

Forest Tenure Opportunity Agreement
(the "Agreement")

Between:

Simpcw First Nation
As represented by
Chief and Council

and

Her Majesty the Queen in Right of the Province of British Columbia
as represented by the Minister of Forests, Mines and Lands
("British Columbia")

(collectively the "Parties")

WHEREAS:

- A. In 2005, British Columbia and the First Nations Leadership Council, representing the Assembly of First Nations-BC Region, First Nations Summit, and the Union of BC Indian Chiefs entered into a New Relationship and signed the Transformative Change Accord, the purposes of which is to implement a government-to-government relationship based on an effective working partnership, enhanced collaboration, mutual respect, recognition and accommodation of Aboriginal title and rights and achieve the mutual goals of closing the social and economic gap between First Nations and other British Columbians.
- B. In the spirit of the New Relationship and the Transformative Change Accord, British Columbia, the Government of Canada, and Simpcw First Nation have undertaken a shared commitment to strengthening relationships on a government-to-government basis, and on focusing efforts to close the socio-economic gaps between Aboriginal and non-Aboriginal peoples. This will require strengthened relationships between Simpcw First Nation and British Columbia, based on enhanced collaboration, effective working partnerships and mutual respect and accountability.
- C. This Agreement, and the benefits flowing from it, will assist the Simpcw First Nation in achieving progress towards the goals it shares with British Columbia of closing socio economic gaps between the members of Simpcw First Nation and non-Aboriginal peoples, and, in particular, will assist the Simpcw First Nation in addressing some of the immediate priorities of the community, by increasing Simpcw First Nation's capacity to participate in the forest sector.
- D. British Columbia recognizes that Simpcw First Nation has a unique history and relationship with the province of British Columbia, and has its own culture and traditions that serve to characterize and define the Simpcw First

Nation community. These characteristics form an important context for the cooperative efforts needed to improve the Simpcw First Nation community's well-being.

- E. This Agreement is intended to assist in achieving stability and greater certainty for forest resource development on Crown lands within the Traditional Territory of the Simpcw First Nation which will enhance the ability of the forest industry to exercise timber harvesting in a timely, economic, and environmentally sustainable manner while longer term interests of the Simpcw First Nation are addressed through other agreements or processes.
- F. Simpcw First Nation, its enterprises and members, wish to play a role in rejuvenation of the forest sector by encouraging the resumption of local Gilbert Smith Forest Products sawmill operations.

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Definitions

- 1.1. "Aboriginal Interests" means aboriginal rights and/or aboriginal title.
- 1.2. "Accommodation" means an accommodation provided in this Agreement, of the potential infringements of the economic component of the Simpcw First Nation's Aboriginal Interests arising from, or as a result of, forest development in the Traditional Territory during the term of this Agreement, prior to the full reconciliation of these Interests with Crown sovereignty.
- 1.3. "Forest Tenure" means an agreement granting rights to harvest Crown timber as defined in the *Forest Act* as per 12 (1).
- 1.4. "Licensee" means a holder of a Forest Tenure.
- 1.5. "Licence Area" means an area defined by agreement between the licensee and British Columbia, which grants the rights to apply for cutting authorities to a specific level of harvest of Crown timber as defined in the *Forest Act*
- 1.6. "Traditional Territory" means the Simpcw First Nation's claimed Traditional Territory as shown on bold black on the map attached in Appendix A.

2. Purpose and Objectives

The purposes and objectives of this Agreement are to:

- 2.1. Promote and increase Simpcw First Nations' capacity and participation in the forest sector and provide a long-term source of fibre to Simpcw First Nation in order to allow it to help facilitate the operation of the Gilbert Smith Forest Products sawmill.
- 2.3 Provide an accommodation in respect of potential impacts of forestry decisions and operations within the Traditional Territory on the

Simpcw First Nation's Aboriginal Interests.

- 2.4 Resolve issues Simpcw First Nation has raised about possible compensation for alleged losses associated with the Hellroar fire of 2003.

3. Forest Tenure Opportunity

During the term of this Agreement, British Columbia will provide the following forest tenure opportunities to the Simpcw First Nation:

- 3.1. After execution of this Agreement, the Regional Manager will invite the Simpcw First Nation, or such legal entity as the Simpcw First Nation has appointed as its representative, to apply for a non-replaceable forest licence on a non-competitive basis for up to 50,000 cubic meters annually for 10 years of cedar/hemlock leading stands, age class 8 or older in the Kamloops Timber Supply Area (TSA).

For greater certainty the maximum volume that may be available under the licence referred to in 3.1 will be up to 500,000 cubic meters over 10 years.

- 3.2. If the intended holder of the licence(s) is a legal entity other than the "First Nation", the Regional Manager or District Manager must be satisfied that the intended holder of the licence is a person or other legal entity and has been duly appointed by the First Nation as its representative.
- 3.3. The Simpcw First Nation represents that Gilbert Smith Forest Products is its duly authorized representative to manage and/or hold the licence referred to in Section 3.1 of this Agreement on its behalf.
- 3.4. The volume opportunity offered within this Agreement is intended to allow Simpcw First Nation to provide some of the fibre requirements to the Gilbert Smith Forest Products sawmill operations.
- 3.5. Prior to submitting an application for the licence referred to in section 3.1, the Simpcw First Nation will meet with British Columbia to discuss the identification of a Licence Area. The Parties will strive to identify a Licence Area that is located, to the extent operationally feasible, within Simpcw First Nation's Traditional Territory.
- 3.6. The licence under section 3.1 of this Agreement will:
 - 3.6.1. not be a replaceable licence as defined under the *Forest Act*;
 - 3.6.2. include other terms and conditions required by law including the condition that the Simpcw First Nation must comply with this Agreement; and,
 - 3.6.3. include other terms and conditions as may be required by the Regional Manager.

- 3.7. Notwithstanding any other provision of this Agreement, British Columbia neither makes nor offers any guarantee of the financial viability of any operations under the Licence referred to in section 3.1.
- 3.8. During the term of this Agreement and notwithstanding section 3.7, the Simpcw First Nation agrees that British Columbia has provided to the Simpcw First Nation an accommodation in respect of potential impacts of forestry decisions and operations within the Traditional Territory on the Simpcw First Nations' Aboriginal Interests, in the form of the Licence(s) provided for under this Agreement.
- 3.9. If the Licence entered into under this Agreement remains in effect beyond the term of this Agreement, the Licence will continue to be considered by the Parties to be an accommodation as contemplated in sections 2.3 and 3.8 until the Licence(s) expires or is terminated.

4. Reporting of Tenure Information

- 4.1. British Columbia, in its commitment to the goals of the Transformative Change Accord, may require certain information from Simpcw First Nation on what measurable benefits the Simpcw First Nation has received as a result of this Agreement.
- 4.2. The Simpcw First Nation agrees to cooperate with British Columbia in providing the information in a format acceptable to both Parties and in a manner that maintains confidentiality of that information in accordance with statutory requirements.

5. Simpcw First Nation Traditional Territory

- 5.1. The Parties agree to use the Traditional Territory boundary as provided in the Consultation Area Database.

6. Stability within Simpcw First Nation Traditional Territory

- 6.1. Simpcw First Nation will respond immediately to any discussions initiated by British Columbia and will work co-operatively to assist in resolving any issues that may arise where acts of intentional interference by Simpcw First Nation members within their traditional territory with provincially authorized activities related to forest development, including timber harvesting or other forestry economic activities, occur.
- 6.2. Upon execution of this Agreement, Simpcw First Nation agrees not to pursue any action by way of legal proceedings or otherwise against British Columbia in respect of any loss, injury or damage to property

resulting from the Hellroar fire of 2003.

7. Term and Termination

- 7.1. The term of this Agreement is 10 years.
- 7.2. This Agreement will take effect on the date on which the last Party has executed it.
- 7.3. This Agreement will terminate on the occurrence of the earliest of any of the following events:
 - 7.3.1. nine months following signing of the Agreement, if a licence has not been entered into;
 - 7.3.2. expiry of its term;
 - 7.3.3. 90 days notice by either Party to the other Party;
 - 7.3.4. mutual agreement of the Parties; or
 - 7.3.5. if the forest tenure issued under 3.1 is cancelled, surrendered or otherwise terminated under the *Forest Act*.
- 7.4. Prior to the expiry of the 90 days when 90 day notice of termination has been given under Section 7.3.3, the Parties agree to meet and endeavour to resolve the issue that has given rise to the 90 day notice of termination.

8. Dispute Resolution

- 8.1. If a dispute arises between British Columbia and the Simpcw First Nation regarding the interpretation of a provision of this Agreement, the Parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.
- 8.2. If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of British Columbia and the Simpcw First Nation.
- 8.3. If the interpretation dispute cannot be resolved by the Parties directly, the Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

9. Amendment of Agreement

- 9.1. Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.
- 9.2. Either Party may request the participation of the other Party to review the effectiveness of this Agreement annually and consider amendments to this Agreement.

10. Suspension or Cancellation by the Minister

- 10.1. Without limiting the actions that may be taken by the Minister or by

British Columbia, the Minister or a person authorized by the Minister may suspend or cancel the licence(s) entered into as a result of the invitation to apply under this Agreement, if the Minister or a person authorized by the Minister determines that the Simpcw First Nation is not in compliance with this Agreement.

- 10.2. If this Agreement is terminated in accordance with section 7.3.2 or 7.3.3, the Minister may cancel the forest tenure issued under this Agreement.
- 10.3. Prior to contemplating any action referred to in Section 10.1 or 10.2, British Columbia will provide notice to the Simpcw First Nation of any alleged contravention of this Agreement that may lead to the Simpcw First Nation not being in compliance with this Agreement.

11. Entire Agreement

- 11.1. This Agreement, and any amendment to it, constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement.

12. Notice

- 12.1. Any notice or other communication that is required to be given or that a Party wishes to give to the other Party with respect to this Agreement, will be in writing and will be effective if delivered, sent by registered mail, or transmitted by facsimile to the address of the other Party as in this section of the Agreement.
- 12.2. Any notice or other communications will be deemed to have been given on the date it is actually received, if received before 4:00 p.m.
- 12.3. The address of either Party may be changed by notice in the manner set out in this section of the Agreement.

British Columbia	Simpcw First Nation
Deputy Minister	Chief Keith Matthew
Ministry of Forests and Range	Simpcw First Nation
P.O. Box 9525 STN PROV GOVT	P.O. Box 220
Victoria B.C. V8W 9C3	Barriere, B.C. V0E 1E0
Telephone: (250) 356-5012	Telephone: (250) 672-9995
Facsimile: (250) 953-3687	Facsimile: (250) 672-5858

- 12.4. This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other Party by facsimile. Each facsimile

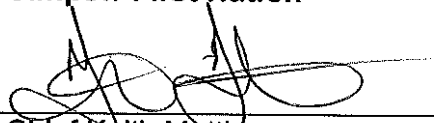
will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

13. Miscellaneous

- 13.1. This Agreement shall be interpreted in a manner consistent with provincial, federal and constitutional law.
- 13.2. Except as set out in this Agreement, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 13.3. British Columbia acknowledges and enters into this Agreement on the basis that the Simpcw First Nation has Aboriginal Interests within its Traditional Territory but that the specific nature, scope or geographic extent of Aboriginal Interests of the Simpcw First Nation has not yet been determined. Broader processes engaged in to bring about reconciliation will result in a common understanding of the nature, scope and geographic extent of Aboriginal Interests or treaty interests of the Simpcw First Nation.
- 13.4. This Agreement does not exclude the Simpcw First Nation from accessing forestry economic opportunities and benefits, which may be available, other than those expressly set out in this Agreement.
- 13.5. This Agreement is not a treaty or a lands claims agreement within the meaning of section 25 and 35 of the *Constitution Act, 1982* and does not define or amend aboriginal rights, or limit any priorities afforded to aboriginal rights, including aboriginal title.
- 13.6. This Agreement and any decisions made during the term of this Agreement do not change or affect the positions either Party has, or may have, regarding jurisdiction and authorities.
- 13.7. Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute and its regulations.
- 13.8. This Agreement does not address or prejudice conflicting interests or competing claims between First Nations.
- 13.9. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 13.10. The laws of British Columbia will govern this Agreement.
- 13.11. This Agreement is not intended to limit any obligation of forest Licensees or other third parties to the Simpcw First Nation.
- 13.12. The appendices to this Agreement form part of the Agreement.

Signed on behalf of:
Simpw First Nation

Date: _____



Chief Keith Matthew
Councillor Fred Fortier, Acting Chief

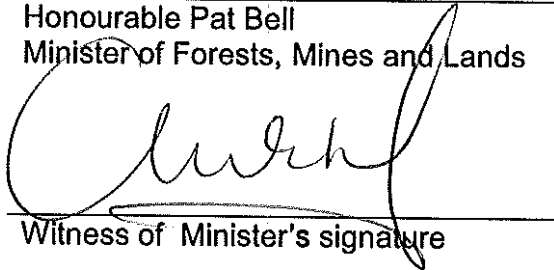
Witness of Chief Matthew's Signature
Fred Fortier's

Signed on behalf of:
British Columbia

Date: Feb 9, 2011



Honourable Pat Bell
Minister of Forests, Mines and Lands



Witness of Minister's signature

APPENDIX A
Map of Simpcw First Nation Claimed Traditional Territory

APPENDIX B – Licence Area/Map