

**MINISTRY OF ENVIRONMENT
DECISION NOTE**

Date: January 18, 2007
Date of previous note: N/A
File: 84200-20/Nisga'a
CLIFF/tracking #: 90685

- I. PREPARED FOR:** Minister Barry Penner by the Environmental Stewardship Division, Skeena Region.
- II. ISSUE:**
The New Aiyansh Village Government, with the support of the Nisga'a Lisims Government, has submitted a proposal to delete 0.8 ha from Nisga'a Memorial Lava Bed Park to allow for the creation of a secondary access road (the South Access Road) to the village of New Aiyansh. The road would provide an alternate, emergency access to New Aiyansh.
- III. RECOMMENDATION OPTION:**
Option 1: Accept the recommendations of the Nisga'a Park Management Committee to amend the *Protected Areas of British Columbia Act* to remove approximately 0.8 hectares from Nisga'a Memorial Lava Bed Park to enable the construction of a secondary access road to the village of New Aiyansh. Once the New Aiyansh Village Government secures the required funding to construct the access road and is ready to commence construction of the road, transfer the lands to the New Aiyansh Village Government for the purpose of a Nisga'a Road.
- IV. BACKGROUND:**
Anhlut'ukwsim Laxmihl Angwinga'asanskwhl Nisga'a (Nisga'a Memorial Lava Bed Park) was established in 1992 as a Class A Park and protects 17,683 hectares of old-growth forest, riparian areas, mountain landscapes, and lava flow, and is a memorial to approximately 2,000 Nisga'a buried by the eruption of the Tseax Cone.

The Nisga'a alkali basalt flow is one of the youngest and most accessible volcanic features in British Columbia. The eruption produced a large volume of lava which moved the flow of the Nass River to the north side of the valley. Lava beds comprise approximately 3,000 hectares of land within the park.

The park is the first provincial park within the Province of British Columbia established to combine interpretation of natural features and native culture. The park is included in the Nisga'a Final Agreement between the Government of Canada, the Province of British Columbia and the Nisga'a Nation. Nisga'a Memorial Lava Bed Park is also the first provincial park to be jointly managed by a First Nation and BC Parks. The Nisga'a Park Management Committee meets twice annually to review issues and make recommendations.

Presently, the village of New Aiyansh is geographically enclosed on three sides by the park, and is accessed via a single road from the north. The New Aiyansh Village Government has

identified the need for an alternate vehicular access into the community. This alternate access would primarily address the health and safety concerns of the community. The Park Management Plan, approved in 1994, recognized this issue and supported a future deletion for a south access road.

The proposed South Access Road into New Aiyansh would cross approximately 300 meters of park land before meeting the west side of the Tseax River. The park boundary is the high water mark of the east side of the Tseax River. The area proposed for deletion is primarily lava bed, with a narrow strip of riparian vegetation along the Tseax River. The approximate area proposed to be deleted from the park totals 0.8 hectares.

V. DISCUSSION:

The New Aiyansh Village Government has submitted a formal request for a park boundary adjustment as per the park Boundary Adjustment Guidelines Policy.

Creation of a secondary access road into New Aiyansh has been a long-standing, unresolved issue for the Nisga'a prior to the Nisga'a Final Agreement being signed in 1998. New Aiyansh is geographically isolated by the park on three sides from Terrace (the closest city to New Aiyansh) and the only available alternate access route to the village is through the park.

The Nisga'a Park Management Committee supports the recommendation to remove the lands from the park at such time as the New Aiyansh Village Government is ready to begin construction of the South Access Road (expected to be late 2007 or early 2008). At that time this area would be deleted from the park and be transferred to the New Aiyansh Village Government.

The Park Master Plan allows for construction of an access road to the village of New Aiyansh, provided that disturbance is minimized. The area proposed by the New Aiyansh Village Government for deletion represents the shortest available access route through the park to New Aiyansh.

Economic benefits to the Province as a result of the park boundary adjustment are minimal. However, the ministry's support of the South Access Road proposal respects the wishes of the Nisga'a Lisims Government, and contributes to the maintenance of a positive relationship with them.

An impact assessment was conducted as part of the New Aiyansh Village Government's park boundary adjustment proposal. The impact assessment did not identify any significant, long-term risks to the environment. Some impacts represent a short-term risk primarily during the construction phase of the access road and require mitigation measures, which will be integrated with road construction.

Public consultations occurred in New Aiyansh and in Terrace. No opposition to the proposed road project emerged during those consultations.

The Ministry of Environment and the Ministry of Attorney General are presently discussing the process for transferring the lands to the New Aiyansh Village Government and having the road deemed a Nisga'a Road as defined in the treaty. The New Aiyansh Village Government would be responsible for the maintenance of the bridge and access road once it has been deleted from the park.

VI. OPTIONS:

Option 1: Accept the recommendations of the Nisga'a Park Management Committee to amend the *Protected Areas of British Columbia Act* to remove approximately 0.8 hectares from Nisga'a Memorial Lava Bed Park to enable the construction of a secondary access road to the village of New Aiyansh. Once the New Aiyansh Village Government secures the required funding to construct the access road and is ready to commence construction of the road, transfer the lands to the New Aiyansh Village Government for the purpose of a Nisga'a Road.

Pro:

- Shows support for the initiatives of the community of New Aiyansh and the Nisga'a Lisims Government.
- Responds positively to a community-based recommendation to resolve a long-standing issue.
- Bringing the amendment into force by regulation will retain the lands in Class A park status until such time as the New Aiyansh Village Government is ready to begin construction.
- Deletion of park land is minimal (0.8 hectares) and has limited environmental impacts.
- Proposed routing of the access road crosses the least possible amount of park land (300 meters distance).
- Meets the intention of the approved Park Management plan.

Con:

- Requires legislative amendments to modify the boundaries of Nisga'a Memorial Lava Bed Park.
- May result in some short term and limited environmental effects on the park.

Option 2: Do not accept the recommendations of the Nisga'a Park Management Committee. Do not allow the South Access Road to built through park land.

Pro:

- Does not require any legislative amendments
- There is no reduction in size or modification to the boundaries of Nisga'a Memorial Lava Bed Park.

Con:

- Does not support the initiatives of the community of New Aiyansh and the Nisga'a Lisims Government.
- Does not resolve a community-based recommendation to the long-standing issue of an alternate emergency access.

VI. RECOMMENDATION OPTION:

Option 1: Accept the recommendations of the Nisga'a Park Management Committee to amend the *Protected Areas of British Columbia Act* to remove approximately 0.8 hectares from Nisga'a Memorial Lava Bed Park to enable the construction of a secondary access road to the village of New Aiyansh. Once the New Aiyansh Village Government secures the required funding to construct the access road and is ready to commence construction of the road, transfer the lands to the New Aiyansh Village Government for the purpose of a Nisga'a Road.

Approved – Barry Penner

January 28, 2007

Approved/Not Approved
Barry Penner, Minister

Date

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