

**October 30, 2003**

**First Nations Wildfires Agreement**  
(the "Agreement")

**Between:**  
***Shuswap Nation Tribal Council***

Representing  
The following bands:  
*Kamloops*  
*Skeetchestn*  
*Adams Lake*  
*North Thompson*  
*Neskonlith*  
*Bonaparte*  
*Whispering Pines/Clinton*

**AND INDEPENDENT SIGNATORY BAND**

Little Shuswap

**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 Shuswap Nation Tribal Council (SNTC) and Little Shuswap have aboriginal interests within the interest area map attached in Appendix A.
- This Agreement applies to SNTC's and Little Shuswap asserted traditional territory of interest within the wildfire areas outlined in Appendix B
- The Kamloops Timber Supply Area (TSA) Fire Timber Recovery Process (TRP) will manage the salvage of fire-killed timber in the following fire areas: McLure Fire (fire number:K20272) , McGillivray Fire (fire number: K20627), Bonaparte Fire (fire number C40305) and the Strawberry Hill Fire (fire number: K20298), as depicted on the map attached in Appendix B.
- This Agreement covers only the lands identified as part of the Kamloops TSA Fire Timber Recovery Process.
- The Government of British Columbia is responding to an economic interest expressed by SNTC and Little Shuswap by providing access to wildfire damaged timber and silviculture for economic purposes as part of the fire TRP in the Kamloops TSA.
- The SNTC and Little Shuswap are prepared to review the Forest/Range Agreement information (i.e. Forest Revitalization Plan).

**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 but not yet proven aboriginal rights and/or aboriginal title.
- 1.2 "Forest Tenure" means an agreement issued under the *Forest Act*.

- 1.3 "Operational Plan" means a Forest Development Plan, Forest Stewardship Plan, Tree Farm Licence Management Plan and Range Use Plan as defined in provincial legislation respecting forest or range practices and includes forest or range development activities that are carried out pursuant to those Plans.

## **2.0 Purpose:**

### **2.1 The purposes of this Agreement are to:**

- (a) Respond to SNTC and Little Shuswap economic interest for access to tenures created as part of the fire TRP in the Kamloops TSA.
- (b) Agree to jointly create an expedited consultation process by which the Ministry of Forests will consult with the SNTC and member bands and Little Shuswap regarding their aboriginal interests on the harvesting and rehabilitation activities within the wildfire areas in a manner that will allow for the timely removal of timber and rehabilitation of wildfire areas .
- (c) To confirm that the SNTC and Little Shuswap will participate in the development and implementation of the fire TRP for the Kamloops TSA. The SNTC and Little Shuswap capacity to harvest and /or mill and market will be considered as a factor in this planning.

### **3.0 Invitation to apply for a licence(s)**

- 3.1 After the execution of this Agreement by the parties, the Minister or Regional Manager will invite a proposal for a non-replaceable forest licence (the "license") under the Forest Act for volumes specified, and not to exceed, in section 4(b), within the Kamloops TSA - in an area agreed

to by the Regional Manager. SNTC will copy this proposal to the Regional Manager of the Southern Interior Forest Region who will advise the Minister in the determination.

3.2

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. This Agreement will be in accordance with Section 71 of the *Forest Practices Code of BC Act*, which provides an option to the authority to transfer silviculture liability away from the licence. There is also an option for the district manager to direct award of up to \$50,000 of silviculture work on the fires to a First Nation per year.

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

3.4 Where possible, tenures offered to the participating First Nations will be within their traditional territories.

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

- (a) will be for a term of no longer than 3 years, as determined by the Minister;
- (b) will only apply to fire-damaged timber;
- (c) will not be transferable or divisible without the consent of the Minister;
- (d) will not be replaceable;
- (e) will not guarantee timber rights to a particular species or grade of timber;

- (f) will contain other terms and conditions required by law, including the condition that the SNTC must comply with this Agreement; and
- (g) will include other terms and conditions as may be required by the Regional Manager.

#### 4.0 Requests for Wood for Economic Purposes

- (a) Upon signing this Agreement the SNTC and/or bands which are signatories of this Agreement will make a request for tenure to the Minister who will make a determination and may then make an invitation for tenure in accordance with the *Forest Act*;
- (b) The total volume of fire salvage timber which will be eligible for invitation is outlined below by fire name:

Fire	Bands (Legal Entity to be assigned)	Up to Volumes (m <sup>3</sup> )
Mclure (K20272)	North Thompson	450,000
Mclure (K20272)	SNTC	230,000
McGillivray (K20627)	Adams Lake/Neskonlith/Little Shuswap	300,000
Strawberry (K20298)	Kamloops	50,000
Bonaparte (C40305)	Bonaparte	5,000 Decked

- (c) The SNTC and signatories acknowledges that the Ministry of Forests will also be awarding additional wildfire salvage tenures to other licensees (other than First Nations) as part of the fire TRP.

#### 5.0 Dispute Resolution

##### 5.1

In the event of a dispute arising under this Agreement, the Parties will endeavour to define the dispute and resolve it within fifteen working (15) days.

5.2

If the Parties cannot resolve the dispute directly, they may appoint an independent and mutually agreeable mediator to resolve the dispute within 60 days, or such period as may be otherwise agreed upon.

5.3

Nothing in Section 5 will prevent either party from resorting to legal remedies at any time to resolve disputes. However the parties agree the preference is to complete section 5.1 and section 5.2 before resorting to other remedies.

5.4

Both parties will equally share the cost of mediation.

## **6.0 Amendment**

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

## **7.0 Entire Agreement**

This Agreement and any amendments to it constitute the entire Agreement between the parties with respect to the subject matter of this Agreement.

## **8.0 Term**

This Agreement will take effect on the date that it has been executed by the Parties.

This Agreement will terminate on the occurrence of the earliest of the following events:

- (a) 3 years from date of signing; or
- (b) the date on which this Agreement is super-ceded by a broader agreement addressing the reconciliation of SNTC and signatories interests with forest development and/or other Crown authorized land or resource activity.

## **9.0 Suspension or Cancellation of Licence**

Without limiting the actions that may be taken by the Minister or by the Government of British Columbia, and in accordance with Sections 76 and 77 of the Forest Act, the Regional Manager or District Manager may suspend or cancel the licence entered into as a result of the invitation to apply under this Agreement if it is determined that the SNTC is not in compliance with this Agreement or if this Agreement is terminated under section 8.0. The Minister will provide SNTC thirty (30) days prior written notice of the intent to cancel. The notice will include a description of the perceived breach and a proposed remedy.

## **9.0 Notice**

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.

### **British Columbia**

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

### **Shuswap Nation Tribal Council**

Chair: Chief Nathan Matthew  
Shuswap Nation Tribal Council  
Suite #304-355 Yellowhead Highway  
Kamloops, BC  
V2H 1H1  
Facsimile: 250 374-6331

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.

## **11.0 Counterpart**

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.

## **12.0 Miscellaneous**

- 12.1 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.
- 12.2 This Agreement is not a treaty or a land claim agreement within the meaning of section 25 and 35 of the *Constitution Act*, 1982 and does not recognise, affirm, or deny the existence of aboriginal rights including aboriginal title, or treaty rights.
- 12.3 This Agreement will not limit the positions that the parties may take in future negotiations or court actions, other than with respect to the matters addressed in this Agreement.
- 12.4 Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute.

- 12.5 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any party.
- 12.6 This Agreement shall be governed by the applicable laws of British Columbia and Canada.

This agreement is dated for reference October 30, 2003

Signed on behalf of SNTC Chief Nathan Mitta

Signed on behalf of Kamloops Indian Band: [Signature]

Signed on behalf of Skeetchestn Indian Band: [Signature]

Signed on behalf of Adams Lake Indian Band: [Signature]

Signed on behalf of North Thompson Indian Band: Chief Nathan Mitta

Signed on behalf of Neskonlith Indian Band: [Signature]

Signed on behalf of Whispering Pines/  
Clinton Indian Band: [Signature]

**An Independent Signatory Band**

Signed on behalf of Little Shuswap Indian Band: Judi Anone

Date: Nov 6/03

[Signature]  
Witness

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

Date: Nov. 6, 2003.

[Signature]  
**Michael de Jong**  
**Minister of Forests**

[Signature]  
Witness

**APPENDIX "A"**

**THE ASSERTED Traditional Territory OF THE SNTC**

The Traditional Territory of the Secwepemc Nation



**APPENDIX "B"**  
**Kamloops Timber Supply Area (TSA)**  
**Fire Timber Recovery Plan (TRP)**  
**Wildfire Areas**

