



"Yee gu.aa yax x'wan."

**An Indian Reorganization Act Village
Under Act of Congress June 18th 1934
32 Chilkat Avenue Klukwan, Alaska
HC60 Box 2207 Haines, Alaska 99827
Phone: (907) 767-5505
Fax: (907) 767-5518
Email: klukwan@chilkat-nsn.gov**

ORDINANCE # 2022-01

AN ORDINANCE TO PROTECT THE CHILKAT RIVER AND TRIBUTARIES IN THE CHILKAT VALLEY, ALASKA

WHEREAS, The Chilkat Indian Village has been in existence since time immemorial, during which time our Tribal members have lived, and continue to live, a traditional subsistence way of life, and wish to pass that way of life on to the seventh generation as we have for centuries. The traditional territory of the Jilkáat K̄wáan (people of the Chilkat River) spans over 2.6 million acres in Southeast Alaska into present-day British Columbia, Canada. The Jilkáat Aani K̄a Héeni (Chilkat Valley Watershed) is the primary watershed basin which sustains our culture; and

WHEREAS, Tlákw Aan (Klukwan) and the Jilkaat Kwaan had first right of the Jilkáat Aani K̄a Héeni. Haa Héeni Aya, Haa Aani Aya (This is our water, this is our land), as stated by our founding fathers of Tlákw Aan, we have paramount rights; and

WHEREAS, Haa Atx̄aayí Haa K̄usteeyíx Sitee (Our food is our life). Our Tribal members' health and well-being is directly connected to the health and well-being, as well as the continued existence, of the wild stock salmon, other anadromous and terrestrial species, and the medicinal plants that live within the Jilkáat Aani K̄a Héeni. The health and wellbeing of these plants and animals rely upon a pristine Jilkáat Aani K̄a Héeni; and

WHEREAS, Traditional foods of the Jilkáat Aani K̄a Héeni, the animals and medicinal plants, are the foundation to our culture, as well as our food sources, as well as our food sources, and ensure the mental and physical health of our Tribal Members. The Jilkaat Kwaan have an all-encompassing connection to the water, animals, and the plants of the Jilkáat Aani K̄a Héeni. Many of our cultural norms, moral beliefs, spirituality, and way of life come from our relationship with the animals and plants. The processes of gathering, harvesting, processing, and sharing food with family, friends and elders is the foundation of the Jilkaat Kwaan culture and livelihood; and

WHEREAS, Our culture requires that our wisdom and understanding of our pristine watershed and way of life be passed down from our elders and our political leaders to our younger members. Our elders and political leaders teach our ceremonial and traditional uses of the water, land, plants, and animals, as well as, where our sacred and culturally important sites are within the Jilkáat Aani K̄a Héeni. A continued healthy supply of fish and other aquatic and terrestrial life is necessary for our customary practice of teaching and educating our younger members now and to the seventh generation; and

WHEREAS, CIV Tribal Members depend on a pristine watershed for our health and well-

being, our traditional and subsistence food lifestyle, our cultural and spiritual meaning and purpose, our political integrity and our economic livelihood; and

WHEREAS, The Jilkáat Aani K̄a Héeni is a pristine watershed that includes the Village of Klukwan and our inherent sovereignty grants us the authority and responsibility to protect this watershed. The Chilkat River Watershed, in its entirety, falls within the ancestral lands of the Jilkáat K̄waan. Our Village of Tlákʷ Aan (Klukwan) is within and the Jilkáat Aani K̄a Héeni is within our traditional and jurisdictional land base; and

WHEREAS, The Jilkáat Aani K̄a Héeni begins at its headwater glaciers and ends in its marine estuary. It includes its tributaries- the watersheds of the Kaltsexx'i Héen (Kicking Horse), Takhin, Dzixkú (Tsirku), L'ehéeni (Klehini), Kelsall, Flemer and T'ahéeni (Tahini rivers) -and the water, air, land, plants, and animals. *See* attached map, which is hereby incorporated by reference; and

WHEREAS, Inherent sovereignty and our tribal constitution grants CIV jurisdiction and stewardship responsibility over the lands, waters, air, plants and animals within the Jilkáat Aani K̄a Héeni and the water and air that flows adjacent to, above, and through the traditional territory and CIV managed lands, including native allotments, the Village of Tlákʷ Aan, Alaska, and CIV owned lands in fee simple; and

WHEREAS, The Jilkáat Aani K̄a Héeni nurtures and supports all five species of Pacific salmon, hooligan, and other anadromous species, and mammals, terrestrial animals, aerial birds and medicinal plants all of which provide essential food and economic value to the communities in the Jilkáat Aani K̄a Héeni, and particularly to Tribal members; and

WHEREAS, Our ancestors who have gone on ahead of us have taught us that Haa Atx̄aayí Haa K̄usteeyíx Sitee (Our food is our life) and have passed down this precious traditional lifestyle to us and we, in turn, have a fundamental and urgent responsibility to protect our land, water, and traditional food sources and pass these gifts and this responsibility on to future generations; and

WHEREAS, The Chilkat Indian Village of Tlákʷ Aan (Klukwan) is a federally recognized Indian Tribe organized pursuant to the authority of the Acts of Congress of 18 June 1934 (48 Stat. 984) and 1 May 1936 (49 Stat. 1250) (Alaska IRA) and in accordance with Alaska IRA sections 16 & 17, which includes lands constituting Indian Country under federal law, and which possess inherent sovereign authority to protect those lands and our residents, as well as a government-to-government relationship with the United States of America; and

WHEREAS, The Chilkat Indian Village Council, the duly constituted governing body of the Chilkat Indian Village, pursuant of Article V Section (j) of the Tribe's Constitution, that was adopted in 1941, has broad authority to manage and steward these lands and waters in concert with, but independent from, federal and state governments, to advocate for Tribal members, including protection of our Tribal territory and anadromous and other subsistence resources

affecting our Tribal territory; and

WHEREAS, Article II, Section 1 of the Chilkat Indian Village’s federally approved Constitution broadly defines our Tribal territory as “includ[ing] all lands, *waters*, property, airspace, *surface rights*, *subsurface rights* and *other natural resources* which are owned now or in the future by, or for the benefit of, the Village, whether held in trust, restricted, fee simple or any other form of title, as well as any allotments in the vicinity of the Village owned by Village members” (emphasis added); and

WHEREAS, The Chilkat Indian Village Council is mandated by Article V, Sec.1 of the federally-approved Chilkat Indian Village Constitution to “protect the natural environment and cultural resources of our people and is authorized to “enact ordinances and take any other actions necessary or proper to further define its jurisdiction or to execute the powers herein emulated. . . .”

WHEREAS, The Chilkat Indian Village Council adopted a resolution in October 2021 protecting the Jilḱáat Aani Ḳa Héeni.

THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CHILKAT INDIAN VILLAGE THE FOLLOWING TRIBAL ORDINANCE.

Section 1: **FINDINGS**

The Chilkat Indian Village Tribal Council finds as follows:

1. Members of the Chilkat Indian Village have since time immemorial relied on all five species of Pacific salmon, hooligan, and other anadromous species, and mammals, terrestrial animals, aerial birds and medicinal plants of the Jilḱáat Aani Ḳa Héeni for food, spiritual and cultural practices and identity, and our Tribal Member’s health, well-being and prosperity.
2. The Chilkat Indian Village has inherent sovereignty and is a federally recognized Indian Tribe, whose Constitution has been approved by the federal government; pursuant to Article II, Section 1 of the Chilkat Indian Village’s Constitution, Tribal territory includes “all lands, *waters*, property, airspace, *surface rights and other natural resources* which are owned now or in the future, by, or for the benefit of, the Village, whether held in trust restricted, fee simple or any other form of title, as well as any allotments in the vicinity of the Village owned by Village members.” (Emphasis added.)
3. The Chilkat Indian Village Tribal Council is legally responsible to protect the quality and quantity of the air, land, water, animals, birds, and plants in the Jilḱáat Aani Ḳa Héeni, in order to protect the traditional subsistence lifestyle, cultural, spiritual, political integrity, health and economic livelihood of our Tribal Members.

4. The continued availability of wild stock salmon, other anadromous species and aquatic mammals, terrestrial animals, and medicinal plants to the members of the Chilkat Indian Village is essential to our continued existence; without the existence of, and unfettered access to these traditional food resources, our culture, history, political integrity, health, and welfare are threatened. The Jilkáat K̄wáan, depend entirely on a pristine, Jilkáat Aani K̄a Héeni.

5. There is significant hydrologic connection in the Jilkáat Aani K̄a Héeni. Surface water upstream ends up in ground water downstream and vice versa. The drinking water source for the Village of Tlákʷ Aan and for a significant number of Tribal Members is within the Jilkáat Aani K̄a Héeni. Contamination of ground and surface waters upstream of Tlákʷ Aan, Native Allotments, and land owned by CIV has the potential to contaminate Indian Country waters.

6. The Chilkat Indian Village will act pursuant to its obligations in the Constitution to protect the Jilkáat Aani K̄a Héeni from all threats, including impacts of mineral exploration, mining, and related activities, clear-cut logging, and any other threats to the integrity of our lands, waters, airspace, and to our people.

7. Science and lived experience clearly demonstrates that large-scale mining activities- which includes mineral exploration, extraction, transport, and remediation- contaminate the air, water, and land in watersheds across the world. Mining has a clear, direct, and plainly detrimental effect on the health and welfare of communities downstream. Mining activity increases sedimentation of rivers and streams, decreases a waterway's natural oxygenation capacity, increases the likelihood of erosive events, and often results in the introduction of hazardous and toxic pollutants, some of which can be lethal for fish, other aquatic, and terrestrial species, and for humans who consume those fish or otherwise come in contact with the contaminated water or soil. These threats are particularly concerning in the Jilkáat Aani K̄a Héeni, which is one of the most pristine watersheds in the world.

8. The United States of America and the State of Alaska have to date failed to develop and enforce mineral exploration and mining regulations that will adequately protect the Jilkáat Aani K̄a Héeni from degradation and contamination from mineral exploration and mining activities; and

9. Pursuant to *Montana v. United States*, 450 U.S. 544, 565 (1981) and *U.S. v. Cooley*, 141 S. Ct. 1638 (2021), the Chilkat Indian Village retains inherent authority to address exploration and mining related activities, situated in the traditional Tribal territory in the Chilkat Valley, Alaska, including allotments pending and certificated, pursuant to the Alaska Native Allotment Act of 1906, since those activities threaten the health and welfare, indeed, the continued existence of the Chilkat Indian Village.

10. The Chilkat Indian Village seeks, by all legal and equitable means possible, a moratorium on all large-scale mining activities in the Jilkáat Aani K̄a Héeni.

Section 2: **Action Items**

The Chilkat Indian Village shall:

- (a) Implement a water quality monitoring program for the Jilkáat Aani K̄a Héeni.
- (b) Survey Tribal members to determine the household customary and traditional use of t'á (king), l'ook (silver), cháas' (pink), téel' (chum), or gaat (sockeye salmon), saak (hooligan), tsaa (seal), (taan) sea lions, or other anadromous species and mammals (seal, sea lion, beaver, and others) in the Chilkat River, Tsirku River, and Klehini River in the Chilkat Valley, Alaska.
- (c) Collect technical reports generated to date by Alaska's Department of Fish and Game relating to Tribal members' use of any of the species referenced in (a) above. Inventory the status of land holdings in the upper Chilkat Valley to the Village of Tlákwa Aan (Klukwan), including prior executive orders establishing or changing Village boundaries, statutory additions, and Native allotments, whether pending or certificated.
- (d) Engage in Government-to-Government Consultation with the United States Federal Government and the State of Alaska to ensure the Chilkat River Watershed continues to be a pristine watershed, defined as being eligible for Tier III waterway under federal law.
- (e) Document sacred sites.
- (f) Provide the information obtained pursuant to (a) through (c) above to federal, state, or local governmental entities, private organizations, environmental organizations, or anyone or any entity that may benefit from this information to achieve cessation of mining exploration and related activities in the Upper Chilkat Valley in Southeast Alaska.
- (g) Consult with neighboring, regional, national, or international tribes, entities, or other local governments in Southeast Alaska about the urgent need to obtain political, legal, or other support to protect the Jilkáat Aani K̄a Héeni from the impacts of mining exploration and related activities.
- (h) Take whatever action is necessary and proper to seek to obtain cessation of all exploratory, development, and mining related activities including, but not limited to litigation in tribal court, state court, or federal court, or a combination of these courts, as solely determined appropriate by the Chilkat Indian Village Tribal Council.

Section 3: **Definitions**

- (a) The term "Tribe" means the Chilkat Indian Village.

(b) The term “Tribal member” means any enrolled member of the Chilkat Indian Village.

(c) The term “Traditional Territory” means the lands and waters from Té Hit (Stone House) in British Columbia, Canada, including the Jilkáat (Chilkat River) and all its tributaries to Daxanáak (Berners Bay).

(d) The term “traditional uses” means the historic and current use of the plants, animals and birds” gathered and used from the Jilkáat Aani K̄a Héeni.

(e) The term “Jilkáat Aani Ka Heeni (Chilkat River Watershed) means the lands and waters that begin at the headwater glaciers of the Jilkaat Aani Ka Heeni and ends in its marine estuary. It includes its tributaries- the watersheds of the Kaltsex̄x̄'i Héen (Kicking Horse), Takhin, Dzix̄kú (Tsirku), L'ehéeni (Klehini), Kelsall, Flemer and T'ahéeni (Tahini rivers) -and the water, air, land, plants and animals; and

Section 4: **Scope**

(a) This Ordinance governs the broad protection of all anadromous and aquatic mammalian Species, terrestrial species, the air, water, and land in the Chilkat River Watershed in Southeast Alaska from the deleterious effects of mining activities.

(b) To preserve the health and welfare of Tribal members, the Chilkat Indian Village Council is hereby authorized, in its sole and absolute discretion, to take any and all actions, legal, equitable, legislative, or otherwise, to seek to obtain cessation of all mineral exploration, development, and related mining activities in the Chilkat River Watershed, including, but not limited to, litigation in tribal court, state court, or federal court, or a combination of these courts, as solely determined appropriate by the Chilkat Indian Village Tribal Council on behalf of our Tribal members.

(c) To preserve the health and welfare of Tribal members, the Chilkat Indian Village Council may exercise jurisdiction over lands the former reserve created by the United States of America, via Executive Order No. 1764, Woodrow Wilson, President, on 21 April 1913, expanded by the United States, via Executive Order No. 3673, Warren Harding, President, on 13 May 1922, and further expanded by the United States Congress in Public Law 85-271 on 2 September 1957, all Native allotments in the Chilkat Valley, all restricted lands in the Chilkat Valley, as well as other traditionally used and occupied uplands, and waters in the Chilkat Valley, Alaska.

Section 5: **Severability**

If any portion of this Ordinance is determined by a court of competent jurisdiction to be unconstitutional or otherwise invalid, that portion may be stricken, but the remaining provisions


shall remain in effect, and unimpaired by the severed portion.

CERTIFICATION:

Adopted on this 6th day of May 2022, by the Chilkat Indian Village Council, consisting of seven members with a quorum of 7 established. Ordinance No. 22-01 passed by a vote of 7 in favor, 0 opposed, 0 absent, & 0 abstaining.



Kimberley A. Strong, Tribal President



Johnnie Gamble, Tribal Secretary