



Taku River Tlingit First Nation

Mining Policy

May 2019

Our Land is Our Future

TAKU RIVER TLINGIT FIRST NATION

MINING POLICY

2019

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TAKU RIVER TLINGIT FIRST NATION MINING POLICY

Preamble

WHEREAS:

- A. The Taku River Tlingit hold existing Aboriginal Rights, including title and other interests, that are recognized and affirmed under section 35 of the *Constitution Act*, 1982, (“TRT Rights”), to their Traditional Territory in British Columbia and Yukon (“TRT Territory”), including the lands, waters and resources contained therein;
- B. Due to the differences in Provincial/Territory governments across TRT Territory, this Policy shall apply to the British Columbia portion of the TRT Territory. At such a time when TRTFN develops conditions that cover the Yukon portion of the TRT Territory, an Appendix shall be included in this document.
- C. The TRT Rights include, but are not limited to, the right to benefit from economic development of land and resources in the TRT Territory, the right to make decisions on how the land and resources are used, and the responsibility to steward its land and resources on behalf of current and future generations.
- D. The lands, waters and resources within the TRT Territory belong to the TRT and are subject to the inherent sovereignty and jurisdiction of the TRTFN.
- E. The governance, management, use and stewardship of the land, waters and resources within the TRT Territory are integral to the TRTFN’s well-being, self-determination and maintenance as an Indigenous Nation;
- F. The TRTFN shares common interests with its Indigenous neighbours and intends to implement this Mining Policy in a manner that is respectful of those common interests.
- G. The TRTFN wishes to ensure that TRT and TRTFN visions, customs, traditions, laws and policies are fully considered and incorporated in decision-making processes prior to the issuance of any granting of any Authorizations for Mining Activities within the TRT Territory.
- H. On July 19, 2011, the TRTFN and the Province of British Columbia entered into the *Wóoshtin Yan Too.Aat: Land and Resources Management and Shared Decision Making Agreement* (SDMA) to implement a culturally and ecologically sustainable management framework for the Shared Decision-Making Area defined in that agreement, which includes the portions of the TRT Territory located within the Province of British Columbia;
- I. Through the *Wóoshtin wudidaa: Atlin Taku Strategic Land Use Plan* (LUP), TRTFN and the Province of British Columbia have also agreed to implement the following goals related to mineral exploration and mining:
 - (a) a thriving and competitive mineral resources sector that demonstrates a strong commitment to corporate social responsibility;
 - (b) mineral exploration and development that is environmentally and socially sustainable and supports the Tlingit’s ability to sustain their *khustiyxh* (way of life);
 - (c) there is a high level of certainty with regard to areas where mineral exploration and development activities may occur and clarity with regard to management objectives to be achieved; and,
 - (d) mineral exploration and development contributes economic benefits for the Tlingit, local communities and for BC as a whole.”

- J. Through the *Wóoshtin wudidaa: Atlin Taku Land Use Plan*, TRTFN and the Province of British Columbia encourage Proponents to engage respectfully with the TRTFN at the earliest stage and throughout all phases of Mining Activities undertaken within the TRT Territory;
- K. The Governments of Canada and British Columbia have stated that they will adopt and fully implement the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), which recognizes TRT's rights as Indigenous Peoples to:
 - (a) self-determination (article 3);
 - (b) autonomy in matters relating to their internal and local affairs (article 4);
 - (c) maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate as they see fit in the political, economic, social and cultural life of the Province (article 5);
 - (d) participate in decision-making on matters that would affect TRT Rights, through representatives that they choose in accordance with their own procedures (article 18);
 - (e) provide their free, prior and informed consent before the Province adopts and implements legislative or administrative measures that may affect them (article 19);
 - (f) maintain and develop their political, economic and social systems or institutions (article 20);
 - (g) develop priorities and strategies for exercising their right to development, and for the use of the TRT Territory and resources therein (articles 23 and 32);
 - (h) lands, territories and resources that TRT have traditionally owned, occupied or otherwise used or acquired (article 26);
 - (i) conservation and protection of the environment and the productive capacity of the TRT Territory and resources therein (article 29);
 - (j) being consulted by the Province through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting the TRT Territory and resources therein (article 32);
 - (k) promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices (article 34); and
 - (l) have access to financial and technical assistance from the Province for the enjoyment of their rights recognized in the UNDRIP (article 39);
- L. This Mining Policy provides one means by which TRTFN has decided, pursuant to TRT Indigenous laws and customs, to hold the Crown and Proponents accountable for Mining Activities proposed and/or carried out within the TRT Territory.

NOW THEREFORE, the TRTFN adopts this Mining Policy:

1. Interpretation

- 1.1 **Definitions:** In this Mining Policy, including the Preamble, the following terms have the meanings ascribed to them in this section. Terms that are not found below, can be found in the LUP and the SDMA.

"Application" means any application for an Authorization made by a Proponent;

"Authority" means any federal, provincial, municipal, First Nation (including TRTFN) or other governmental authority having jurisdiction in respect of the particular Mining Activity;

“Authorization” means a license, permit, grant, approval, authorization or other permission required or provided by an Authority for a Mining Activity;

“Crown” means Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of British Columbia and any other entity considered at law to be an agent of either government;

“Development” involves all activities required to assess an identified mineral prospect on a tenured mineral property, including, but not restricted to:

- (a) such activities listed in subsections a) to o) of the definition of Exploration, below, carried out on a tenured mineral property;
- (b) road construction;
- (c) camp installation;
- (d) use of heavy equipment;
- (e) bulk sampling of ore; and
- (f) onsite pilot plants for test milling or processing of ore;

“Exploration” means the full range of activities to locate mineral resource targets, including but not restricted to:

- (a) prospecting;
- (b) trenching, open cuts, adits, pits, shafts and other underground activity for the purposes of collecting samples or other geological or technical information;
- (c) geophysical, geological and geochemical surveys and studies;
- (d) archaeological impact assessments and environmental baseline studies;
- (e) drilling, including drilling for the purposes of collecting samples, core logging or other geological or technical information;
- (f) ground control surveys, line cutting and grids;
- (g) precision survey techniques such as global positioning or surveys conducted by a practicing land surveyor;
- (h) global positioning surveys;
- (i) analysis of mineral or rock samples including a bulk sample to assess characteristics pertinent to the assessment of the mineral resource, including acid base accounting, metallurgical, mineralogical, beneficiation and petrological studies;
- (j) if the work is related to a placer claim, panning, digging or washing of gravels to test for the presence of economically significant minerals;
- (k) construction and maintenance of roads, trails, helicopter landing sites, drill sites and drill core storage if required to support an activity described in subsections a) to j) above;
- (l) preparation and geological interpretation of air photo, satellite or other remotely sensed images that support an activity described in subsections a) to j) above;
- (m) preparation of orthophoto and topological surveys that support an activity described in subsections a) to j) above;
- (n) reclamation related to the above-listed activities; and
- (o) any other similar activity identified as Mineral Exploration by the TRTFN from time to time;

“Full Cost Accounting” means a method of accounting that accounts for the direct and indirect economic, environmental, health and social costs of a project or action.

“Irreparable Harm” means a type of harm that, the TRTFN determines in its sole discretion, cannot be corrected through monetary compensation, including but not limited to:

- (a) the destruction of the environment so that ecological functions are lost or indefinitely impaired;
- (b) the deterioration of water quality where indefinite treatment is required; and,
- (c) the alteration or destruction of habitat which prevents the return and re-colonization of native species to a functioning self-sustaining ecosystem.

“Laws” means all statutes, laws, regulations, policies, orders, bylaws, and other lawful requirements, including the terms and conditions of any Authorizations;

“Mining Activity” means any activity proposed or undertaken in the TRT Territory for the Exploration, Development, and/or Production of a mineral, a placer mineral, coal, sand, gravel or rock, and includes the reclamation of a mine, as well as the associated infrastructure including access roads, camps, mills, tailings facilities, ore stockpiles, and surface and underground workings;

“Person” includes any individual, partnership, firm, company, corporation, incorporated or unincorporated association or society, co-tenancy, joint venture, syndicate, fiduciary, estate, trust, bank, government, governmental or quasi-governmental agency, board, commission or authority, organization or any other form of entity however designated or constituted, or any group, combination or aggregation of any of them;

“Production” means the commercial and/or industrial-scale extraction of a mineral, a placer mineral, coal, sand, gravel or rock;

“Proponent” means an individual or company who proposes or carries out a Mining Activity;

1.2 General Interpretation: The following apply to the interpretation of this Mining Policy:

- (a) Unless stated otherwise, any reference in this Mining Policy to an article, section, subsection, or appendix means the appropriate part of this Mining Policy.
- (b) All headings in this Mining Policy have been inserted as a matter of convenience and for reference only and in no way define, limit, enlarge, modify or explain the scope or meaning of this Mining Policy or any of its provisions.
- (c) A word in the singular form may be read in the plural form if the context allows it and a word in the plural form may be read in the singular form if the context allows it. All genders are included in any gender expressed.
- (d) The words “include”, “includes” and “including” are to be read as if they are followed by the phrase “without limitation”.
- (e) The phrases “on the TRT Territory” or “within the TRT Territory” includes in, under and above the TRT Territory.
- (f) If a party is comprised of more than one Person then all covenants and agreements of that party are joint and several.
- (g) Any reference to a statute means that statute, and any regulations made under it, all as amended or replaced from time to time.

1.3 Appendices: The following appendices are attached and form part of this Mining Policy:

- (a) Appendix A – Map of TRT Territory & Land Use Plan Area
- (b) Appendix B – Map of the Shared Decision Making Area & Land use Plan Area
- (c) Appendix C – Standard Clauses for *Hà khustiyxh* / Our Way Agreement with Proponents

- (d) Appendix D – TRTFN Requirements for Accommodation Agreements with BC
- (e) Appendix E – TRTFN Requirements for a BC Environmental Assessment and Approval

2. Purpose and Application

- 2.1 Purposes: The purposes of this Mining Policy are to:
 - 2.1.a ensure that all Mining Activities are carried out in accordance with the *Wóoshtin wudidaa: Atlin Taku Strategic Land Use Plan*;
 - 2.1.b minimize potential risks, impacts and adverse effects from Mining Activities on TRT Rights
 - 2.1.c clarify how the TRTFN will evaluate and respond to proposed Mining Activities; and,
 - 2.1.d establish the terms and conditions under which the TRTFN may provide consent to proposed Mining Activities.
- 2.2 Applicable Mining Phases: This Mining Policy applies to all phases of Mining Activities including those documented under Section 1.1; Development, Exploration and Productions. As well as, but not limited to; claim staking; prospecting; hand exploration; mineral resource evaluation; construction; reclamation; remediation; decommissioning; closure; and post closure.
- 2.3 Proponent Requirements: Proponents wishing to undertake a Mining Activity within the area defined in the SDM Area (Appendix B) with the support of TRTFN will be required to:
 - 2.3.a provide prior notice to TRTFN in accordance with Section 5;
 - 2.3.b share information regarding the proposed Mining Activity with TRTFN in accordance with Section 5;
 - 2.3.c meaningfully engage with the TRTFN regarding the proposed Mining Activity in accordance with Section 5.2;
 - 2.3.d agree to participate in the TRTFN *Hà khustiyyxh* / Our Way Agreement for the proposed Mining Activity, in accordance with Section 6; and
 - 2.3.e secure TRTFN Consent in accordance with Section 4.
- 2.4 TRTFN Representative: The TRTFN representative responsible for implementing this Mining Policy is the Manager of the TRTFN Land and Resources Department, or an individual formally designated to act on his/her behalf.

3. Guiding Principles for TRTFN Decision Making

- 3.1 The TRTFN will be guided by the following principles in making decisions and entering into agreements pursuant to this Mining Policy:
 - 3.1.a the Guiding Principles for Land Use Planning set out in Section 4.2 of the *Wóoshtin wudidaa: Atlin Taku Land Use Plan*;
 - 3.1.b avoidance of environmental, social, economic and cultural risks and impacts to the TRTFN, the TRT, and TRT Rights, with any unavoidable impacts mitigated and/or fully remediated, including restoring impacted lands, waters and resources to their natural level of productivity within a reasonable period of time as determined by the TRTFN;

- 3.1.c adherence to the 'Polluter Pays' Principle, whereby the party responsible for adverse impacts and affects is responsible for paying for their effective long-term remediation;
- 3.1.d application of Full Cost Accounting, which method of accounting accounts for the direct and indirect economic, environmental, health and social costs of a project or action;
- 3.1.e adequate resource revenue sharing to be secured before proposed Mining Activities proceed;
- 3.1.f recognition of cumulative impacts on the TRTFN, the TRT, TRT Rights and the TRT Territory and promotion of measures to address such impacts in the short and long-term;
- 3.1.g consistent implementation of best management practices and best available technologies throughout the TRT Territory; and
- 3.1.h open communication and consultation with potentially affected TRT families and individuals.

4. TRTFN Free, Prior and Informed Consent

- 4.1 TRTFN Consent Required: Unless otherwise agreed to in writing by the TRTFN, no Mining Activity may occur without the TRTFN granting it's free, prior and informed consent in writing for the specified Mining Activity ("TRTFN Consent").
- 4.2 Pre-requisites to obtaining TRTFN Consent: The TRTFN will not grant its TRTFN Consent for a particular Mining Activity until the following pre-requisites are fulfilled to the satisfaction of the TRTFN, as determined in its sole discretion:
 - 4.2.a fulfilment by the Proponent of the requirements outlined in Section 2.3;
 - 4.2.b unless specifically exempt under this Mining Policy or in writing by the TRTFN, approval by the TRTFN for the proposed Mining Activity after the completion of the TRTFN *Hà khustiyxh* / Our Way Agreement, described in Section 6;
 - 4.2.c the execution of a *Hà khustiyxh* / Our Way Agreement, whereby the Proponent is required to abide to any conditions imposed by the TRTFN, in its sole discretion, on an approval granted by the TRTFN under Subsection 4.2(b);
 - 4.2.d where applicable, the execution of an agreement between the TRTFN and the Crown, as outlined in Section 7.
- 4.3 Terms and Conditions: The TRTFN may require such terms and conditions on its TRTFN Consent that it deems appropriate, in its sole discretion, taking into account the Guiding Principles set out in Section 3 that must be met by the Proponent to maintain the TRTFN Consent throughout the life of the applicable and agreed upon Mining Activity.
- 4.4 Notice of TRTFN Consent: The TRTFN will provide written notification to the Proponent of the grant of TRTFN Consent for the applicable Mining Activity in the form of a signed *Hà khustiyxh* / Our Way Agreement, subject to:
 - 4.4.a the satisfactory completion of the pre-requisites outlined in Section 4.2;
 - 4.4.b the TRTFN determining that none of the conditions under Section 4.5 apply; and,
 - 4.4.c any terms and conditions imposed pursuant to Section 4.3.

4.5 Withholding or Withdrawal of TRTFN Consent: The TRTFN may, in its sole discretion, withhold or withdraw its TRTFN Consent for a Mining Activity, or any part thereof, if:

- 4.5.a the Mining Activity is inconsistent with the *Wóoshtin wudidaa*;
- 4.5.b the Mining Activity has, or is likely to have, significant adverse impacts or effects that are considered unacceptable by the TRTFN, including adverse impacts or effects:
 - 4.5.b.i that are more significant than were predicted in an application assessment or in the TRTFN *Hà khustiyxh* / Our Way Agreement;;
 - 4.5.b.ii resulting from an accident or unplanned event;
 - 4.5.b.iii the Mining Activity would likely cause Irreparable Harm, such as acid mine drainage or metal leaching, that could be either financially or physically unfeasible to prevent, contain or treat;
 - 4.5.b.iv the Mining Activity would likely result in irreversible impacts to Taku River Tlingit cultural sites or prolonged disturbance to Taku River Tlingit cultural practices;
 - 4.5.b.v there is insufficient financial security provided by the Proponent to cover the predicted costs for reclamation and closure in accordance with Appendix C, Section 8, as assessed by a qualified third party;
 - 4.5.b.vi the Mining Activity does not provide acceptable employment or business opportunities for the Taku River Tlingit and the local community;
 - 4.5.b.vii the Mining Activity is predicted to result in significant adverse impacts on the short- or long-term economic well-being of the Taku River Tlingit;
 - 4.5.b.viii a Proponent has a track record of significant failures to comply with regulatory requirements;
 - 4.5.b.ix a Proponent has breached previous agreements with the TRTFN;
 - 4.5.b.x a Proponent is in breach of an Authorization;
 - 4.5.b.xi a Proponent is in breach of a term or condition attached to the applicable TRTFN Consent; or
 - 4.5.b.xii a Proponent fails to abide to any provision of this Mining Policy.

5. Notice and Information Sharing

5.1 Early Engagement: At the earliest stage of a proposed Mining Activity, the Proponent is expected to engage with the TRTFN in order to provide detailed information about the proposed Mining Activity, including:

- 5.1.a the nature, timing, location and extent of the proposed activity;
- 5.1.b a list of Authorizations that may be required, along with the current status of corresponding Applications;
- 5.1.c available information regarding adverse impacts and effects on local ecosystems, current land uses, proposed land uses described in the *Wóoshtin wudidaa: Atlin Taku Land Use Plan*, and TRT Rights;
- 5.1.d proposed measures, consistent with applicable best management practices, to:
 - 5.1.d.i avoid, minimize, mitigate and/or compensate for potential adverse impacts and effects from the proposed Mining Activity; and

- 5.1.d.ii provide economic benefits and opportunities for the TRTFN and the TRT, including: employment opportunities; contracting and subcontracting opportunities; local procurement of labour, goods and services; and opportunities for training and capacity building
 - 5.1.e summary information on the Proponent corporate ownership and capitalization;
 - 5.1.f a list of the Proponent's past and current mineral exploration and mine development activities and projects; and
 - 5.1.g Proponent contact information.
- 5.2 Meaningful engagement: Proponents are required to engage consistently and meaningfully with the TRTFN throughout the duration of the Mining Activity.
 - 5.2.a open, transparent and ongoing dialogue and reporting regarding the Mining Activity, including direct and indirect impacts thereof on TRT Rights and local ecosystems;
 - 5.2.b willingness to listen to concerns raised by the TRTFN and the TRT, and to consider appropriate avoidance, mitigation and adaptive management measures identified from time to time by the TRTFN;
 - 5.2.c active consideration of adaptive management measures to address issues and impacts identified over time;
 - 5.2.d attending and participating in community meetings to discuss the Mining Activity as requested by the TRTFN from time to time; and
 - 5.2.e abiding, on a continuous basis, to the notice and information sharing requirements outlined in Section 5.
- 5.3 Notice of Work: Prior to undertaking any proposed Mining Activities, the Proponent must submit, a Notice of Work that includes sufficient detailed information to enable a comprehensive review of the proposed Mining Activity by the TRTFN Land and Resources Department.
- 5.4 Management Plan: The information provided by the Proponent pursuant to Section 5.2 must:
 - 5.4.a include a comprehensive management plan for the Mining Activity that clearly outlines and describes:
 - 5.4.a.i a workplan with a timetable of planned activities;
 - 5.4.a.ii access to the site;
 - 5.4.a.iii the size of the workforce and where that workforce will be located and housed (including in camps, if applicable);
 - 5.4.a.iv a description of anticipated land and watercourse disturbances and a prediction of ecological impacts from the proposed Mining Activity;
 - 5.4.a.v measures that the Proponent will adopt to avoid, minimize or mitigate adverse impacts and effects from the proposed Mining Activity;
 - 5.4.a.vi details of, and commitments for, planned reclamation activities including plans for progressive reclamation and final closure and abandonment; and
 - 5.4.a.vii an environmental monitoring program for the affected area that will be implemented by the Proponent including a plan for timely sharing of monitoring data and reports with the TRTFN.
 - 5.4.b be revised by the Proponent from time to time, and on direction from the TRTFN.

- 5.5 Incomplete Information: If the TRTFN considers that the information provided by the Proponent under Sections 5.1, 5.2, 5.3, and 5.4 is incomplete, the TRTFN will notify the Proponent who will then be responsible for promptly addressing the information gaps identified by the TRTFN.
- 5.6 Additional Information: If the TRTFN determines that additional mapping, background studies, data collection and/or data analyses are required for the TRTFN to make a decision in accordance with this Mining Policy ("Additional Information"), the TRTFN may require the Proponent to provide such Additional Information in accordance with specified terms of reference for the applicable studies. If the Proponent fails to provide the Additional Information within such reasonable timeline set by the TRTFN, the TRTFN may retain its own experts and/or consultants to provide the Additional Information, and may recover the corresponding costs in full from the Proponent.
- 5.7 Notice of Changes: Proponents are at all times responsible for promptly informing the TRTFN of any changes to:
- 5.7.a their management plan;
 - 5.7.b any challenges with the implementation of their management plan;
 - 5.7.c any changes to the basic information requirements outlined in Section 5.3 and 5.4; and
 - 5.7.d any changes to the nature, extent or timing of a Mining Activity.

6. *Hà khustiyxh* / Our Way Agreement

- 6.1 Prior to commencing any Mining Activities, Proponents must negotiate and execute a *Hà khustiyxh* / Our Way Agreement with the TRTFN that includes the standard agreement clauses outlined in Appendix C, and other such matters that the TRTFN identifies, taking into account the Guiding Principles outlined in Section 3.
- 6.2 This signing of this agreement will provide TRTFN Consent to the Proponent for the Mining Activity that was evaluated and agreed upon by the parties.
- 6.3 Where a signed *Hà khustiyxh* / Our Way Agreement has been completed with a Proponent, the TRTFN will notify the relevant provincial agency responsible for issuing regulatory authorizations, at the earliest opportunity.

7. Agreements with the Crown

- 7.1 The existence of a written agreement between the TRTFN and a Proponent does not affect the Crown's obligation to consult and accommodate the TRTFN with respect to a proposed Mining Activity.
- 7.2 Depending on the scale and the significance of potential impacts of a proposed Mining Activity, the TRTFN may require that an Accommodation Agreement be negotiated with the Crown prior to the issuance of TRTFN Consent, for which Accommodation Agreement will:
- 7.2.a describe how the TRT Rights will be accommodated in respect of any Crown Authorization for the proposed Mining Activity; and
 - 7.2.b contain the minimum provisions outlined in Appendix D, unless otherwise agreed to by the TRTFN.

8. Confidentiality

- 8.1 The TRTFN is the responsible steward of TRT traditional knowledge, cultural knowledge and land use information that may be confidential or sensitive in nature ("TRT Confidential Information"). Before making any such TRT Confidential Information available to others, the receiving party must enter into a Confidentiality Agreement with the TRTFN to govern the use and security of the TRT Confidential Information, which agreement will include provisions regarding the following:
- 8.1.a acknowledgement of the TRT Confidential Information as the intellectual and/or proprietary property of the TRTFN and Taku River Tlingit;
 - 8.1.b permissible methods of accessing the TRT Confidential Information by the receiving party;
 - 8.1.c use of the TRT Confidential Information strictly limited to stipulated purposes, unless otherwise agreed to by the TRTFN;
 - 8.1.d prohibition to distribute the TRT Confidential Information to others without the TRTFN's prior written consent;
 - 8.1.e commitment to dispose all electronic and hard copies the TRT Confidential Information in the manner set out in the agreement;
 - 8.1.f commitment to not publish the TRT Confidential Information in any manner not previously consented to in writing by the TRTFN; and
 - 8.1.g recovery of the TRTFN costs incurred in the production or transfer of TRT Confidential Information to the receiving party.
 - 8.1.h Right to refuse disclosure: TRTFN may refuse to disclose TRT Confidential Information if a Confidentiality Agreement is not in place that, in the opinion of TRTFN, adequately protects such information.

9. BC Environmental Assessment

- 9.1 For any Mining Activity that is subject to an assessment in accordance with the *BC Environmental Assessment Act* or other Mining Laws, the TRTFN may participate in the environmental assessment process, subject to the following:
- 9.1.a the purpose, scope, and timing of the environmental assessment process, including procedures for involving the TRTFN, are acceptable to the TRTFN;
 - 9.1.b adequate resources are provided upfront by the Crown or the Proponent to enable the TRTFN to participate effectively in the environmental assessment process, and;
 - 9.1.c the provisions identified in Appendix E are allowed for in the Environmental Assessment process.
- 9.2 Unless otherwise agreed by the TRTFN and the Crown, the scope of the environmental assessment process shall include the topic areas as set out in Appendix E.
- 9.3 Participation by the TRTFN in an environmental assessment process shall not prejudice its right to withhold consent or support for any Mining Activity.

10. General Provisions

- 10.1 Non-Derogation of TRT Rights: This Mining Policy will not in any way:
- 10.1.a prejudice, limit or derogate from, and is without prejudice to, any claims or rights, whatsoever, of TRTFN or TRT including with respect to any Mining Activities;
 - 10.1.b limit any position that the TRTFN or TRT may take in any legal or administrative proceeding, including any arguments or defences respecting TRT Rights or enforcement thereof or opposition to any impact(s) thereon;
 - 10.1.c prejudice, limit or derogate from, and is without prejudice to, any rights or benefits of TRTFN and TRT arising, directly or indirectly, as part of or from TRT Rights, including rights relating to notice, consultation, accommodation, compensation, negotiation, discussion, engagement, and joint decision-making with the Crown; or
 - 10.1.d limit or derogate from, and is without prejudice to, rights of TRTFN or TRT relating to any future participation in any land claims, self-government negotiations or claims, assertions or agreements affecting or relating in any way thereto.
- 10.2 Effective Date: This Mining Policy is effective on the date of signing by a quorum of the Clan Directors Council.
- 10.3 Review and Amendments: The TRTFN will review this Mining Policy periodically and may make amendments as follows:
- 10.3.a all amendments to this Mining Policy are subject to approval at a Joint Clan Meeting;
 - 10.3.b This document will be amended as TRTFN's initiative for *Revitalizing Indigenous Law for Land, Air and Water (RELAW)* is developed. Application of RELAW policies and legislation into this document will be subject to approval at a Joint Clan Meeting
 - 10.3.c notwithstanding section (a), appendices to this Mining Policy may be amended on a temporary basis with prior approval from the Director of the TRTFN Land and Resources Department; however, such temporary amendments are subject to review and approval at a Joint Clan Meeting within two years of the effective date of such amendments.

In witness whereof the TRTFN hereby approves this Mining Policy on the _____ day of _____.

Signed on behalf of the TRTFN, as
represented by:

Wolf Clan Director

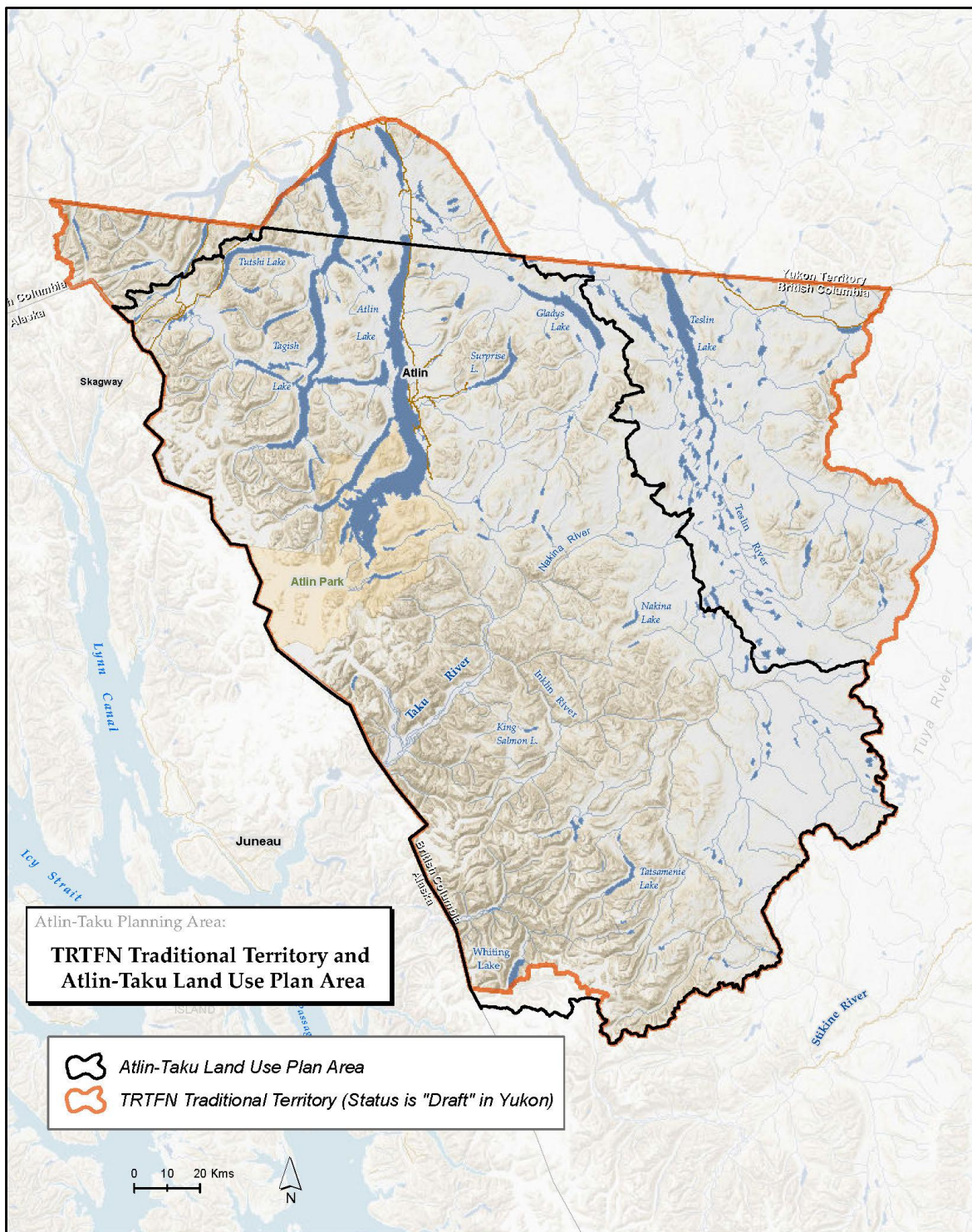
Crow Clan Director

Wolf Clan Director

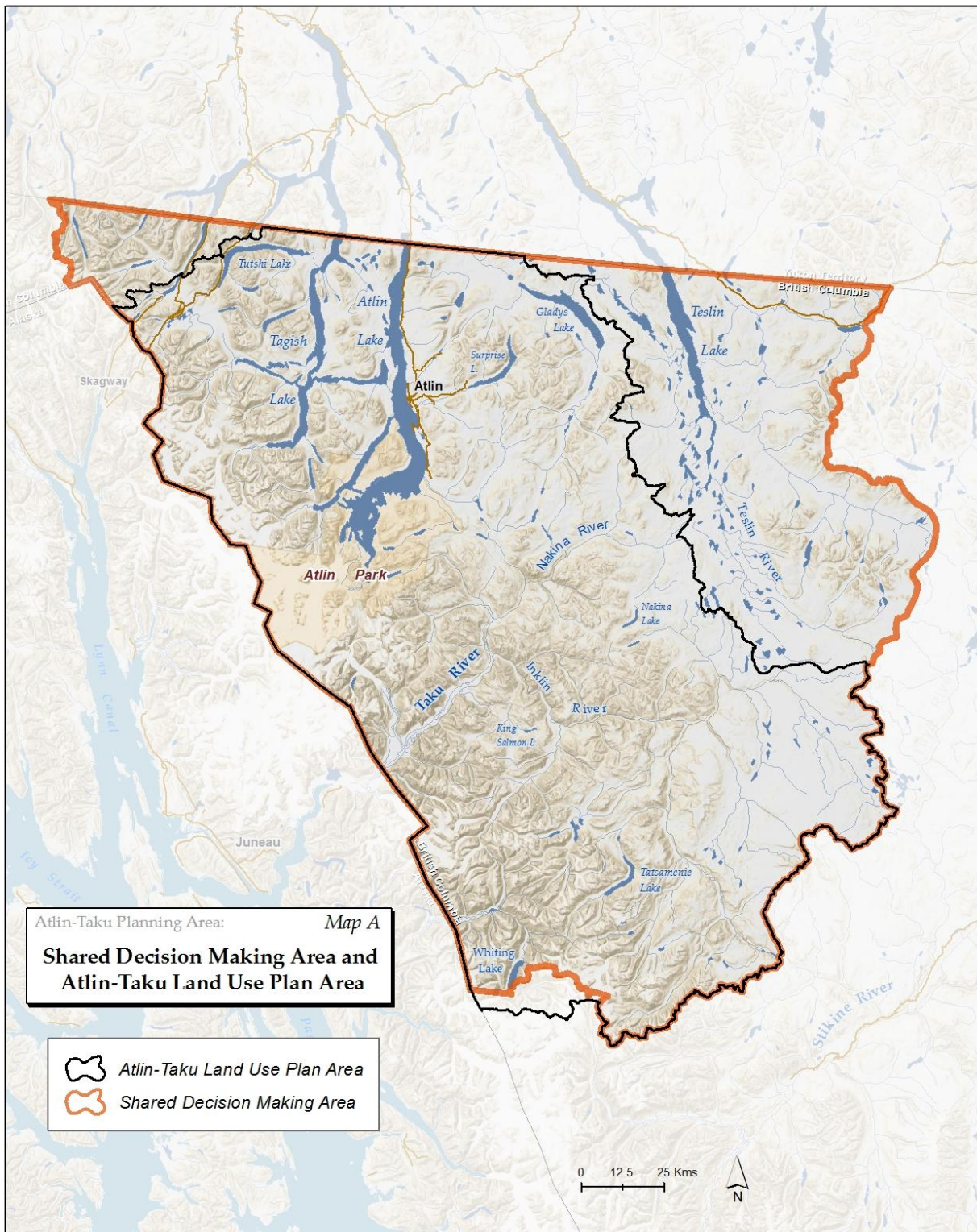
Crow Clan Director

Spokesperson

Appendix A: Map of TRT Territory & Land Use Plan Area



Appendix B: Map of the Shared Decision Making Area and the Land Use Plan Area



Appendix C: Standard Clauses for *Hà khustìyxh* / Our Way Agreement with Proponents

All agreements entered into, pursuant to this Mining Policy, shall include clauses and provisions as outlined below, unless otherwise agreed to in writing by the TRTFN.

1. Purpose of the Agreement.
2. Definitions of particular terms used in the agreement.
3. Scope of Mining Activities
All agreements will provide details on the scope of Mining Activities covered by the agreement, with provisions requiring the negotiation of a new agreement, or renegotiation of an existing agreement, if the scope changes.
4. Environmental Commitments
All agreements will provide that Mining Activities must be carried out in a manner that:
 - (a) is consistent with the *Wóoshtin wudidaa: Atlin Taku Land Use Plan*;
 - (b) is consistent with best management practices;
 - (c) is consistent with best available technologies;
 - (d) is sensitive to TRTFN's cultural interests, values and uses, and to wildlife habitat and sensitive ecosystems;
 - (e) minimizes and effectively mitigates any social, ecological and cultural impacts; and
 - (f) ensures that any disturbed areas return to a productive state as soon as reasonably possible.
5. Monitoring
All agreements will grant the TRTFN the right to monitor Mining Activities to ensure their compliance with applicable agreement requirements and the TRTFN Consent terms and conditions, which will include rights allocated to TRTFN representatives to conduct periodic site visits where and when the TRTFN deems it applicable, support for an on-site TRTFN monitor.
6. Training, Employment and Business Opportunities
All agreements with Proponents will identify and require obligations for Proponents to provide the TRTFN and the TRT with training, employment and business opportunities.
7. Funding
All agreements will provide adequate funding to the TRTFN to cover costs associated with engaging in Application reviews and oversight over the Mining Activities, including the following costs which will vary depending on the nature of the applicable Mining Activity:
 - (a) general capacity funding;
 - (b) TRTFN administrative and government costs, including costs to engage in Application reviews (including retaining independent experts, where applicable), carry out monitoring activities, and engage in negotiations of agreements required under Section 9;
 - (c) community consultation costs;
 - (d) TRTFN costs associated with Additional Information, as described in Section 6.5.
 - (e) costs associated with carrying out monitoring activities in accordance with Section 8.7.
8. Financial Security
All agreements will ensure that financial security is posted with the BC government before a proposed Mining Activity commences, and must be sufficient to cover the following costs:

(a) completion of the following activities, by an independent contractor:

- i. rehabilitate impacts from unexpected events and accidents; and
- ii. rehabilitate impacts associated with a failure to comply with plans required under an Authorization or as a term or condition to the TRTFN Consent; and
- iii. completion of the reclamation and closure activities in accordance with a closure plan approved pursuant to an Authorization; and
- iv. at least one annual post closure inspection conducted on an annual basis for at least five years, or such longer term if warranted by the post-closure activities, by a qualified professional selected by the TRTFN.

9. Legacy Fund

All agreements with Proponents will require Proponents to provide a non-refundable financial contribution to the TRTFN's Legacy Fund. To be used towards the rehabilitation of legacy disturbance in the TRT Territory.

10. Protocols for Communication, Information Exchange, and on-going Liaison between the Parties

All agreements will outline processes for meaningful engagement between the applicable parties, as described in Section.

11. Traditional Knowledge Protocols

All agreements will include provisions on the TRTFN's ownership over, and confidentiality of, traditional knowledge shared with Proponents for the purposes of Mining Activities, and will reference or incorporate applicable Confidentiality Agreements executed in accordance with Section 9.

12. General Provisions

(a) Non-Derogation of TRT Rights

No agreement will in any way:

- i. prejudice, limit or derogate from, and is without prejudice to, any claims or rights, whatsoever, of TRTFN or TRT including with respect to any Mining Activities;
- ii. limit any position that the TRTFN or TRT may take in any legal or administrative proceeding, including any arguments or defenses respecting TRT Rights or enforcement thereof, or opposition to, any impact thereon;
- iii. prejudice, limit or derogate from, and is without prejudice to, any rights or benefits of TRTFN and TRT arising, directly or indirectly, as part of or from TRT Rights, including rights relating to notice, consultation, accommodation, compensation, negotiation and discussion with the Crown; or
- iv. limit or derogate from, and is without prejudice to, rights of TRTFN or TRT relating to any future participation in any land claims, self-government negotiations or claims, assertions or agreements affecting or relating in any way to TRTFN or TRT.

(b) Right of Participation

No agreement or provision therein, shall, or shall be construed to, limit or affect the TRTFN's ability to participate in government-to-government engagement processes or any regulatory processes, including reviews of Applications, related to any Mining Activities, and to make full and fair representations and submissions in such processes.

13. Right to Withdraw TRTFN Consent

All agreements will recognize the TRTFN's right to withdraw its TRTFN Consent in accordance with Section 4.5.

14. Binding Provisions

All commitments made by a party other than the TRTFN shall be binding on that party, that party's successors, partners, subsidiaries, sub-contractors, affiliates, and assigns for the full duration of the Mining Activity, including remediation, closure and post closure (where applicable).

15. Term of the Agreement
16. Amendment of the Agreement
17. Dispute Resolution
18. Termination Rights and Mechanisms

Appendix D: TRTFN Requirements for Accommodation Agreements with BC

An Accommodation Agreement will generally include provisions on the following matters:

1. Environmental protection measures, including monitoring and management programs and follow-up studies;
2. Measures to protect Tlingit land use practices and rights from project impacts;
3. Measures to support TRTFN land use practices and rights;
4. Provisions for monitoring performance of the operation, conducting inspections and environmental audits as may be required;
5. Economic benefits to TRTFN community, including business and employment opportunities, community development program contributions, training and education programs, financial contributions, and any other socio-economic benefits negotiated for TRTFN and its citizens;
6. Mechanisms for sharing revenues from the project; and,
7. Other such measures agreed by the signatory parties.

Appendix E: TRTFN Requirements for BC Environmental Assessment and Approval

The scope of any environmental assessment for a proposed Mining Activity in the SDM Area should include an assessment of, but not restricted to:

1. On and off-site infrastructure associated with the Activity, including roads, power supply, and smelters;
2. On and off-site activities associated with the Activity, including milling, waste disposal, transporting ore off-site; and transportation mode and routing;
3. All potential post-mining uses of the mine site and facilities; and,
4. Any cumulative effects from present, proposed or reasonably foreseen industrial activities whose effects may interact with the effects of the Activity.

TRTFN support for an environmental approval from either BC or Canada for any Mining Activity will be subject to, but not restricted to, the following:

1. The Crown has effectively incorporated into its environmental approval:
 - (a) Adequate measures to monitor and mitigate against predicted adverse environmental, social, cultural and economic impacts;
 - (b) Clearly written, measurable and enforceable conditions on the Proponent and/or commitments by Crown regulatory agencies for the effective environmental management and mitigation of impacts of the Activity;
 - (c) Post-approval monitoring responsibilities and compliance mechanisms for each commitment throughout the Activity lifespan;
 - (d) Monitoring to be conducted by qualified practitioners who are independent of the Proponent;
 - (e) The requirement to provide TRTFN with all environmental monitoring data and inspection reports simultaneously with their submission to regulators;
 - (f) Mandatory notice and a response plan for emergencies and non-compliance with Environmental Assessment approval provisions; and,
2. A commitment that relevant Crown agencies will:
 - (a) Conduct post-approval monitoring and assessment to determine whether the Proponent is successfully avoiding or mitigating any adverse impacts of the approved Mining Activity;
 - (b) Provide the TRTFN with all monitoring and evaluation information.