

KAMLOOPS INDIAN BAND
TERRITORIAL HERITAGE CONSERVATION LAW

1998

WHEREAS on December 11, 1997, the Supreme Court of Canada rendered its decision in *Delgamuukw v The Queen* ("*Delgamuukw*"), clarifying the law with respect to aboriginal rights and title, as well as clarifying the rights and obligations of the Crown in Right of Canada, and of the Province of British Columbia, to aboriginal nations;

AND WHEREAS the Supreme Court of Canada in *Delgamuukw* has made it clear that no government may lawfully infringe on aboriginal rights and title (or give consent to third parties to do so) without first consulting with the aboriginal nation who will be affected;

AND WHEREAS the Kamloops Indian Band is the entity descended from the people who were part of the Secwepemc Aboriginal Nation, who occupied their territory at 1846, the time of the assertion of sovereignty by the British Crown;

AND WHEREAS Chief and Council of the Band are the elected representatives of the Kamloops people, responsible for protecting aboriginal rights and title;

AND WHEREAS the heritage of the Band is part and parcel of its aboriginal rights and title;

AND WHEREAS the Band considers it advisable to set out the Band's laws and requirements, within the Band's territory, concerning heritage matters, and set out what governments and third parties are required to do in consulting with the Band concerning that heritage;

AND WHEREAS the Kamloops Band and the Skeetchestn Band are closely related, being referred to in the ethnographic record as the Kamloops Division of the Secwepemc Nation;

AND WHEREAS parts of the Band's territory are, by Secwepemc law, custom and usage, under the control and jurisdiction of the Band, other parts are under joint jurisdiction with other Secwepemc Bands, and still other parts are held for the use and benefit of all Secwepemc people under common jurisdiction;

AND WHEREAS this law has been developed in coordination with other Secwepemc Bands, and in particular the Skeetchestn Band;

NOW THEREFORE BE IT RESOLVED that the Council of the Kamloops Indian Band, at a duly convened meeting, enacts the following law:

1. SHORT TITLE

This law may be cited as the “Territorial Heritage Law”.

2. INTERPRETATION

“academic (non-development) proponent” means any person, firm, corporation or government, including Canada or B.C., which seeks to conduct a heritage investigation within the Band’s territory, for the purposes of academic, research or scholastic purposes.

“alter” or “alternation” means to change in any manner, and without limiting this, includes

- (a) the making of an improvement, as defined in the *Builders Lien Act*, R.S.B.C.;
- and
- (b) any action that detracts from the heritage value of a heritage area or a heritage object.

“Band” means the Kamloops Indian Band.

“Band’s territory” means those parts of the Secwepemc traditional territory which are, by Secwepemc law, custom and usage, under the exclusive or joint jurisdiction of the Band.

“Band Member” means a person who a member of the Band and registered on the Band list as defined in the *Indian Act*.

“Category #1 land” means areas within the Band’s Territory which are of such heritage value that they are in need of protection under this law.

“Category #2 land” means areas which no longer come under the provisions of this law because an agreement has been reached pursuant to section 7 of this law.

“Category #3 land” means areas for which the level of protection required is uncertain.

“Category #4 land” means areas within the Band’s territory which are of such heritage value that there shall not be any infringement of the heritage resources on such lands.

“Chief and Council” or “Band Council” means the Chief and Council elected according to the custom of the Band.

“conservation” includes any activity undertaken to protect, preserve or enhance the Band’s heritage.

“Crown in Right of Canada” or “Canada” means the Government of Canada.

“Crown in Right of British Columbia” or “B.C.” means the Government of B.C.

“designate” means to designate under section 5 of this law.

“develop” or “development” means any use of land which involves a change, an expansion or an alteration of an existing use, and, without restricting the generality of the foregoing, includes the extraction of or exploitation of resources from the land.

“development proponent” means any person, firm, corporation or government, including Canada or B.C., which seeks to use or develop land within the Band’s territory, or which seeks to give others the permission to use or develop land within the Band’s territory.

“heritage” means having aesthetic, cultural, educational, historical, or spiritual significance to the Band, or having any such characteristics in combination with an economic use.

“heritage areas” means land, including land covered by water, that has heritage value to the Secwepemc, and, without restricting the generality of the foregoing, includes traditional use areas, areas of historical significance, sacred and spiritual places, archaeological sites, and structural or landscape features of heritage significance.

“heritage investigation” means an archaeological or other systematic study of an area for the purpose of revealing its history and establishing whether there is a need for protection and conservation; this may include the recording, removal and analysis of artifacts, features and other material necessary for the purpose of the heritage investigation.

“heritage object” means any object or artifact having heritage significance.

“joint jurisdiction” means a jurisdiction over those parts of the territory which, by Secwemc law, custom and useage, are under the jurisdiction of the Band and one or more other Secwepemc Bands.

“promulgate” means to declare.

“proponent” includes a development proponent and an academic (non-development) proponent.

“reserve” means the reserve lands of the Band as defined by the *Indian Act*.

“right of first refusal” means the right to be offered the heritage investigation contract in priority of any other person, firm or corporation

“Secwepemc” means the Secwepemc people, or the Shuswap aboriginal nation.

“Kamloops Band’s territory” or “the Band’s territory” means the area within Secwepemc territory which, by Secwepemc law, custom and useage, is under the control and jurisdiction of the Kamloops Band, whether jointly with the Skeetchestn Band or separately.

“traditional territory” means the territory of the Secwepemc aboriginal nation, as outlined on the map attached as Schedule “A” to this law.

↓ missing

3. OBJECT OF THE TERRITORIAL HERITAGE LAW

(1) The object of this law is to:

- (a) encourage and facilitate the protection and conservation of the Band’s heritage;
- (b) prevent the unlawful infringement of the Band’s heritage which is part of its aboriginal rights and title;
- (c) promulgate the Band’s laws and give notice of the laws to any proponent dealing with the Band’s heritage within the Band’s territory;
- (d) set out the Band’s procedures which proponents are required to follow in consulting with the Band concerning land developments and resource management projects within the Band’s territory, including those proposed for rivers and waterways, that may impact the Band’s heritage.

(2) Unless the context otherwise requires, this law shall apply to the Band’s territory, except in respect of the Band’s reserves.

NB

(3) For greater certainty, no provision of this law or anything done pursuant to this law, and no provision in an agreement entered into under section 7, shall be construed as abrogating or derogating from the aboriginal and treaty rights of the Secwepemc.

4. CULTURAL RESOURCES MANAGEMENT DEPARTMENT

(1) Subject to section 10(1) and (3), the Cultural Resources Management Department (the "CRMD"),

shall, in conjunction with Chief and Council, be responsible for the administration and enforcement of this law.

(2) The CRMD may do the following:

- (a) issue permits for the investigation of an area to determine the need for heritage conservation and protection;
- (b) issue permits for the use of areas having heritage significance;
- (c) conduct and arrange exhibits to inform the public concerning the Band's heritage;
- (d) represent the Band in matters regarding the use, management, conservation and protection of heritage.

5. HERITAGE DESIGNATION

(1) Unless covered by an agreement made in accordance with section 7 of this law, all land within the Band's territory are designated as Category #3 lands (areas for which the level of protection required is uncertain).

(2) (a) Chief and Council may, on the recommendation of the CRMD, designate any areas within the Bands territory as Category #4 land.

(b) As there can be no development of areas within Category #4 land (ie. fully protected), no permit shall be issued for these areas, and the consent of the Band to infringe on the heritage of such lands shall not be given.

(3) It shall be sufficient if lands within the heritage designation are described on a map or in a written description setting out the geographical boundaries of the land. Any uncertainty as to what lands are encompassed within the designation shall be resolved by Chief and Council.

(4) As soon as practicable, the Band shall serve notice of the designation made pursuant to subsection (1) on all persons who may be affected by the designation.

(5) The notice pursuant to this subsection 5(3) is validly given if placed in a local newspaper on two consecutive weekends.

6. HERITAGE PROTECTION

(1) Subject to subsection 6(3), except as authorized by this law, no person shall do any of the following within the Band's territory:

- (a) commence alteration of any area within Category #3 land without a permit under section 8 of this law;
- (b) alter any area within Category #4 land;
- (c) damage, desecrate or alter any of the Band's heritage areas or remove material that constitutes part of that heritage;
- (d) damage, desecrate or alter a burial place or remove human remains or any object from a burial place;
- (e) damage, alter, cover or move an aboriginal rock painting or aboriginal rock carving;
- (f) damage, excavate, dig in or alter a site, or remove any object from a site that contains artifacts, features, materials or other physical evidence of archaeological value with respect to the Kamloops people's habitation or use.

(2) Without restricting the generality of subsection (1), this section applies to:

- (a) any activity which may have the prohibited result set out in sub-section 7(1);
- (b) any authorization by Canada or B.C. which may have the prohibited result set out in sub-section 7(1).

(3) This section does not apply to Band members exercising traditional use activities, in accordance with Secwepemc customs and traditions, within the territory of the Band or the Secwepemc Nation.

(4) No consent of the Band to infringe on heritage within the Band's territory shall be given, or inferred, unless there has been compliance with this law.

7. HERITAGE AGREEMENT

- (1) (a) In order to further the purposes and objectives of this law, the Band may enter into an agreement with a proponent (which includes B.C. or Canada) with respect to the conservation and protection of land within Categories #1, #3 or #4, or for the protection of heritage objects within the Band's territory, or with respect to any matter coming with this law.
- (b) Chief and Counsel shall advise members of the Band members, at a duly convened meeting, of any proposal to enter into an agreement pursuant to subsection 7(1)(a).
- (c) An agreement under sub-section (a) must be in writing, must be approved by Chief and Council and must not be inconsistent with this law.
- (2) The heritage agreement may contain provision for compensating a land owner who acquired land within the Band's territory, prior to 1982, as a bona fide purchaser for value without notice of the Band's title to the land.
- (3) No agreement concerning any matter coming within the purview of this law is valid unless it complies with this section.

8. CULTURAL RESOURCE MANAGEMENT PROCESS

- (1) (a) Any proponent who has applied for a permit under the *Heritage Conservation Act*, R.S.B.C., 1996, c 187, shall provide to the CMRD a copy of any and all documentation concerning such permit.
- (b) Notwithstanding that a proponent has applied for a permit under the *Heritage Conservation Act*, R.S.B.C., 1996, c 187, the proponent shall also comply with this law.
- (2) **HERITAGE INVESTIGATION PERMIT APPLICATION: DEVELOPMENT PROPONENTS**
- (a) Prior to commencing any development within Category #1 or Category #3 land in the Band's territory, a development proponent shall make an application to the CRMD for a heritage investigation permit, in the form set out in Schedule 1.

- (b) Except as may be provided for in an agreement made pursuant to section 7 of this law, no application need be made for Category #2 land; however, a proponent shall give the undertaking set out in section 9.
- (c) No development shall take place within or on Category #4 land.
- (d)
 - (i) Upon receipt of an application for a heritage investigation permit, the CRMD shall review the application with the proponent. The CRMD shall endeavour to arrive at a research methodology plan to be agreed upon with the proponent.
 - (ii) The CRMD may refuse to issue a permit to a proponent if:
 - 1. The proponent fails to comply with this law;
 - 2. The proponent's application fails to meet acceptable standards of best practice;
 - 3. The proponent's application fails to provide for the full participation of the Secwepemc in the investigation process;
 - 4. The proponent's applicaiton fails to provide full disclosure of the proponent's development plans.
 - (iii) An appeal lies to Chief and Council from the refusal of the CRMD to issue a heritage investigation permit.

(3) HERITAGE INVESTIGATION PERMIT APPLICATION: ACADEMIC (NON-DEVELOPMENT) PROPONENT

- (a) An academic (non-development) proponent wanting to conduct archeological work within the Band's territory for purposes other than development shall apply to the CRMD for a permit in the form set out in Schedule 1.
- (b) The CRMD may require, as a condition of the permit, that the applicant conduct archeological work in an area chosen by the CRMD. This may be in addition to, or in substitution of, the area requested in subsection 8(3)(a).

(4) PART I INVESTIGATION: FIELD SURVEY AND RESEARCH

- (a) Pursuant to a permit issued under this part, all proponents shall conduct a comprehensive field survey and field investigation, and shall otherwise comply with the terms and conditions of the permit.**
- (b) (i) The CRMD shall have the right of first refusal to conduct the heritage investigation, either directly by the CRMD or jointly with the proponent;**
 - (ii) Unless otherwise agreed by CRMD, the proponent shall pay for all the costs to do the work performed, or required to be performed, under this part, including the costs associated with the CRMD performing the work.**
- (c) Permits issued by the CRMD shall be in the form set out in Schedule 2, and shall contain a clause stipulating that all material found or generated as a result of heritage investigations shall be the property of the Band, or the joint property of the Band and another Band, as the case may be.**
- (d) The CRMD may charge an administration fee of 10% of the heritage budget for the project in respect of each permit issued under this law.**
- (e) The CRMD may sub-contract with the Shuswap Nation Tribal Council, or any other party, for any heritage investigation work to be done pursuant to this section.**

(5) PART II REPORT: IMPACT ASSESSMENT AND SITE EVALUATION: PROPONENT

- (a) Unless otherwise agreed to by the CRMD, on the basis of the field survey work of Part I, a development proponent shall prepare an impact assessment and site evaluation report.**
- (b) The assessment and evaluation report shall be submitted to the CRMD. The report shall:**
 - i) Provide all information obtained from an area in order to document its land use history, including the area's resources, means of utilization, history, relationship to individuals and/or families and any other pertinent documentary evidence of past and current use;**

- ii) Include an analysis of all inventory and research-based information in relationship to the proposed development project which shall include an evaluation of the heritage significance of the area;
- iii) State the actual and potential impact on heritage resources of the proposed development;
- iv) Provide options for avoiding adverse impacts, if these exist;
- v) If the adverse impacts cannot be avoided, detail alternative proposals for otherwise preserving the heritage value of an area, including, but not limited to, developing special heritage areas;
- vi) Provide options for funding the protection of the area or avoiding the adverse impacts.

(c) The CRMD may obtain a second opinion on the conclusions reached in the proponent's report as a result of the Part II work, and generally may take whatever steps may be necessary to ensure that proper information is obtained. Unless otherwise agreed to by the CRMD, the costs of the second opinion shall be paid for by the development proponent.

(d) The CRMD and the development proponent shall endeavour to prepare joint recommendations to Chief and Council concerning mitigation measures, including a recommendation as to whether the CRMD or the proponent should perform the mitigation measures. If such joint recommendations are not developed, then the recommendations of the CRMD shall be taken to Chief and Council, along with the comments of the development proponent. Chief and Council shall direct what mitigation measures the development proponent is required to take as a condition of proceeding with the development.

(e) If further investigation is required as a result of the decision of Chief and Council pursuant to Section 8(5)(d) hereof, then the development proponent shall comply with Section 8(4) of Part I.

(6) PART II REPORT: SITE EVALUATION: ACADEMIC (NON-DEVELOPMENT) PROPONENT

(a) Unless otherwise agreed to by the CRMD, on the basis of the field survey work of Part I, the holder of a permit, who is an academic (non-development) proponent, shall prepare a site evaluation report.

(b) The assessment and evaluation report shall be submitted to the CRMD. The report shall:

(i) Provide all information obtained from an area in order to document its land use history, including the area's resources, means of utilization, history, relationship to individuals and/or families and any other pertinent documentary evidence of past and current use;

(ii) Include an analysis of all inventory and research-based information including an evaluation of the heritage significance of the area;

(7) PART III - IMPACT MITIGATION

(a) If required by Chief and Council pursuant to Section 8(5), the proponent shall complete an application for a Part III Impact Mitigation Permit in the form attached as Schedule 1.

(b) If approved by Chief and Council, the CRMD shall issue to a proponent a Part III Impact Mitigation Permit, which shall contain the terms and conditions approved by Chief and Council under sub-section 8(5)(d).

(c) For greater certainty, sections 8(5)(b), (c),(d) and (e) of Part I apply equally to the completion of the work required under this Part III.

(d) When the impact mitigation measures have been completed, a final report shall be provided to the CRMD. The final report may include recommendations for follow up. The CRMD will provide to Chief and Council a copy of every final report.

(8) COMPLETION OF INVESTIGATION

(a) Upon the completion of the heritage investigation work required under this section and upon the CRMD being satisfied that the Band's heritage is protected consistent with the object and purposes of this law, the CRMD shall provide Band Council with a written statement advising that conservation and protection of the Band's heritage in relation to the proponent's development has been or will be met by the proponent.

(b) Upon approval by Chief and Council, the CRMD shall provide the proponent with a certificate in the form of Schedule 3.

(c) The certificate shall include any terms and conditions required by Chief and Council pursuant to section 8(5)(d).

(9) **CERTIFICATE OF CERTAINTY**

(a) Following the issuance of a certificate pursuant to section 8(b), and upon application by a proponent, Chief and Council may issue a Certificate of Certainty which sets out the following:

(i) that the requirements of consultation with the Band, within the meaning of the *Delgamuukw* case, have been met by the proponent concerning the Band's heritage resources;

(ii) provided that the proponent complies with the terms and conditions of the certificate, that the Band shall save the proponent harmless from any and all actions or causes of actions concerning the requirements of consultation, within the meaning of the *Delgamuukw* case, concerning the Band's heritage resources;

(b) The Certificate of Certainty shall be sufficient proof that the consultation requirements of *Delgamuukw* have been met.

9. **PROPONENT'S UNDERTAKINGS**

(1) Every proponent seeking to develop lands within the Band's territory shall provide a written undertaking to the CRMD that, in the event that any heritage resources are discovered on the land at any time during the course of the development, the CRMD shall immediately be advised as to the nature of the discovery. The proponent shall cease work until the CRMD can take the necessary action.

(2) Forthwith upon being advised of the discovery, the CRMD shall use its best efforts to immediately investigate and determine what, if any, steps the proponent must take in order to deal with the discovery.

(3) If the proponent is uncertain as to whether or not any discovery comes within this provision, it shall immediately seek the advice of the CRMD.

10. **JOINT JURISDICTION**

(1) (a) Where lands within the Band's territory are located within the area under the joint jurisdiction of the Kamloops and Skeetchstn Indian Bands (formerly the Kamloops

missing
Division), as set out on the map attached as Schedule "B", all the powers and duties under this law shall be exercised jointly by the Kamloops Indian Band and the Skeetchestn Indian Band.

(b) (i) By letter of agreement, Chief and Council of the Kamloops Band may delegate to the Skeetchestn Band the powers to make decisions concerning the territory over which the two Bands have joint jurisdiction.

(ii) The Chief and Council of the Kamloops Indian Band may receive from the Skeetchestn Indian Band the powers to make decisions concerning the territory over which the two Bands have joint jurisdiction.

(iii) A copy of the letter of agreement shall be provided to proponents.

(2) For greater certainty, and subject to sub-section 1(b), where sub-section (1)(a) applies:

(a) when anything is required to be done under this law, the Band shall use its best efforts, as may be appropriate, to ensure that it is also done under the Skeetchestn Territorial Heritage Law;

(b) nothing shall be permitted under this law which is prohibited under the Skeetchestn Territorial Heritage Law;

(c) where reference is made to the Kamloops Band Council or the CRMD doing anything under this law, permission shall also be sought from the Skeetchestn Band Council under its Territorial Heritage Law;

(d) where reference is made to the CRMD under this law, the permission shall also be sought from the person with similar authority under the Skeetchestn Territorial Heritage Law;

(e) (i) unless otherwise agreed to in writing by the Bands, Kamloops and Skeetchestn Bands shall issue joint permits under this law;

(ii) if the Bands have an agreement that only one Band shall issue a permit for any area, it shall provide a copy of that agreement to all proponents..

(3) In conjunction with the Skeetchestn Indian Band Council, where anything is required to be done under this law by the CRMD, the Kamloops Band Council may, by Band Council Resolution, delegate those functions to the Shuswap Nation Tribal Council.

(4) (a) The Bands shall provide a copy of this law to other Secwepemc Bands.

(b) In the event that the other Secwepemc Bands have not passed a Territorial heritage conservation law, the Kamloops Indian Band will keep such Band apprised of developments within territory under common jurisdiction.

11. LAND SUBJECT TO AGREEMENT: CATEGORY #2 LAND

(1) The Band Council may, by Band Council Resolution, exempt land within its territory from coming within the ambit of this law. Such lands shall then be considered as Category #2 lands.

(2) No land shall be released pursuant to this section unless:

(a) a heritage agreement has been reached pursuant to section 7 of this law;

(b) an agreement has been reached with the proponent (including B.C. and Canada, as may be necessary) which specifies how the Band's aboriginal title will be protected within the exempted land.

12. CULTURAL RESOURCES MANAGEMENT REGISTER

1) The CRMD shall establish and maintain one or more registers, to be known collectively as the Cultural Resources Management Register, for the recording of the following:

(a) the designation of lands in accordance with section 5;

(b) heritage objects acquired under this law;

(c) permits issued pursuant to this law.

(2) The Cultural Resources Management Register shall be available for inspection by any person during regular business hours.

13. BREACH OF LAW

(1) The CRMD shall forthwith advise Chief and Council of any breach or apprehended breach of this law.

(2) Chief and Council may take whatever steps are necessary to stop the breach or apprehended breach of this law, including, without restricting:

- (i) the issuance to a person or class of persons a stop work order that prohibits any alteration of the area for a period of up to 120 days, subject to any requirements the CRMD considers appropriate;
 - (ii) preventing further access to the area of territory where the breach has or may be occurring.
- (2) Any person who contravenes this law is liable to prosecution. — *civil action?*

14. APPLICATION OF LAW

- (1) If there is a conflict between the provisions of this law and any other law of the Band, this law shall apply to any matter affecting the protection and conservation of the Band's heritage.
- (2) This law applies to all land developments and resource management projects within the Band's territory, including those proposed for rivers and waterways, that may impact the Band's heritage.
- (3) For greater certainty, compliance by a proponent with any law of B.C. or of Canada is not compliance with this law.

15. GENERAL PROVISIONS

- (1) No person shall interfere with heritage investigations undertaken in accordance with the provisions of a permit issued under this law.
- (2) The CRMD may amend, suspend or cancel a permit at any time,
 - (a) with the concurrence of the holder of the permit
 - (b) without the concurrence of the holder of the permit where the holder provided false or misleading information in the permit application or the holder has breached a condition of the permit or the holder has contravened a provision of this law.
- (3) This law shall be construed as being remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its purposes.
- (4) Where a provision of this law is expressed in the present tense, the provision applies to the circumstances as they arise.

(5) Headnotes, marginal notes and headings form no part of the enactment, but shall be construed as being inserted for convenience of reference only.

(6) A finding by a court that a provision of this Law is void or invalid shall not affect the validity or invalidity of the rest of the Law.

16. **NOTICE AND COMING INTO FORCE**

- (1) This law shall come into force upon approval of Chief and Council.
- (2) Express notice of this law shall be given to Canada and B.C.
- (3) This law shall be published in the First Nation Gazette.
- (4) Canada shall be invited to register this law under s.81 of the *Indian Act*.

APPROVED BY CHIEF AND COUNCIL THIS 22 day of September, 1998.

CHIEF: Clarence Fles

COUNCILLOR: [Signature] COUNCILLOR: Russell Casimir

COUNCILLOR: [Signature] COUNCILLOR: Fred Samille

COUNCILLOR: Clarence Fles COUNCILLOR: Jeff Seymour

COUNCILLOR: C. Mosterd-McLean COUNCILLOR: James V. Thomas
[Signature]

Schedule 1

(See Section 8(2) of Territorial Heritage Conservation Law)

**KAMLOOPS INDIAN BAND
HERITAGE INVESTIGATION PERMIT or
IMPACT MITIGATION PERMIT**

APPLICATION FORM

**To: Kamloops Indian Band
Cultural Resources Management Department (CRMD)**

From: (Name and address of Proponent)

Note to Proponent:

You should have received a copy of the Band's Territorial Heritage Law and reviewed it to ensure compliance with the law. A copy may be obtained from the Kamloops Indian Band. Please also ensure that this application form is in the most up to date version.

The Band is in support of Article 8(j) of the Biodiversity Convention, and associated articles, adopted by the United Nations Conference on the Environment and Development (UNCED). Canada has also committed itself to the implementation of these articles. Article 8(j) and extracts from the Traditional Resource Rights (TRR) model are attached. In particular, it should be noted that TRR states that:

"Environmental Impact Assessments (EIAs) should include not only local guidance and full participation, but Indigenous criteria and mechanism for assessment. Prior informed consent is fundamental, since Indigenous and traditional peoples must be afforded full disclosure of all relevant information regarding projects, including background, technical surveys, feasibility studies, existing and final assessments.

As a proponent wishing to undertake development within Secwepemc traditional territory, you are expected to work closely with the Band, and to fully comply with its laws. This application form should contain a full statement of the nature of the development and the research methods proposed to be used in complying with the Territorial Heritage Law.

This is an application to the _____ Indian Band Cultural Resources Management Department (CRMD) for a Part I () Heritage Investigation Permit or Part III () Impact Mitigation Permit.

1. The area of the proposed development is as follows (please also attach a sketch or map):

(Lot numbers or legal description, if available)

2. Provide documents setting out the nature of the proposed development which includes the following information:

- (a) Area of fee simple land;
- (b) Area of leased land;
- (c) Other forms of tenure to be issued and length of tenure;
- (d) Changes from existing uses;
- (e) Environmental impact statements concerning resources of the area and impact on those resources;
- (f) Reclamation aspects of the proposed development, if applicable;

(g) Provincial, federal or municipal regulatory agencies involved in the development.

3. Please indicate whether or not you have applied, or intend to apply, for a permit under the *Heritage Conservation Act*, R.S.B.C., 1996, c 187.

(a) Yes, the proponent has made an application under the provincial law. Date of application (or anticipated date of application) _____.

If an application has been made, have you provided the CRMD with a copy of the application and any and all related documentation?

Yes _____

No _____

If not, kindly provide an explanation.

(b) No, the proponent has not made an application and does not intend to do so.

Note that notwithstanding that a proponent has applied for a permit under the Heritage Conservation Act, R.S.B.C., 1996, c 187, the proponent shall also comply with this law. The proponent is required, under section 8 of the Territorial Law, to provide to the CMRD a copy of any and all documentation concerning such permit.

4. A Part I Heritage Investigation Permit requires that the applicant conduct a comprehensive field survey resulting in the identification of all archaeological, spiritual, traditional-use, and historically significant areas which may be affected by a development.

Outline below (or attach a statement) as to the archaeological methodology you propose to be used during the heritage investigation (including what soil testing or excavation work is proposed to be done).

Please indicate the level to which the heritage material will be analyzed.

3. What archival, library and oral history research do you propose to do (interviews with the elders, etc.).

4. Please attach a budget for the work to be performed under the permit.
5. Has an agreement been reached with the CRMD as to the heritage costs payable by the applicant?

If so, please indicate the agreement which has been reached, and attach relevant documents confirming the agreement.

6. Please attach a list of all archaeologists and/or anthropologists and other employees whom the applicant proposes conduct the heritage work, including their educational and work history.

Applicants are encouraged to hire qualified workers from the Band membership to participate in the heritage investigation work. Please indicate whether any of the above people are members of the _____ Indian Band.

7. The applicant acknowledges the following:
- 7.1 That it is aware of the Cultural Heritage Policy for the _____ Indian Band, and that it will abide by the terms and conditions of the policy and any applicable by-laws, including the Territorial Heritage Conservation Law, of the Band.
- 7.2 That CRMD shall retain the right to approve the experts used by the applicant.
8. The applicant specifically undertakes that in the event that this application is approved and a permit issued, if any heritage resources are discovered in the course of the development which were not revealed or considered as a result of the Part I investigation, then the applicant, its agents servants and employees shall immediately advise the CRMD as to the nature of the discovery.

Dated at _____, in the Province of British Columbia, this
_____ day of _____. 199__.

Signed by the duly authorized representative of the applicant:

(Print Name)

(Position)

For CRMD use only:

Date received: _____

Category of lands to which this application relates: _____

Action to be taken:

Futher comments:

Date that Part I Heritage Investigation Permit granted or denied:

Schedule 2

KAMLOOPS INDIAN BAND

PART I: FIELD SURVEY
or
PART III: IMPACT MITIGATION PERMIT

Permit No. _____ Date _____

Name of Project:

Type of Project:

Permit Area:

Permittee:

Address of Permittee:

Pursuant to the agreement between the _____ Indian Band and _____,
this permit is issued to _____ of _____ (the "Permittee").

This permit authorizes the Permittee, his agents, servants and employees (hereinafter referred as the "firm") to conduct an archaeological investigation of the Permit Area in accordance with the Band's heritage policy.

The terms and conditions of this permit as follows:

1. The firm is to conduct this study under the direction of the Cultural Resources Management Department ("CRMD") of the Kamloops Indian Band.
2. The term of the permit is from _____ to _____.
3. The firm will conduct a complete systematic heritage resource inventory and significance assessment of all heritage sites within the Permit Area, which area is described as:
4. The Permittee has submitted to the CRMD a detailed proposal and application for this permit which was approved by the CRMD on the _____.
5. The highest standard of skill and workmanship will be used in the performance of the work under this permit.
6. The study will be performed in accordance with the current professional standards and practices for archaeological work in British Columbia.

7. Restoration of all sites is required in accordance with the Permittee's proposal, and direction of the CRMD.
8. All persons engaged by the firm to assist in the study shall be bound by the terms and conditions of this Permit and shall be fully qualified to perform the work.
9. The Band reserves the right to terminate this permit if the permit is breached or if Chief and Council of the Band form the opinion that a continuation of the study is contrary to the interests of the Band.
10. On completion of the work under this Permit, or as otherwise directed by the CRMD, the firm will submit a detailed report to the CRMD.
11. If the work is terminated for any reason before the completion of the study, the firm will submit a detailed report of conclusions up to this point to the CRMD.
12. All data, maps, journals and photographs and other material generated through or found as a result of the study are the exclusive property of the Band and are to be submitted to the CRMD no later than 60 days following the conclusion of this permit, unless otherwise agreed to by the CRMD.
13. The Band and the Permittee shall jointly use their best efforts to publish any results from the investigation. There shall be joint copyright between the Permittee and the Band over any such publication, unless otherwise agreed between the parties.
14. All material found or generated by the proponent as a result of heritage investigations shall be the property of the Kamloops Indian Band.
15. Subject to any further direction from the CRMD, and in accordance with the Band's heritage policy, all heritage objects and associated materials are to be deposited with the Secwepmec Museum, Kamloops, B.C.

Chief and Council
Kamloops Indian Band

Declarations:

I, _____, hereby agree to abide by conditions outlined in this Permit.

Signature: _____

Date: _____ (day) _____ (month) _____ (year)

I, _____, for and on behalf of _____, hereby agree to abide by conditions outlined in this Permit.

Signature: _____

Date: _____ (day) _____ (month) _____ (year)

Schedule 3

(See Section 8 (8) of Territorial Heritage Conservation Law)

I, _____ of the _____ Indian Band Cultural Resources Management Department hereby certify that the proponent, _____, to whom various heritage permits were issued as follows:

_____ has satisfactory complied with the requirements of the permit(s) and the Territorial Heritage Conservation Law. I am satisfied that the conservation and protection of the Band's heritage in relation to the proponent's development has been or will be met by the proponent. [The proponent is required to comply with the following additional conditions]:

Dated at the City of _____, Province of British Columbia this _____ day of _____, 199__.