.
10. In exercising decision-making authority for projects that may have adverse environmental effects on residents of Nisga'a Lands, Nisga'a Lands, or Nisga'a interests set out in this Agreement, the decision maker will take into account, but will not be bound by, any agreements between the Nisga'a Nation or a Nisga'a Village and the project proponent concerning the project.

ENVIRONMENTAL PROTECTION

11. Except as otherwise set out in this Agreement, Nisga'a Lisims Government may make laws in respect of environmental protection on Nisga'a Lands, including discharges into streams within Nisga'a Lands. In the event of a conflict between a Nisga'a law under this paragraph and a federal or provincial law, the federal or provincial law will prevail to the extent of the conflict.
12. Any Party may respond to an environmental emergency or natural disaster if the Party with primary responsibility for responding has not responded, or is unable to respond, in a timely manner.
13. If there is an environmental emergency or natural disaster, the Party responding will, if possible, notify the Party with primary responsibility in advance of taking action, but, in any case, will notify that Party as soon as practicable after responding.
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14. Canada and the Nisga'a Nation may enter into agreements concerning the performance of specified federal environmental protection functions by Nisga'a Institutions.
15. British Columbia and the Nisga'a Nation will negotiate and attempt to reach agreements concerning the performance of specified provincial environmental protection functions by Nisga'a Institutions within an area to be defined in those agreements.
16. Any agreements entered into under paragraph 15 will be in accordance with the technical and administrative capacity and resources of Nisga'a Institutions to carry out the functions in accordance with relevant provincial standards.
17. Each Party will enforce its environmental laws in the Nass Area in a fair, impartial and effective manner, through appropriate governmental action, consistent with the exercise of prosecutorial discretion.
18. No Party should relax its environmental standards in the Nass Area for the purpose of providing an encouragement to the establishment, acquisition, expansion, or retention of an investment.
19. This Agreement does not preclude a Party, within the scope of its jurisdiction, from establishing environmental standards that take into account the specific environmental conditions of a region, location, or type of project.