

**In-SHUCK-ch
Forest Interim Measures Agreement
(the "Agreement")**

**Between:
The Douglas First Nation
The Skatin First Nations and
The Samahquam Nation,
Collectively referred to as the In-SHUCK-ch**

**As represented by
Chief Darryl Peters, Chief William Schneider, Chief Patrick Williams**

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:

- In-SHUCK-ch has Aboriginal Interests within its Traditional Territory.
- The Parties wish to enter into an interim measures agreement in relation to forest development 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 and to seek workable accommodation with In-SHUCK-ch on forest resource development activities proposed within the In-SHUCK-ch Traditional Territory that may lead to the infringement of In-SHUCK-ch Aboriginal Interests.
- In-SHUCK-ch 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 In-SHUCK-ch Traditional Territory, that may lead to an infringement of In-SHUCK-ch Aboriginal Interests.

- The Parties have an interest in seeking workable interim accommodation of In-SHUCK-ch Aboriginal Interests where forest development activities are proposed within the In-SHUCK-ch Traditional Territory that may lead to the infringement of In-SHUCK-ch Aboriginal Interests.
- The Government of British Columbia and In-SHUCK-ch wish to resolve issues relating to forest resource development where possible through negotiation as opposed to litigation.
- The Parties desire to create a new relationship based on mutual respect.
- The In-SHUCK-ch are negotiating a treaty, and wish to develop capacity in forest management.

Therefore the Parties agree as follows:

1.0 Definitions

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

"Aboriginal Interests" means asserted aboriginal rights and/or aboriginal title.

"Administrative Decision" means one or more of the following decisions made by a person under the Forest Act.

- Decisions that set or vary Allowable Annual Cut (AAC) for a Timber Supply Area or a forest tenure;
- the issuance, subdivision or amendment of a forest tenure;
- the replacement of forest tenures;
- the transfer or change of control of forest tenures, including any associated reductions in AAC with respect to forest tenures, and exchange of rights between or among tenure holders;
- the disposition of timber volumes arising from undercut decisions on a forest tenure;
- AAC apportionment and reallocation decisions;
- Timber Sale Licence and Timber Licence conversion to other forms of tenure and Timber Licence term extensions; and,
- the reallocation of harvesting rights as a result of the implementation of the Forestry Revitalization Act.

"Allowable Annual Cut": The allowable rate of timber harvest from a specified area of land. The chief forester sets the AACs for timber supply areas and tree farm licences in accordance with section 8 of the Forest Act.

"Forest Development Plan" means an operational plan guided by the principles of integrated resource management (the consideration of timber and non timber values), which details the logistics of timber development over a period of usually five years. Methods, schedules, and responsibilities for accessing, harvesting, renewing, and protecting the resource are set out to enable site-specific operations to proceed.

"Forest Stewardship Plan" means a Forest Stewardship Plan as defined under the *Forest and Range Practices Act*.

"Forest Tenure" means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.

"Licensee" means a holder of a Forest Tenure.

"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 In-SHUCK-ch Traditional Territory.

"Operational Plan" means a Forest Development Plan, Forest Stewardship Plan, or a Woodlot Licence Plan that has an effect in In-SHUCK-ch Traditional Territory.

"Response Period" means a period of 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 In-SHUCK-ch is notified of an Administrative Decision or Timber Supply Review process, or in the case of Operation Plan reviews, the date on which In-SHUCK-ch 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.

"Timber Supply Review" means a Timber Supply review as defined under the *Forest Act*.

"Traditional Territory" means the In-SHUCK-ch asserted traditional territory as shown on bold black on the map attached in Appendix A.

2.0 Purpose

The purpose of this Agreement is to:

- 2.1 Provide In-SHUCK-ch opportunity for participation in the forest sector.
- 2.2 Provide economic benefits to In-SHUCK-ch through a forest tenure opportunity and/or the sharing of revenues received by the Government of British Columbia from forest resource development.
- 2.3 Address consultation and to provide an interim workable accommodation, as set out in this Agreement, with regard to any infringements of In-SHUCK-ch Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest resource development within the In-SHUCK-ch Traditional Territory, during the term of this Agreement.
- 2.4 Provide a period of stability to forest resource development on Crown lands within the In-SHUCK-ch Traditional Territory during the term of this Agreement, while longer-term interests are addressed through other agreements or processes.

3.0 Economic Benefits to In-SHUCK-ch

During the term of this Agreement, the Government of British Columbia will adopt the consultation processes set out in sections 4 and 5 of this Agreement. The Government of British Columbia will provide one or more of the following economic benefits to In-SHUCK-ch to address consultation and to provide an interim workable accommodation, as set out in this Agreement, in respect of any infringements of In-SHUCK-ch Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest resource development within In-SHUCK-ch Traditional Territory.

3.1 Forest Tenure

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 In-SHUCK-ch as a result of the implementation of the *Forestry Revitalization Act*, the Minister will invite In-SHUCK-ch to apply under section 47.3 of the *Forest Act* for a non-replaceable licence (the "licence") for up to 25 830 cubic meters annually in the Soo and/or Fraser Timber Supply Area.

3.1.1 An invitation to apply for a licence (an "invitation") and any licence entered into as a result of an invitation will be subject to the policies, regulations and statutes of British Columbia as amended from time to time.

3.1.2 An invitation:

3.1.2.1 will be subject to a condition that prior to In-SHUCK-ch making an application for the licence, the In-SHUCK-ch must contact and work together with Ministry of Forests personnel to assist the Ministry to identify the location of an operating area for the licence, which to the extent that it is operationally feasible will be within the Traditional Territory; and

3.1.2.2 will contain terms and conditions required by the Minister as part of its application for the licence.

3.1.3 A licence entered into as a result of an invitation:

3.1.3.1 will be for a term of no longer than 5 years, as determined by the Ministry of Forests;

3.1.3.2 will contain other terms and conditions required by law, including the condition that In-SHUCK-ch must comply with this agreement; and,

3.1.3.3 will include other terms and conditions as may be required by the Regional Executive Director including a term that In-SHUCK-ch may not divide, subdivide, transfer, or otherwise dispose of the licence or an interest in the licence.

3.1.4 If the term of the licence entered into as a result of an invitation to apply under this Agreement exceeds the term of this Agreement, then that licence may be referenced in and considered to be an economic benefit that addresses consultation and provides an interim workable accommodation in respect of any infringement of In-SHUCK-ch Aboriginal Interests in any subsequent Forest Agreement between In-SHUCK-ch and the Government of British Columbia, for the purposes described in Section 3.0.

3.1.5 Subject to:

- 3.1.5.1 The Government of British Columbia and In-SHUCK-ch entering into another interim measures agreement providing for an invitation to apply for a licence; and,
- 3.1.5.2 the Minister determining that there is sufficient volume of timber available for disposition to In-SHUCK-ch, the Minister may invite In-SHUCK-ch to apply for a subsequent licence under the *Forest Act* for a term that would commence after the expiry of this Agreement.

- 3.1.6 The Parties will meet within six months of signing this Agreement, and from time to time thereafter to review forestry business opportunities that may be available to the In-SHUCK-ch.

3.2 Revenue Sharing

- 3.2.1 During the term of this Agreement, the Government of British Columbia will pay to In-SHUCK-ch \$425,649.00 annually for purposes described in Section 3.0 on a quarterly basis.
- 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. The Government of British Columbia acknowledges it has an appropriation for \$15 million for fiscal year 2003/2004, \$30 million in 2004/2005; \$40 million in 2005/2006 and \$50 million in 2006/2007 to fund revenue sharing commitments through Forest and Range Agreements with eligible First Nations throughout the Province.
- 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 In-SHUCK-ch will be paid the full revenues for the quarter in which the Agreement is signed with subsequent payments being made at the end of each quarter.

- 3.2.5 In-SHUCK-ch 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, In-SHUCK-ch will provide to the Government of British Columbia an audited statement of the revenues it receives through this Agreement.

4.0 Consultation and Accommodation Regarding Operational Plans

- 4.1 The Government of British Columbia agrees to consult with In-SHUCK-ch on Operational Plans that may potentially infringe In-SHUCK-ch Aboriginal Interests within the Traditional Territory, except for any economic component of those interests or rights 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, In-SHUCK-ch 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 In-SHUCK-ch Aboriginal Interests in the context of Operational Decisions that the Government of British Columbia will make and any forest practices development activities that may be carried out under an Operational Plan in In-SHUCK-ch Traditional Territory.
- 4.3 In-SHUCK-ch 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, In-SHUCK-ch 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 result from the forestry development activities within the Traditional Territory, other than the economic component of those interests or rights that the Parties agree are addressed by the economic benefits provided for under Section 3.0.
- 4.5 Upon receiving the response from In-SHUCK-ch as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss and attempt to resolve with In-SHUCK-ch any site specific operational impacts on In-SHUCK-ch 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 for under Section 3.0.

- 4.6 If no response is received from In-SHUCK-ch within the Response Period, then the Government of British Columbia may assume that In-SHUCK-ch 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 In-SHUCK-ch, whether received directly or through a Licensee, and will consider whether concerns identified by In-SHUCK-ch have been addressed.

5.0 Consultation and Accommodation Respecting Administrative Decisions

- 5.1 The Government of British Columbia will provide to In-SHUCK-ch 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 In-SHUCK-ch or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to In-SHUCK-ch an updated list.
- 5.2 The Government of British Columbia will meet with In-SHUCK-ch at mutually agreed times throughout the year to provide an opportunity for In-SHUCK-ch 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 In-SHUCK-ch in public Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Soo and Fraser Timber Supply Areas.
- 5.4 In-SHUCK-ch 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 In-SHUCK-ch, the statutory decision maker is of the opinion that an Administrative Decision creates a potential infringement of In-SHUCK-ch 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 in a timely manner to In-SHUCK-ch as to how their concerns raised in Section 5.2 have been sought to be addressed.
- 5.8 In-SHUCK-ch 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 In-SHUCK-ch Aboriginal Interests resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement.
- 5.9 In-SHUCK-ch 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 In-SHUCK-ch Aboriginal Interests.

6.0 Stability for Land and Resource Use

- 6.1 In-SHUCK-ch 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 In-SHUCK-ch members with provincially authorized activities related to forestry resource development including timber harvesting or other forestry economic activities occur.

7.0 Dispute Resolution

- 7.1 This Section applies to a conflict or dispute in respect of the interpretation of a provision of this Agreement.
- 7.2 Where a dispute or conflict arises between the Parties as to the interpretation of a provision of this Agreement, the Parties may attempt to resolve that dispute or conflict through mutual discussions between the Parties, informal negotiations between the Parties, or other appropriate approaches that the Parties may agree upon, including mediation, to assist in resolving the interpretation dispute or conflict.
- 7.3 Should the Parties fail to reach agreement through the process set out in section 7.2, the issue may be raised to more senior levels in the Government of British Columbia and In-SHUCK-ch.

8.0 Term

- 8.1 This Agreement will take effect on the date on which the last Party has executed it.
- 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 is executed; or
 - 8.2.2 the coming into effect of a treaty between the Parties;
or,
 - 8.2.3 the mutual agreement of the Parties;
 - 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 written notice of withdraw to the Agreement by either Party which will take effect 120 days following receipt of the notice by the other Party.
- 8.3 If this agreement is terminated by In-SHUCK-ch in accordance with Section 8.2.5, 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(s) entered into as a result of the invitation under this Agreement, if the Minister or a person authorized by the Minister determines that In-SHUCK-ch 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 In-SHUCK-ch of any alleged contravention of this Agreement that may lead In-SHUCK-ch being determined to not be in compliance with this Agreement.

9.3 If, during the term of this Agreement, In-SHUCK-ch 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:

9.3.1 provide adequate consultation, to substantially address In-SHUCK-ch concerns and to provide an interim workable accommodation in respect of any potential infringements of In-SHUCK-ch Aboriginal Interests with regard to Administrative Decisions relating to forest resource development within the Traditional Territory, or

9.3.2 substantially address the economic component of In-SHUCK-ch Aboriginal Interests with regard to Operational Decisions relating to forest resource development 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.

9.4 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 In-SHUCK-ch will seek the necessary authorities and approvals to renew this Agreement.
- 10.2 Any subsequent forestry agreement between the Government of British Columbia and In-SHUCK-ch 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 In-SHUCK-ch 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 agreed to 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
Minister of Forests
P.O. Box 9525 STN PROV GOVT
Victoria B.C. V8W 9C3
Facsimile (250) 953-3687

In-SHUCK-ch

In-SHUCK-ch Council
400-Chief Jeah Drive
Sachteen
C/O Box 373
Mt. Currie, B.C. V0N 2K0
Facsimile (604) 894-0257

14.0 Miscellaneous

- 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 section 25 and 35 of the Constitution Act, 1982 and does not recognize, 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 Nothing in this Agreement shall be construed so as to abrogate or derogate any aboriginal right or treaty right of the In-SHUCK-ch.
- 14.4 Subject to Section 9.3, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.

- 14.5 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.
- 14.6 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.
- 14.7 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 14.8 The applicable laws of British Columbia and Canada shall govern this Agreement.

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14.9 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.

Signed on behalf of:

The Douglas First Nation

Chief Darryl Peters

Date: _____

Witness

The Skatin First Nations

Chief Patrick Williams

Date: _____

Witness

The Samahquam Nation

Chief William Schneider

Date: March 27/04

Rmsmit
Witness

Signed on behalf of:

Government of British Columbia

Michael de Jong
Minister of Forests

Date: _____

Witness

01/01/1995 19:49


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IN-SHUCK-CH COUNCIL

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Signed on behalf of:


The Douglas First Nation


Chief Darryl Peters

Date: March 25, 2004

Witness

The Skatin First Nations


Chief Patrick Williams

Date: March 27/04

Witness

The Samahquam Nation

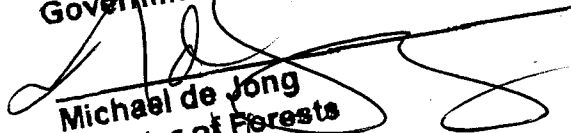

Chief William Schneider

Date: _____

Witness

Signed on behalf of:

Government of British Columbia


Michael de Jong
Minister of Forests

Date: April 27, 2004

Witness

The Parties agree that this Agreement is dated for reference April 27, 2004

Signed on behalf of:

The Douglas First Nation



Chief Darryl Peters

Date

Witness Laura Purcell


The Skatin First Nations

Chief Patrick Williams

Date

Witness Herman Dan

The Samahquam Nation



Chief William Schneider

Date

Witness Laura Purcell

Signed on behalf of:

Government of British Columbia



Michael de Jong
Minister of Forests

Date

Witness Laura Purcell

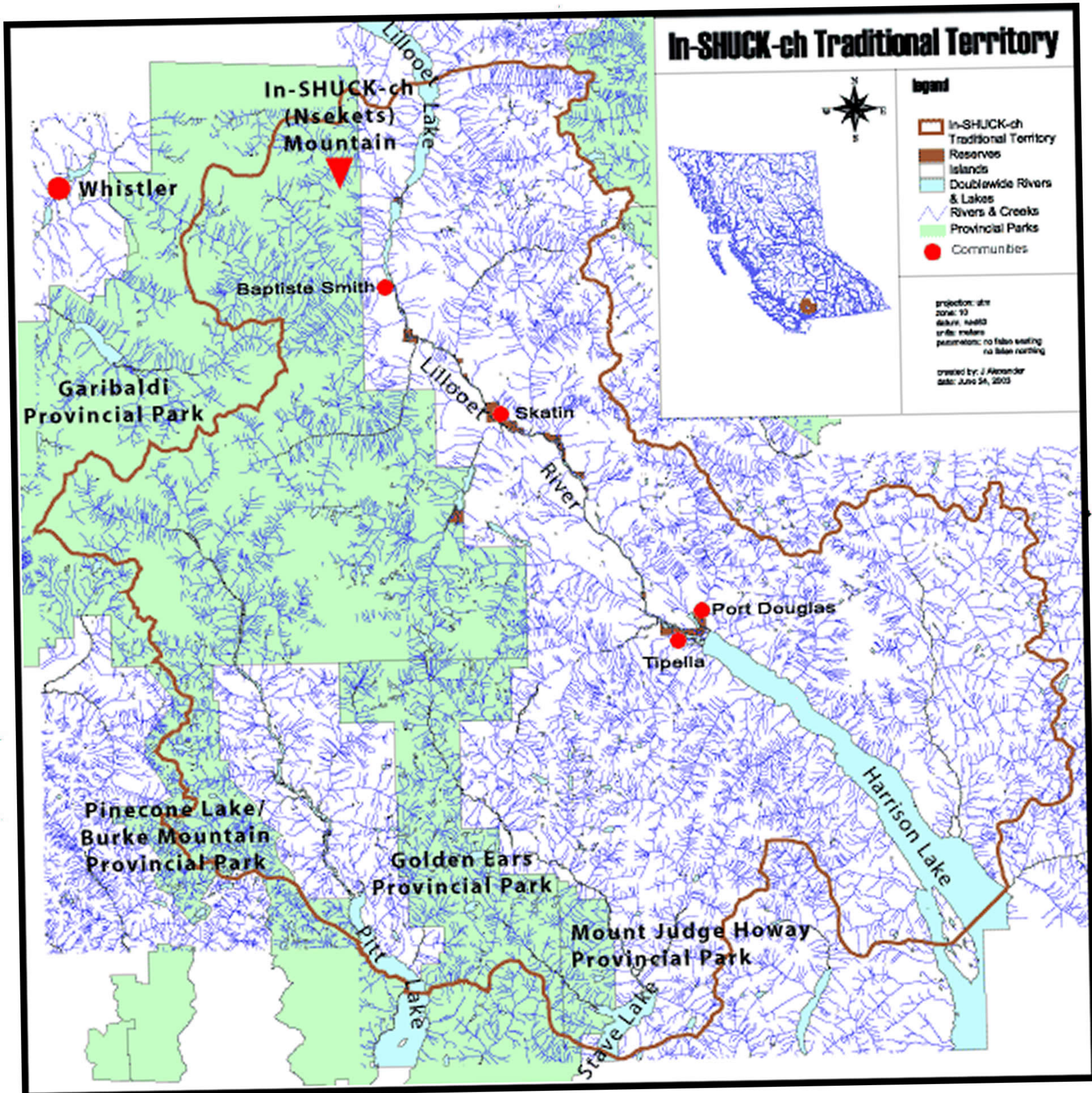
APPENDIX "A"
THE ASSERTED TRADITIONAL TERRITORIES
OF
THE DOUGLAS FIRST NATION
THE SKATIN FIRST NATIONS
THE SAMAHQUAM NATION



IN-SHUCK-

HOME

ABOUT US | TREATY | NEWS | PROJECTS



In-SHUCK-ch Traditional Territory map is the Statement of Intent (SOI) that was submitted to the BC Treaty Commission
Questions email: josh.alexander@inshuckch.com

In-SHUCK-ch Council
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Phone: 604.820.6873 | Fax: 604.820.6847 | Email: info@inshuckch.com