

**The Saik'uz First Nation  
Forest and Range Interim Measures Agreement  
(the "Agreement")**

**Between:**

**Saik'uz First Nation**  
As represented by Chief Alison Johnny  
("the Saik'uz First 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")

(both of whom are sometimes referred to as the "Parties", and  
each of whom is a "Party to this Agreement").

**Whereas:**

- The Saik'uz First Nation has Aboriginal Interests within their Traditional Territory.
- The Parties wish to enter into an interim measures agreement in relation to forest and range resource 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/or to seek workable accommodation with the Saik'uz First Nation on forest and/or range resource development activities proposed within the Saik'uz First Nation Traditional Territory that may lead to the potential infringement of the Saik'uz First Nation's Aboriginal Interests.
- The Saik'uz First Nation has a responsibility to participate in any consultation initiated by the Government of British Columbia or the holder of an agreement under the *Forest Act* or the *Range Act* ("licensee"), in relation to forest and range resource development activities proposed within the Saik'uz First Nation Traditional Territory, that may lead to an infringement of the Saik'uz First Nation's Aboriginal Interests.
- The Parties have an interest in seeking workable interim accommodation of the Saik'uz First Nation's Aboriginal Interests where forest and range development

activities are proposed within the Saik'uz First Nation Traditional Territory that may lead to the potential infringement of the Saik'uz First Nation's Aboriginal Interests.

- The Government of British Columbia and the Saik'uz First Nation wish to resolve issues relating to forest resource development where possible through negotiation as opposed to litigation.

Therefore the Parties agree as follows:

## **1.0 Definitions**

**For the purposes of this agreement, the following definitions apply:**

- 1.1 "Operational Plan" means a Forest Development Plan, Forest Stewardship Plan, or a Range Use Plan, as defined in provincial legislation respecting forest or range practices.
- 1.2 "Aboriginal Interests" means asserted aboriginal rights and/or aboriginal title.
- 1.3 "Administrative Decision" means a decision made by a Ministry of Forests statutory decision-maker related to forest and/or range resource development and/or forest or range tenure administration and includes but is not limited to:
  - 1.3.1 decisions that set or vary Allowable Annual Cut (AAC) for a Timber Supply Area or a Forest Tenure;
  - 1.3.2 the issuance or subdivision of a Forest Tenure or Range Tenure;
  - 1.3.3 Animal Unit Month adjustments to range tenures;
  - 1.3.4 the replacement of forest and/or range tenures;
  - 1.3.5 the transfer or change of control of forest and/or range tenures, including any associated reductions in AAC with respect to forest tenures, and exchange of rights between or among tenure holders;
  - 1.3.6 the disposition of timber volumes arising from undercut decisions on a Forest Tenure;
  - 1.3.7 AAC apportionment and reallocation decisions;
  - 1.3.8 Timber Sale Licence and Timber Licence conversion to other forms of tenure and Timber Licence term extensions; and

- 1.3.9 the reallocation of harvesting rights as a result of the implementation of the *Forestry Revitalization Act*.
- 1.4 "Forest Tenure" means an agreement issued under the *Forest Act*.
- 1.5 "Range Tenure" means an agreement issued under the *Range Act*.
- 1.6 "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 the Saik'uz First Nation is notified of an Administrative decision or Timber Supply Review process, or in the case of Operation Plan reviews, the date on which Saik'uz First 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, unless specifically stated in Appendix "B" of the Agreement.
- 1.7 "Asserted Territory" means the Saik'uz First Nation asserted traditional territory as shown on bold black on the map attached in Appendix "A".
- 1.8 "Licensee" means a holder of a Forest Tenure under the *Forest Act* or a Range Tenure under the *Range Act*.

## **2.0 Purpose**

- 2.1 The purposes of this Agreement are to:
- 2.1.1 cancel and replace the Interim Measures Agreement dated March 3, 2003 between the Saik'uz First Nation and the Government of British Columbia as represented by the Minister of Forests. The applicable provisions of the March 3, 2003, Interim Measures Agreement have been incorporated into this Agreement.
  - 2.1.2 address Aboriginal Interests raised by the Saik'uz First Nation in relation to forestry and range decisions;
  - 2.1.3 increase the Saik'uz First Nation's participation in the forest sector;
  - 2.1.4 provide economic benefits to the Saik'uz First Nation, through a Forest Tenure opportunity and sharing of revenues received by the Government of British Columbia for forest resource development;
  - 2.1.5 provide stability to forest and range resource development and operations on Crown lands within the Saik'uz First Nation's Asserted Territory

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

- 2.1.6 address consultation and to provide an interim workable accommodation in respect Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights with regard to any infringements of those Aboriginal Interests or rights that result from Administrative Decisions and/or Operational Plan decisions relating to forest or range resource development within the Asserted Territory during the term of this Agreement; and ,
- 2.1.7 further the Provincial Forest Health Strategy for dealing with the Mountain Pine Beetle infestation.

### **3.0 Economic Benefits to the Saik'uz First Nation**

The Government of British Columbia will provide one or more of the following economic benefits to Saik'uz First Nation to address consultation and to provide a workable accommodation in respect of any infringements of the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights including aboriginal title, with regard to Administrative Decisions and any economic component of those interests or rights with regard to Operational Plans relating to forest and/or range resource development within the Saik'uz First Nation's Asserted Territory during the term of this Agreement.

#### **3.1 Authorization to Amend Forest Licence A72189**

- 3.1.1 The Minister of Forests invited the Saik'uz First Nation to apply for a forest licence of up to 150 000 cubic meters annually for a period of 3 years on March 3, 2003. That invitation resulted in the Saik'uz First Nation entering into Forest Licence A72189. After the execution of this Agreement by the Parties, the Minister of Forests will authorize the Regional Manager, Northern Interior Forest Region to amend Forest Licence A72189 to add up to 150 000 cubic meters annually for a further period of 2 years.
- 3.1.2 For greater certainty, the maximum volume that may be available under an amended Forest Licence A72189 referred to in section 3.1.1 will be up to 750 000 cubic meters over a period of 5 years.

#### **3.2 Invitation to apply for a licence**

- 3.2.1 Prior to this Agreement expiring in March 2, 2008, but no sooner than July 1, 2007, and as soon thereafter as the Minister of Forests determines that

there is sufficient volume of timber is available for disposition as a result of the timber reallocation process in the Northern Interior Forest Region, as provided for in the *Forestry Revitalization Act*, the Minister may invite the Saik'uz First Nation to apply for a Forest Tenure for up to 45 162 cubic meters annually for a period of 5 years in the Prince George Timber Supply Area.

3.2.2 An invitation to apply for a licence 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.

3.2.3 An invitation to apply under this Agreement will contain terms and conditions required by the Minister.

3.2.4 A licence entered into as a result of an invitation to apply under this Agreement:

3.2.4.2 will not be transferable or divisible;

3.2.4.3 will not be replaceable;

3.2.4.4 will contain other terms and conditions required by law, including the condition that the Saik'uz First Nation must comply with this Agreement; and

3.2.4.5 will include other terms and conditions as may be required by the Regional Manager, including the condition that the harvesting of timber under the licence will be conducted in accordance with the Provincial Forest Health Strategy for dealing with the Mountain Pine Beetle infestation.

3.2.5 If the term of a licence entered into as a result of an invitation to apply under this Agreement exceeds the term of this Agreement, then that licence will be referenced in and considered to be an economic benefit that addresses consultation and provides a workable accommodation in respect of any infringement of the Saik'uz First Nation's aboriginal interests or proven aboriginal rights in any subsequent forestry agreement between the Saik'uz First Nation and the Government of British Columbia, for the purposes described in Section 3.0.

### 3.3 Revenue Sharing

3.3.1 During the term of this Agreement, the Government of British Columbia will pay to the Saik'uz First Nation \$418,164 annually for the purposes described in Section 3.0.

- 3.3.2 The funding commitment set out in section 3.3.1 is subject to the availability of annual appropriations for that purpose by the Government of British Columbia.
- 3.3.3 For the purposes of determining amounts for partial years, one-fourth (i.e. 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.
- 3.3.4 Upon signing of this Agreement, the Saik'uz First Nation will be paid the full revenues for the quarter in which the Agreement is signed.
- 3.3.5 The Saik'uz First Nation will maintain financial records and prepare financial statements of the revenue sharing expenditures in accordance with generally accepted accounting principles for each year of this Agreement.
- 3.3.6 Upon request, the Saik'uz First 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 Respecting Operational Plans**

- 4.1 The Government of British Columbia agrees to consult with the Saik'uz First Nation on Operational Plans that may potentially infringe the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights within the Asserted Territory, except for any economic component of those interests or rights provided for under Section 3.0 of this Agreement.
- 4.2 During the term of this Agreement, the Saik'uz First Nation agrees that the Government of British Columbia has fulfilled its duties to consult and seek interim workable accommodation with respect to the economic component of potential infringements of the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights in the context of Operational Plan decisions that the Government of British Columbia will make and the development activities that occur as a result of those decisions.
- 4.3 The Saik'uz First Nation agrees to fully participate, as set out in this section and Appendix "B" (British Columbia – Saik'uz First Nation Forestry Consultation Process), in the review of all Operational Plans within the Asserted 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, the Saik'uz First 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 or proven aboriginal rights that may result from the forestry and/or range development activities within the Asserted Territory, other than the economic component of those Interests or rights addressed under Section 3.0.

- 4.5 Upon receiving the response from the Saik'uz First Nation as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss and attempt to resolve with the Saik'uz First Nation any site specific operational impacts on the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights that may occur as a result of proposed forest and/or range development activities within the Asserted Territory, other than the economic component of those Aboriginal Interests addressed in Section 3.0.
- 4.6 If no response is received from the Saik'uz First Nation within the Response Period, then the Government of British Columbia may assume that the Saik'uz First 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 all reasonably available information, as well as, information it receives from the Saik'uz First Nation, whether received directly or through a Licensee, and will consider whether concerns identified by the Saik'uz First Nation have been addressed.

## **5.0 Consultation and Accommodation Respecting Administrative Decisions**

- 5.1 The Government of British Columbia will provide to the Saik'uz First Nation on an annual basis a list of all proposed Administrative Decisions anticipated within the year, and either upon the request of the Saik'uz First Nation or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to the Saik'uz First Nation an updated list.
- 5.2 The Government of British Columbia will meet with the Saik'uz First Nation at mutually agreed times throughout the year to provide an opportunity for the Saik'uz First 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 or proven aboriginal rights.
- 5.3 The Government of British Columbia will include the Saik'uz First Nation in public Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Prince George Timber Supply Area.

- 5.4 The Saik'uz First 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 or proven aboriginal rights within the Asserted 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 the Saik'uz First Nation, the statutory decision maker is of the opinion that an Administrative Decision creates a potential infringement of the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights 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 the Saik'uz First Nation as to how their concerns raised in Section 5.2 have been addressed.
- 5.8 The Saik'uz First Nation agrees that in consideration of the economic benefits provided by the Government of British Columbia in Section 3.0 and the consultation processes in Sections 4.0 and 5.0 of this Agreement, that the Government of British Columbia has fulfilled its duties to seek interim workable accommodation with respect to the economic component of potential infringements of the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement.
- 5.9 The Saik'uz First 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 or proven aboriginal rights 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 the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights.

## **6.0 Stability for Land and Resource Use**

The Saik'uz First 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 the Saik'uz First Nation members with provincially authorized activities related to

forestry and/or range resource development including timber harvesting or other forestry economic activities occur.

## **7.0 Dispute Resolution**

If a dispute arises between the Government of British Columbia and the Saik'uz First Nation regarding the interpretation of a provision of this Agreement, including the obligation of a Party under this Agreement, the Parties or their duly appointed representatives will meet forthwith to consider the dispute and may attempt to resolve the dispute.

## **8.0 Term**

- 8.1 This Agreement will take effect on the date that it has been executed by the Parties.
- 8.2 This Agreement will terminate on the occurrence of any of the following events, whichever occurs earliest:
  - 8.2.1 March 2, 2008, unless the term of the Licence entered into as a result of an invitation to apply under this Agreement extends beyond that date; in which case the date on which the Licence expires; or
  - 8.2.2 the coming into effect of a treaty between the Parties or another agreement addressing the same subject matter; or
  - 8.2.3 the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement; or
  - 8.2.4 by mutual agreement of the Parties.

## **9.0 Suspension or Cancellation of Economic Benefits by the Minister**

- 9.1 Without limiting the actions that may be taken by the Minister 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 Forest Tenure(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 Saik'uz First 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 the Saik'uz First Nation of any alleged contravention of this Agreement that may lead the Saik'uz First Nation to not being in compliance with this Agreement.
- 9.3 If during the term of this Agreement, the Saik'uz First Nation challenges or supports a challenge to, an Administrative Decision and/or Operational Plan, 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:
- substantially address the Saik'uz First Nation's concerns and to provide a interim workable accommodation in respect of any potential infringements of the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights with regard to Administrative Decisions relating to forest and/or range resource development within the Asserted Territory; or
  - substantially address the economic component of the Saik'uz First Nation's Aboriginal Interests or proven aboriginal rights with regard to Operational Plans relating to forest and/or range resource development within the Asserted 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.

## **10.0 Renewal of the Agreement**

- 10.1 Prior to this Agreement terminating in accordance with Section 9.1, and subject to Section 10.3, if the terms and conditions of this Agreement are being met, the Government of British Columbia and the Saik'uz First Nation will seek the necessary authorities and approvals to renew this Agreement.
- 10.2 Any subsequent agreement between the Government of British Columbia and the Saik'uz First Nation may provide for an opportunity to acquire a Forest Tenure, and/or other economic benefits and 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 the Saik'uz First Nation has agreed to accept as an interim measure for the term of this Agreement.

**11.0 Amendment**

- 11.1 Any alteration or amendment to the terms and conditions of this Agreement must be in writing and duly executed by both 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**

This Agreement and any modification of 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 set out in this paragraph 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.

**Government of British Columbia**

Deputy Minister  
Minister of Forests  
P.O. Box 9525 STN PROV GOVT  
Victoria B.C. V8W 9C3  
Facsimile (250) 387-7065

**Saik'uz First Nation**

Chief Alison Johnny  
R.R. Site 12, Comp. 26  
Vanderhoof, B.C. V0J 3A0  
Facsimile (250) 567-2998

**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 define, amend, recognise, 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 9.3, this Agreement will not limit the positions that the Parties 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.
- 14.6 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.
- 14.7 This Agreement shall be governed by the applicable laws of British Columbia and Canada.

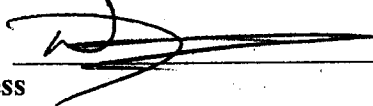
14.8 This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other Party by fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

This Agreement is executed on the 14<sup>th</sup> day of November, 2003

Signed on behalf of:  
**Saik'uz First Nation**

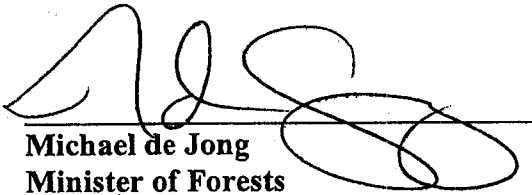
Date: Nov 14, 2003

  
Chief Alison Johnny

  
Witness

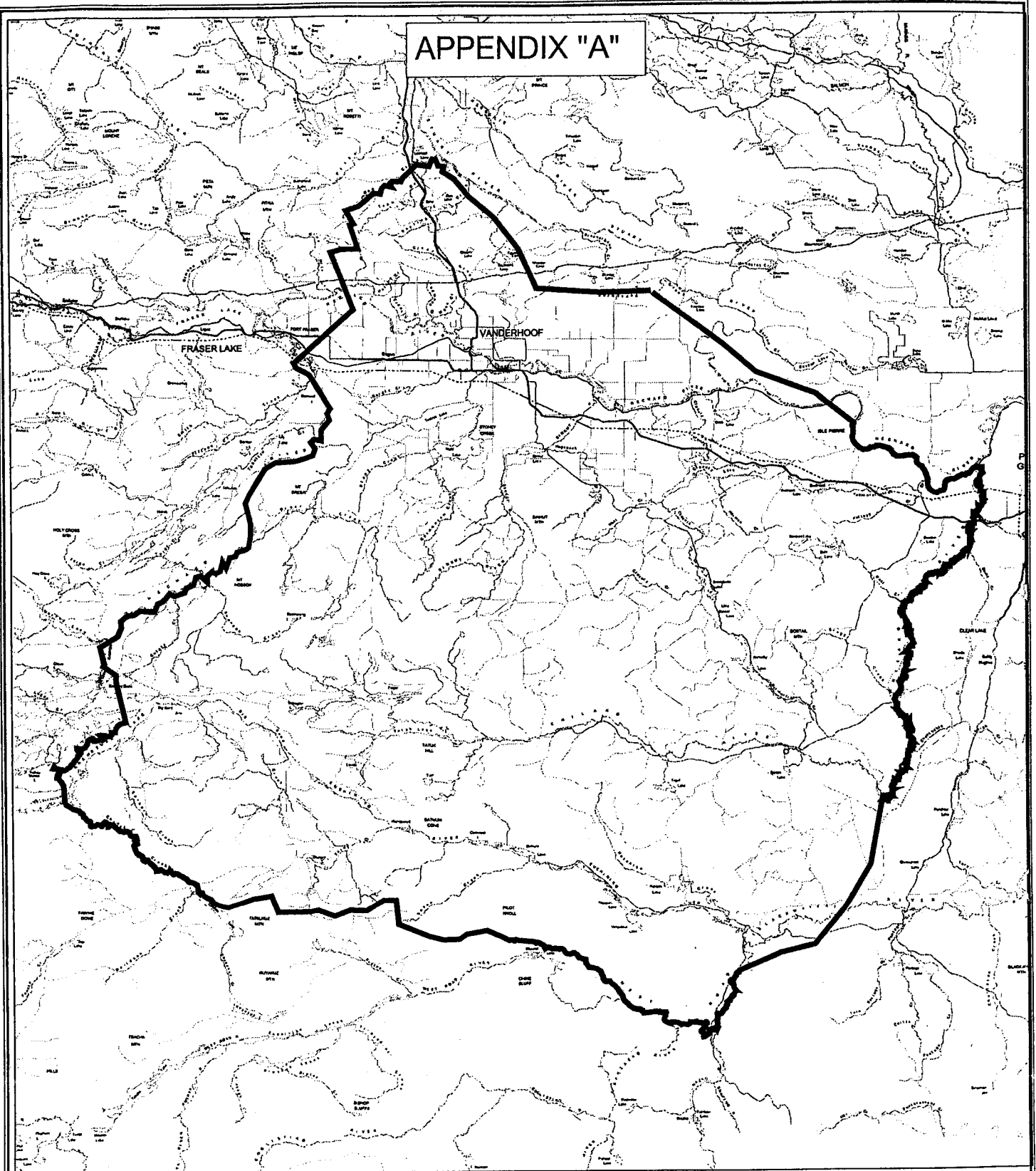
Signed on behalf of:  
**Government of British Columbia**

Date: Nov. 14, 2003.

  
Michael de Jong  
Minister of Forests

  
Witness

APPENDIX "A"



*Saik'uz First Nation Traditional Territory*

1:800,000

SPATIAL MAPPING LTD.



For FRA Dated Nov.14,2003

APPENDIX "B"

British Columbia – Saik'uz First Nation Forestry Consultation Process

Forestry-related Activity Requiring Consultation	Timeframe for Consultation Process	Consultation Meetings in the Community	Information Package Delivery Methods
<ul style="list-style-type: none"> <li>• Forest Development Plans(FDP)/Forest Stewardship Plans(FSP)</li> <li>• Major Amendment to a FDP/FSP</li> <li>• New area-based tenure</li> <li>• Range Use Plans</li> </ul>	60-120 days  60-120 days 120 days 120 days	Yes	hand delivery/ courier delivery
<ul style="list-style-type: none"> <li>• Recreation Site development/deactivation</li> <li>• Recreation Trail development /deactivation</li> <li>• Forestry Plan for Innovative Forestry Practices Agreement</li> </ul>	60 days	If requested by the Community Contact	mail delivery
<ul style="list-style-type: none"> <li>• FDP/FSP amendments for Expedited Major Salvage</li> <li>• FDP/FSP for Woodlot License</li> <li>• Community Forest Pilot Agreement</li> <li>• Road Permit if not included within a FDP</li> <li>• Licence to Cut/Special Use Permits if not previously referred.(i.e. major gravel pit)</li> <li>• Strategic Bark Beetle Management Plan</li> </ul>	10-30 days  30 days 30 days 30 days 30 days 30 days	No	fax hand delivery courier delivery
<ul style="list-style-type: none"> <li>• Policy, Legislation &amp; Regulations that are for public release and may impact on aboriginal interests</li> <li>• Emergency Beetle Harvesting</li> <li>• Emergency Approval of FDP or Emergency Amendment to FDP (Sec 42(1) FPC)</li> </ul>	Notification only	No	mail delivery or hand delivery