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**CHIEF AND COUNCIL OF GITANMAAX BAND**

Two letters were recently given to Gitanmaax band members. The letters make assumptions about the amalgamation of Kisgegas with Gitanmaax.

As a band member, I believe it is important that all Gitanmaax band members know why Kisgegas amalgamated with Gitanmaax in 1948. This letter deals with that issue.

In 1866, at least 270 Gitksan persons resided in Kisgegas. From then to 1947, Kisgegas families migrated of their own free will to other villages near Hazelton, including Gitanmaax. By 1947, only one family (with about ten family members) was living in Kisgegas year round, with others visiting during the year.

Given government attitudes and policies in the 1940's, there was a real danger that Kisgegas reserve could have been forfeited (lost) to the province of BC and become Crown Land. The historical overview beginning on page 2 explains the migration from Kisgegas to Gitanmaax in more detail.

The people of Kisgegas could avoid losing the reserve by amalgamating with Gitanmaax. This option was legal under the *Indian Act*. It had nothing to do with a "land claim" to Kisgegas territory outside the reserve. There is an explanation about amalgamation on page 3 and the land claims law on page 4.

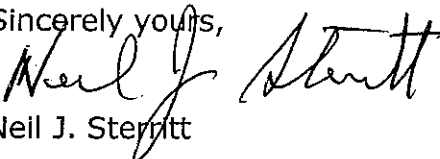
Band members should know there is a legitimate process for dividing a band. The process requires:

- A petition to separate or divide
- The agreement of all Gitanmaax band members
- A resolution by Gitanmaax band council approving the division
- The Minister of Indian Affairs approval

An explanation on how a band may be divided (and the implications for membership) is covered more fully on page 4.

I hope this letter helps Gitanmaax band members understand what actually took place when Kisgegas amalgamated with Gitanmaax in 1948.

Sincerely yours,

  
Neil J. Sterritt

Cc: All Gitanmaax Band Members  
Cliff Sampare, Alice Jeffrey, George Sampare, Larry Skulsh, Arnold Johnson

## HISTORICAL OVERVIEW (1866 TO 1948)

After Hazelton was founded in 1866, the Gitksan came to rely on some of their food, tools and other needs at the stores, hospital and schools of Hazelton.

Later, work at the canneries created the opportunity for Gitksan people to socialize with and marry people who lived in other aboriginal communities along the Skeena River and the Northwest Coast.

The people of Blackwater, Bear Lake, Kisgegas and Kuldo chose of their own free will to live where they had access to stores, schools, hospitals, and as the fur trade declined, to other means of steady employment. This made sense as their villages were remote and accessible only by trail in the summer and along frozen rivers in winter.

With perhaps 150 members, Gitanmaax was one of the smaller Gitksan villages when Thomas Hankin built his trading post there in 1866. As a trading center, the native and euro-Canadian population began to grow. By 1881, many Kisgegas families had already relocated to Gitanmaax: the Muldoe's, Lattie's and Clarks (House of Wii Gaak); the Oakes and Whites (Dee and xGwoimtxw family), and others.

Regardless of the village they were from, most of the Gitksan families living in Gitanmaax after about 1881 built houses, owned land there and eventually became Gitanmaax Band members. Others did likewise in Kispiox, Glen Vowell, Kitsequecla, Kitwanga and Kitwancool.

By 1947, the population of Kisgegas had seriously declined to just one 'resident' family year round and a few individuals who may have visited the village mainly in summer. The remaining Kisgegas families were living elsewhere: some had transferred to other bands, including Gitanmaax; some women had married out, and some members had become enfranchised.

**TABLE I: POPULATION CHANGE FOR TWO GITKSAN VILLAGES FROM 1866 TO 1947**

Year	Kisgegas		Gitanmaax	
	Population	% Decline	Population	% Increase
1866	270 (estimated)	---	150 (estimated)	---
1881	270	0.0	182	21.3
1892	250	7.4	232	54.7
1901	260	3.7	239	59.3
1911	234	13.3	251	67.3
1915	230	14.8	232	54.7
1929	87	67.8	?	?
1934	23	91.5	356	137.3
1939	53	80.5	450 +/-	200.0
1947	10 or less	96.3	470 est.	213.3

The nearly complete decline in the resident population of Kisgegas posed a real problem for all Kisgegas people (Table I): *If the Band no longer existed because its members had died or moved away, what would become of the 4,515 acre Kisgegas Reserve?*<sup>1</sup> Kisgegas leaders knew the answer to this question.

The reserve lands of a band could be forfeited to British Columbia if the Department of Indian Affairs considered the members of that band to be extinct (literally or figuratively). For example, if all members of a band died out, the Minister of Indian Affairs could declare the population to be extinct, and their reserve could be forfeited to the province.

Similarly, if all members of a band move from their reserve and become members of another band, the Minister could also declare the population extinct, and the reserve could be forfeited to BC. Given the politics of the day, and government attitudes about Indians, this was not a far-fetched notion.

In 1953, for example, the Department declared the Sinixt Band in the Arrow Lakes region of south eastern BC legally extinct. Three years later the Sinixt reserve ". . . was transferred to the provincial government in accordance with a decades-old agreement". We have recently learned that the Sinixt were not extinct in 1953, as about 75 Sinixt descendants are alive today.

Given the continually declining resident population at Kisgegas, there was a real possibility that the reserve could become Crown Land. Amalgamation was a solution because it would prevent the forfeiture of Kisgegas Reserve to the province of British Columbia.

## **AMALGAMATION**

Amalgamation is the *Indian Act* process by which two or more bands agree that their respective band members and reserve lands will become one. This provision has existed for many years. For example, the Squamish Band successfully petitioned to amalgamate its bands and accounts in 1923. Other BC bands amalgamated over the years for similar reasons.

Amalgamation required the informed consent of "*... a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose according to their rules, and held in the presence of ...an officer duly authorized to attend such council by the Governor in Council or by the Superintendent-General; Provided, that no Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near and is interested in the reserve in question...*"

Kisgegas Band Council understood this. They followed the appropriate process and amalgamated with Gitanmaax under the above provision in 1948.

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<sup>1</sup> Kisgegas Reserve was surveyed and laid out in the 1890's and gazetted in 1916.

## LAND CLAIMS

From 1927 to 1951, Indians were forbidden under the *Indian Act* (not the Criminal Code) to raise funds for the purpose of land claims, and were forbidden to hire a lawyer for the purpose of advancing a land claim.

The claim that amalgamation with Gitanmaax was "unlawful" is simply not true, because the 1927 *Land Claim* law did not apply to band councils conducting business under the *Indian Act*.

The Kisgegas people were dealing with Kisgegas Reserve, not a "land claim" to traditional Gitxsan territory.

## DIVISION

The *Indian Act* includes a legitimate process for dividing a band.

The process has existed for many years. The 1991 DIAND policy sets out a procedure to form a new band out of an existing one. The process would be one of dividing a band under s. 11(4) of the *Indian Act* and creating a new one under s.17 (1).

The process to "divide" Gitanmaax Band requires:

- A petition to separate or divide
- The agreement of Gitanmaax Band members
- A band council resolution by Gitanmaax Band Council approving the division
- The Ministers approval that what is being proposed is in the best interests of Gitanmaax Band members.

***Therefore, unilateral political statements by persons who are not members of Gitanmaax Band fall short of the above procedure and can neither divide the Gitanmaax Band nor create a new band.***

***Finally, a person cannot be the registered member of two different bands. A person seeking membership in a new or different band would be required to give up his or her membership for the band to which he or she presently belongs.***