

**Tsleil-Waututh Nation
Interim Forestry Agreement
(the "Agreement")**

**Between:
Tsleil-Waututh Nation**

**As represented by Chief and Council
("Tsleil-Waututh Nation")**

And

**Her Majesty the Queen in Right of the Province of British Columbia
As represented by the Minister of Forests
(the "Government of British Columbia")**

(collectively the "Parties")

Whereas:

- **The Tsleil-Waututh Nation has Aboriginal Interests within its Traditional Territory.**
- **The Parties wish to enter into an Interim measures agreement in relation to forest resource development activities and related economic benefits arising from this development within the Traditional Territory.**
- **The Government of British Columbia Intends to fulfil any responsibility it has to consult with the Tsleil-Waututh Nation on forest resource development activities proposed within the Traditional Territory and to seek workable accommodation with respect to those activities that may lead to infringement of Tsleil-Waututh Nation Aboriginal interests.**
- **Tsleil-Waututh Nation has a responsibility to participate in any consultation initiated by the Government of British Columbia or a Licensee, in relation to forest resource development activities proposed within the Traditional Territory that may lead to an infringement of Tsleil-Waututh Aboriginal Interests**



- **The Parties have an interest in seeking workable interim accommodation of Tsleil-Waututh Nation's Aboriginal Interests where forest resource development activities are proposed within the Traditional Territory that may lead to the infringement of Tsleil-Waututh Nation's Aboriginal Interests.**
- **The Government of British Columbia and the Tsleil-Waututh Nation wish to resolve issues relating to forest resource development activities where possible through negotiation as opposed to litigation.**
- **Tsleil-Waututh Nation wishes to advocate for sustainable forest management and stewardship of resources in a manner consistent with this Agreement.**

Therefore the Parties agree as follows:

1.0 Definitions

For the purposes of this Agreement, the following definitions apply:

- 1.1 "Aboriginal Interests" means asserted and/or proven aboriginal rights and/or aboriginal title.**
- 1.2 "Administrative Decision" means one or more of the following decisions made by a person under forestry legislation:**
- **the decision setting or varying the Allowable Annual Cut (AAC) for a Timber Supply Area or a Forest Tenure;**
 - **the issuance, consolidation, subdivision or amendment of a Forest Tenure;**
 - **the replacement or extension of a Forest Tenure;**
 - **the disposition of volumes of timber arising from undercut decisions on a Forest Tenure;**
 - **the conversion of a Timber Sale Licence or Timber Licence to another form of Forest Tenure;**
 - **the issuance of a Special Use Permit; and,**
 - **the establishment of an interpretative forest site, recreation site and/or recreation trail.**
- 1.3 "Forest Tenure" means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.**
- 1.4 "Licensee" means a holder of a Forest Tenure.**

- 1.5 "Operational Decision" means a decision that is made by a person with respect to the statutory approval of a Forest Development Plan, a Forest Stewardship Plan or a Woodlot Licence Plan that has an effect in the Traditional Territory.
- 1.6 "Operational Plan" means a Forest Development Plan, Forest Stewardship Plan or a Woodlot Licence Plan that has an effect in the Traditional Territory.
- 1.7 "Response Period" means a period of up to 60 days from initiation of the processes set out in Sections 4 and 5 of this Agreement, where the initiation date is the date on which Tsleil-Waututh Nation is notified of an Administrative Decision or Timber Supply Review process, or in the case of Operational Plan reviews, the date on which Tsleil-Waututh Nation receives the plan to be reviewed. Where an emergency operation arises and/or expedited salvage has to occur, the Response Period will be shortened accordingly, but will not be less than the time period for advertising Operational Plans for those operations.
- 1.8 "Traditional Territory" means the Tsleil-Waututh Nation asserted traditional territory as shown on bold black on the map attached in Appendix A.

2.0 Purpose

The purposes of this Agreement are to:

- 2.1 Increase the Tsleil-Waututh Nation's opportunity for participation in the forest sector.
- 2.2 Provide economic benefits to the Tsleil-Waututh Nation through a forest tenure opportunity and the sharing of revenues received by the Government of British Columbia from forest resource development activities.
- 2.3 Address consultation and to provide an interim workable accommodation as set out in this Agreement, with regard to any infringements of Tsleil-Waututh Nation's Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest resource development activities within the Traditional Territory, during the term of this Agreement.
- 2.4 Provide a period of stability to forest resource development activities on Crown lands within the Traditional Territory during



the term of this Agreement, while longer-term interests are addressed through other agreements or processes.

3.0 Economic Benefits to Tsleil-Waututh Nation

During the term of this Agreement, the Government of British Columbia and the Tsleil-Waututh Nation will adopt the consultation processes set out in Sections 4.0 and 5.0. The Government of British Columbia will provide the following economic benefits to the Tsleil-Waututh Nation to provide an interim workable accommodation, as set out in this Agreement, in respect of the economic component of Tsleil-Waututh Aboriginal Interests that may be infringed as a result of Administrative Decisions and/or Operational Decisions relating to forest resource development activities in the Traditional Territory.

3.1 Forest Tenure

- 3.1.1** After the execution of this Agreement by the Parties, and after the Minister has determined that sufficient volume of timber is available for disposition to Tsleil-Waututh Nation as a result of the implementation of the *Forestry Revitalization Act*, the Minister will invite Tsleil-Waututh Nation to apply under section 47.3 of the *Forest Act* for a non-replaceable forest licence (the "licence") for up to 11,600 cubic meters annually in the Soo Timber Supply Area.
- 3.1.2** For greater certainty, the maximum volume that may be available under the licence referred to in Section 3.1.1 will be up to 58,000 cubic meters over 5 years.
- 3.1.3** An invitation to apply for a licence (an "invitation") and any licence entered into as a result of the invitation to apply under this Agreement will be subject to the policies, regulations and statutes of British Columbia as amended from time to time.
- 3.1.4** An invitation will be subject to a condition that prior to Tsleil-Waututh Nation making an application for the licence, the Parties will work together to identify the operating area(s) for the licence. To the extent that it is operationally feasible, the operating area(s) will be within the Traditional Territory.
- 3.1.5** A licence entered into as a result of an invitation to apply under Section 3.1.1 of this Agreement will:

- 3.1.5.1 be for a term of no longer than 5 years, as determined by the Minister;
- 3.1.5.2 contain other terms and conditions required by law, including the condition that Tsleil-Waututh Nation must comply with this Agreement;
- 3.1.5.3 Include a term that Tsleil-Waututh Nation may not dispose of the licence other than as specified in Section 54(4) of the *Forest Act*; and,
- 3.1.5.4 include other terms and conditions as may be required by the Regional Manager.

3.1.6 Subject to:

- 3.1.6.1 the Government of British Columbia and Tsleil-Waututh Nation entering into another interim measures agreement providing for an invitation to apply for a licence; and,
- 3.1.6.2 the Minister determining that there is sufficient volume of timber available for disposition to Tsleil-Waututh Nation,

the Minister may invite Tsleil-Waututh Nation to apply for a subsequent licence under the *Forest Act* for a term that would commence after the expiry of this Agreement.

- 3.1.7 The Parties acknowledge that Tsleil-Waututh wishes to achieve an eco-system based replaceable tenure in the Indian River watershed consistent with provincial forest legislation. Prior to the expiry of the term of the licence referred to in section 3.1, the Parties will meet and discuss whether there are opportunities that may be available for the Tsleil-Waututh Nation to meet their long-term interests of an area-based tenure in the Indian River watershed.



3.2 Revenue Sharing

- 3.2.1** During the term of this Agreement, the Government of British Columbia will pay to Tsleil-Waututh Nation \$193,000 annually for the purposes described in Section 3.0.
- 3.2.2** The funding commitment set out in Section 3.2.1 is subject to the availability of annual appropriations for that purpose by the Government of British Columbia.
- 3.2.3** For the purposes of determining amounts for partial years, one-fourth (i.e. $\frac{1}{4}$) of the annual amount will be used for each fiscal quarter or part thereof that the Agreement is in effect. Payments will be made quarterly.
- 3.2.4** Upon signing of this Agreement, the Tsleil-Waututh Nation will be paid the full revenues for the quarter in which the Agreement takes effect as set out in Section 8.1 with subsequent payments being made at the end of each quarter.
- 3.2.5** Tsleil-Waututh Nation will maintain financial records and prepare financial statements in accordance with generally accepted accounting principles for each year of this Agreement.
- 3.2.6** Upon request, but not more than once in a calendar year, Tsleil-Waututh Nation will conduct an audit of the revenue sharing expenditures and will provide a copy of the audit to the Government of British Columbia.

4.0 Consultation and Accommodation Regarding Operational Plans

- 4.1** The Government of British Columbia agrees to consult with Tsleil-Waututh Nation on Operational Plans that may potentially infringe Tsleil-Waututh Nation's Aboriginal Interests within the Traditional Territory, except for any economic component of those interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0 of this Agreement.
- 4.2** During the term of this Agreement, Tsleil-Waututh Nation agrees that the Government of British Columbia has fulfilled its duties to consult and to seek interim workable accommodation with



respect to the economic component of potential infringements of Tsleil-Waututh Nation's Aboriginal Interests in the context of Operational Decisions that the Government of British Columbia will make and any forest practices that may be carried out under an Operational Plan in the Traditional Territory.

- 4.3 Tsleil-Waututh Nation agrees to fully participate, as set out in this section, in the review of all Operational Plans dealing with forest development within the Traditional Territory provided to them by the Government of British Columbia, and by Licensees.**
- 4.4 In reviewing and responding to an Operational Plan submitted to them, Tsleil-Waututh Nation will, within the Response Period, provide the party that supplied the plan to them with all reasonably available information that will identify any potential impacts to their Aboriginal Interests that may occur as a result of proposed forest resource development activities within the Traditional Territory.**
- 4.5 Upon receiving the response from Tsleil-Waututh Nation as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss with Tsleil-Waututh Nation and seek to accommodate any site or area specific operational impacts on Tsleil-Waututh Nation's Aboriginal Interests that may occur as a result of proposed forest development activities within the Traditional Territory, other than the economic component of those Aboriginal Interests that the Parties agree are addressed by the economic benefits provided under Section 3.0. For the purposes of this section, "accommodate" means modifications made to operational plans consistent with provincial forest legislation.**
- 4.6 If no response is received from Tsleil-Waututh Nation within the Response Period, then the Government of British Columbia may assume that Tsleil-Waututh Nation does not intend to respond or participate in the consultation process in respect of the Operational Plan and that a decision on the Operational Plan may proceed.**
- 4.7 In making a final decision on an Operational Plan, the Government of British Columbia will fully consider information it receives from Tsleil-Waututh Nation, whether received directly or through a Licensee, and will consider whether concerns identified by Tsleil-Waututh Nation have been addressed.**



4.8 The Government of British Columbia will provide Tsleil-Waututh Nation with a copy of the approval letter for an Operational Plan at the same time that it is provided to the Licensee. Within 60 days of making a final decision on an Operational Plan, the Government of British Columbia will also inform the Tsleil-Waututh Nation of the ways in which the Tsleil-Waututh Nation's concerns under Section 4.5 have been considered and sought to be addressed.

4.9 Where new information regarding Tsleil-Waututh Nation's Aboriginal Interests is provided by Tsleil-Waututh Nation to the Ministry of Forests, the statutory decision maker will consider that information, prior to the issuance of any subsequent permit or licence further to an Operational Plan.

5.0 Consultation and Accommodation Regarding Administrative Decisions

5.1 The Government of British Columbia will provide to Tsleil-Waututh Nation on an annual basis a list of all proposed Administrative Decisions anticipated within the year that will have an effect in the Traditional Territory, and either upon the request of Tsleil-Waututh Nation or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to Tsleil-Waututh Nation an updated list.

5.2 The Government of British Columbia will meet with Tsleil-Waututh Nation at mutually agreed times throughout the year to provide an opportunity for Tsleil-Waututh Nation to make known to representatives of the Government of British Columbia their concerns and comments relative to the effect of the Administrative Decision(s) on their Aboriginal Interests within the Traditional Territory.

5.3 The Government of British Columbia will include Tsleil-Waututh Nation in public Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Soo Timber Supply Area.

5.4 Tsleil-Waututh Nation agrees to fully participate, within the Response Period, in public Timber Supply Review processes by providing all reasonably available information about their Aboriginal Interests within the Traditional Territory potentially affected by AAC determinations to be made pursuant to Section 8 of the *Forest Act*.

- 5.5** The Parties acknowledge that the public Timber Supply Review processes will be consistent with approved land use plans when higher-level objectives have been established.
- 5.6** If after considering the concerns and comments of Tsleil-Waututh Nation, the statutory decision maker is of the opinion that an Administrative Decision creates a potential infringement of Tsleil-Waututh Nation's Aboriginal Interests that is not adequately addressed by the economic benefits provided by the Government of British Columbia in Section 3.0, the statutory decision maker will seek to address the concerns and comments in the Administrative Decision or through the process in Section 4.0 of this Agreement.
- 5.7** The Government of British Columbia will provide a response to Tsleil-Waututh Nation as to how their concerns raised in Section 5.2 have been addressed.
- 5.8** Tsleil-Waututh Nation agrees that in consideration of the economic benefits provided by the Government of British Columbia in Section 3.0 and adherence to the consultation processes in Sections 4.0 and 5.0 of this Agreement, the Government of British Columbia has fulfilled its duties to consult and to seek an interim workable accommodation with respect to the economic component of potential infringements of Tsleil-Waututh Nation's Aboriginal Interests resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement.
- 5.9** Tsleil-Waututh Nation further agrees that, in consideration of Sections 5.1 to 5.7 of this Agreement, the Government of British Columbia has, for the purposes of this Agreement, developed an adequate consultation and interim workable accommodation process with respect to potential infringements of their Aboriginal Interests resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement that may go beyond the economic component of Tsleil-Waututh Nation's Aboriginal Interests .

6.0 Stability for Land and Resource Use

- 6.1** Tsleil-Waututh Nation will respond immediately to any discussions initiated by the Government of British Columbia and will work co-operatively to assist in resolving any issues that may arise where acts of intentional interference by Tsleil-Waututh Nation members with provincially authorized activities



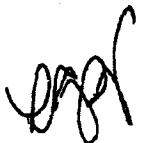
related to forest development, including timber harvesting or other forestry economic activities, which occur within the Traditional Territory.

7.0 Dispute Resolution

- 7.1** If a dispute arises between the Government of British Columbia and Tsleil-Waututh 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.
- 7.2** If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of the Government of British Columbia and Tsleil-Waututh Nation.
- 7.3** The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

8.0 Term

- 8.1** This Agreement will take effect on September 30, 2004.
- 8.2** This Agreement will terminate on the occurrence of the earliest of any of the following events:
 - 8.2.1** five years from the date this Agreement takes effect under Section 8.1; or,
 - 8.2.2** the coming into effect of a treaty between the Parties; or,
 - 8.2.3** the mutual agreement of the Parties; or,
 - 8.2.4** the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement pursuant to Section 9.0; or
 - 8.2.5** upon written notice of withdrawal from this Agreement by either Party, which will take effect 90 days following receipt of the notice by the other Party.
 - 8.2.6** At the option of Tsleil-Waututh Nation in the event that the Government of British Columbia fails to deliver any economic benefits pursuant to Section 3.0 of this Agreement.



- 8.3 If this Agreement is terminated in accordance with Section 8.2, then the Minister may terminate the economic benefits under this Agreement.**

9.0 Suspension or Cancellation of Economic Benefits by the Minister

- 9.1 Without limiting the actions that may be taken by the Minister of Forests or by the Government of British Columbia, the Minister or a person authorized by the Minister may suspend or cancel revenue sharing payments and the licence entered into as a result of the invitation under this Agreement, if the Minister or a person authorized by the Minister determines that Tsleil-Waututh Nation is not in compliance with this Agreement.**
- 9.2 Prior to taking any action referred to in Section 9.1, the Government of British Columbia will provide notice to Tsleil-Waututh Nation of any alleged contravention of this Agreement that may lead Tsleil-Waututh Nation being determined to not be in compliance with this Agreement.**
- 9.3 If Tsleil-Waututh Nation disputes a finding of non-compliance made under Section 9.1, the Parties will meet to discuss Tsleil-Waututh Nation's concerns about the determination of non-compliance. This meeting will take place within 20 days of receipt of written notice pursuant to Section 9.2**
- 9.4 If, during the term of this Agreement, Tsleil-Waututh Nation challenges or supports a challenge to, an Administrative Decision and/or Operational Decision or an Operational Plan or activities carried out pursuant to those decisions/plans, by way of legal proceedings or otherwise on the basis that the economic benefits set out in Section 3.0, and the consultation processes set out in Sections 4.0 and 5.0 of this Agreement are not adequate or sufficient to:**
- 9.4.1 provide adequate consultation, to substantially address Tsleil-Waututh Nation's concerns and to provide an interim workable accommodation in respect of any potential infringements of Tsleil-Waututh Nation's Aboriginal Interests with regard to Administrative Decisions relating to forest resource development activities within the Traditional Territory, or**
- 9.4.2 substantially address the economic component of Tsleil-Waututh Nation's Aboriginal Interests with regard**

to Operational Decisions relating to forest resource development activities within the Traditional Territory,

then, without limiting any other remedies that may be available to the Government of British Columbia, the Government of British Columbia may suspend or cancel the economic benefits set out in Section 3.0.

- 9.5 If the Minister or a person authorized by the Minister cancels any economic benefits as a result of this Agreement, then this Agreement may be terminated.**

10.0 Renewal of the Agreement

- 10.1 Prior to this Agreement terminating in accordance with Section 8.2, and subject to Section 10.3, if the terms and conditions of this Agreement are being met, the Government of British Columbia and Tsleil-Waututh Nation will seek the necessary authorities and approvals to renew this Agreement.**
- 10.2 Any subsequent forestry agreement between the Government of British Columbia and Tsleil-Waututh Nation may provide for an opportunity to acquire a licence, and/or other economic benefits, as well as other terms and conditions that are agreed to by the Parties.**
- 10.3 The revenue sharing set out in this Agreement reflects an amount that the Government of British Columbia is willing to pay, subject to available appropriations, as an interim measure and Tsleil-Waututh Nation has agreed to accept as an interim measure for the term of this Agreement.**

11.0 Amendment of Agreement

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

12.0 Entire Agreement

- 12.1 This Agreement and any amendment to it constitute the entire Agreement between the Parties with respect to the subject matter of this Agreement.**



13.0 Notice

- 13.1 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.**
- 13.2 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. If received after 4:00 p.m., it will be deemed to have been received on the next business day.**
- 13.3 The address of either Party may be changed by notice in the manner set out in this section of the Agreement.**

British Columbia

Deputy Minister
Ministry of Forests
P.O. Box 9525 STN PROV GOVT
Victoria B.C. V8W 9C3
Telephone (250) 387-3656
Facsimile (250) 953-3687

Tsleil-Waututh Nation

Chief Maureen Thomas and Council
Tsleil-Waututh Nation (Burrard Indian Band)
3082 Ghum Lye Dr.,
North Vancouver, BC
V7H 1B3
Telephone: (604) 929-3454
Facsimile: (604) 929-4714

14.0 General

- 14.1 Nothing in this Agreement shall be interpreted in a manner that requires the Government of British Columbia to act in a manner inconsistent with provincial or federal law, or that fetters the statutory discretion of any government decision-maker.**



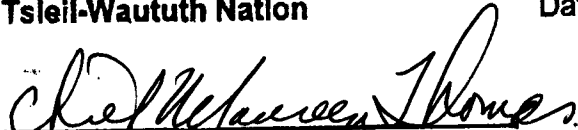
- 14.2 This Agreement is not a treaty or a lands claims agreement within the meaning of Sections 25 and 35 of the Constitution Act, 1982 and does not recognise, define, amend, affirm, deny or limit any priorities afforded to aboriginal rights, including aboriginal title, or treaty rights, other than as provided in this Agreement.**
- 14.3 Subject to Section 9.4, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.**
- 14.4 This Agreement shall not be interpreted as addressing any potential infringements other than potential infringements that may result from decisions contemplated by this Agreement during the term of this Agreement. Nothing in this Agreement shall be interpreted to authorize any infringement that may occur following the termination of this Agreement.**
- 14.5 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.**
- 14.6 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.**
- 14.7 The applicable laws of British Columbia and Canada shall govern this Agreement.**
- 14.8 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 fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.**
- 14.9 Nothing in this Agreement limits the rights of either Party to seek relief from the Courts for a breach of the Agreement by the other Party.**



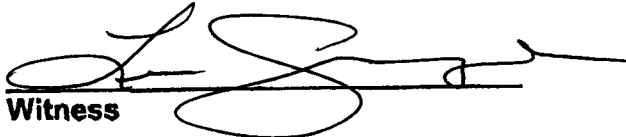
Signed on behalf of:

Tsleil-Waututh Nation

Date: Nov. 12, 2004



Chief or Chief Councillor



Witness

Signed on behalf of:

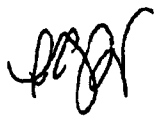
Government of British Columbia Date: Nov. 12, 2004



Michael de Jong
Minister of Forests



Witness



**APPENDIX A
TSLEIL-WAUTUTH NATION TRADITIONAL TERRITORY**

Handwritten signature or initials in the bottom right corner of the page.

TREATY NEGOTIATIONS IN BRITISH COLUMBIA
STATEMENT OF INTENT BOUNDARY
TSLEIL-WAUTUTH NATION



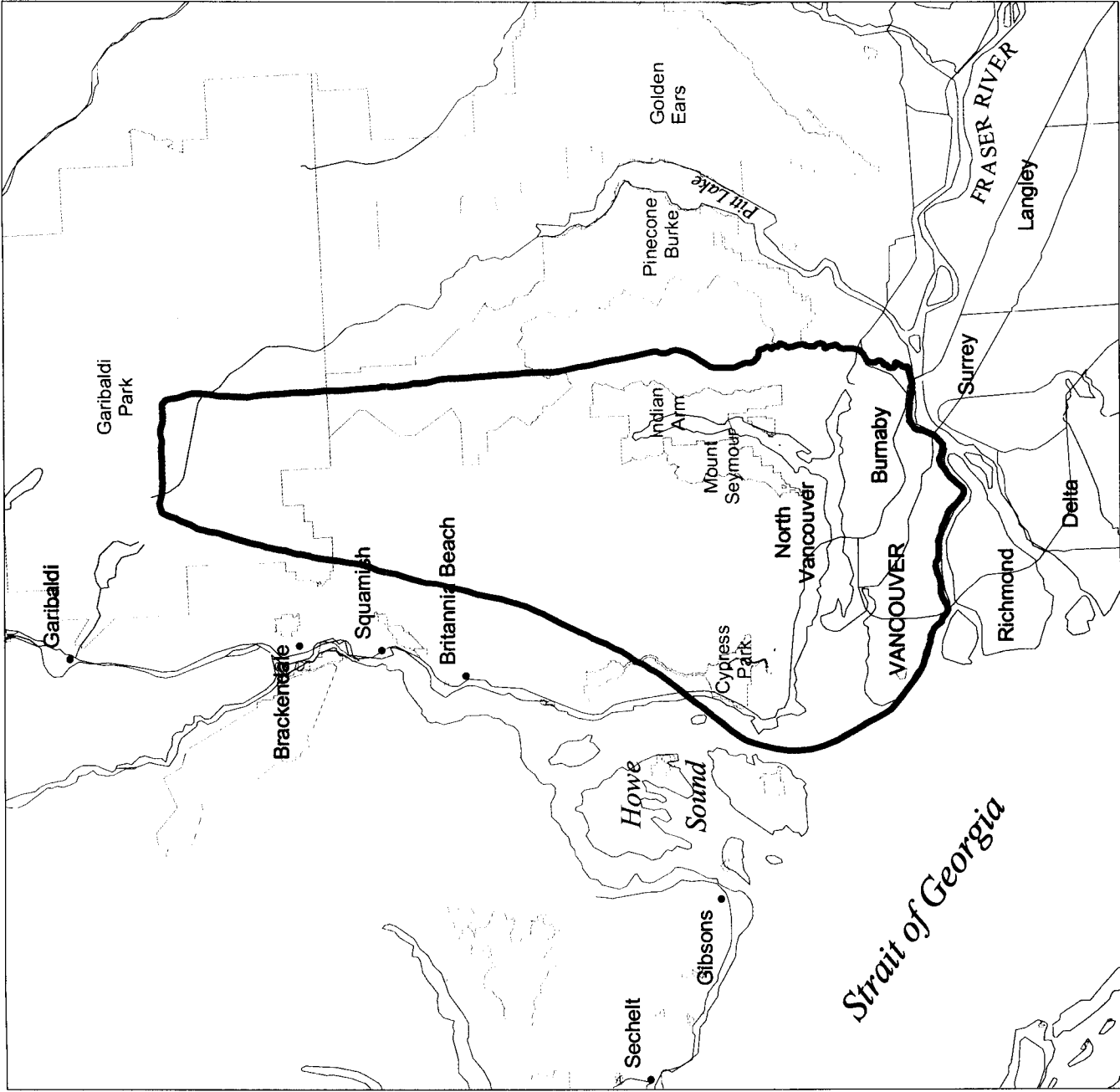
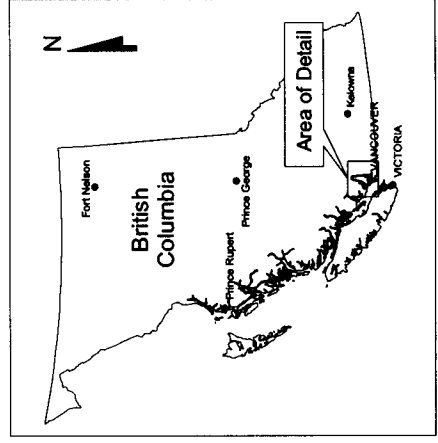
LEGEND

Statement of Intent Boundary

Roads

Populated Places

Parks and Protected Areas



The boundary on this map represents the approximate boundary of a traditional territory as described in a First Nation Statement of Intent to negotiate treaties which has been submitted to the B.C. Treaty Commission. The boundary is illustrative only and may be updated in the future. Publication of this map does not imply that the First Nations, the Province of British Columbia, or the Government of Canada have agreed to the boundary shown. The Statement of Intent boundaries of neighbouring and overlapping First Nations are not shown.