

**IN THE MATTER OF THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(ACT)
AND
AN ENVIRONMENTAL ASSESSMENT OF THE
KINSKUCH HYDROELECTRIC PROJECT
ORDER UNDER SECTION 11**

WHEREAS:

- A. WindRiver Power Corporation (WindRiver) proposes to develop the Kinskuch Hydroelectric Project, located at Kinskuch Lake and the upper Kinskuch River system, 150 kilometres north of Terrace BC (Kinskuch Hydroelectric Project);
- B. The Kinskuch Hydroelectric Project constitutes a reviewable project, pursuant to Part 4 of the Reviewable Projects Regulation (B.C. Reg. 370/02), since this project is a new hydroelectric power plant which exceeds a rated nameplate capacity of > 50 MW of electricity;
- C. Portions of the Kinskuch Hydroelectric Project lie within the asserted traditional territories of Wilp Luuxhon, Wilp Watakhayetsxw, and Wilp Gwaas Hlaam / Bii Yosxw of the Gitanyow Nation;
- D. The Province of BC and the Gitanyow Nation have entered into the “Gitanyow Huwilp Recognition and Reconciliation Agreement” that sets out an Environmental Assessment framework for the Gitanyow Lax’yip in Schedule H of that Agreement;
- E. Portions of the Kinskuch Hydroelectric Project lie within Nisga’a Lands, while the entire Project lies within the Nass Area and the Nass Wildlife Area as those terms are defined in the Nisga’a Final Agreement;
- F. The Province of British Columbia and the Nisga’a Nation have entered into the “Nisga’a Nation - BC Settlement Agreement” that sets out how the parties will collaboratively work together to fulfill the obligations set out under Chapter 10 of the Nisga’a Final Agreement;
- G. Portions of the Kinskuch Hydroelectric Project lie within the asserted traditional territory of Tsetsaut Skii Km Lax Ha. There is currently uncertainty around the identification of the appropriate rights holding collective associated with Tsetsaut Skii Km Lax Ha;
- H. The Executive Director has delegated to the undersigned, certain powers and functions under the Act, including the power to issue Orders under Section 11 of the Act; and

- I. On December 14, 2016, the Project Assessment Lead issued an Order under Section 10(1)(c) of the Act, stating that the Kinskuch Hydroelectric Project requires an Environmental Assessment Certificate and that WindRiver may not proceed with the Kinskuch Hydroelectric Project without an assessment.

NOW THEREFORE:

Pursuant to Section 11 of the Act, I order that the Environmental Assessment of the Kinskuch Hydroelectric Project be conducted according to the scope, procedures and methods set out in Schedule A to this Order.



Teresa Morris
Project Assessment Director

Dated September 11, 2019

Enclosure: Schedule A

**SCHEDULE A TO ORDER UNDER SECTION 11 OF THE BC ENVIRONMENTAL
ASSESSMENT ACT**

**SCOPE, PROCEDURES AND METHODS FOR THE ENVIRONMENTAL
ASSESSMENT OF THE PROPOSED KINSKUCH HYDROELECTRIC PROJECT**

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PART A - GENERAL PROVISIONS

1. DEFINITIONS

“Aboriginal Interests” means, for the purposes of this Order, asserted or determined aboriginal rights, including title, as applicable. For greater clarity, Aboriginal Interests does not include treaty rights as set out in the Nisga’a Final Agreement.

“Act” has the same meaning as on page 1 of the Order.

“Application” means WindRiver’s application for an Environmental Assessment Certificate for the Kinskuch Hydroelectric Project, made under Section 16 of the Act.

“Application Information Requirements” means the information that must be included in the Application, pursuant to Sections 11(2) and 16(2) of the Act and Section 6 of this Order.

“Application Review Stage” means that part of the Environmental Assessment that occurs after the Application has been accepted for review.

“Assessment Report” means the report, as defined in Section 1 of the Act, and referred to in Section 10 of this Order.

“Cumulative Effects” means the residual effects of the Kinskuch Hydroelectric Project that have the potential to interact with the effects of other past, present or reasonably foreseeable projects or activities.

“Environmental Assessment Office” means the office continued under Section 2 of the Act.

“Executive Director” has the same meaning as Executive Director in Section 1 of the Act.

“Electronic Project Information Centre” means the project information centre continued under Section 25 of the Act, and operated as a website maintained by Environmental Assessment Office.

“Gitanyow-BC Agreement” means the Gitanyow Huwilp Recognition and Reconciliation Agreement between Gitanyow Nation and the Province of British Columbia signed in 2016 including Schedule H of that Agreement.

“Gitanyow Consultation Plan” means a plan developed by WindRiver in consultation with Gitanyow Nation and determined to be adequate by the Project Assessment Lead, which outlines how WindRiver will undertake procedural aspects of consultation with Gitanyow Nation on behalf of the Crown during the Environmental Assessment.

“Gitanyow Consultation Report” means WindRiver’s periodic reporting at times specified in section 16 of this Order, or at the request of the Project Assessment Lead, on the results of the consultation activities specified in the Gitanyow Consultation Plan

“Gitanyow Lax’yip Land Use Plan” means the land use designations, Land Use Zones and Management Objectives set out in Schedule A and Schedule B of the Gitanyow-BC Agreement developed by the Parties through a collaborative process for the

Gitanyow Lax'yip which overlaps with British Columbia's Sustainable Resource Management Plans for Nass South, Cranberry, and to a limited extent, Kalum and Kispiox planning areas.

"Gitanyow Nation" means the Gitanyow Nation as represented by the Gitanyow Hereditary Chiefs Office and those wilps whose asserted traditional territory or Lax'yip overlap with the Kinskuch Hydroelectric Project (Wilp Luuxhon, Wilp Watakhayetsxw, and Wilp Gwaas Hlaam / Bii Yosxw).

"Indigenous nations" means Gitanyow Nation and Tsetsaut Skii Km Lax Ha.

"Kinskuch Hydroelectric Project" has the same meaning as on page 1 of the Order.

"Ministers" has the same meaning as Ministers in Section 1 of the Act.

"Nisga'a Final Agreement" means the Nisga'a Final Agreement among the Nisga'a Nation, Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of British Columbia, as amended from time to time.

"Nisga'a Nation" means the Nisga'a Nation as represented by Nisga'a Lisims Government.

"Nisga'a Nation – BC Settlement Agreement" means the Settlement Agreement signed between Nisga'a Nation and the Province of British Columbia on July 31, 2014 in accordance with the Nisga'a Final Agreement, Chapter 19, Dispute Resolution, Paragraph 27.

"Nisga'a Nation Consultation Plan" means a plan developed by WindRiver in consultation with the Nisga'a Nation and determined to be adequate by the Project Assessment Lead, which outlines how WindRiver will undertake procedural aspects of consultation, as that term is defined under the Nisga'a Final Agreement, with the Nisga'a Nation on behalf of the Crown during the Environmental Assessment.

"Nisga'a Nation Consultation Report" means WindRiver's periodic reporting at times specified in section 16 of this Order, or at the request of the Project Assessment Lead, on the results of the consultation activities specified in the Nisga'a Nation Consultation Plan.

"Order" means this Order, which is issued under Section 11 of the Act, including all schedules.

"Pre-Application Stage" means that part of the Environmental Assessment that occurs after an Order under Section 10 of the Act has been issued and before an Application has been accepted for review.

"Project Assessment Lead" means an employee of Environmental Assessment Office who has been delegated certain authorities to conduct the Environmental Assessment of the Kinskuch Hydroelectric Project by the Executive Director under the Act.

"Proponent" means WindRiver Power Corporation.

"Public Consultation Plan" means a plan, developed by WindRiver and approved by the Project Assessment Lead, which outlines how WindRiver will undertake consultation with the public during the Environmental Assessment.

“Public Consultation Report” means the report required under Section 19 of this Order.

“Valued Components” means specific environmental, economic, social, heritage, and health attributes that may be potentially impacted by the Kinskuch Hydroelectric Project and that will be assessed during the Environmental Assessment.

“WindRiver” has the same meaning as on page 1 of the Order.

“Working Group” means an advisory group established under Section 4 of this Order, including representatives of Gitanyow Nation and Nisga’a Nation, and federal, provincial and local government agencies.

PART B - SCOPE OF THE KINSKUCH HYDROELECTRIC PROJECT

2. ON-SITE AND OFF-SITE COMPONENTS

- 2.1** Pursuant to Section 11(2)(a) of the Act, the main facilities, components and activities for the construction and operation of the Kinskuch Hydroelectric Project are [Figure 1]:
- 2.1.1 A hydroelectric generation facility including a dam on Kinskuch Lake, intake, tunnel, penstock, powerhouse, switchyard and tailrace;
 - 2.1.2 A transmission line 138 kV in voltage size or less from the powerhouse/switchyard to an interconnection point proposed at the BC Hydro Aiyansh substation, and use and upgrade of associated access roads;
 - 2.1.3 Approximately 20 km of new access road development connecting the powerhouse to Kinskuch Lake including either direct road access to the dam site along the lake or potential use of a barge and associated facilities for access to the dam site along the lake;
 - 2.1.4 Upgrades to the Nass-Kinskuch Forest Service Road;
 - 2.1.5 Temporary construction facilities including staging/laydown areas, construction office, storage facilities for explosives and fuel, batch plant for concrete, spoil material site(s) and aggregate borrow areas; and
 - 2.1.6 Temporary construction camp for workers, and permanent onsite operators' residence including water supply and waste management for these facilities.
- 2.2** Investigative activities or activities required to prepare the Application are not part of the reviewable project for the purposes of the assessment.

PART C – SCOPE OF THE ASSESSMENT

3. SCOPE OF THE ASSESSMENT

- 3.1** The scope of the assessment for the Kinskuch Hydroelectric Project will include consideration of:
- 3.1.1 potential adverse environmental, economic, social, heritage, and health effects of the Kinskuch Hydroelectric Project, including Cumulative Effects, and practicable means to mitigate such potential adverse effects;

- 3.1.2 all applicable requirements of Chapter 10 of the Nisga'a Final Agreement, including paragraphs 8(e) and 8(f), and the Nisga'a Nation – BC Settlement Agreement; and
- 3.1.3 potential adverse effects of the Kinskuch Hydroelectric Project on the Aboriginal Interests of the Indigenous nations, and, to the extent appropriate, ways to mitigate or otherwise accommodate such potential adverse effects.
- 3.2 For clarity, this Order is not intended to exhaustively describe the scope and content of the Province's constitutional duty in connection with any Aboriginal Interest of Indigenous nations or its obligations in respect of the Nisga'a Final Agreement.

PART D – THE WORKING GROUP AND AGENCY CONSULTATION

4. THE WORKING GROUP

- 4.1 The Environmental Assessment Office will establish a Working Group comprised of Gitanyow Nation, Nisga'a Nation and government agencies identified by the Project Assessment Lead. The Working Group will provide input as requested by the Project Assessment Lead on aspects of the Environmental Assessment, including:
 - 4.1.1 The information required for the Environmental Assessment;
 - 4.1.2 The conformity of the Application with the Application Information Requirements;
 - 4.1.3 The information and conclusions in the Application;
 - 4.1.4 Potential mitigation measures, including those which may be included as certificate conditions;
 - 4.1.5 Impacts to be assessed under Chapter 10 of the Nisga'a Final Agreement and measures to avoid, address or mitigate such impacts;
 - 4.1.6 Potential impacts on Aboriginal Interests and measures to avoid, address or mitigate such potential adverse effects; and
 - 4.1.7 The draft Assessment Report.
- 4.2 The Project Assessment Lead may form sub-committees of the Working Group to discuss specific issues in the Environmental Assessment.
- 4.3 When required by the Project Assessment Lead, WindRiver must participate in meetings of the Working Group or any sub-committees.

- 4.4 WindRiver must consult with federal, provincial and local government agencies through the Working Group, as required by the Project Assessment Lead.
- 4.5 WindRiver must prepare and submit to the Project Assessment Lead and Working Group members, within any set time limits, responses to comments received from any Working Group members, to the satisfaction of the Project Assessment Lead.

PART E – ASSESSMENT PROCEDURES – PRE-APPLICATION STAGE

5. VALUED COMPONENTS

- 5.1 Within a timeframe established by the Project Assessment Lead, WindRiver must prepare a document that sets out the Valued Components it proposes to be considered in the preparation of the draft Application Information Requirements and the study methods and study boundaries.
- 5.2 WindRiver must submit the draft Valued Components document to the Project Assessment Lead, who will make it available to Gitanyow Nation, Nisga'a Nation, the Working Group, and the public for review and comment.
- 5.3 WindRiver must incorporate any Nisga'a Nation, Indigenous nations, Working Group, and public comments that the Project Assessment Lead determines are within the scope of the assessment and submit a revised Valued Components document to the Project Assessment Lead for review and approval.
- 5.4 The approved Valued Components and the methods and study boundaries for how the effects on Valued Components will be defined and assessed must be included in the draft Application Information Requirements prepared pursuant to Section 6.1 of this Order.

6. APPLICATION INFORMATION REQUIREMENTS

- 6.1 In accordance with this Order and any additional guidance provided by the Project Assessment Lead, WindRiver must prepare draft Application Information Requirements.
- 6.2 WindRiver must submit the draft Application Information Requirements to the Project Assessment Lead, who will make it available to Gitanyow Nation, Nisga'a Nation and the Working Group for review and comment.
- 6.3 WindRiver must respond to comments received from Gitanyow Nation, Nisga'a Nation, and the Working Group members on the draft Application Information Requirements in the form specified by, and to the satisfaction of, the Project Assessment Lead.

- 6.4 The Application Information Requirements will specify information requirements necessary to address provisions within the Nisga'a Final Agreement.
- 6.5 Upon approval of the revised draft Application Information Requirements, the Project Assessment Lead will issue the final Application Information Requirements to WindRiver.

7. PREPARING AND SUBMITTING THE APPLICATION

- 7.1 WindRiver must prepare the Application in accordance with the Application Information Requirements and must submit it to the Project Assessment Lead for evaluation and decision on whether to accept the Application for review.
- 7.2 Prior to submitting the Application to the Project Assessment Lead under section 7.1 of this Order, WindRiver must ensure that copies of the Application in the required formats have been delivered to the members of the Working Group, Gitanyow Nation and Nisga'a Nation, as specified by the Project Assessment Lead.

8. APPLYING FOR CONCURRENT PERMITTING

- 8.1 WindRiver, if applying for concurrent review of one or more applications for approval under other enactments, pursuant to Section 4 of the Concurrent Approval Regulation (B.C. Reg. 371/2002), must submit the request to the Project Assessment Lead no later than when WindRiver submits its Application under Section 7.1 of this Order.

9. APPLICATION EVALUATION

- 9.1 The Project Assessment Lead will evaluate and decide whether the Application contains the information required in the Application Information Requirements.
- 9.2 If, in the opinion of the Project Assessment Lead, the Application does not include the information required by the Application Information Requirements, the Project Assessment Lead will identify the deficiencies in writing to WindRiver and WindRiver may revise the Application to address the deficiencies and re-submit the revised Application.
- 9.3 If the Application is accepted for review, the Project Assessment Lead will advise WindRiver, and WindRiver must supply copies and quantities of the Application as specified by the Project Assessment Lead.

PART F – ASSESSMENT PROCEDURES – APPLICATION REVIEW STAGE

10. PREPARING THE ASSESSMENT REPORT

- 10.1** The Project Assessment Lead will prepare an Assessment Report, taking into consideration WindRiver's Application and input provided by Nisga'a Nation, Indigenous nations, the Working Group and the public.
- 10.2** Members of the Working Group and WindRiver will have an opportunity to provide to the Project Assessment Lead their comments on a draft of the Assessment Report within timelines established by the Project Assessment Lead. Provision of Gitanyow Nation and Nisga'a Nation comments is identified in Sections 12.13 and 15.12 of this Order respectively.
- 10.3** Members of the public will have an opportunity to comment on a draft of the Assessment Report and proposed conditions of an Environmental Assessment Certificate as per subsection 20.7 in Part J.

11. MINISTERIAL REFERRAL AND DECISION

- 11.1** The Project Assessment Lead will advise WindRiver, Gitanyow Nation, Nisga'a Nation and the Working Group of the date that the final Assessment Report is referred to the Ministers.
- 11.2** The Assessment Report will be made available to the public by the Environmental Assessment Office after a decision has been made by the Ministers under Section 17(3)(c) of the Act.
- 11.3** In accordance with Section 17(4) of the Act, the Project Assessment Lead will deliver to WindRiver the decision of the Ministers and the Environmental Assessment Certificate, if granted. The Project Assessment Lead will inform the Nisga'a Nation, Indigenous nations and members of the Working Group of the Ministers' decision.

PART G – CONSULTATION WITH INDIGENOUS NATIONS

12. CONSULTATION WITH GITANYOW NATION

Following the issuance of this Order, the Environmental Assessment Office will consult with the Gitanyow Nation as follows:

- 12.1** In addition to the consultation activities set out in 12.2 to 12.16, the Project Assessment Lead will follow the Environmental Assessment Framework for the Gitanyow Lax'yip as outlined in Schedule H of the Gitanyow-BC Agreement and will work with the Gitanyow Nation to establish a work plan that supports collaboration and seeks consensus in the Environmental Assessment process;

- 12.2** The Project Assessment Lead will provide notification to Gitanyow Nation at the following milestones:
- 12.2.1 Issuance of any Orders from the Environmental Assessment Office including the Section 11 Order and any Section 13 Orders;
 - 12.2.2 Public comment period for the draft Valued Components document;
 - 12.2.3 Approval of the final Application Information Requirements document;
 - 12.2.4 When the Application has been accepted and the start of the review of the Application has commenced;
 - 12.2.5 Public comment period for the Application;
 - 12.2.6 Public comment period on a draft of the Assessment Report and proposed conditions of an Environmental Assessment Certificate; and
 - 12.2.7 Decision on the Application.
- 12.3** The Project Assessment Lead will participate in the Oversight Committee in accordance with the Gitanyow-BC Agreement during the Environmental Assessment of the Kinskuch Hydroelectric Project;
- 12.4** The Project Assessment Lead will invite Gitanyow Nation to be a member of the Working Group and to attend Working Group meetings or relevant Working Group subcommittee meetings;
- 12.5** The Project Assessment Lead will invite Gitanyow Nation to identify their Aboriginal Interests and the potential adverse project effects on those Aboriginal Interests, as part of the consultation process, independent of the Working Group activities;
- 12.6** The Project Assessment Lead will provide Gitanyow Nation the opportunity and reasonable time to provide comments on the draft Valued Components document and will consider any such comments including those identifying Valued Components and Intermediate Valued Components to be considered in the Application Information Requirements;
- 12.7** The Project Assessment Lead will provide Gitanyow Nation the opportunity and reasonable time to provide comments on the draft Application Information Requirements and will consider any such comments including describing Gitanyow Nation traditional and current land use, the format for analyzing whether the Project is consistent or inconsistent with the Gitanyow Lax'yip Land Use Plan and the framework, principles and approach for project-specific wlp sustainability assessments;
- 12.8** The Project Assessment Lead will determine the adequacy of WindRiver's responses to any comments received from Gitanyow Nation during the Pre-Application Stage;

- 12.9** The Project Assessment Lead will ensure Gitanyow Nation receives a copy of the Application and invite comments from Gitanyow Nation during the applicable legislated time period in regard to the conformity of the Application with the Application Information Requirements and the evaluation of WindRiver's past and proposed consultation activities with Gitanyow;
- 12.10** The Project Assessment Lead will provide Gitanyow Nation the opportunity and reasonable time to submit comments on the Application;
- 12.11** The Project Assessment Lead will determine the adequacy of WindRiver's responses to the comments received from Gitanyow Nation during the Application Review Stage;
- 12.12** At the request of Gitanyow Nation, the Project Assessment Lead will meet to discuss Aboriginal Interests in relation to the Kinskuch Hydroelectric Project and measures to avoid, mitigate, or otherwise address or accommodate potential adverse impacts on Aboriginal Interests, as appropriate;
- 12.13** The Project Assessment Lead will provide Gitanyow Nation with an opportunity to comment on the draft Assessment Report within established timelines, which will include analyses of how the Kinskuch Hydroelectric Project may be consistent or inconsistent with the Gitanyow Lax'yip Land Use Plan, Gitanyow Nation's views of these analyses and details how the Environmental Assessment Office considered Gitanyow Nation's concerns or recommendations;
- 12.14** The Project Assessment Lead will reasonably consider any Gitanyow Nation requests for extensions to review Environmental Assessment-related documents;
- 12.15** The Project Assessment Lead will provide the opportunity for Gitanyow Nation to provide to the Environmental Assessment Office a submission regarding their views on the Assessment Report should they disagree with the Environmental Assessment Office's conclusions. Any such submission must be provided within the timeline established by the Project Assessment Lead and will be included in the package of materials sent to Ministers when the Kinskuch Hydroelectric Project is referred to Ministers for decision; and
- 12.16** The Project Assessment Lead will direct WindRiver to conduct the following activities:
- 12.16.1 Within specified timelines, provide to the Project Assessment Lead a Gitanyow Consultation Plan that will guide consultation activities with Gitanyow Nation during the Pre-Application and Application Review Stages of the assessment. Prior to submitting the Gitanyow Consultation Plan to the Project Assessment Lead, WindRiver must provide the draft Plan to the Gitanyow Nation with reasonable time to review and must advise the Project Assessment Lead how Gitanyow

Nation was consulted and what feedback was provided when submitting the Gitanyow Consultation Plan to the Project Assessment Lead. The Project Assessment Lead will assess the Gitanyow Consultation Plan and determine whether the proposed activities are adequate. The Project Assessment Lead may order additional consultation activities within prescribed time limits;

- 12.16.2 In the Application, identify potentially affected Aboriginal Interests raised by Gitanyow Nation, including documentation of how the Kinskuch Hydroelectric Project is consistent or inconsistent with the Gitanyow Lax'yip Land Use Plan and wilp sustainability, and identify measures to avoid, mitigate or otherwise address such potential adverse effects, as appropriate;
- 12.16.3 Provide a response to comments received from Gitanyow Nation related to the review of the Application, to the satisfaction of and within the timeframe specified by the Project Assessment Lead;
- 12.16.4 Advise the Project Assessment Lead as early as practicable if circumstances arise which, in WindRiver's view, prevent them from implementing the consultation activities with Gitanyow Nation outlined in the Gitanyow Consultation Plan, in which case the Project Assessment Lead may require WindRiver to undertake alternative or additional activities; and
- 12.16.5 Implement additional measures for consultation with Gitanyow Nation and revise the Gitanyow Consultation Plan, where required by the Project Assessment Lead.

13. CONSULTATION WITH TSETSAUT SKII KM LAX HA

- 13.1 The Environmental Assessment Office will provide notification at the following milestones, so that Tsetsaut Skii Km Lax Ha can be informed of the progress of the Environmental Assessment and have the opportunity to raise any issues to the Environmental Assessment Office for discussion:
 - 13.1.1 Issuance of any Orders from the Environmental Assessment Office including the Section 11 Order and any Section 13 Orders;
 - 13.1.2 Public comment period for the draft Valued Components document;
 - 13.1.3 Approval of the final Application Information Requirements document;
 - 13.1.4 When the Application has been accepted and the start of the review of the Application has commenced;
 - 13.1.5 Public comment period for the Application;

- 13.1.6 Public comment period on a draft of the Assessment Report and proposed conditions of an Environmental Assessment Certificate; and
- 13.1.7 Decision on the Application.

14. CONSULTATION WITH OTHER INDIGENOUS ENTITIES

- 14.1** The Project Assessment Lead may at any time, notify WindRiver that one or more Indigenous entities are to be added to this Order, and will identify the procedures and obligations having regard to the status of existing procedures and obligations at the time the additions are made.
- 14.2** The Project Assessment Lead may direct WindRiver to conduct the following activities:
 - 14.2.1 Provide a response to comments received from any Indigenous entity, to the satisfaction and within the timeframe specified by the Project Assessment Lead; and
 - 14.2.2 Implement additional measures for consultation of any Indigenous entity.

PART H – CONSULTATION WITH NISGA’A NATION

15. CONSULTATION WITH NISGA’A NATION

Following the issuance of this Order, the Environmental Assessment Office will consult with the Nisga’a Nation as follows:

- 15.1** In addition to the consultation activities set out in 15.2 to 15.15, the Project Assessment Lead will undertake additional measures throughout the Environmental Assessment in collaboration with Nisga’a Nation consistent with Appendix C of the Nisga’a Nation – BC Settlement Agreement, or any other activities considered appropriate;
- 15.2** The Project Assessment Lead will provide notification to the Nisga’a Nation at the following milestones:
 - 15.2.1 Issuance of any Orders from the Environmental Assessment Office including the Section 11 Order and any Section 13 Orders;
 - 15.2.2 Public comment period for the draft Valued Components document;
 - 15.2.3 Approval of the final Application Information Requirements document;
 - 15.2.4 When the Application has been accepted and the start of the review of the Application has commenced;

- 15.2.5 Public comment period for the Application;
- 15.2.6 Public comment period on a draft of the Assessment Report and proposed conditions of an Environmental Assessment Certificate; and
- 15.2.7 Decision on the Application.
- 15.3** The Project Assessment Lead will invite Nisga'a Nation to be a member of the Working Group and to attend Working Group meetings or relevant Working Group subcommittee meetings;
- 15.4** The Project Assessment Lead will consult with Nisga'a Nation and strive to reach consensus as outlined in Appendix C of the Nisga'a Nation – BC Settlement Agreement on:
 - 15.4.1 The direction to WindRiver in respect of undertaking the assessment;
 - 15.4.2 The selection of Valued Components;
 - 15.4.3 The screening assessment of the Application; and
 - 15.4.4 The sections of the Assessment Report in respect of the assessments conducted under paragraphs 8(e) and 8(f) of Chapter 10 of the Nisga'a Final Agreement.
- 15.5** The Project Assessment Lead will provide Nisga'a Nation the opportunity and reasonable time to provide comments on the draft Valued Components document and will consider any such comments including those identifying Valued Components and intermediate Valued Components to be considered in the Application Information Requirements;
- 15.6** The Project Assessment Lead will provide Nisga'a Nation the opportunity and reasonable time to provide comments on the draft Application Information Requirements;
- 15.7** The Project Assessment Lead will determine the adequacy of WindRiver's responses to any comments received from Nisga'a Nation during the Pre-Application Stage;
- 15.8** In addition to the requirements under section 15.4, the Project Assessment Lead will ensure that Nisga'a Nation receives a copy of the Application and invite comments from Nisga'a Nation during the applicable legislated time period in regard to the conformity of the Application with the Application Information Requirements and to the sufficiency of information for Nisga'a Nation to prepare its view on the Kinskuch Hydroelectric Project as well as the evaluation of WindRiver's past and proposed Nisga'a Nation Consultation activities;
- 15.9** The Project Assessment Lead will provide Nisga'a Nation the opportunity and reasonable time to submit comments on the Application;

- 15.10** The Project Assessment Lead will determine the adequacy of WindRiver's responses to the comments received from Nisga'a Nation during the Application Review Stage;
- 15.11** At the request of Nisga'a Nation, the Project Assessment Lead will meet to discuss Nisga'a Nation interests, as set out in the Nisga'a Final Agreement, that may be affected by the Kinskuch Hydroelectric Project and any measures to prevent or mitigate such effects, as appropriate;
- 15.12** In addition to the obligations under section 15.4, the Project Assessment Lead will provide Nisga'a Nation with an opportunity to comment on the draft Assessment Report within established timelines;
- 15.13** The Project Assessment Lead will provide full and fair consideration of any views presented by the Nisga'a Nation on the Kinskuch Hydroelectric Project and will seek to address Nisga'a Nation concerns or recommendations;
- 15.14** The Project Assessment Lead will provide the opportunity for Nisga'a Nation to provide to the Environmental Assessment Office a submission regarding their views on the Assessment Report should they disagree with the Environmental Assessment Office's conclusions. Any such submission must be provided within the timeline established by the Project Assessment Lead and will be included in the package of materials sent to Ministers when the Kinskuch Hydroelectric Project is referred to Ministers for decision; and
- 15.15** The Project Assessment Lead will direct WindRiver to conduct the following activities:
- 15.15.1 Within specified timelines, provide to the Project Assessment Lead a Nisga'a Nation Consultation Plan that will guide consultation activities with the Nisga'a Nation during the Pre-Application and Application Review Stages of the assessment. Prior to submitting the Nisga'a Nation Consultation Plan to the Project Assessment Lead, WindRiver must provide the draft Plan to the Nisga'a Nation with reasonable time to review and must advise the Project Assessment Lead how Nisga'a Nation was consulted and what feedback was provided when submitting the Nisga'a Nation Consultation Plan to the Project Assessment Lead. The Project Assessment Lead will assess the Nisga'a Nation Consultation Plan and determine whether the proposed activities are adequate. The Project Assessment Lead may order additional consultation activities within prescribed time limits;
- 15.15.2 In the Application, identify any effects on Nisga'a Nation interests set out in the Nisga'a Final Agreement that are raised by the Nisga'a Nation and identify any measures to prevent or mitigate such effects;
- 15.15.3 Within time limits set by the Project Assessment Lead, provide to the Project Assessment Lead and the Nisga'a Nation, a written summary

report of agreements, if any, reached with the Nisga'a Nation within the meaning of paragraphs 8(i) and 10 of Chapter 10 of the Nisga'a Final Agreement;

- 15.15.4 Provide a response to comments received from Nisga'a Nation related to the review of the Application, to the satisfaction of and within the timeframe specified by the Project Assessment Lead;
- 15.15.5 Advise the Project Assessment Lead as early as practicable if circumstances arise which, in WindRiver's view, prevent them from implementing the consultation activities with the Nisga'a Nation outlined in the Nisga'a Nation Consultation Plan, in which case the Project Assessment Lead may require WindRiver to undertake alternative or additional activities;
- 15.15.6 Implement additional measures for consultation with Nisga'a Nation and revise the Nisga'a Nation Consultation Plan, where required by the Project Assessment Lead; and
- 15.15.7 Comply with additional procedural direction provided by the Project Assessment Lead, at any time, regarding consultation with the Nisga'a Nation, to enable the Crown to comply with applicable provisions of the Nisga'a Final Agreement, and particularly Chapter 10 of the Nisga'a Final Agreement.

PART I – PROPONENT REPORTING REQUIREMENTS

16. CONSULTATION REPORTING REQUIREMENTS – TIMING

- 16.1 WindRiver must provide the Project Assessment Lead with Nisga'a Nation Consultation Reports and Gitanyow Consultation Reports, consistent with the approved Nisga'a Nation Consultation Plan and Gitanyow Consultation Plan, at the following times:
 - 16.1.1 60 days after the deadline for Working Group comments on the Application Information Requirements, at the time of submission of the Application submitted under Section 7.1 of this Order, and following the public comment period on the Application within a timeline specified by the Project Assessment Lead; and
 - 16.1.2 At any other time specified by the Project Assessment Lead.

17. CONSULTATION REPORTING REQUIREMENTS – GITANYOW NATION

- 17.1 WindRiver must submit their Gitanyow Consultation Reports to the Gitanyow Nation with reasonable time to review and comment prior to

submitting the report to the Project Assessment Lead and must advise the Project Assessment Lead how Gitanyow Nation was consulted and what feedback was provided when submitting the Gitanyow Consultation Report to the Project Assessment Lead.

17.2 The Gitanyow Consultation Report must:

- 17.2.1 Summarize the efforts undertaken by WindRiver to consult with Gitanyow Nation in accordance with the approved Gitanyow Consultation Plan;
- 17.2.2 Identify the feedback and information received during consultation;
- 17.2.3 Identify the potential adverse impacts of the Kinskuch Hydroelectric Project on Gitanyow Nation Aboriginal Interests;
- 17.2.4 Identify how the potential adverse impacts of the Kinskuch Hydroelectric Project on Gitanyow Nation Aboriginal Interests will be avoided, mitigated, or otherwise addressed as appropriate; and
- 17.2.5 Outline next steps or future consultation activities, other than those outlined in the approved Gitanyow Consultation Plan.

17.3 The Project Assessment Lead will determine the adequacy of the Gitanyow Consultation Report as well as WindRiver's responses to address any comments received from Gitanyow Nation regarding the Gitanyow Consultation Report.

18. CONSULTATION REPORTING REQUIREMENTS – NISGA'A NATION

18.1 WindRiver must submit their Nisga'a Nation Consultation Report to the Nisga'a Nation with reasonable time to review and comment prior to submitting the reports to the Project Assessment Lead and must advise the Project Assessment Lead how Nisga'a Nation was consulted and what feedback was provided when submitting the Nisga'a Nation Consultation Report to the Project Assessment Lead.

18.2 The Nisga'a Nation Consultation Report must:

- 18.2.1 Summarize the efforts undertaken by WindRiver to consult with Nisga'a Nation in accordance with the approved Nisga'a Nation Consultation Plan, and any further direction provided by the Project Assessment Lead pursuant to Section 15.15.7 of this Order;
- 18.2.2 Identify the feedback and information received from Nisga'a Nation during consultation;

- 18.2.3 Identify the potential adverse effects from Kinskuch Hydroelectric Project on Nisga'a Nation interests as set out in the Nisga'a Final Agreement;
 - 18.2.4 Identify how the potential effects of the Kinskuch Hydroelectric Project on Nisga'a Nation interests set out in the Nisga'a Final Agreement may be prevented or mitigated, as appropriate; and
 - 18.2.5 Outline next steps or future consultation activities, other than those outlined in the Nisga'a Nation Consultation Plan.
- 18.3** The Project Assessment Lead will determine the adequacy of the Nisga'a Nation Consultation Report as well as WindRiver's responses to address any comments received from Nisga'a Nation in respect thereof.

PART J – PUBLIC CONSULTATION

19. PRE-APPLICATION STAGE

- 19.1** WindRiver must, within timelines established by the Project Assessment Lead, provide the Project Assessment Lead with a Public Consultation Plan.
- 19.2** The Project Assessment Lead will assess WindRiver's Public Consultation Plan and determine if the proposed activities are adequate. The Project Assessment Lead may order that additional consultation activities be undertaken within time limits set by the Project Assessment Lead.
- 19.3** During the Pre-Application Stage of the assessment, the Project Assessment Lead will provide a public comment period of at least 30 days on the draft Valued Components document referred to in Section 5 of this Order.
- 19.4** The Project Assessment Lead may require an open house(s) to provide the public with an opportunity to review the draft Valued Components document.
- 19.5** On the direction of the Project Assessment Lead, WindRiver may be required to attend one or more of these open houses.
- 19.6** WindRiver must make the draft Valued Components document available at accessible public locations as specified by the Project Assessment Lead, and the Project Assessment Lead will make the draft Valued Components document available on the Electronic Project Information Centre.
- 19.7** During a public comment period, the public may comment on the draft Valued Components document by providing comments through the Environmental Assessment Office's website.

19.8 WindRiver must respond to public comments received pursuant to Section 19.7 of this Order, unless the Project Assessment Lead informs WindRiver that a comment:

(a) is not within the scope of the assessment, or

(b) contravenes the Environmental Assessment Office's Public Comment Policy.

19.9 All public comments, received pursuant to Section 19.7 of this Order, will be posted to the Electronic Project Information Centre within seven days of being received, unless a comment falls within the conditions referred to in Section 19.8(a) or 19.8(b) of this Order.

20. APPLICATION REVIEW STAGE

20.1 During the Application Review Stage, the Project Assessment Lead will provide for a public comment period of at least 30 days on the Application.

20.2 The Project Assessment Lead may require an open house(s) to provide the public with an opportunity to review the Application. At the direction of the Project Assessment Lead, WindRiver may be required to attend one or more open houses.

20.3 WindRiver must make the Application available at accessible public locations as specified by the Project Assessment Lead, and the Project Assessment Lead will make the Application available on the Electronic Project Information Centre.

20.4 During a public comment period, the public may comment on the Application by providing comments through the Electronic Project Information Centre.

20.5 WindRiver must respond to public comments received pursuant to Section 20.4 of this Order, unless the Project Assessment Lead informs WindRiver that a comment:

(a) is not within the scope of the assessment, or

(b) contravenes the Environmental Assessment Office's Public Consultation Policy.

20.6 All public comments, received pursuant to Section 20.4 of this Order, will be posted to the Electronic Project Information Centre within seven days of being received, unless a comment falls within the conditions referred to in Section 20.5(a) or 20.5(b) of this Order.

20.7 The Project Assessment Lead will make a draft of the Assessment Report and proposed conditions of an Environmental Assessment Certificate available on the Electronic Project Information Centre for a public comment period of at least 30 days.

- 20.8** The Project Assessment Lead may revise the Assessment Report and proposed conditions and/or direct the Proponent to provide a response as a result of public comments received pursuant to Section 10.3 of this Order.

21. PROPONENT REPORTING

- 21.1** WindRiver must provide the Project Assessment Lead with Public Consultation Reports, at the following times:
- 21.1.1 60 days after the close of the public comment period on the draft Valued Components Document, at the time of submission of the Application for evaluation as described in Section 7.1 of this Order, and following the public comment period on the Application within a timeline specified by the Project Assessment Lead; and
 - 21.1.2 Any other time specified by the Project Assessment Lead.
- 21.2** The Public Consultation Reports must include:
- 21.2.1 A description of the results of the activities outlined in the Public Consultation Plan;
 - 21.2.2 A summary of: consultations with the public that WindRiver has already carried out in relation to the Kinskuch Hydroelectric Project; information, comments, concerns, and questions received from the public within the scope of the Environmental Assessment, and; how the concerns were addressed; and
 - 21.2.3 Proposed next steps for public consultation activities.
- 21.3** WindRiver may be required to undertake additional public consultation activities as required and within a time limit set by the Project Assessment Lead.

22. PUBLIC NOTIFICATION OF PUBLIC COMMENT PERIODS

- 22.1** Prior to the start of any formal public comment period, WindRiver, by means acceptable to the Project Assessment Lead, must provide public notice of:
- 22.1.1 The availability of the draft Valued Components document or Application for public review and comment and the time limits for the formal public comment period provided for in this Order; and
 - 22.1.2 The date, time and location of any open houses held.
- 22.2** WindRiver must obtain approval from the Project Assessment Lead for the content, format and publication schedule for newspaper advertisements required under Section 22.1 of this Order.

22.3 When one or more notices of an event are to be given, then, in accordance with Section 5 of the Public Consultation Policy Regulation (B.C. Reg. 373/02), the first notice must appear:

22.3.1 In the case of a formal public comment period, at least seven days prior to the date on which the formal public comment period commences; or

22.3.2 In the case of an open house, at least seven days prior to the date on which an open house is scheduled.

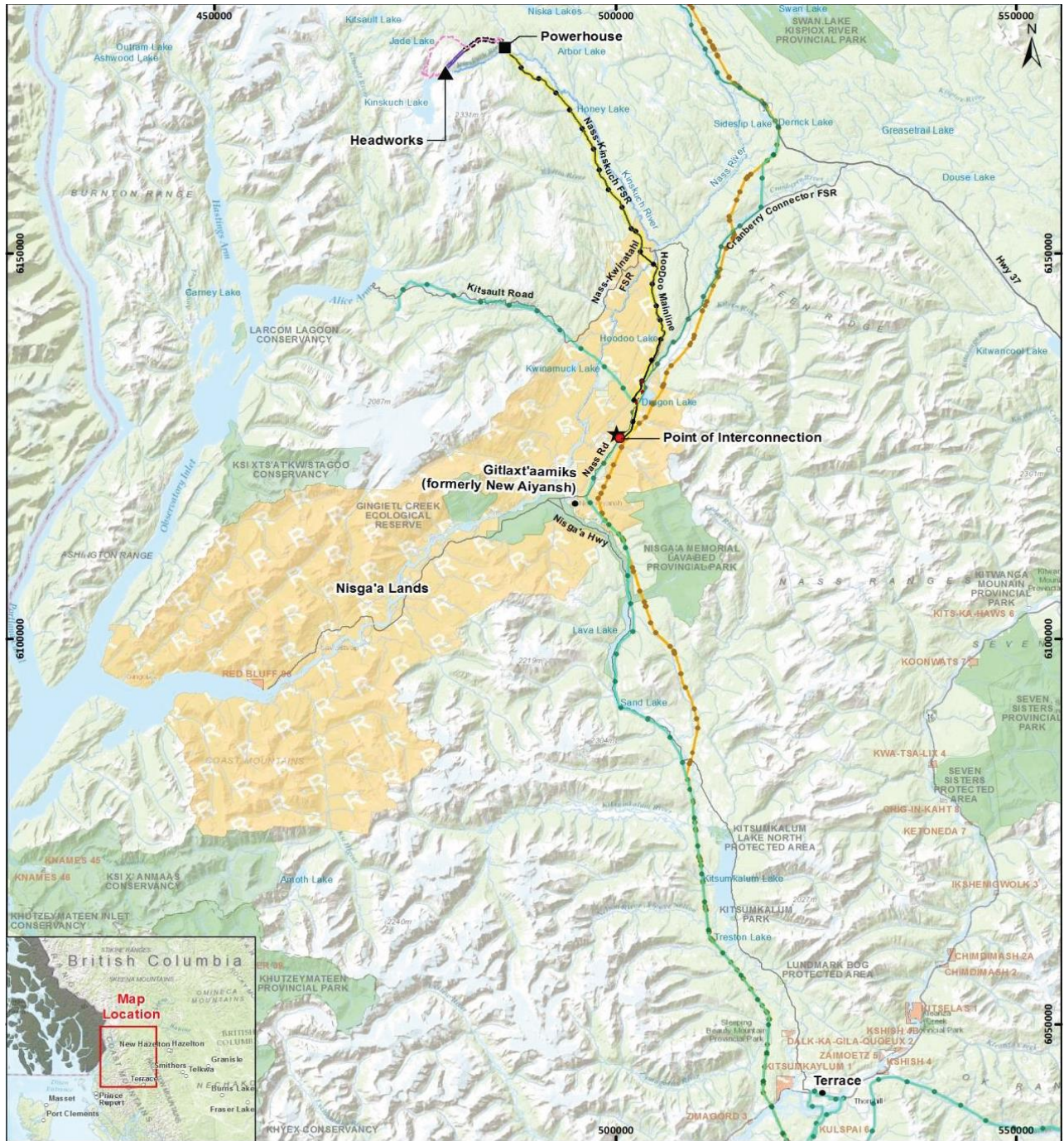
22.4 Information and records listed in Section 6 of the Public Consultation Policy Regulation (B.C. Reg. 373/02) that pertain to the assessment of the Kinskuch Hydroelectric Project will be made available to the public through the Electronic Project Information Centre.

PART K – PROVIDING ADDITIONAL INFORMATION

23. ADDITIONAL INFORMATION

23.1 Without limiting any of the requirements in this Order, WindRiver must, at the request of the Project Assessment Lead, provide the Project Assessment Lead with any information or address any issues that the Project Assessment Lead considers necessary in order to complete the Environmental Assessment of the Kinskuch Hydroelectric Project.

Figure 1. Location Map



Legend		Existing Infrastructure	
● Community	▲ Headworks	● BCH Substation	★ Nass Camp
■ Powerhouse	--- New Road	— BCH Transmission Line (138 kV)	— BCH NW Transmission Line (287 kV)
--- Temporary Road	— Tunnel	— Primary Forest Road	— First Nation Reserve
■■■■ Penstock	— Transmission Line (138 kV)	— Parks & Protected Areas	— Nisga'a Lands
--- Alternate Transmission Line (138 kV)			

MAP SHOULD NOT BE USED FOR LEGAL OR NAVIGATIONAL PURPOSES			
0 5 10 15 20 25 km			
Scale: 1:700,000			
NO.	DATE	REVISION	BY
1	07/01/2017	1584_000_000 - Final Draft Environmental Impact Statement	COA
2			
3			
4			
5			
6			
Date Saved: 27/01/2017 Coordinate System: NAD 1983 UTM Zone 9N			