

NATURAL RESOURCES REGULATION

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The following regulation is made by the Executive Council pursuant to section 170 of the *Teslin Tlingit Land and Resources Act 2016*:

PART ONE: PRELIMINARY MATTERS

Short Title

1. This regulation may be cited as the *Natural Resources Regulation*.

Definitions

2. Unless otherwise defined in this Regulation, terms have the same meaning as in the *Teslin Tlingit Land and Resources Act 2016*.

3. In this regulation,

“Act” means the *Teslin Tlingit Land and Resources Act, 2016*;

“application fee” means the fee to apply for a natural resource licence set out in Schedule 1;

“heritage assessment” means a heritage assessment that meets requirements established by the TTC Heritage Department or under a TTC enactment;

“natural resource licence” means a licence granted under sections 50(1)(b), (c) or (d) of the Act to take or use natural resources located on settlement land;

“Register of Lands” means the Register of Lands established pursuant to section 61 of the Act.

Delegation

4. The Director of Lands may, with the consent of the Executive Council, assign the performance of any duties of the Director of Lands under this regulation to any officer, employee, contractor or agent of the First Nation.

Application of this Regulation

5. This Regulation applies, in conjunction with the Act, to regulate the taking or use of natural resources located on settlement land over which TTC has legislative jurisdiction.

PART TWO: CRITERIA INFORMING REVIEW OF APPLICATIONS

Criteria Informing Review of Applications for Natural Resource Licences

6. The following principles and factors must be taken into account by the Committee when making a recommendation on an application for a natural resource licence under section 14, and by the Executive Council when making a decision on an application for a natural resource licence under section 16:
 - (a) compliance with any applicable land use plans, zoning regulations, land use law, and any other applicable laws;
 - (b) environmental protection and enhancement;
 - (c) well-planned and orderly development of settlement land;
 - (d) protection and enhancement of cultural and heritage resources and sites;
 - (e) compatibility with Teslin Tlingit culture;

- (f) potential impacts on existing uses of adjacent land and surrounding land by citizens and others, including potential or actual conflicts with existing legal interests;
- (g) whether the proposed licence represents a value and benefit to TTC;
- (h) whether the proposed licence will result in the hiring and training of citizens;
- (i) whether the applicant has a satisfactory credit history;
- (j) whether the applicant owes any outstanding taxes or other debt to TTC;
- (k) the applicant's past track record and compliance history related to environmental matters;
- (l) whether the applicant has been involved in a dispute regarding an interest in land in any jurisdiction in Canada; and
- (m) any other factors the Committee or the Executive Council consider relevant to the application.

PART THREE: APPLICATION FOR A NATURAL RESOURCE LICENCE

Application for a Natural Resource Licence

7. (1) A person who seeks to obtain a natural resource licence must submit an application that complies with section 9 to the Director of Lands
 - (a) in person during regular business hours; or
 - (b) by electronic mail or regular mail.
- (2) The Director of Lands will date-stamp the application upon receipt and will provide a copy of the stamped application to the applicant by delivery in person, by mail or email as soon as practicable.
- (3) If the Director of Lands determines the application is not complete, the Director of Lands will so advise the applicant within 10 working days of the application having been submitted to the Director of Lands or such other reasonable period as the Director of Lands may decide.
- (4) The applicant shall supply such further information that is requested by the Director of Lands as necessary to meet the requirements of section 9 within 30 days of the request or within an otherwise agreed-upon period of time.

Concurrent Applications

8. (1) An applicant may apply for a natural resource licence under this Regulation concurrently with an application for a development permit or other authorization under the Act or another enactment.
- (2) In the case of concurrent applications:
 - (a) all fees payable in relation to both applications are due at the time of application; and
 - (b) the applicant is required to meet the requirements for each application.

Contents of Application

9. The Director of Lands shall not determine that an application for a natural resource licence is complete until the following requirements have been met:
 - (a) a complete application that contains the information set out in Schedule 2; and
 - (b) the application fee.

Factors that Disqualify an Application

10. The Director of Lands shall reject an application for a natural resource licence and provide notice to the applicant if:
 - (a) the use for which the applicant seeks the licence does not comply with applicable land use plans and zoning regulations;
 - (b) the applicant does not have a satisfactory credit history; or

- (c) the applicant has been charged or sued for harming the environment in any jurisdiction in Canada, or has been involved in a lawsuit or dispute regarding an interest in land in any jurisdiction in Canada, within the last two (2) years.

Additional Information

11. (1) If the Director of Lands determines that the application for a natural resource licence is complete, the applicant must submit to the Director a decision document, if required under YESAA.
- (2) The Director of Lands may require the applicant to submit one or more of the following:
 - (a) a survey plan of the proposed licence area prepared by a qualified land surveyor registered in the Canada Lands Survey System;
 - (b) an environmental site assessment to determine the environmental condition of the lands and the presence of any contaminants;
 - (c) a heritage assessment; or
 - (d) any additional information that, in the Director of Lands' opinion, is required in order to assess the proposed taking or use of natural resources.
- (3) The applicant is responsible for all costs involved with completing and submitting the information required under subsections (1) and (2).

PART FOUR: REVIEW AND APPROVAL OF NATURAL RESOURCE LICENCES

Referring an Application for a Natural Resource Licence

12. (1) When the Director of Lands has received a complete application under section 9 that is not disqualified under section 10, and all information required under section 11, the Director of Lands shall provide notice of the application for a natural resource licence to:
 - (a) any person who holds an interest or licence in land located within one kilometer from the proposed taking or use of natural resources; and
 - (b) in the opinion of the Director of Lands, any other person whose interest or licence in settlement land may reasonably be affected by the proposed taking or use of natural resources.
- (2) Notice under subsection (1) must include:
 - (a) a legal description, parcel identifier, or other reasonably sufficient description of the settlement land affected by the proposed taking or use of natural resources;
 - (b) the purpose of the proposed taking or use of natural resources;
 - (c) the location where the application for a natural resource licence may be reviewed;
 - (d) an invitation to provide written comments on the application for a natural resource licence within 30 days of notice being issued under subsection (1) to the TTC administration office by email, mail or in-person;
 - (e) the manner in which comments may be submitted to TTC; and
 - (f) the name and contact information of a TTC employee that will be available to answer questions about the application for a natural resource licence.
- (3) The Director of Lands may also, as necessary or appropriate, refer an application for a natural resource licence to:
 - (a) internal TTC departments; and
 - (b) the Village of Teslin or other local government authority.
- (4) The Director of Lands may extend the comment period provided under subsection (2)(d) if he or she considers it necessary to ensure a comprehensive review of the application for a natural resource licence.

Referring Application to Committee

13. As soon as practicable following the completion of the referral process under section 12, the Director of Lands shall provide to the Committee
- (a) the application;
 - (b) any comments received; and
 - (c) if the proposed use or taking is on allocated land, whether section 52 of the Act regarding consent of the allocation holder has been complied with.

Committee Recommendation

14. (1) Upon receipt of the application package provided under section 13, the Committee must consider the factors set out in section 6, and prepare a recommendation that provides
- (a) whether the Executive Council should approve or reject the application; and
 - (b) suggested modifications or terms or conditions that should apply to the licence, if appropriate, including whether the applicant should be required, in accordance with section 56(1) of the Act, to provide financial security before Executive Council grants the licence.
- (2) The Committee shall provide their recommendation in writing to the Director of Lands.

Referring Recommendation to Executive Council

15. Upon receipt of the Committee's recommendation under section 14, the Director of Lands shall provide to the Executive Council
- (a) a description of the proposed taking or use of natural resources on settlement land;
 - (b) the application;
 - (c) any comments received under section 12;
 - (d) if the proposed use or taking is on allocated land, whether section 52 of the Act regarding consent of the allocation holder has been complied with;
 - (e) the Committee's recommendation;
 - (f) all relevant documents, maps, plans, reports and other information; and
 - (g) a copy of the draft licence.

Executive Council Decision

16. (1) As soon as practicable after receiving the application package under section 15, the Executive Council may
- (a) approve the application with any reasonable terms or conditions; or
 - (b) reject the application, with reasons, and direct the Director of Lands to advise the applicant.
- (2) The Executive Council's decision to reject an application for a natural resource licence is final.

Natural Resource Licence

17. (1) When an application for a natural resource licence is approved by the Executive Council, the Director of Lands shall issue a natural resource licence containing the information set out in Schedule 3.
- (2) A natural resource licence
- (a) must state the terms and conditions imposed on the licensee, including, if applicable, any conditions required to implement a decision document;
 - (b) must specify the times that the licenced activities may be carried out and the measures to mitigate any nuisance or disturbance and to protect public safety;
 - (c) must describe the areas of land and the applicable boundaries within which the licensee may undertake the licensed activities;
 - (d) must specify the term of the licence;

- (e) must specify the total quantity of the licenced natural resources that may be taken or used;
- (f) must specify the royalties or other payments payable to TTC, if any; and
- (g) must be signed on behalf of the Teslin Tlingit Council by two (2) members of the Executive Council.

Conditions of a Natural Resource Licence

18. (1) Without limiting the discretion of the Executive Council to impose conditions on a natural resource licence, every natural resource licence is subject to the following terms and conditions:

- (a) the licensee shall allow the Director of Lands, Lands Department staff or an appointed public official authorized by TTC to enter and inspect the lands and undertakings that are subject to the natural resource licence at any reasonable time for the purpose of monitoring compliance with this Regulation;
- (b) a licence does not confer any interest in settlement land; and
- (c) subject to subsection (2), the licensee shall at all times bear full responsibility for any accident which may occur, or damage which may be done to any person or property whatsoever, caused directly or indirectly by the work authorized by the licence, and shall save harmless and keep indemnified TTC from all claims and demands whatsoever in respect of the work.

(2) Where Yukon Government is the applicant for a licence under this regulation:

- (a) the application must include a statement regarding any statutory constraints on the applicant's ability to provide the indemnity at subsection 1(c); and
- (b) Executive Council may waive the requirement that subsection (1)(c) form a term and condition of the licence where Executive Council is satisfied that waiving the requirement is reasonable in the circumstances, and it is in TTC's best interest to do so.

Revocation of Natural Resource Licence

19. (1) Subject to this section, the Executive Council may revoke a natural resource licence if the licensee contravenes a term or condition of the licence.

(2) The Executive Council must provide a licensee with notice of the contravention under subsection (1), and a reasonable opportunity to make representations on the grounds of revocation to the Executive Council.

(3) If the Executive Council is satisfied that adequate steps have been taken by the licensee to whom a notice under subsection (2) was given to remedy the situation, the Executive Council shall take no further action respecting revocation of the natural resource licence.

(4) If the Executive Council is not satisfied that adequate steps have been taken by licensee to whom a notice under subsection (2) was given to remedy the situation, the Executive Council may, after providing 30 days' notice to the licensee, revoke the natural resource licence and delivering a notice to the licensee confirming the revocation.

(5) If the natural resource licence was registered in the Register of Lands, the Executive Council shall issue a notice to the registrar directing the licence be identified as revoked; for certainty, failure to comply with this subsection does not invalidate Executive Council's revocation of a natural resource licence under subsection (4).

(6) Upon revocation of a natural resource licence, the former licensee is required to remove any equipment, vehicles and possessions from the former licenced area.

(7) Any equipment, vehicles and possessions not removed by the former licensee under subsection (6) may be retained or disposed of by TTC at the former licensee's expense.

Notice

20. (1) Subject to subsection (2), notice under section 19 must be provided by personal service or registered mail at each recipient's last known address.
- (2) If an attempt to provide notice to a person under subsection (1) is unsuccessful, the following steps will constitute effective notice under section 19:
- (a) leaving the notice document during or after the unsuccessful attempt, in a sealed envelope addressed to that person, at the last known address of that person, with anyone who appears to be an adult member of the same household; and
 - (b) subsequently mailing the document addressed to the person to the last known address.

Term of a Natural Resource Licence

21. Subject to the maximum term of a licence provided at section 51 of the Act, the term of a natural resource licence:
- (a) must be commensurate with the purposes of the natural resource licence; and
 - (b) must balance the interests of the licensee with the long-term interests of TTC and its citizens.

PART FIVE: EXECUTIVE COUNCIL CONSENT TO TRANSFERS AND ASSIGNMENTS**Criteria for Consent to a Transfer or Assignment of a Natural Resource Licence**

22. (1) A natural resource licence must not be transferred or assigned without Executive Council's consent.
- (2) The Executive Council shall not consent to a transfer or assignment of a natural resource licence under subsection (1) until the following requirements have been satisfied at the transferor or assignor's expense:
- (a) proof of corporate status, if applicable;
 - (b) a satisfactory credit investigation;
 - (c) proof that the assignee has assumed all of the transferor's or assignor's obligations, responsibilities and covenants;
 - (d) reasonable proof that the applicant has not been charged or sued for harming the environment in any jurisdiction in Canada, and has not been involved in a lawsuit or dispute regarding an interest in land in any jurisdiction in Canada, within the last two (2) years;
 - (e) any other requirements that Executive Council may impose.
- (3) Executive Council's consent under subsection (1) may be provided by way of an assignment consent agreement or by an endorsement on the assignment agreement between assignor and assignee.

PART SIX: GENERAL**Forms**

23. (1) The Executive Council may, on the recommendation of the Director of Lands, amend the schedules to this regulation by resolution.
- (2) For greater certainty, section 56 of the *Administration and Interpretation Act* shall not apply to amendments to the schedules.

Repeal

24. The *Settlement Land and Resource Use Regulations* TTCR 98/02 are repealed on the day this Regulation comes into force.