

BRIEFING NOTE FOR INFORMATION

DATE: July 5, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Update on the Indigenous Wildlife Forum as part of the Improving Wildlife Management and Habitat Conservation Initiative

BACKGROUND:

- The Improving Wildlife Management and Habitat Conservation (IWMHC) Initiative is a Ministerial Mandate commitment and a priority in the Ministry's Action Plan.
- Parallel to a robust stakeholder engagement process, ministry staff have facilitated the creation of a provincial wildlife "Forum" for Indigenous communities to address the challenge of collaborating on this broad initiative.
- The Forum, which is co-chaired by Indigenous representatives, is comprised of participants from 30+ BC First Nations (see appendix A) and has the goal of supporting reconciliation and to advance United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Truth and Reconciliation Commissions' (TRC) 'calls to action.'
- In December 2018, Minister Donaldson delivered a video address at the inaugural meeting of the Forum and spoke to the list of potential topics.
- The Forum is not intended to be consultation and participants will not speak for or represent any other First Nation. Any products created by the Forum are subject to appropriate consultation with all 203 First Nations in BC.
- The last time the *Wildlife Act* was amended to address a First Nation concern was 1966.

DISCUSSION:

- The Forum has met five times and members are keen to influence the work of the Improving Wildlife Management and Habitat Conservation Initiative.
- The Forum has provided general recommendations for short-term and long-term opportunities for legislative amendments to the *Wildlife Act*. The Forum's interests are focused on addressing reconciliation as well as finding ways to increase involvement in wildlife management and decision-making.
- Forum members have been focused on three key objectives:

s.13

- Staff have drafted a Request for Legislation to support these potential short-term amendments in case they are added to the legislative agenda.
- FLNRORD staff have engaged with MIRR staff who are drafting the UNDRIP legislation to confirm that the two sets of potential amendments are coordinated and are in sync (UNDRIP amendments are slated for Fall 2019.)

s.13; s.16

SUMMARY/ NEXT STEPS:

1. The Forum's next meeting is on July 15 and 16.
2. Forum members have drafted a Policy Intentions Paper describing potential amendments to the *Wildlife Act*; First Nations may reach out to Ministers to seek support for these amendments to be delivered by 2020. Policy staff have drafted the Request for Legislation.

s.13;s.16

Appendix A – Current Indigenous Communities/Nations Participating in the Wildlife Forum

Appendix B – Indigenous Wildlife Forum's Intentions Paper

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REVIEWED BY:

	Initials	Date
DM		
DMO		
ADM	TE	July 9, 2019
ADMO	BL	July 9, 2019
ED	NL	July 8, 2019
Program Dir/Mgr.		

Appendix A: Current Indigenous Communities/Nations Participating in the Wildlife Forum

• Carrier Sekani	• Nanwakolas
• Tahltan	• Wet'suwet'en
• Okanagan Nation Alliance	• West Moberly
• Northern Secwepmc Tribal Council	• Saulteau
• Cheslatta Carrier	• Lake Babine Nation
• Ktunaxa	• Gitxsan
• T'Sou-ke First Nation	• Nlaka'pamux Nation Tribal Council
• Coastal First Nations	• Tsal'alh (St'át'imc)
• Stolo	• Maa-nulth
• Nisga'a Lisims Government	• Southern Secwepemc
• 3 Nations (Tahltan, Kaska Dene, Taku River Tlingit)	• Nooaitch Indian Band
• Tsilhqotin Nation	• Nuu-chal-nuth
• Te'Mexw Treaty Association	• Southern Dakelh Nation Alliance
• Huu ay aht	• Iisaak Olam Foundation
• Nooaitch	• Simpcw First Nation

Appendix B: Policy Intentions Paper: Potential Amendments to the *Wildlife Act* to Support Reconciliation

The Indigenous Wildlife Forum has been formed in response to the Province of BC's Improving Wildlife Management and Habitat Conservation Initiative. It is comprised of participants from 40+ BC First Nations to support reconciliation with Indigenous Peoples and to advance full adoption and implementation of the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Truth and Reconciliation Commissions' (TRC) 'calls to action', building on the Supreme Court of Canada decisions. The Forum is not designed as a consultation mechanism, but rather a "think tank" to generate ideas and support reconciliation. Canadian courts have stated that reconciliation between the prior presence of Aboriginal peoples and the assertion of sovereignty by the Crown is best achieved through negotiation and agreement, rather than litigation or conflict.

This Intentions Paper presents possible short-term legislative changes proposed by the Indigenous Wildlife Forum (Forum). The static nature of the *Wildlife Act* promotes a lack of recognition of section 35 rights and the inherent rights of First Nations people. The Act is the primary Crown legislation through which the BC Government carries out wildlife management. The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) has primary legislative responsibility for the *Wildlife Act*. The Act dates to 1859 when British Columbia was a Crown Colony. Since then, wildlife management has shifted in response to evolving legal norms, societal values, scientific and technological advancements, and land use changes in the province. Today, there is a need to update and streamline the Act to provide a flexible legislative base to respond to current and future demands.

It is important to note that the *Wildlife Act* has not been changed to address Indigenous issues since 1966. The changes below are suggested by the Forum as achievable, short-term amendments; more transformative and substantive changes will be described in the 2020 BC Wildlife Strategy.

These recommendations are an important first step in the development and implementation of a Wildlife Strategy that enables a stronger and more effective relationship for wildlife stewardship that will benefit wildlife, wildlife habitat and the people of BC, all in the true spirit and practice of reconciliation.

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s.13; s.16; s.12

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s.12; s.13; s.16

BRIEFING NOTE FOR DECISION

DATE: April 30, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Ancestral Remains Policy Review Recommendations

RECOMMENDED OPTION:

Approve the Minister/Cabinet level recommendations contained in the Ancestral Remains Policy Review Final Report.

BACKGROUND:

- In June 2018, Archaeology Branch (the Branch) announced the Ancestral Remains Policy Review. The intended outcome of this review was the development of a comprehensive framework to provide a full-spectrum of processes, tools and policies to guide the respectful treatment of ancestral remains.
- Branch staff met with 109 First Nations in over 20 locations across the province between August 2018 and January 2019 to gather knowledge, wisdom and insight to support the development of the proposed framework.
- The First Nations Leadership Council "*First Nations Heritage Conservation Action Plan*", and issues raised through engagement on the 2019 HCA amendments also played a significant role in informing the proposed framework.

DISCUSSION:

The recommendations out of the Ancestral Remains Policy Review are anchored by three key objectives: s.12;s.13;s.16
s.12;s.13;s.16

While the focus of the policy review and the related engagement sessions was on the respectful treatment of ancestral remains, there is an intrinsic link between ancestral remains and other cultural heritage values. As a result, many First Nations shared issues and ideas regarding protection and management of broader heritage values and the recommendations reflect that link.

The recommendations in the Final Report are grouped by decision making body: Minister/Cabinet and Branch/Ministry. To support ministerial decision-making, the recommendations for the Minister and Cabinet are further delineated below.

Recommendations for the Minister:

s.13;s.16

s.12;s.13;s.16



s.12;s.13;s.16

Recommendations for Cabinet:

s.12;s.13;s.16

OPTIONS:

OPTION 1: s.12;s.13;s.16

s.12;s.13;s.16



OPTION 2: s.12;s.13;s.16
s.12;s.13;s.16

RECOMMENDATION

s.12;s.13;s.16

Approved

/ Not Approved

Signature

April 30, 2019

Date

Honourable Doug Donaldson, Minister of
Forests, Lands, Natural Resource
Operations and Rural Development

Attachments: Ancestral Remains Policy Review Final Report

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REVIEWED BY:

	Initials	Date
Associate DM	RM	April 26, 2019
DMO	AK	2019-04-18
ADM	MA	April 18, 2019
Program Dir/Mgr.	JR	April 17, 2019

Ancestral Remains Policy Review Final Report

Archaeology Branch

Ministry of Forests, Lands, Natural Resource Operations and Rural Development

April 2019

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Introduction

In 2015, in response to growing tensions where land development on private property intersects with First Nations' burial areas, the Ministry of Forests, Lands and Natural Resource Operations launched a review of the burial policy under the *Heritage Conservation Act* (HCA). The review was focused on internal processes, was narrow in scope and did not include engagement with First Nations. As a result, the review did not address many of the concerns being raised by First Nations or private property owners and was broadly seen as ineffective.

In response, in June 2018, Archaeology Branch (the Branch) announced the Ancestral Remains Policy Review. The intended outcome of this review was the development of a comprehensive framework to provide a full-spectrum of processes, tools and policies to guide the respectful treatment of ancestral remains. The proposed framework is being built with three key objectives in mind: enhanced protection of ancestral remains; a more substantial voice/role for First Nations in the management of cultural heritage; and, increased support and certainty for private property owners.

A significant component informing this review was engagement with First Nations across BC to gather knowledge, wisdom and insight to support the development of the framework. This engagement occurred between August 2018 and January 2019, was conducted through a series of in-person and telephone meetings and was augmented by written survey responses from First Nations and the professional archaeologist community. The work undertaken by the First Nations Leadership Council as laid out in the 2012 *First Nations Heritage Conservation Action Plan* (Appendix A) also played a key role in informing this review. Many of the action items from the Plan helped to form recommendations in this package or influenced actions already implemented by the Branch as part of this policy review.

First Nations have been calling for an enhanced role in the management of cultural heritage and enhanced protection of ancestral remains for decades. Taking action on these appeals for change, as the recommendations in this report seek to do, directly support government's commitment to reconciliation and article 12 of the United Nations Declaration on the Rights of Indigenous Peoples which states that "Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites."

Further, the recommendations in this report seek to provide information and increase certainty and support for property owners who find themselves in situations where development is in direct conflict with First Nations burial sites. Recent high-profile situations such as Cawston and Winona Road have highlighted the need for significant enhancement in how these situations are managed in order to protect First Nations cultural sites and support private property owners.

This package is a key deliverable of the Ancestral Remains Policy Review and includes:

- A summary of engagement;
- A summary of issues heard;
- Recommendations to improve the policies and processes related to the treatment of ancestral remains in a manner that supports reconciliation; and,
- Next steps.

Summary of Engagement

On June 8, 2018 the Branch distributed the initial announcement of the Ancestral Remains Policy Review to all First Nations in BC which outlined the intent behind the engagement sessions and a high-level summary of the engagement strategy (see Appendix B for a copy of the letter).

In early August 2018, the Branch sent formal invitations to all First Nations in BC to attend in-person policy review sessions scheduled throughout the fall and winter of 2018. Engagement sessions occurred from August 2018 to January 2019 and were coordinated to occur in communities across the province to minimize travel requirements for First Nations. Where travel was required for attendees, compensation was provided for to up to three individuals from each community/nation.

First Nations were asked to confirm their attendance by August 31, 2018. Branch staff also followed up approximately 2-3 weeks in advance of each meeting to confirm attendance. When a First Nation had not responded, efforts were made to contact alternate individuals in the organizations and to reach out via telephone.

Over 100 First Nations participated in 30 sessions, held in 22 locations. Most sessions occurred in-person with 10-20 participants, with only two sessions occurring via teleconference due to coordination challenges. A list of meetings and First Nations represented at each meeting is provided in Appendix C.

In addition to the engagement sessions, a survey was provided to all attendees and those who could not attend to collect additional thoughts and comments. Three survey responses were received from First Nations.

Consulting archaeologists were also surveyed to solicit directed, detailed feedback specific to Branch policies. Twelve survey responses were received from archaeologists.

The Branch compiled a summary of key issues heard during the engagement sessions and distributed this summary to all First Nations in early April 2019.

The Joint Working Group on First Nations Heritage Conservation (a subcommittee of the First Nations Leadership Council) had an opportunity to review this package and provide comment and changes were made to this document based on their feedback.

Summary of Issues Heard

The focus of this policy review and the related engagement sessions was on the respectful treatment of ancestral remains; however, due to the intrinsic link between ancestral remains and other cultural heritage values, many First Nations shared issues and ideas regarding protection and management of heritage values more broadly. This outcome was expected and when discussions broadened past ancestral remains, the expanded scope was encouraged.

Information collected during the engagement process was reviewed and organized into themes. Based on those themes, a summary of issues was generated and is presented below. Most of the issues identified in the sessions are in line with concerns the Branch has been hearing from First Nations and private property owners over the past several years. They also align with many of the concerns highlighted in FNLC's *First Nations Heritage Conservation Action Plan*. Each issue summarized below includes an overview of the types of comments heard in the engagement sessions to order to provide additional context.

1. First Nations do not have a meaningful role in the management, protection and conservation of their cultural heritage.

- First Nations want to be recognized as having authority over their cultures. First Nations should not be required to get degrees or permits.
- First Nations' policies, procedures, and laws should be acknowledged and respected.
- First Nations cannot play a role in protecting sites because their laws and policies are not respected.
- The lack of a role for First Nations in the management of cultural heritage is at odds with government's reconciliation mandate.
- The HCA does not afford a meaningful role for First Nations in the management of cultural heritage and conservation.
- The HCA and associated policies do not adequately recognize Rights and Title.
- The HCA provides the province with jurisdiction over First Nations heritage sites and objects, which is inappropriate.
- A meaningful role for First Nations in cultural resource management could be found in shared decision making, delegation of ministerial authority to First Nations, monitoring, enforcement, policy development, formal agreements, and/or participation on advisory committees.

2. First Nations burials do not receive the same protection or respect as registered cemeteries.

- First Nations burial places protected under the HCA only require a permit from the Branch to authorize their disturbance or destruction; this is less protection than offered for registered cemeteries under the Cremation, Interment and Funeral Service Act (CIFSA).
- Many developers and home owners see First Nations burials as an administrative hurdle to address prior to continuing development, as opposed to a permanent resting place for ancestors that should not be disturbed.

3. The HCA and related permits do not contain provisions regarding cultural components associated with working with ancestral remains.

- In situations where permits are approved for sites and unexpected ancestral remains are uncovered, cultural and ceremonial work related to the recovery and reburial of ancestral remains is significant and First Nations should not be required to bear this cost when the disturbance is a result of development.
- First Nations communities have different protocols and policies related to ancestral remains and these should be considered in permits.

4. First Nations are not given a sufficient role in determining what should happen to found human remains.

- First Nations should be responsible for determining what happens to found human remains.
- Most First Nations who participated in the policy review stated that avoidance and preservation in place are the preferred management option for found ancestral remains. If this is not possible, the remains should be kept within the territory.
- Placement of ancestral remains in a repository should not be the default action on permits or in policy; rather, the remains should be returned to their home communities.

5. Knowledge and awareness of the importance and location of Indigenous cultural heritage is low among private property owners and other key stakeholders (e.g., local governments and relators) and this can result in damage to sites, including sites containing ancestral remains.

- Local governments issue development permits without reviewing the Remote Access to Archaeological Data (RAAD), a tool that provides access to archaeological data.
- Information about the presence of archaeological sites is not being conveyed when properties change hands.
- Many private property owners do not know when there is a protected archaeological site on their land.
- Many private property owners do not understand the importance of preserving archaeological sites.
- There is a financial disincentive for private property owners to report archaeological finds due to the costs associated with archaeological work and potential loss of property value. These disincentives need to be turned into incentives.
- The average British Columbian is either ignorant of, or does not care about, First Nations culture.
- Realtors should be obligated to complete data requests to determine if there is an archaeological site on the property before completing land sale transactions.
- Real estate boards, realtors, local governments and private property owners require targeted education to inform them about the importance of cultural heritage and their roles and responsibilities in heritage management.

6. Contraventions are not being adequately addressed.

- When First Nations report a contravention of the HCA to the Branch or to Compliance and Enforcement Branch (CEB), the response is slow or incomplete.

- By the time a response from government is received, the damage to the site may already have occurred and be irreversible.
- When the Branch or CEB respond that they cannot take action on an alleged contravention, First Nations feel they must take independent action.
- The Branch and CEB make decisions on reported contraventions without First Nations involvement; First Nations need to be part of the process.
- There is no follow-up with First Nations on action taken on reported contraventions.
- Contraventions of the HCA are not taken seriously; “People are getting away with everything.”
- There should be more Guardian Programs to monitor and protect heritage sites.

7. All heritage sites in BC do not receive equivalent protection due to limitations of the HCA.

- Sites (excluding burials) are required to pre-date 1846 for protection under section 13 (2) of the HCA. An artifact from 1845 is protected, but an artifact from 1846 is not, which is inappropriate as a static date does not reflect the culture and heritage of Indigenous Peoples in BC.
- Sites must contain physical evidence for protection under the HCA; therefore, a cremation site no longer containing physical remains would not be protected, even though cremation sites are the same as cemeteries for First Nations.
- While some provisions exist under the HCA to allow for the protection of cultural sites without physical evidence (Section 4, Section 9, Section 23), these components of the Act are not routinely used for this purpose.
- Sites on federal land do not receive protection under the HCA.
- Despite protection, sites are still damaged by the public, both accidentally and intentionally (e.g., looters).

8. Undefined terms in the HCA and related policies are causing issues with administration and enforcement.

- Key terms in the HCA do not have definitions, leaving room for differences in interpretation, and challenges in enforcement. For example, the HCA prohibits actions that damage, desecrate, or alter a burial place without a permit. The terms “desecrate” and “burial place” are not defined; therefore, actions on a burial place that could be considered desecration may not be addressed due to lack of clarity as to whether a contravention has occurred.
- Other undefined terms include: ancestral remains, site boundaries, scientific/cultural/archaeological significance/value.
- Definitions need to be developed in partnership with First Nations.

9. The referral process for HCA permits requires review.

- The referral package information provided to First Nations is not always of sufficient quality. For example, referrals often contain poor quality maps that are difficult to interpret; resulting in an incomplete review by First Nations referral staff.
- Timelines to respond to referrals inhibit the ability of First Nations to understand the projects and develop relationships with Branch staff, developers, and archaeologists.

- When First Nations respond to permit referrals, they often receive templated responses followed closely by a notice the permit has been issued; they are seeking a discussion but are met with unilateral decisions and their comments appear to be ignored;
- Many First Nations struggle with capacity to address the volume of referrals they receive.
- Permits covering large areas of land (i.e., Blanket Permits) are too broad and cannot be responded to in a meaningful way.
- Range tenures may impact archaeological sites but the HCA permitting process is not triggered, resulting in unpermitted damage to sites.

10. Many potential models that land managers and industry rely on for decision making contain outdated data, are missing data, have not been updated based on verification in the field and/or do not include Indigenous perspectives.

- The current archaeological potential model dataset available in RAAD is out of date, has limited coverage, and can be easily misinterpreted by users.
- Most potential models do not consider traditional perspectives or knowledge.
- Developers using the current model dataset may see no coverage and assume there is no potential for archaeological sites in the area, even though the area has simply not yet been assessed for potential and may in fact have high potential. Because of this misunderstanding, the developer may move forward with development without considering the need for further archaeological work, resulting in damage to sites (including sites with ancestral remains).

11. The HCA and related policy regarding site boundaries do not adequately capture culturally significant areas.

- How archaeological sites are currently defined does not adequately capture areas that First Nations consider important. In many cases, site boundaries are confined to small areas surrounding physical remains (e.g., individual burials) while the larger cultural landscape (e.g., the burial ground) is excluded.
- Only sites with confirmed presence of physical remains are included within a site boundary. The requirement to disturb a potential burial place to prove it is a burial place is problematic.
- The practice of applying smaller site buffers on private land than on Crown land favours private property owners over First Nations' interests.
- Protection measures for burials should be determined on a case by case basis.

12. Professional reliance in the professional archaeology community has significant challenges.

- Archaeologists should have been included in the Professional Reliance Review.
- First Nations would like to play a role in determining which archaeological consultants are approved to carry out permitted work in their territory for the following reasons:
 - The archaeologist may not have a working relationship with the First Nation and may not understand the culture or how it is represented on the land.
 - The First Nation may not trust the archaeologist with cultural information, which limits the archaeologist's knowledge and understanding of archaeological sites.

- The archaeologist may be known to produce poor quality work or does not meet their permit obligations.
- The archaeologist may be likely to recommend no further work over potentially costly assessments to meet the needs of their clients.

13. Issuing permits under the HCA enables the destruction of sites to facilitate development.

- While the mandate of the Branch is to “protect and conserve” archaeological sites, operational priorities (and some guidelines, documents and language on the website) of the Branch appear to be focussed on issuing permits to facilitate development, thereby allowing the destruction of archaeological sites, consequently erasing First Nations history.
- Cumulative effects of alteration permits need to be considered.
- Once a site is destroyed, it is gone forever.
- Industry and government land-use plans address archaeological concerns inconsistently and may try to get away with the bare minimum and as a result, destroy sites.
- There are some situations (e.g., presence of multiple burials) where permits should never be approved and First Nations should be involved in identifying them.

14. Many heritage objects and other cultural materials currently held by repositories, private collectors, or internationally were taken illegally and should be repatriated to First Nations when the First Nations want repatriation.

- First Nations do not know what artifacts and ancestral remains are being held outside of their territory.
- Those who took (and/or currently hold) the objects are not held accountable for their actions.
- First Nations are concerned about ongoing removal of cultural materials from their territories.
- Ancestral remains should, as a matter of policy, be repatriated in a manner to be determined by the ancestors’ home communities, and respectful of appropriate protocols.
- Repatriation is desirable but creates a significant financial burden on First Nations (curation, analysis, transportation, ceremony, reburial). First Nations should not have to bear this cost and it is a barrier to recovering artifacts.
- The current requirements to set up an acceptable repository are unclear and do not allow a First Nation to take possession of artifacts and determine how to manage them.

15. Archaeological information in provincial databases requires review and updates to properly protect sites.

- The site form backlog is creating significant issues for First Nations, local governments and property owners.
- Some of the information available on RAAD is incorrect (shape or location) and does not reflect the most recent work conducted in the area.
- Older records may include photographs of ancestral remains, even though current policy prohibits their inclusion.

16. Many First Nations are apprehensive about sharing data with the province due to concerns about the security of the data.

- While permission to access archaeological data via the RAAD application is limited to First Nations governments; local, provincial and federal government branches; professional consulting archaeologists; and accredited archaeological researchers, First Nations consider this to be too widespread.
- First Nations are reluctant to share sensitive data with the Branch if it means making it available to everyone with access to RAAD.
- Some First Nations do not want to share information on cultural sites with government due to lack of trust between the parties.
- However, the site protection mechanism (e.g., permitting) cannot be implemented if the Branch is unaware of a site.

17. The Branch website and publications are out of date and need to be updated.

- Many Branch documents are out of date. They should be updated and brought into alignment with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
 - For example, the Archaeological Impact Assessment Guidelines mention First Nations only once and explicitly state that the Branch's role is to assist the provincial government in making decisions which will ensure optimal land use.
- Some First Nations have indicated interest in working with the Branch to update outdated documentation.

18. The relationship between the Branch and First Nations is inadequate due to the Branch's organization, physical location, communications approach and policy approach.

- The organization of the Branch is not based in the regions, which creates roadblocks to the formation of relationships between First Nations and the Branch.
- First Nations do not know who to contact with questions or concerns about permits, referrals or other issues.
- The location of the Branch in Victoria, as opposed to the regions, is a barrier to relationship development.
- First Nations are not consistently receiving final reports for archaeological work done in their territories.
- First Nations are unaware of the outcomes of inspections and investigations of potential contraventions to the HCA. There is significant interest from First Nations in working with the Branch in the delivery of the Branch mandate.
- First Nations want a less bureaucratic and more relationship-based approach.
- Engagement on the ancestral remains policy review was the first time in many years that First Nations had an opportunity to meet face-to-face with the Branch.

19. Non-permitted work in B.C. (i.e., Preliminary Field Reconnaissance - PFR) may create challenges for the protection of sites.

- PFRs do not alter the ground and therefore do not require a permit; as such, they are not subject to Branch oversight. The Branch cannot confirm the methods used, personnel on site, or whether the recommendations generated are appropriate.
- As a result of this lack of oversight, sites may be at risk of damage if development proceeds using only information from a PFR.
- Some First Nations feel that PFRs are used to avoid doing the required archaeological impact assessment work under permit.
- Other nations have indicated that a PFR is preferable to no review.

Recommendations

Two sets of recommendations have been developed based on analysis of the issues identified in the Ancestral Remains Policy Review. These recommendations have also been informed by issues identified: in the *First Nations Heritage Conservation Action Plan*; through engagement on the 2019 HCA amendments; and, in private property owner communications with the Branch.

The first set of recommendations require Ministerial and/or Cabinet approval as they have far-reaching implications and require additional resources to support implementation. The second set of recommendations are focused on changes that are within the authority of the Branch or ministry to implement and have been included to illustrate the full scope of changes this policy review has the potential to influence.

Additional engagement is required for all recommendations. Engagement activities with key stakeholders and partners will be identified as initiatives are further developed.

Recommendations for Minister/Cabinet Approval

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3. s.12;s.13;s.16

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9. s.12;s.13;s.16

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Appendix B – Initial Letter Announcing Policy Review (June 2018)

Dear Chief and Council,

In response to requests from First Nations over the past several years and ongoing challenges where land development intersects with First Nation's burial areas, Archaeology Branch is launching a review of current policies and practices related to the management of ancestral remains. The intended outcome of this review is the development of a comprehensive framework which will provide a full- spectrum of processes, tools and policies to guide the respectful treatment of these remains.

Archaeology Branch is very interested in engaging with First Nations from June to October, to gather knowledge, wisdom and insight to support the development of this framework. The branch is currently developing a schedule for engagement and will be reaching out in the near future to invite representatives from your Nation to attend an in-person session, to be held in communities across the province.

During these engagement sessions, attendees will be encouraged to share thoughts on current policies, and practices, and will have the opportunity to share ideas for new approaches. The format and agenda of the sessions will be flexible and will be adapted to allow opportunities to discuss the issues of greatest interest of attendees. While we are very interested in an open discussion we are anticipating that sessions are likely to include discussions on topics including:

- Procedure for respectfully managing ancestral remains (on Crown and private land), including chance finds.
- Procedures related to contraventions to the Heritage Conservation Act (HCA) in relation to burial sites and ancestral remains.
- Roles and responsibilities of key stakeholders and partners (e.g. homeowners, BC Coroner Service, local governments, Ministry of Indigenous Relations and Reconciliation, etc.).
- Ancestral remains archaeological site boundaries.
- Review of repositories for ancestral remains.

To support this review and any future changes to the Ancestral Remains framework, Archaeology Branch will be developing ongoing stakeholder engagement and outreach plans to ensure that all stakeholders (e.g., consulting archaeologists, local governments, real estate boards, etc.) are informed of current and new policies, procedures, roles and responsibilities. In the event that your Nation is unable to attend any of the in-person engagement sessions, Archaeology Branch will also be soliciting information via written survey and we would welcome any feedback that you are willing to share. More details about this survey will be available in summer 2018.

If you prefer future correspondence on this topic be sent to a specific individual in your organization, or to a central coordinating office or facilitator, please let us know by contacting our First Nations and Stakeholder Engagement Specialist, Luke Galimberti, at ArchPolicy@gov.bc.ca.

Sincerely,

Jillian Rousselle

Director, Archaeology Branch

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BRIEFING NOTE FOR DECISION

DATE: May 1, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Forest Tenure Opportunity Agreement with Sq'ewlets First Nation

RECOMMENDED OPTION:

Minister signs the Sq'ewlets First Nation Forest Tenure Opportunity Agreement and conveyance letter.

BACKGROUND:

- Staff have negotiated a Forest Tenure Opportunity Agreement (FTOA), which the Sq'ewlets First Nation have signed (Attachment 1).
- The FTOA fulfils the *Forestry Revitalization Act* (Bill 28) timber volume allocation for Sq'ewlets First Nation (formerly known as Scowlitz) in the Fraser Timber Supply Area (TSA) of 6,797 cubic metres (m³) per year.
- The proposed FTOA consists of a non-replaceable forest tenure opportunity within the Fraser TSA over a 5 year term, for a total allowable harvest volume of 33,985 m³.

DISCUSSION:

The purpose of this decision note is to request the Minister sign the attached FTOA and conveyance letter (Attachment 2). The FTOA satisfies the requirements outlined in the *Forest Act* for direct award tenure to First Nations. The forest tenure opportunity as described in the FTOA is proposed to be located within the portion of the Fraser TSA that overlaps the asserted traditional territory of the Sq'ewlets First Nation. Sq'ewlets First Nation's Bill 28 timber allocation in the Fraser TSA was previously held by Silver Spring Timber Ltd. as non-replaceable Forest Licence A81823, which expired on February 22, 2016, so the volume is available to issue in a new forest tenure.

s.16

s.16

The Sq'ewlets First

Nation are signatory to a Forest & Range Consultation and Revenue Sharing Agreement, expiring August 28, 2019, Article 10 of which allows the Province to apply revenue sharing payments against any unfulfilled financial obligations of Sq'ewlets First Nation arising from a licence entered into as a result of a direct award tenure agreement.

The purpose of the FTOA is to:

- provide an opportunity for the Sq'ewlets First Nation to pursue socio-economic objectives within its community and to assist in closing socio-economic gaps between members of the Sq'ewlets First Nation and non-aboriginal people of British Columbia;
- provide an accommodation in respect of potential impacts of forestry decisions within their asserted traditional territory, thereby providing greater stability on the land base; and
- promote and increase Sq'ewlets First Nation's participation in the forest sector.

Upon execution of the FTOA, the Sq'ewlets First Nation may apply to the Regional Executive Director of the South Coast Natural Resource Region for the tenure opportunity.

OPTIONS:

OPTION 1: Minister signs the Sq'ewlets First Nation FTOA and conveyance letter.

Implications:

s.13;s.16

OPTION 2: s.13;s.16

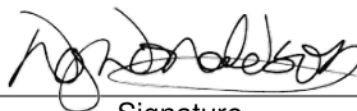
Implications:

s.13;s.16

RECOMMENDATION:

- **OPTION 1**

Approved / Not Approved



Signature

Honourable Doug Donaldson
Minister of Forests, Lands, Natural Resource
Operations and Rural Development

May 28, 2019

Date

Attachments (2): 1. FTOA signed by Sq'ewlets First Nation
2. FTOA Conveyance Letter

PREPARED BY:

Kylie Harrison
Timber Tenures Specialist
Coast Area Forest Tenures
Phone: 250-751-7183

REVIEWED BY:

	Initials	Date
Associate DM	RM	2019-05-23
DMO	AK	2019-05-22
FNRB A/Director	SA	May 21, 2019
ADM	CS	May 7, 2019
RED	AJ	May 6, 2019
Director	JR	May 1, 2019

Forest Tenure Opportunity Agreement
(the "Agreement")

Between:

Sq'ewlets (Scowlitz First Nation)

as represented by
Chief and Council

and

Her Majesty the Queen in Right of the Province of British Columbia

as represented by the Minister of Forests, Lands, Natural Resource Operations
and Rural Development
("British Columbia")

(collectively the "Parties")

WHEREAS:

- A. In 2005, British Columbia and the First Nations Leadership Council, representing the Assembly of First Nations-BC Region, First Nations Summit, and the Union of BC Indian Chiefs entered into a New Relationship and signed the Transformative Change Accord, the purposes of which is to implement a government-to-government relationship based on an effective working partnership, enhanced collaboration, mutual respect and recognition and accommodation of Aboriginal title and rights and achieve the mutual goals of closing the social and economic gap between First Nations and other British Columbians.
- B. In the spirit of the New Relationship and the Transformative Change Accord, British Columbia and Sq'ewlets First Nation have undertaken a shared commitment to strengthening relationships on a government-to-government basis, and on focusing efforts to close the socio-economic gaps between Aboriginal and non-Aboriginal people.
- C. This Agreement, and the benefits flowing from it, will assist Sq'ewlets First Nation in achieving progress towards the goals referred to in the previous recitals, and in particular help to address the conditions that contribute to poverty among Aboriginal people and to ensure that they can more fully benefit from and contribute to British Columbia's prosperity.
- D. British Columbia recognizes that Sq'ewlets First Nation has a unique history and its own culture and traditions that help to define it, and that these characteristics, along with its relationship with British Columbia, form an important context for the cooperative efforts needed to improve Sq'ewlets First Nation community's well-being.
- E. Sq'ewlets First Nation has Aboriginal Interests within its Traditional Territory.

- F. This Agreement is intended to assist in achieving stability and greater certainty for forest resource development on Crown lands within the Traditional Territory of Sq'ewlets First Nation which will enhance the ability of the forest industry to exercise timber harvesting in a timely, economic, and environmentally sustainable manner while longer term interests of Sq'ewlets First Nation are addressed through other agreements or processes.
- G. Pursuant to the Forestry Revitalization Act (Bill 28:2003) (the FRA) the allowable annual cut for specified licences was reduced in order to provide forest tenure opportunities to other parties, including First Nations. The Minister has allocated 33,985 cubic metres from the volume acquired from the Fraser Timber Supply Area under the FRA to be included in the volume of a licence issued in accordance with this Agreement.

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Definitions

- 1.1. "Aboriginal Interests" means asserted aboriginal rights (including aboriginal title) or determined aboriginal rights (including aboriginal title) which are recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.
- 1.2. "Effective Date" means the date on which this Agreement has been ratified and signed by each of the Parties.
- 1.3. "Forest Licence" means a forest licence as defined in the *Forest Act*.
- 1.4. "Forest Tenure" means an agreement granting rights to harvest Crown timber referred to in section 12(1) of the *Forest Act*.
- 1.5. "Fraser TSA" means the Fraser Timber Supply Area.
- 1.6. "Licence" means a Forest Licence issued in accordance with Part 3 of this Agreement.
- 1.7. "Licensee" means a holder of a Licence.
- 1.8. "Licence Area" means an area defined in the Licence over which the Licensee has a right to harvest Crown timber subject to and in accordance with the terms and conditions of the *Forest Act* and the Licence.
- 1.9. "Minister" means the Minister of the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.
- 1.10. "Representative" has the same meaning as a representative defined in section 47.3(0.1) of the *Forest Act*.

- 1.11. "Traditional Territory" means Sq'ewlets First Nation's claimed or asserted Traditional Territory as shown on bold black on the map attached in Appendix A.

2. Purpose and Objectives

The purposes and objectives of this Agreement are to:

- 2.1. Provide an opportunity for Sq'ewlets First Nation to identify and pursue socio-economic objectives in its community and, in connection with those objectives, to assist Sq'ewlets First Nation in achieving progress towards closing socio-economic gaps between the members of Sq'ewlets First Nation and non-Aboriginal people in British Columbia.
- 2.2. Promote and increase Sq'ewlets First Nation's participation in the forest sector by offering a forest tenure opportunity(s).
- 2.3. Provide an accommodation in respect of potential impacts of forestry decisions and operations within the Traditional Territory on Sq'ewlets First Nation's Aboriginal Interests.

3. Forest Tenure Opportunity

- 3.1. After execution of this Agreement, the Minister will invite the Sq'ewlets First Nation, or its Representative, to apply for non-replaceable Forest Licence(s), in a form acceptable to the Minister, for a total volume of up to 33,985 cubic meters of timber in the Fraser TSA.
- 3.2. If Sq'ewlets First Nation or its Representative already holds an existing Licence(s) that has or have been previously directly awarded under section 47.3 of the *Forest Act*, then the District Manager or Regional Executive Director may extend one or more of those existing Licence(s), authorizing additional volume or allowable annual cut (AAC) for those licences in the amounts identified under section 3.1.
- 3.3. The appointment of a Representative for the purpose of holding a Licence(s) must be made in accordance with the *Forest Act*.
- 3.4. A Licence issued in accordance with this Agreement is proposed to be in the location(s) in the Fraser TSA outlined on the maps attached to this Agreement as Appendix A. The actual Licence Area will be as specified in the Licence.
- 3.5. A Licence issued in accordance with this Agreement will:
 - 3.5.1. be a non-replaceable forest licence or forestry licence to cut with a term of 5 years;
 - 3.5.2. have a maximum harvestable volume as indicated in 3.1;

- 3.5.3. restrict timber harvesting to a portion of the timber supply area;
 - 3.5.4. include the condition that Sq'ewlets First Nation must comply with this Agreement; and,
 - 3.5.5. include other terms and conditions as may be required by the Regional Executive Director consistent with the *Forest Act*, *Forest and Range Practices Act*, *Wildfire Act* and any regulations or standards under those Acts.
- 3.6. Notwithstanding any other provision of this Agreement, British Columbia neither makes nor offers any guarantee of the financial viability of any operations under a Licence referred to in section 3.1.
 - 3.7. During the term of this Agreement and notwithstanding section 3.6, Sq'ewlets First Nation agrees that British Columbia will have provided to Sq'ewlets First Nation an accommodation in respect of potential impacts of forestry decisions and operations within the Traditional Territory on Sq'ewlets First Nation's Aboriginal Interests, in the form of the Licences issued in accordance with this Agreement.
 - 3.8. If the Licence(s) issued in accordance with this Agreement remain(s) in effect beyond the term of this Agreement, the Licence(s) will continue to be considered by the Parties to be an accommodation as contemplated in sections 2.3 and 3.7 until the Licence(s) expires or is terminated.
 - 3.9. Any Licence(s) issued in accordance with this Agreement can only be transferred in accordance with the *Forest Act*.

4. Reporting of Tenure Information

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

5. Sq'ewlets First Nation Traditional Territory

- 5.1. The Parties agree that for the purposes of this Agreement, the map attached to this Agreement as Appendix A, represents the Traditional Territory of the Sq'ewlets First Nation.

6. Economic and Operational Stability within Sq'ewlets First Nation Traditional Territory

- 6.1. Sq'ewlets First Nation will respond immediately to any discussions sought by British Columbia in relation to any acts of intentional interference by members of Sq'ewlets First Nation with provincially authorized forest activities and will work co-operatively with British Columbia to assist in resolving any such matters.

7. Term and Termination

- 7.1. The term of this Agreement is the later of 5 years or the expiration of a Licence issued in accordance with this Agreement.
- 7.2. This Agreement will take effect on the date on which the last Party has executed it.
- 7.3. This Agreement will terminate on the occurrence of the earliest of any of the following events:
 - 7.3.1. expiry of its term;
 - 7.3.2. 90 days notice by either Party to the other Party; or
 - 7.3.3. mutual agreement of the Parties.
- 7.4. This Agreement may be terminated by British Columbia if the Licence(s) issued in accordance with section 3.1 are cancelled, surrendered or otherwise terminated under the *Forest Act*.
- 7.5. Prior to the expiry of the 90 days when 90 day notice of termination has been given under section 7.3.2, the Parties agree to meet and endeavour to resolve the issue that has given rise to the 90 day notice of termination.

8. Dispute Resolution

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

9. Renewal of the Agreement

- 9.1. Prior to the expiry of the term of this Agreement, if the terms and conditions of this Agreement are being met and if each party has

received such authorizations as it may require to either renew this Agreement or negotiate a new Agreement, British Columbia and Sq'ewlets First Nation will, negotiate a renewal of this Agreement or, where applicable, negotiate a new agreement.

10. Amendment of Agreement

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

11. Suspension or Cancellation by the Minister

- 11.1. Without limiting the actions that may be taken by the Minister or by British Columbia, in accordance with sections 76 and 77 of the *Forest Act*, the Minister or a person authorized by the Minister may suspend or cancel the Licence(s) issued in accordance with this Agreement, if the Minister or a person authorized by the Minister determines that Sq'ewlets First Nation is not in compliance with this Agreement.
- 11.2. Prior to contemplating an action referred to in sections 11.1, British Columbia will provide notice to Sq'ewlets First Nation of any alleged contravention of this Agreement that may lead to Sq'ewlets First Nation not being in compliance with this Agreement
- 11.3. The Minister will not exercise the Minister's authority under the *Forest Act* to suspend or cancel the Licence until the Dispute Resolution process, as outlined in section 8 of this Agreement, has concluded.

12. Entire Agreement

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

13. 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 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. on that 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	Sq'ewlets First Nation
Deputy Minister	Chief
Ministry of Forests, Lands, Natural Resource Operations and Rural Development	Sq'ewlets First Nation
P.O. Box 9525 STN PROV GOVT Victoria B.C. V8W 9C3	PO BOX 76, Lake Errock, B.C. V0M 1N0
Telephone: (250) 952-6500	Telephone: (604) 826-5813
Facsimile: (250) 387-3291	Facsimile: (604) 826-6222

- 13.4. This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a scanned copy in an email, a photocopy or faxed copy. Each facsimile, photocopy or scanned copy will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

14. Miscellaneous

- 14.1. This Agreement is to be interpreted in a manner consistent with provincial, federal and constitutional law.
- 14.2. Except as set out in this Agreement, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 14.3. Subject to section 14.4, nothing in this Agreement will prevent Sq'ewlets First Nation from seeking redress in court or otherwise.
- 14.4. Sq'ewlets First Nation agrees that it will not take any action referred to in section 14.3 until the conclusion of the Dispute Resolution Process outlined in section 8 of this Agreement has concluded.
- 14.5. British Columbia acknowledges and enters into this Agreement on the basis that Sq'ewlets First Nation has Aboriginal Interests within its Traditional Territory but that the specific nature, scope and geographic extent of Sq'ewlets First Nation's Aboriginal Interests have not yet been determined, and further that broader processes engaged in to bring about reconciliation will eventually result in a

common understanding of the nature, scope and geographic extent of Aboriginal Interests or treaty interests of Sq'ewlets First Nation.

- 14.6. This Agreement does not exclude Sq'ewlets First Nation from accessing forestry economic opportunities and benefits, which may be available to them, other than those expressly set out in this Agreement.
- 14.7. 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 define or amend aboriginal rights, or limit any priorities afforded to aboriginal rights, including aboriginal title.
- 14.8. This Agreement and any decisions made during the term of this Agreement do not change or affect the positions either Party has, or may have, regarding jurisdiction and authorities.
- 14.9. 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.
- 14.10. This Agreement does not address or prejudice conflicting interests or competing claims between First Nations.
- 14.11. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 14.12. The laws of British Columbia will govern this Agreement.
- 14.13. This Agreement is not intended to limit any obligation of forest Licensees or other third parties to Sq'ewlets First Nation.
- 14.14. The appendix to this Agreement forms part of the Agreement.

Signed on behalf of:

Sq'ewlets First Nation

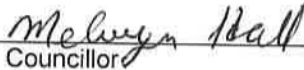
Date

01/17/19

Chief

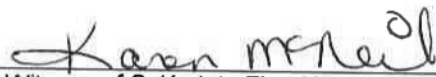


Councillor



Councillor

Witness of Sq'ewlets First Nation signatures




Signed on behalf of:

British Columbia

May 28, 2019

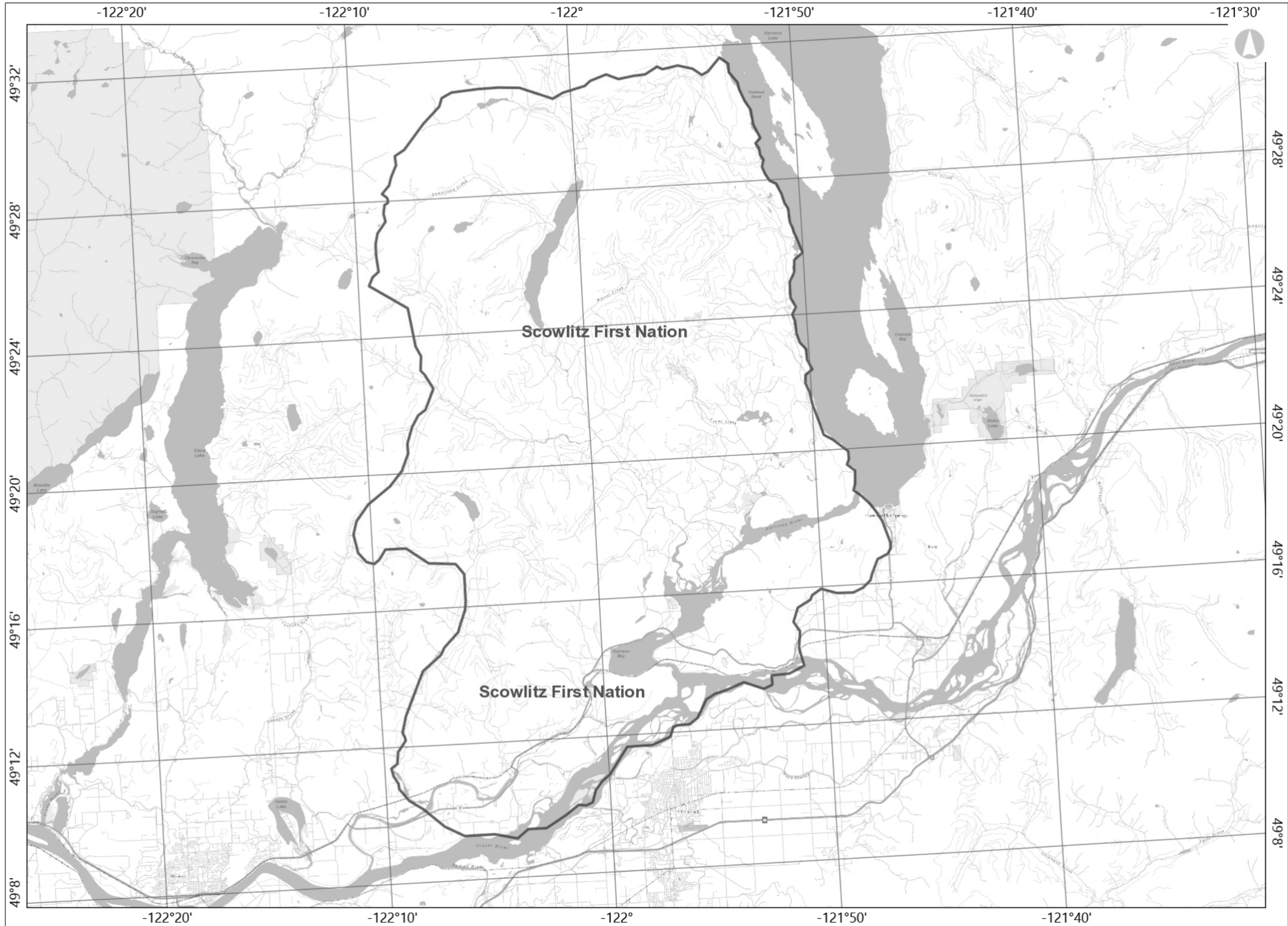
Date



Doug Donaldson
Minister of Forests, Lands, Natural
Resource Operations and Rural
Development

Witness of Minister signature





Legend

 Sq'ewlets Scowlitz First Nation

Forest Tenure
Opportunity Agreement

Appendix A:
Map of Sq'ewlets First
Nation Traditional
Territory
and
Proposed Licence Area
Map



1: 200,000

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Datum: NAD83
Projection: NAD_1983_BC_Environment_Albers

Key Map of British Columbia





Ref: 10420-30/Scowlitz
CLIFF 248490

May 28, 2019

Chief Andrew Phillips
Sq'ewlets (Scowlitz) First Nation
PO Box 76
Lake Errock, British Columbia
V0M 1N0

Dear Chief Andrew Phillips:

I am pleased to provide you with the attached Forest Tenure Opportunity Agreement (FTOA) between the Sq'ewlets First Nation and the Province of British Columbia. The FTOA provides an opportunity for Sq'ewlets First Nation (or its representative) to apply for a non-replaceable forest tenure opportunity (the "licence") with a total volume of 33,985 cubic meters over a five year period in the Fraser Timber Supply Area. I invite you to apply for the licence to the Regional Executive Director of the South Coast Natural Resource Region. The application may be sent to:

Regional Executive Director
South Coast Natural Resource Region
Suite 200, 10428 - 153 Street
Surrey, British Columbia
V3R 1E1

The application for the licence must include the following information:

- 1) The legal entity that will hold the licence, as either the Sq'ewlets First Nation or other business entity to act as the representative of the Sq'ewlets First Nation; and
- 2) A map of the proposed licence area within the traditional territory of Sq'ewlets First Nation in the Fraser Timber Supply Area.

As part of the application package, the Province may seek confirmation through a Band Council Resolution regarding the assignment of a representative to hold the licence and the determination of a licence area.

Page 1 of 2

Chief Andrew Phillips

I encourage working with staff at the Chilliwack Natural Resource District Office to define the licence area and prepare a licence map for the application. Please contact Nels Nielsen, Tenures Forester, at the district office by email at nels.nielsen@gov.bc.ca or by phone at 778-704-7081 to discuss the licence area.

If you have any questions regarding the application requirements or the licence, or about the obligations of a holder of a licence, please contact Kylie Harrison, Timber Tenures Specialist, Coast Area, by email at Kylie.Harrison@gov.bc.ca or by phone at 250-751-7183.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug Donaldson', written in a cursive style.

Doug Donaldson
Minister

Attachment: Signed FTOA

pc: Allan Johnsrude, Regional Executive Director, South Coast Natural Resource Region
Mike Peters, District Manager, Chilliwack Natural Resource District
Kylie Harrison, Timber Tenures Specialist, Coast Area
Nels Nielsen, Tenures Forester, Chilliwack Natural Resource District

BRIEFING NOTE FOR DECISION

DATE: May 9, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Forest Tenure Opportunity Agreement with We Wai Kai First Nation

RECOMMENDED OPTION:

Execute the attached Forest Tenure Opportunity Agreement with conveyance letter for We Wai Kai First Nation.

BACKGROUND:

- There are two forest tenure opportunities currently available to the We Wai Kai First Nation (WWKai):
 - A replaceable forest licence with 13,984 cubic metres (m³) of allowable annual cut (AAC) and a term of up to 20 years, originating from the *Forest Revitalization Act* (2003) apportioned in the North Island Timber Supply Area (TSA) for providing a direct award tenure opportunity to WWKai; and
 - A non-replaceable forest licence for a total of 40,000 m³ over 5 years of unused volume in the North Island TSA to be developed in partnership with BC Timber Sales (BCTS) on Incremental Treaty Agreement (ITA) lands in accordance with the December 10, 2018 Associate Deputy Minister mandate (Attachment 3).
- The Province has negotiated a Forest Tenure Opportunity Agreement (FTOA) (Attachment 1) with the WWKai and prepared a conveyance letter (Attachment 2) for these opportunities.

DISCUSSION:

Under Section 47.3 of the *Forest Act*, the Crown may direct award the forest tenures to the WWKai to further the FTOA. Execution of the FTOA by the Minister will provide the WWKai the opportunity to increase their participation in the forest sector with replaceable, long term tenure from apportioned AAC in their traditional territory. In addition, the FTOA will support the work of the Ministry of Indigenous Relations and Reconciliation, BCTS and the WWKai in developing an exit strategy for BCTS development in ITA lands.

Both tenures will assist the WWKai in achieving socio-economic objectives within their community, with opportunities for revenue, employment, training and potential business to business arrangement with other entities in the forest sector.

The FTOA is recognized by the WWKai as an accommodation with respect to potential impacts of forestry decisions on WWKai's interests.

OPTIONS:

OPTION 1: Execute the attached FTOA with conveyance letter for WWKai.

Implications:

s.13;s.16

OPTION 2: s.13;s.16

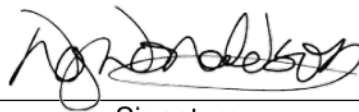
Implications:

s.13;s.16

RECOMMENDATION:

- **Option 1**

Approved / Not Approved



Signature

Honourable Doug Donaldson, Minister of
Forests, Lands, Natural Resource
Operations and Rural Development

May 30, 2019

Date

Attachments (3):

1. FTOA
2. Conveyance letter
3. Associate Deputy Minister mandate

PREPARED BY:

Randy Husband
Timber Tenures Specialist
Coast Area Forest Tenures
(250) 751-7057

REVIEWED BY:

	Initials	Date
Associate DM	RM	2019-05-23
DMO	AK	2019-05-23
IRB A/Director	SA	2019-05-21
ADM (Coast)	CS	2019-05-13
RED (WCR)	SH	2019-05-10
Director (Coast)	JR	2019-05-09
Section Head	SR	2019-05-06
BCTS	NK	2019-04-30

Forest Tenure Opportunity Agreement
(the "Agreement")

Between:

We Wai Kai Nation
As represented by
Chief and Council

and

Her Majesty the Queen in Right of the Province of British Columbia
as represented by the Minister of Forests, Lands, Natural Resource Operations
and Rural Development
("British Columbia" or "the Province")

(collectively, the "Parties")

WHEREAS:

- A. In 2005, British Columbia and the First Nations Leadership Council, representing the Assembly of First Nations-BC Region, First Nations Summit, and the Union of BC Indian Chiefs entered into a New Relationship and signed the Transformative Change Accord, the purposes of which is to implement a government-to-government relationship based on an effective working partnership, enhanced collaboration, mutual respect and recognition and accommodation of Aboriginal title and rights and achieve the mutual goals of closing the social and economic gap between First Nations and other British Columbians.
- B. In the spirit of the New Relationship and the Transformative Change Accord, British Columbia and We Wai Kai Nation have undertaken a shared commitment to strengthening relationships on a government-to-government basis, and on focusing efforts to close the socio-economic gaps between Aboriginal and non-Aboriginal people.
- C. This Agreement, and the benefits flowing from it, will assist We Wai Kai Nation in achieving progress towards the goals referred to in the previous recitals, and in particular help to address the conditions that contribute to poverty among Aboriginal people and to ensure that they can more fully benefit from and contribute to British Columbia's prosperity.
- D. British Columbia recognizes that We Wai Kai Nation has a unique history and its own culture and traditions that help to define it, and that these characteristics, along with its relationship with British Columbia, form an important context for the cooperative efforts needed to improve We Wai Kai Nation community's well-being.
- E. We Wai Kai Nation have Aboriginal Interests within its Traditional Territory.

- F. The Province and We Wai Kai Nation through treaty negotiations have identified certain lands within We Wai Kai Nation Traditional Territory as potential Incremental Treaty Agreement Lands.
- G. Portions of the potential Incremental Treaty Agreement Lands overlap areas in which BC Timber Sales has identified to locate BCTS Licences..
- H. Pursuant to section 47.3 of the *Forest Act*, the Minister may enter into a forest licence with a First Nation or its representative in order to implement or further an agreement with the First Nation respecting treaty related measures, interim measures or economic measures.
- I. BCTS is a program within the Ministry of Forests, Lands, Natural Resource Operations and Rural Development which has a mandate to provide cost and price data for timber harvested from Crown land in British Columbia.
- J. Pursuant to section 22.2 of the *Forest Act*, the Minister and the holder of a forest licence may enter into an agreement known as a BCTS Disposition Agreement to make timber harvest rights available for issuance to another party in the form of a BCTS licence.
- K. The Parties support both the issuance of timber harvesting opportunities within the potential Incremental Treaty Agreement lands and the provision of opportunities to BCTS to collect cost and price data associated with the harvest of timber on Crown land in that same area.
- L. This Agreement is intended to assist in achieving stability and greater certainty for forest resource development on Crown lands within the Traditional Territory of We Wai Kai Nation which will enhance the ability of the forest industry to exercise timber harvesting in a timely, economic, and environmentally sustainable manner while longer term interests of We Wai Kai Nation are addressed through other agreements or processes.

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Definitions

- 1.1. "Aboriginal Interests" means asserted aboriginal rights (including aboriginal title) or determined aboriginal rights (including aboriginal title) which are recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.
- 1.2. "BCTS" means BCTS as defined in the *Forest Act*.
- 1.3. "BCTS Disposition Agreement" means a BCTS Disposition Agreement as defined in section 22.2 (1) of the *Forest Act*.

- 1.4. "BCTS Licence" means a BCTS Licence as defined in the *Forest Act*.
- 1.5. "Effective Date" means the date on which this Agreement has been ratified and signed by each of the Parties.
- 1.6. "Forest Licence" means a forest licence as defined in the *Forest Act*.
- 1.7. "Forest Tenure" means an agreement granting rights to harvest Crown timber referred to in section 12(1) of the *Forest Act*.
- 1.8. "Incremental Treaty Agreement Lands" means lands which would be held in fee simple by We Wai Kai Nation for incremental treaty agreement purposes;
- 1.9. "Licence" means a Forest Licence issued in accordance with Part 3 of this Agreement.
- 1.10. "Licensee" means a holder of a Licence.
- 1.11. "Licence Area" means an area defined in the Licence over which the Licensee has a right to harvest Crown timber subject to and in accordance with the terms and conditions of the *Forest Act* and the Licence.
- 1.12. "Minister" means the Minister of the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.
- 1.13. "Ministry" means the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.
- 1.14. "Net Revenue" is the greater of the net revenue determined in accordance with the equation " $Net\ Revenue = Total\ Revenue\ Estimate - Total\ Cost\ Estimate$ " and zero.
- 1.15. "North Island TSA" means the North Island Timber Supply Area.
- 1.16. "Representative" means a representative as defined in section 47.3 (0.1) of the *Forest Act*.
- 1.17. "Total Cost Estimate" means the total cost associated with a BCTS licence that BCTS estimates may be expended from the BC Timber Sales Account under subsections 109 (3) (a), (b), (c), (d) and (e) of the *Forest Act* in relation to timber subject to a BCTS Disposition Agreement.
- 1.18. "Total Revenue Estimate" means the total revenue associated with a BCTS licence that BCTS estimates will be credited to the BC Timber Sales Account under subsections 109 (2) (c) or (f) and (f.1) of the *Forest Act* in relation to timber subject to a BCTS Disposition Agreement.

- 1.19. "Traditional Territory" means We Wai Kai Nation's claimed or asserted Traditional Territory as shown in bold black on the map attached in Appendix B.

2. Purpose and Objectives

The purposes and objectives of this Agreement are to:

- 2.1. Provide an opportunity for We Wai Kai Nation to identify and pursue socio-economic objectives in its community and, in connection with those objectives, to assist We Wai Kai Nation in achieving progress towards closing socio-economic gaps between the members of We Wai Kai Nation and non-Aboriginal people in British Columbia.
- 2.2. Promote and increase We Wai Kai Nation's participation in the forest sector through an offer of a forest tenure opportunity(s).
- 2.3. Provide a contribution towards any accommodation that may be required in respect of potential impacts of forestry decisions and operations within the Traditional Territory on We Wai Kai Nation's Aboriginal Interests.
- 2.4. Make timber volume available to BCTS to enable it to collect cost and pricing data for Crown timber through the issuance of a BCTS Licence(s) in an area that is overlapped by Candidate Incremental Treaty Agreement Lands.
- 2.5. Provide the opportunity for BCTS and We Wai Kai Nation to work collaboratively in the forest sector and to encourage additional business and partnership opportunities.

3. Forest Tenure Opportunity

- 3.1. After execution of this Agreement, We Wai Kai Nation, or its Representative, may apply, in a form acceptable to the Minister for forest licences under Section 47.3 of the *Forest Act* that include:
 - 3.1.1. a non-replaceable Forest Licence with a term of 5 years having a maximum harvestable volume of 40,000 cubic metres in the area identified in Appendix A; and
 - 3.1.2. a replaceable Forest Licence with an allowable annual cut of 13,984 cubic metres in the area of land covered by the Traditional Territory in the North Island TSA.
- 3.2. The appointment of a Representative for the purpose of holding the Licences must be made in accordance with the *Forest Act*.
- 3.3. The Licence Area for Licences will be as specified in the Licence.
- 3.4. The Licences issued in accordance with this Agreement will:

- 3.4.1. restrict timber harvesting to that portion of the North Island TSA covered by the Traditional Territory;
 - 3.4.2. include the condition that We Wai Kai Nation must comply with this Agreement; and,
 - 3.4.3. include other terms and conditions as may be required by the Minister consistent with the *Forest Act*, *Forest and Range Practices Act*, *Wildfire Act* and any regulations or standards under those Acts.
- 3.5. Notwithstanding any other provision of this Agreement, British Columbia neither makes nor offers any guarantee of the financial viability of any operations under a Licence referred to in section 3.1.
 - 3.6. During the term of this Agreement and notwithstanding section 3.5, We Wai Kai Nation agrees that British Columbia will have provided to We Wai Kai Nation a contribution towards any accommodation that may be required in respect of potential impacts of forestry decisions and operations within the Traditional Territory on We Wai Kai Nation's Aboriginal Interests in the form of the Licence issued in accordance with this Agreement.
 - 3.7. If a Licence issued in accordance with this Agreement remain(s) in effect beyond the term of this Agreement, the Licence will continue to be considered by the Parties to contribute towards accommodation as contemplated in sections 2.3 and 3.6 until the Licence expires or is terminated.
 - 3.8. Any Licence issued in accordance with this Agreement can only be transferred in accordance with the *Forest Act*.

4. BCTS Disposition Agreement

- 4.1. If a Licence is issued to We Wai Kai Nation, or its Representative, in accordance with 3.1.1 of this Agreement, We Wai Kai Nation agrees to enter into or require its Representative to enter into a BCTS Disposition Agreement(s) with the Minister in accordance with Section 22.2 of the *Forest Act* for the release of Licence holder's rights to harvest Crown timber under the Licence.
- 4.2. The Parties agree that a BCTS Disposition Agreement(s) referred to under Section 4.1 is to provide for the following:
 - 4.2.1. that the consideration provided to We Wai Kai Nation, or its Representative, for the rights to harvest released by We Wai Kai Nation to the Minister will be equal to 95% the Net Revenue collected in relation to the timber harvested under a BCTS Licence; and

- 4.2.2. that any rights to harvest released under a Disposition Agreement that become subject to a BCTS Licence will remain subject to that BCTS Licence despite a cancellation or other early termination of the Disposition Agreement on the terms and conditions of the former Disposition Agreement.
- 4.3. It is a condition of this Agreement that,
 - 4.3.1. We Wai Kai Nation enters into or requires its Representative to enter into a BCTS Disposition Agreement in accordance with section 4.1 of this Agreement; and
 - 4.3.2. We Wai Kai Nation complies, or requires its Representative to comply with a BCTS Disposition Agreement entered into in accordance with section 4.1.
- 4.4. A failure of We Wai Kai Nation or its Representative to enter into or to comply with a BCTS Disposition Agreement referred to in section 4.1 of this Agreement will be a failure of the We Wai Kai Nation to comply with a condition of this Agreement.

5. Reporting of Tenure Information

- 5.1. British Columbia, in its commitment to the goals of the Transformative Change Accord, may require We Wai Kai Nation to provide certain information on what measurable benefits the We Wai Kai Nation community has been able to achieve as a result of this Agreement.
- 5.2. We Wai Kai Nation agrees to cooperate with British Columbia in providing the information in a format acceptable to both Parties and in a manner that maintains the confidentiality of that information in accordance with applicable statutory requirements.

6. Economic and Operational Stability within We Wai Kai Nation Traditional Territory

- 6.1. We Wai Kai Nation will respond immediately to any discussions sought by British Columbia in relation to any acts of intentional interference by members of We Wai Kai Nation with provincially authorized forest activities and will work co-operatively with British Columbia to assist in resolving any such matters.

7. Term and Termination

- 7.1. The term of this Agreement is the later of 20 years or the expiration of all Licences issued in accordance with this Agreement.

- 7.2. This Agreement will take effect on the date on which the last Party has executed it.
- 7.3. If a Licence has not been issued in accordance with this Agreement, this Agreement will terminate on the occurrence of the earliest of any of the following events:
 - 7.3.1. expiry of its term;
 - 7.3.2. 90 days notice by either Party to the other Party; or
 - 7.3.3. mutual agreement of the Parties.
- 7.4. This Agreement may be terminated by British Columbia if all of the Licences issued in accordance with section 3.1 are cancelled, surrendered or otherwise terminated under the *Forest Act*.
- 7.5. Prior to the expiry of the 90 days when 90 day notice of termination has been given under section 7.3.2, the Parties agree to meet and endeavour to resolve the issue that has given rise to the 90 day notice of termination.

8. Dispute Resolution

- 8.1. If a dispute arises between British Columbia and We Wai Kai Nation regarding the interpretation of a provision of this Agreement, the Parties or representatives will meet as soon as is practicable to attempt to resolve the interpretation dispute.
- 8.2. If the Parties are unable to resolve differences at the appropriate level, the dispute will be raised to more senior levels of British Columbia and We Wai Kai Nation.

9. Renewal of the Agreement

- 9.1. Prior to the expiry of the term of this Agreement, if the terms and conditions of this Agreement are being met and if each Party has received such authorizations as it may require to either renew this Agreement or negotiate a new Agreement, British Columbia and We Wai Kai Nation may negotiate a renewal of this Agreement or, where applicable, negotiate a new agreement.

10. Amendment of Agreement

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

11. Suspension or Cancellation by the Minister

- 11.1. Without limiting the actions that may be taken by the Minister or by British Columbia, in accordance with sections 76 and 77 of the *Forest Act*, the Minister or a person authorized by the Minister may suspend or cancel the Licence issued in accordance with this Agreement, if the Minister or a person authorized by the Minister determines that We Wai Kai Nation is not in compliance with this Agreement.
- 11.2. Prior to contemplating an action referred to in sections 11.1, British Columbia will provide notice to We Wai Kai Nation of any alleged contravention of this Agreement that may lead to We Wai Kai Nation not being in compliance with this Agreement.

12. Entire Agreement

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

13. 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 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. on that 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	We Wai Kai Nation
Deputy Minister	Chief Brian Assu
Ministry of Forests, Lands, Natural Resource Operations and Rural Development	We Wai Kai Nation
P.O. Box 9525 STN PROV GOVT	690 Headstart Cres.
Victoria B.C. V8W 9C3	Campbell River, B.C. V9H 1P9
Telephone: (250) 952-6500	Telephone: (250) 914-1890
Facsimile: (250) 387-3291	Facsimile: (250) 914-1891

- 13.4. This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a scanned copy in an email, a photocopy or faxed copy. Each facsimile, photocopy or scanned copy will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

14. Miscellaneous

- 14.1. This Agreement is to be interpreted in a manner consistent with provincial, federal and constitutional law.
- 14.2. Except as set out in this Agreement, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 14.3. Subject to section 14.4, nothing in this Agreement will prevent We Wai Kai Nation from seeking redress in court or otherwise.
- 14.4. We Wai Kai Nation agrees that it will not take any action referred to in section 14.3 until the conclusion of the Dispute Resolution Process outlined in section 8 of this Agreement has concluded.
- 14.5. British Columbia acknowledges and enters into this Agreement on the basis that We Wai Kai Nation has Aboriginal Interests within its Traditional Territory but that the specific nature, scope and geographic extent of We Wai Kai Nation's Aboriginal Interests have not yet been determined, and further that broader processes engaged in to bring about reconciliation will eventually result in a common understanding of the nature, scope and geographic extent of Aboriginal Interests or treaty interests of We Wai Kai Nation.
- 14.6. This Agreement does not exclude We Wai Kai Nation from accessing forestry economic opportunities and benefits, which may

be available to them, other than those expressly set out in this Agreement.

- 14.7. 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 define or amend aboriginal rights, or limit any priorities afforded to aboriginal rights, including aboriginal title.
- 14.8. This Agreement and any decisions made during the term of this Agreement do not change or affect the positions either Party has, or may have, regarding jurisdiction and authorities.
- 14.9. 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.
- 14.10. This Agreement does not address or prejudice conflicting interests or competing claims between First Nations.
- 14.11. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 14.12. The laws of British Columbia will govern this Agreement.
- 14.13. This Agreement is not intended to limit any obligation of forest Licensees or other third parties to We Wai Kai Nation.
- 14.14. The appendices to this Agreement form part of the Agreement.

[The remainder of this page intentionally left blank]

14.15. For the purposes of this Agreement, the Minister may be represented by the Regional Executive Director responsible for the North Island TSA

Signed on behalf of:

We Wai Kai Nation

JAN 03 2019
Date

Brian O'Sullivan
Chief Councillor

Ki O'Sullivan
Councillor

Donna Clark
Councillor

David O'Sullivan
Councillor

[Signature]
Witness of We Wai Kai Nation signatures

Ged Aron
Councillor

Keith Wilson
Councillor

David Bell
Councillor

[Signature]
Witness of British Columbia signatures

Signed on behalf of:

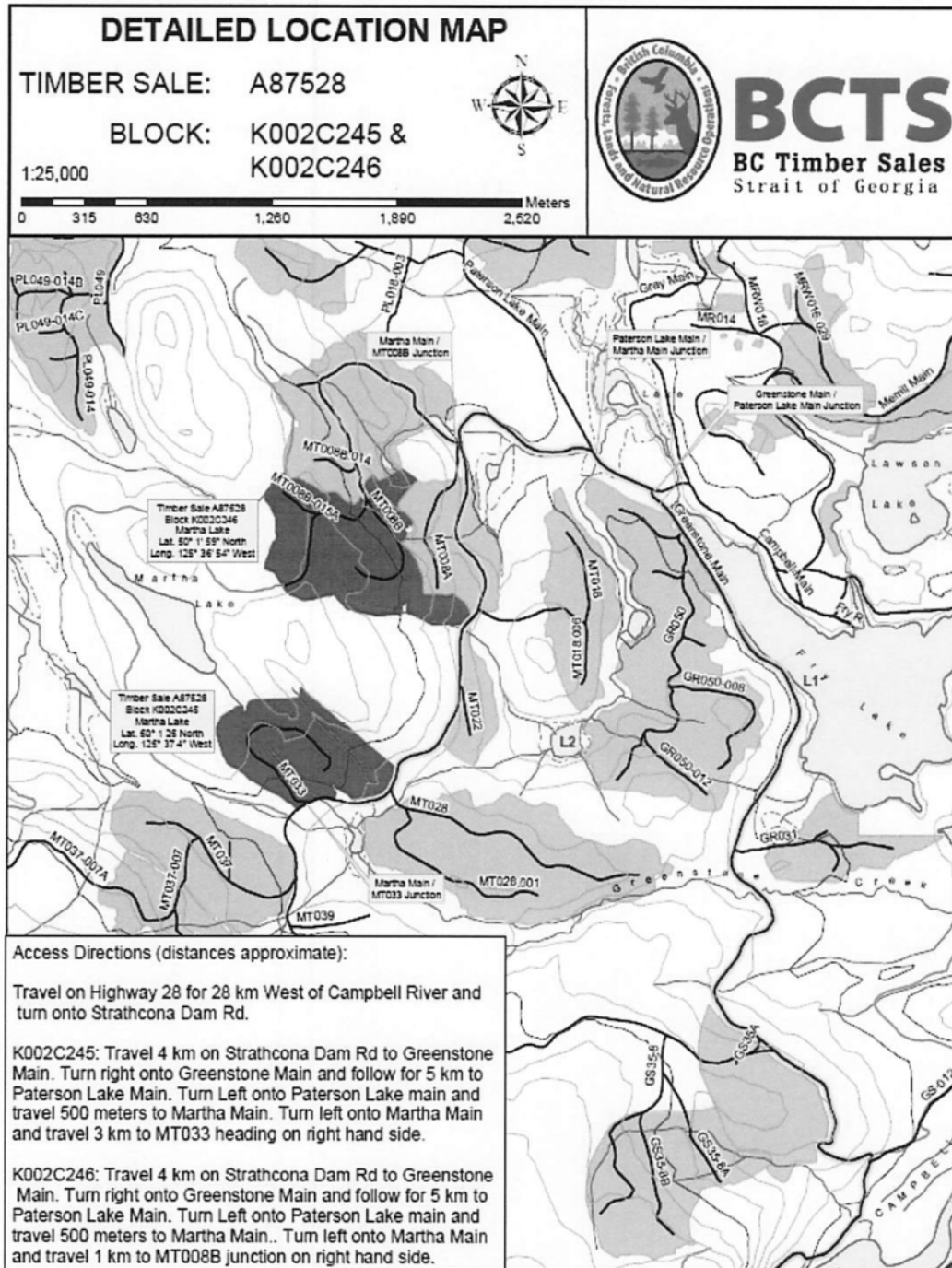
British Columbia

May 30, 2019
Date

[Signature]
The Honourable Doug Donaldson
Minister of Forests Lands, Natural
Resource Operations and Rural
Development

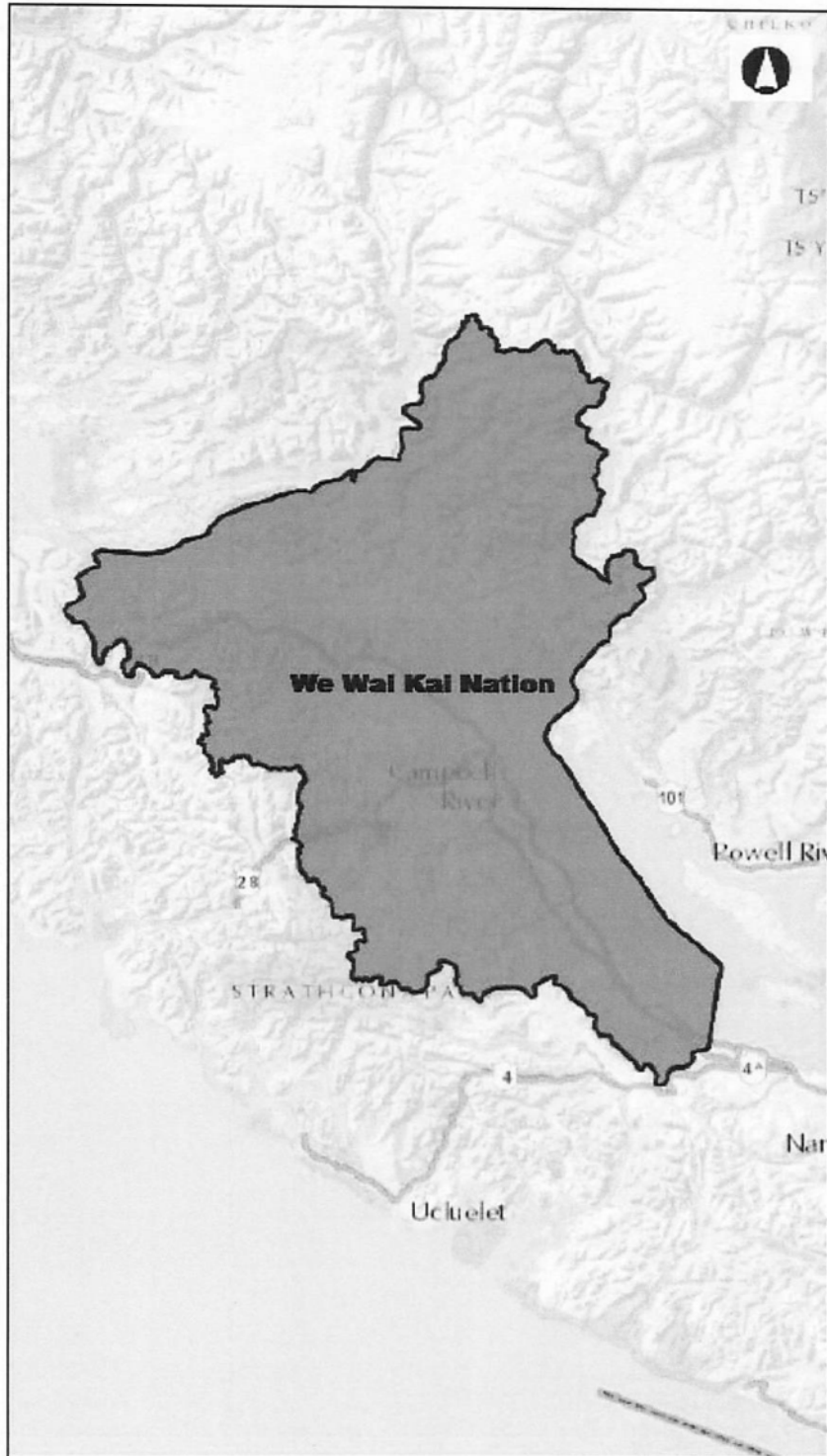
[Signature]
Witness of Minister signature

APPENDIX A



APPENDIX B

We Wai Kai Traditional Territory





File: 10430-20/We Wai Kai FTOA
CLIFF: 248713

May 30, 2019

Chief Brian Assu
We Wai Kai Nation
690 Headstart Crescent
Campbell River, British Columbia
V9H 1P9

Dear Chief Brian Assu:

I am pleased to provide you with the attached Forest Tenure Opportunity Agreement (FTOA) between We Wai Kai Nation (WWKai) and the Province of British Columbia. The FTOA provides two opportunities:

1. A replaceable forest licence with an allowable annual cut of 13,984 cubic metres (m³) in the North Island Timber Supply Area (TSA); and
2. A non-replaceable forest licence for a total of 40,000 m³, in the North Island TSA, to be developed in partnership with BC Timber Sales.

I invite you to apply for the licences to the Regional Executive Director of the West Coast Natural Resource Region. An application letter may be sent to:

Regional Executive Director
West Coast Natural Resource Region
Suite 103, 2100 Labieux Road
Nanaimo, British Columbia
V9T 6E9

The application must include the following information:

1. The legal entity that will hold the licences, as either the WWKai or other business entity to act as the representative of WWKai; and
2. A map of the licence area within the traditional territory of WWKai in the North Island TSA.

Page 1 of 2

Ministry of Forests, Lands,
Natural Resource Operations and
Rural Development

Office of the Minister

Mailing Address:
PO BOX 9049 Stn Prov Govt
Victoria, BC V8W 9E2
Location: Parliament Buildings

Tel: (250)387-6240
Fax: (250)387-1040
Website: www.gov.bc.ca/for/

Chief Brian Assu

As part of the application package, the Province of British Columbia may seek confirmation through a Band Council Resolution regarding the assignment of a representative to hold the licence and the determination of a licence area.

I encourage working with staff at the Campbell River Natural Resource District office to define the licence areas and prepare licence maps for the application. Please contact Gary Gwilt, Resource Manager, at the district office by email at gary.gwilt@gov.bc.ca or by phone at (250) 286-9350.

If you have any questions regarding the application requirement or the licences, please contact Randy Husband, Timber Tenures Specialist, Coast Area Forest Tenures, by email at randy.husband@gov.bc.ca or by phone at (250) 751-7057.

Sincerely,



Doug Donaldson
Minister

Attachment: Forest Tenure Opportunity Agreement

pc: Sharon Hadway, Regional Executive Director, West Coast Natural Resource Region
Romona Blackwell, District Manager, Campbell River Natural Resource District
Gary Gwilt, Resource Manager, Campbell River Natural Resource District
Randy Husband, Timber Tenures Specialist, Coast Area Forest Tenures

**MINISTRY OF FORESTS, LANDS, NATURAL RESOURCE OPERATIONS AND
RURAL DEVELOPMENT
DECISION NOTE**

Date: November 22, 2018

File: 10450/We Wai Kai

CLIFF: 244469

PREPARED FOR: Rick Manwaring, Associate Deputy Minister, Ministry of Forests, Lands,
Natural Resource Operations and Rural Development

ISSUE: Mandate for disposition of unused volume to We Wai Kai First Nation

BACKGROUND:

The We Wai Kai First Nation (WWKai) (population 1,145) are an active participant of the forest industry in the Campbell River Natural Resource District with tenures from forest revitalization totaling 25,202 cubic meters (m^3) of allowable annual cut (AAC). Their territory has significant overlap with Wei Wai Kum First Nation (population 819) and K'omoks First Nation (population 336), who in addition to their own revitalization AAC, have received approximately 1.2 million m^3 of unused volume from the overlapping territory as signatories to the Nanwakolas Reconciliation Protocol. The WWKai, who have received 40,000 m^3 of unused volume in their territory^{s.16}

s.16

On June 15, 2018, the WWKai submitted a request to the District Manager of the Campbell River Natural Resource District (Attachment 2) for a tenure disposition of an additional 40,000 m^3 to:

2. Provide volume to support a disposition agreement between WWKai and BCTS, providing an exit strategy for BCTS from the ITA lands.

DISCUSSION:

s.16

There are recent (2017) unused volume accruals of 46,632 m^3 associated with untenured apportionment for competitive non-replaceable forest licences in the North Island TSA that may be considered for WWKai's request. There are no current commitments or plans for this volume.

Providing the requested opportunity to the WWKai will provide a number of positive benefits to both the WWKai and the Province including:
s.16

- Providing an accommodation for forestry impacts on WWKai Aboriginal interests;
s.16
- Providing a measure of good faith by recognizing the competing interests for forestry resource opportunities between WWKai, the K'omoks, and the Wei Wai Kum First Nations; and
- Supporting provincial objectives of utilizing the full AAC by offering licences from unused or undercut volumes.

Providing the request would limit the available volume in the TSA for other opportunities until there are new unused volume accruals. Although unused volume requests are relatively common, there are no other immediate requests for unused volume from the TSA under consideration. Equivalent accruals are expected for 2018 and may be considered for disposition at a later time.

OPTIONS:

Option 1: Provide a mandate to negotiate a Forest Tenure Opportunity Agreement with WWKai for 40,000 m³.

Implications:
s.13;s.16


Option 2: s.13;s.16

Implications:
s.13;s.16

RECOMMENDATION:

Option 1: Provide a mandate to negotiate a Forest Tenure Opportunity Agreement with WWKai for 40,000 m³.

Approved / Not Approved



Signature
Paul Rasmussen, Acting Associate Deputy Minister
Ministry of Forests, Lands, Natural Resource
Operations and Rural Development

December 10, 2018

Date

Attachments (2):
1. Letter to Premier
2. Letter to District Manager

Contact:
Craig Sutherland
Assistant Deputy Minister
Coast Area
Phone: (250) 387-9773:

Alternate Contact:
Sharon Hadway
Regional Executive Director
West Coast Natural Resource Region
Phone: (250) 751-7161

Prepared by:
Randy Husband
Timber Tenures Specialist
Coast Area Forest Tenures
Phone: (250) 751-7057

Reviewed by	Initials	Date
A/AssocDM	PR	Dec 10/18
DMO		
ADM (TOPFN)	CS	Nov 28/18
ADM (Coast)	CS	Nov 26/18
RED (WCR)	SH	Nov 23/18
Director	JR	Nov 22/18
DM (CR)	RB	Nov 16/18
BCTS (TSM)	NK/DH	Nov 16/18

Page 099 of 126 to/à Page 101 of 126

Withheld pursuant to/removed as

s.16

BRIEFING NOTE FOR INFORMATION

DATE: May 24, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: 2020 Community Resiliency Investment program update

BACKGROUND:

- The 2019 Community Resiliency Investment program intake has nearly concluded.
- While there are currently 16 applications undergoing final staff review or awaiting the next Evaluation Committee meeting for final approval, therefore the numbers shown below will increase. The current intake numbers are as follows:
 - Total applicants: 137
 - Total approved applicants to date: 112
 - First Nations: 44 of 57
 - Regional districts: 17 of 20
 - Municipalities: 50 of 59
 - Other: 1 of 1 (Atlin Improvement District)
 - Total funds approved to date: \$5.5M
- Applicants applied for projects within all nine eligible activities including: education, development considerations, FireSmart activities on private land, and fuel management.
- Overall, feedback from applicants was positive. The Community Resiliency Investment program made a significant shift to a risk based funding program and applicants had to demonstrate their wildfire risk (via risk class) to be eligible for higher funding amounts. Evidence shows that this change was successful and generally well understood by applicants.
- Government committed to continuous improvement of the program and the Community Resiliency Investment program Management Committee has just completed its first review and staff are currently reviewing proposed changes for the 2020 intake. .

DISCUSSION:

Based on feedback received from applicants and staff, the Community Resiliency Investment program Management Committee (which includes FLNRORD, UBCM, FNESS, and FESBC) has recommended the following program changes:

- Increased funding for all high-risk communities from \$100,000 to \$150,000
- Expanded rebate program to allow home and property owners to be reimbursed for improvements to houses. For example, a home owner may use the rebate towards a new roof if that is the recommended action
 - In the first iteration, the rebate program was limited to vegetation and debris removal in priority zone 1 immediately around the home.
- Clearer descriptions for residential areas (vs. private land) with intent to encourage more First Nations to apply for funding in this category. The term "private land" inadvertently caused confusion about the eligibility of homes on Indian Reserves as land ownership is structured differently
- Improved language for demonstration projects with intent to encourage FireSmarting of critical infrastructure, in addition to First Nations and publicly owned buildings

- Minor changes to application materials (and inclusion of sample, completed forms) to provide more certainty to applicants
- Changes to internal review process to provide comprehensive comments to applicants very early in the adjudication process in order to support more applicants to be successful in obtaining funding in a shorter timeline

NEXT STEPS:

The 2019 Community Resiliency Investment program applications will complete staff review and be brought forward to the next Evaluation Committee meeting for final approval (as required).

Final program changes outlined above will be brought forward to the BC FireSmart Committee for final review and approval.

The next intake is scheduled for October 18, 2019.

PREPARED BY:

Yana Stratemeyer-Trinczek
A/Senior Program Manager
BCWS
(250) 312-3058

REVIEWED BY:

	Initials	Date
Associate DM		
DMO		
ED	IM	2019-06-03
Program Dir/Mgr.	YST	2019-05-24

BRIEFING NOTE FOR INFORMATION

DATE: May 9, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Premier Order appointments to the Muskwa-Kechika Advisory Board

BACKGROUND:

The Muskwa-Kechika Advisory Board (M-KAB), provides advice to the Provincial Government to help ensure that activities in the Muskwa-Kechika Management Area are consistent with the intent and objectives of the *Muskwa-Kechika Management Act* and the Muskwa-Kechika Management Plan Regulation.

The M-KAB may have up to 17 members, all of whom must be appointed by the Premier. Currently, the M-KAB is requesting to fill two positions with the reappointment of Sean Olmstead for the vacant guide outfitter position, and the appointment of Ruby Johnny as a representative of the Kaska Dena Council.

As per the 1997 Letter of Understanding, with the Kaska Dena Council, the M-KAB is to have four members from specific First Nation communities (Lower Post, Good Hope Lake, Fort Ware, and the Kaska Dena Council). Ruby Johnny was recommended by the Kaska Dena Council to replace the position held by Corrine Porter as the representative from the Kaska Dena Council. The other three First Nation communities have current board member representation.

The reappointment of Sean Olmstead and the appointment of Ruby Johnny will bring the the total number of M-KAB members to 13. Although the Premier may appoint up to 17 members, the board has indicated it does not have the budget to support a full board and historically operates with 14 members. M-KAB is currently waiting for a recommendation for appointment from the Fort Nelson First Nation; and, once received and approved, this would bring the member total to 14. Further information regarding the Board's composition and mandate can be found in the Cover Memo and Background Note (Attachment 2).

The Crown Agencies and Board Resourcing office (CABRO) recommended the reappointments to the Premier's Office and has received approval in principle.

NEXT STEPS:

- Once reviewed by the Deputy Minister and Minister, the Premier's Order along with the information note and supporting material will be sent to the Premier's Office for signature.
- Once the Premier's Order is signed and made public:
 - the Minister's signature is added to the Appointment Letter for each of the appointees,
 - the Minister signs the four Indemnity Forms to complete the appointment package

This document may contain information that is protected by solicitor client privilege. Prior to any disclosure of this document outside of government, including in response to a request under the *Freedom of Information and Protection of Privacy Act*, the ministry in possession of this document must consult with the lawyer responsible for the matter to determine whether information contained in this document is subject to solicitor client privilege.

Attachment(s):

1. Premier's Order
2. CABRO Cover Memo and Background Note
3. Request for Appointment Checklist
4. Appointment Letters
5. Appointee Indemnity Forms

PREPARED BY:

Andrea Bocskei,
Policy & Intergovernmental Relations
Strategic Initiatives Branch
Corporate Initiatives Division

REVIEWED BY:

	Initials	Date
DM	JA	2019-05-15
DMO	AK	2019-05-14
ADM/Exec Director	RE	May 13, 2019
Program Dir/Mgr.	BH	May 9, 2019

This document may contain information that is protected by solicitor client privilege. Prior to any disclosure of this document outside of government, including in response to a request under the *Freedom of Information and Protection of Privacy Act*, the ministry in possession of this document must consult with the lawyer responsible for the matter to determine whether information contained in this document is subject to solicitor client privilege.

From: [Minister, FLNR FLNR:EX](#)
To: ["sean@prophetmuskwa.com"](mailto:sean@prophetmuskwa.com)
Cc: [OfficeofthePremier, Office PREM:EX](#); [Griffin, Shannon FIN:EX](#); [Hughes, Kate FLNR:EX](#); [Bocskei, Andrea FLNR:EX](#); ["MKMASupport@telus.net"](mailto:MKMASupport@telus.net)
Subject: Muskwa-Kechika Advisory Board
Date: June 6, 2019 10:56:27 AM
Attachments: [Sean Olmstead M204-2019 \(3\).pdf](#)
[Sean Olmstead Indemnity Form.pdf](#)
[Appointment Letter Sean Olmstead.pdf](#)

Please find reappointment to the Muskwa-Kechika Advisory Board documentation for your review and signature.



PROVINCE OF BRITISH COLUMBIA

Premier's Order No. M204

ORDER OF THE PREMIER OF BRITISH COLUMBIA

Muskwa-Kechika Advisory Board

I, John Horgan, Premier of British Columbia, order that:

1. Ruby Anny Johnny be appointed as Member of the Muskwa-Kechika Advisory Board for a term of three years.
2. Sean Kevin Olmstead be reappointed as Member of the Muskwa-Kechika Advisory Board for a term of three years.

June 3, 2019

Date


Premier of British Columbia

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Muskwa-Kechika Management Area Act s.9

Other (specify): Premier Order 107/16

**GOVERNMENT APPOINTEES TO AGENCIES,
BOARDS AND COMMISSIONS INDEMNITY**

Her Majesty the Queen in Right of the Province of British Columbia (the "Province") has agreed to grant this Indemnity on the terms and conditions hereinafter set forth to Sean Kevin Olmstead (the "Appointee")

who has been appointed to Muskwa-Kechika Advisory Board (the "Entity").
(NAME OF ENTITY)

1. Notwithstanding the actual date of execution and delivery of this Indemnity, the term of this Indemnity will be conclusively deemed to commence on the day upon which the appointment first became effective and will end on the effective date of termination of the appointment, provided however, this Indemnity will remain in full force and effect in respect of all acts or omissions covered hereunder occurring during the term.
2. Subject to sections 3, 4, and 6 of this Indemnity, the Province will indemnify and save harmless the Appointee from and against any and all claims, liabilities, losses, damages, costs, charges and expenses which the Appointee may sustain, incur or be liable for in carrying out the duties as Appointee to the Entity.
3. The Province will not be obligated to indemnify or save harmless the Appointee from and against any claim, liability, loss, damage, cost, charge, or expense arising out of any act, error or omission of the Appointee that results from the Appointee failing to act honestly or in good faith or in the best interests of the Entity, or that arises out of any act, error or omission outside the course of the Appointee's duties, or for any fine or penalty imposed on the Appointee by law, or arising out of a dishonest, fraudulent, criminal or malicious act.
4. The Province will not be obligated to indemnify or save harmless the Appointee in respect of any liability against which the Appointee is entitled to be indemnified pursuant to any valid and collectible policy of insurance. Where a partial indemnity is provided by such insurance, the obligation of the Province will be limited to that portion of the liability for which an indemnity is not provided by such policy, subject to the conditions of this Indemnity.
5. In the event the Province indemnifies the Appointee in accordance with this Indemnity, the Province will be subrogated to all rights of the Appointee.
6. Upon the Appointee becoming aware of any pending or threatened claim, action, suit or proceeding by which the Province could become liable under this Indemnity, written notice will be given by or on behalf of the Appointee to the Province as soon as is practicable.
7. Subject to section 6 of this Indemnity, the Province will defend, at its expense, any suit, action or proceeding, against the Appointee that, if successful, would result in a liability contemplated by section 2 (except in respect of criminal proceedings or any liability for which the Appointee is entitled to be indemnified pursuant to any valid and collectible policy of insurance).
8. Any notice, statement, other document or payment that either party may be required or may desire to give or deliver to the other will be conclusively deemed validly given or delivered to and received by the addressee, if delivered personally, on the date of such personal delivery or, if mailed, on the fifth business day after the mailing of the same in British Columbia by prepaid post addressed, or if sent by fax, on the day of transmission, if to the Province at:

PO Box 9405 Stn Prov Govt
Victoria BC V8W 9V1

Fax Number: 250 356-6222
Attention: Executive Director
Risk Management Branch
Ministry of Finance

and, if to the Appointee, at the address or fax number as shown on this Indemnity, or at such changed address/fax number as the parties will have duly notified one another.

9. This Indemnity will be construed in accordance with and be governed by the laws of the Province of British Columbia.

This indemnity is given on behalf of the Province by a duly authorized representative of Minister of FLNRORD,
(LIEUTENANT GOVERNOR IN COUNCIL OR MINISTER)

the form of which has been approved by the Executive Director, Risk Management Branch, Ministry of Finance.

X [Signature] (WITNESS SIGNATURE) X [Signature] (AUTHORIZED REPRESENTATIVE OF THE PROVINCE SIGNATURE)

The Appointee, _____, of _____,
(PRINT NAME OF APPOINTEE) (ADDRESS OF APPOINTEE AND FAX NUMBER, IF ANY)

hereby agrees to the terms of this Indemnity.

The Appointee represents and warrants to the Province that, to the best of the Appointee's knowledge, there are no actions, suits or proceedings pending or threatened that could lead to a claim, liability, loss, damage, cost, charge or expense described in section 2 of this Indemnity except:
(INSERT "NONE" OR DESCRIPTION)

Dated this _____ day of _____, 20_____.

X _____ (WITNESS SIGNATURE) PRINT NAME AND ADDRESS X _____ (APPOINTEE SIGNATURE)

THIS INDEMNITY CONTAINS CLAUSES THAT LIMIT COVERAGE AND REQUIRE CERTAIN PERFORMANCE BY THE APPOINTEE



June 6, 2019

VIA EMAIL: sean@prophetmuskwa.com

Sean Kevin Olmstead
4289 Craig Ave
Two Rivers, B.C.
V0C 1C1

Dear Sean Kevin Olmstead:

I am pleased to advise you formally of your reappointment to the Muskwa-Kechika Advisory Board for a three-year term. The appointment is made pursuant to the *Muskwa-Kechika Management Area Act*. I have enclosed a copy of the Order for your records.

The Ministry of Finance has developed a program to indemnify board appointees from claims against them arising from the performance of their duties. An appointee indemnity form with information on the program is enclosed. Please complete and sign the form, have it witnessed, scan and return it by email to Kate Hughes, Manager of Policy and Intergovernmental Relations at Kate.Hughes@gov.bc.ca within 30 days of receiving this letter. Questions regarding the indemnity program can also be directed to Kate at 778-974-5824.

I wish you a productive and enjoyable term and appreciate your commitment to upholding the mandate of the Muskwa-Kechika Advisory Board.

Sincerely,

Doug Donaldson
Minister

Enclosures: ORDER # M204
Indemnity Form for Government Appointees to Agencies, Boards
and Commissions

Page 1 of 2

pc: Stephanie Gale Killam, Chair, Muskwa-Kechika Advisory Board
Shannon Griffin, Senior Advisor, Crown Agencies Board Resourcing Office,
Ministry of Finance
Kate Hughes, Manager, Corporate Initiatives Division,
Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Andrea Bocskei, Senior Policy Analyst, Corporate Initiatives Division,
Ministry of Forests, Lands, Natural Resource Operations and Rural Development

From: [Minister, FLNR FLNR:EX](#)
To: ["kdc_landnresource@northwestel.net"](#)
Cc: ["MKMASupport@telus.net"; OfficeofthePremier, Office PREM:EX; Griffin, Shannon FIN:EX; Hughes, Kate FLNR:EX; Bocskei, Andrea FLNR:EX](#)
Subject: Muskwa-Kechika Advisory Board
Date: June 6, 2019 10:59:54 AM
Attachments: [Ruby Johnny M204-2019.pdf](#)
[Ruby Johnny Indemity Form.pdf](#)
[Appointment Letter Ruby Johnny.pdf](#)

Please find reappointment to the Muskwa-Kechika Advisory Board documentation for your review and signature.



PROVINCE OF BRITISH COLUMBIA

Premier's Order No. M204

ORDER OF THE PREMIER OF BRITISH COLUMBIA

Muskwa-Kechika Advisory Board

I, John Horgan, Premier of British Columbia, order that:

1. Ruby Anny Johnny be appointed as Member of the Muskwa-Kechika Advisory Board for a term of three years.
2. Sean Kevin Olmstead be reappointed as Member of the Muskwa-Kechika Advisory Board for a term of three years.

June 3, 2019

Date


Premier of British Columbia

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Muskwa-Kechika Management Area Act s.9

Other (specify): Premier Order 107/16

**GOVERNMENT APPOINTEES TO AGENCIES,
BOARDS AND COMMISSIONS INDEMNITY**

Her Majesty the Queen in Right of the Province of British Columbia (the "Province") has agreed to grant this Indemnity on the terms and conditions hereinafter set forth to Ruby Ann Johnny (the "Appointee")

who has been appointed to Muskwa-Kechika Advisory Board (the "Entity").
(NAME OF ENTITY)

1. Notwithstanding the actual date of execution and delivery of this Indemnity, the term of this Indemnity will be conclusively deemed to commence on the day upon which the appointment first became effective and will end on the effective date of termination of the appointment, provided however, this Indemnity will remain in full force and effect in respect of all acts or omissions covered hereunder occurring during the term.
2. Subject to sections 3, 4, and 6 of this Indemnity, the Province will indemnify and save harmless the Appointee from and against any and all claims, liabilities, losses, damages, costs, charges and expenses which the Appointee may sustain, incur or be liable for in carrying out the duties as Appointee to the Entity.
3. The Province will not be obligated to indemnify or save harmless the Appointee from and against any claim, liability, loss, damage, cost, charge, or expense arising out of any act, error or omission of the Appointee that results from the Appointee failing to act honestly or in good faith or in the best interests of the Entity, or that arises out of any act, error or omission outside the course of the Appointee's duties, or for any fine or penalty imposed on the Appointee by law, or arising out of a dishonest, fraudulent, criminal or malicious act.
4. The Province will not be obligated to indemnify or save harmless the Appointee in respect of any liability against which the Appointee is entitled to be indemnified pursuant to any valid and collectible policy of insurance. Where a partial indemnity is provided by such insurance, the obligation of the Province will be limited to that portion of the liability for which an indemnity is not provided by such policy, subject to the conditions of this Indemnity.
5. In the event the Province indemnifies the Appointee in accordance with this Indemnity, the Province will be subrogated to all rights of the Appointee.
6. Upon the Appointee becoming aware of any pending or threatened claim, action, suit or proceeding by which the Province could become liable under this Indemnity, written notice will be given by or on behalf of the Appointee to the Province as soon as is practicable.
7. Subject to section 6 of this Indemnity, the Province will defend, at its expense, any suit, action or proceeding, against the Appointee that, if successful, would result in a liability contemplated by section 2 (except in respect of criminal proceedings or any liability for which the Appointee is entitled to be indemnified pursuant to any valid and collectible policy of insurance).
8. Any notice, statement, other document or payment that either party may be required or may desire to give or deliver to the other will be conclusively deemed validly given or delivered to and received by the addressee, if delivered personally, on the date of such personal delivery or, if mailed, on the fifth business day after the mailing of the same in British Columbia by prepaid post addressed, or if sent by fax, on the day of transmission, if to the Province at:

PO Box 9405 Stn Prov Govt
Victoria BC V8W 9V1

Fax Number: 250 356-6222
Attention: Executive Director
Risk Management Branch
Ministry of Finance

and, if to the Appointee, at the address or fax number as shown on this Indemnity, or at such changed address/fax number as the parties will have duly notified one another.

9. This Indemnity will be construed in accordance with and be governed by the laws of the Province of British Columbia.

This indemnity is given on behalf of the Province by a duly authorized representative of Minister of FLNRORD,
(LIEUTENANT GOVERNOR IN COUNCIL OR MINISTER)

the form of which has been approved by the Executive Director, Risk Management Branch, Ministry of Finance.

X [Signature]
(WITNESS SIGNATURE)

X [Signature]
(AUTHORIZED REPRESENTATIVE OF THE PROVINCE SIGNATURE)

The Appointee, _____, of _____,
(PRINT NAME OF APPOINTEE) (ADDRESS OF APPOINTEE AND FAX NUMBER, IF ANY)

hereby agrees to the terms of this Indemnity.

The Appointee represents and warrants to the Province that, to the best of the Appointee's knowledge, there are no actions, suits or proceedings pending or threatened that could lead to a claim, liability, loss, damage, cost, charge or expense described in section 2 of this Indemnity except:
(INSERT "NONE" OR DESCRIPTION)

Dated this _____ day of _____, 20_____.

X _____
(WITNESS SIGNATURE) PRINT NAME AND ADDRESS

X _____
(APPOINTEE SIGNATURE)

THIS INDEMNITY CONTAINS CLAUSES THAT LIMIT COVERAGE AND REQUIRE CERTAIN PERFORMANCE BY THE APPOINTEE



June 6, 2019

VIA EMAIL: kdc_landnresource@northwestel.net

Ruby Ann Johnny
Box 61
Good Hope Lake, B.C.
V0C 2Z0

Dear Ruby Ann Johnny:

I am pleased to advise you formally of your appointment to the Muskwa-Kechika Advisory Board for a three-year term. The appointment is made pursuant to the *Muskwa-Kechika Management Area Act*. I have enclosed a copy of the Order for your records.

The Ministry of Finance has developed a program to indemnify board appointees from claims against them arising from the performance of their duties. An appointee indemnity form with information on the program is enclosed. Please complete and sign the form, have it witnessed, scan and return it by email to Kate Hughes, Manager of Policy and Intergovernmental Relations at Kate.Hughes@gov.bc.ca within 30 days of receiving this letter. Questions regarding the indemnity program can also be directed to Kate at 778-974-5824.

I wish you a productive and enjoyable term and appreciate your commitment to upholding the mandate of the Muskwa-Kechika Advisory Board.

Sincerely,

Doug Donaldson
Minister

Enclosures: ORDER # M204
Indemnity Form for Government Appointees to Agencies, Boards
and Commissions

Page 1 of 2

pc: Stephanie Gale Killam, Chair, Muskwa-Kechika Advisory Board
Shannon Griffin, Senior Advisor, Crown Agencies Board Resourcing Office,
Ministry of Finance
Kate Hughes, Manager, Corporate Initiatives Division,
Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Andrea Bocskei, Senior Policy Analyst, Corporate Initiatives Division,
Ministry of Forests, Lands, Natural Resource Operations and Rural Development



BRIEFING NOTE FOR INFORMATION

DATE: May 14, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Petition before the B.C. Supreme Court by Dark House challenging archaeological mitigation plan for Camp 9A which is a part of the Coastal GasLink natural gas pipeline project.

BACKGROUND:

- As part of the construction of the Coastal GasLink (CGL) natural gas pipeline, Camp 9A will serve as a temporary camp to house workers. The site was clear-cut logged as a forestry block prior to camp construction.
- The Environmental Assessment Office and Oil and Gas Commission (OGC) are responsible for ensuring permit condition compliance.
- On February 13, 2019, Unist'ot'en supporters (the organization is affiliated with Dark House) reported finding artifacts in Camp 9A. The supporters have minimal archaeological knowledge and allegedly found the artifacts^{s.13,s.1}. CGL stopped work near the discovery and flagged a 100 m buffer as a no work zone.^{s.13,s.16}
- On February 15, 2019, during a site inspection by the OGC and Archaeology Branch (the Branch), four artifacts were observed on top of a flagged, frozen clay slab and were collected by OGC and taken to Fort St John to be kept in a secure location for analysis. Only Dark House has requested the artifacts and a plan to return them is under development.
- On March 1, 2019, the CGL mitigation plan for Camp 9A was reviewed by the Branch and approved by the OGC.
- On May 7, 2019 a Petition to the B.C. Supreme Court was filed by Dark House to challenge the approval of the mitigation plan.
- Appendix A provides a detailed timeline and background.

DISCUSSION:

s.13,s.14,s.16

The OGC approved the Camp 9A mitigation plan, as the stop work occurred under the OGC permit in place for this portion of the project (Construction Section 7). The OGC Permit requires a stop work order if archaeological materials are identified during project work. s.13,s.16

s.13,s.16

Comment [TPF2]: Unist'ot'en
<http://unistoten.camp/significant-archaeological-finding-pauses-cgl-work-on-unistoten-territory/>

s.13,s.16



s.13,s.16

s.13,s.16

While the

s.13,s.16

condition references the Archaeology Branch, the OGC agrees this decision falls under their jurisdiction; the Branch provided input on the document. A summary report of the mitigation was given to the OGC on March 4, 2019 to fulfil this permit condition.

The archaeological site identified within Camp 9A is recorded in the provincial database but has been assigned Legacy status. Archaeological sites are assigned Legacy status to indicate they are not protected usually because they do not meet the criteria for protection under the *Heritage Conservation Act* or they have been destroyed. The archaeological site within Camp 9A is a small scatter that has been 100% collected with strong evidence the artifacts did not originate at the site, thereby meeting Branch policy to be assigned Legacy status. Should any additional archaeological material be found at this site, (or within the push pile) the site may be re-classed as a registry candidate.

CONCLUDING SUMMARY

The Branch will support the Ministry of Attorney General in responding to the injunction application.

Attachment(s): **Appendix A- Detailed Timeline and Background**

PREPARED BY:

Paula Thorogood
A/Director
Archaeology Branch
(250) 953-3300

REVIEWED BY:

	Initials	Date
DM		
Associate DM		
DMO		
ADM	MA	17May19
Program Dir/Mgr.	PRT	14May19



APPENDIX A Detailed Timeline and Background:

- Coastal GasLink (CGL) proposes to construct and operate a natural gas pipeline over approximately 670 km from Dawson Creek to Kitimat, BC.
- Archaeological impact assessments (AIAs) have been conducted since 2013 for the proposed CGL pipeline, including three permits to date under the *Heritage Conservation Act (HCA)*, Heritage Inspection Permits 2013-0004; 2013-0033; 2016-0131). The objectives of an AIA are to identify and evaluate archaeological sites.
- The Oil and Gas Commission (OGC) is the agency responsible for issuing site alteration permits under the HCA for this project.
- Dark House (affiliated with the Uni'stot'en group which opposes pipeline development in Wet'suwet'en territory, including CGL) is a House within the Wet'suwet'en; the Province recognises Dark House's request to consult independently of the Office of the Wet'suwet'en and Wet'suwet'en Nation.
- Camp 9A is a CGL project component located approximately 70 km southwest of Houston, BC. It will serve as a temporary camp to house workers during pipeline construction and measures approximately 630 m E/W by 370 m N/S. Most of Camp 9A is located in a previously-clear cut forestry block.
- Camp 9A was assessed through an archaeological overview assessment (AOA) desktop study under HCA Permit 2013-0033; it was submitted to the Branch in August 2016, reviewed and accepted in September 2016. The area was not inspected in the field due to the blockade of a portion of Wet'suwet'en's traditional territory. The AOA recommended fieldwork to confirm the desktop recommendations. While Camp 9A was assessed as having low archaeological potential for subsurface archaeological sites, the southwest portion, where trees still stood (prior to the logging referenced above), had low to moderate archaeological potential for Culturally Modified Trees (CMTs).
- CGL removed vegetation and up to 3 m of the sediments, exposing glacial deposits in the proposed Camp 9A in winter 2019. Sediments were pushed to the southern portion of the project component.
- On February 13, 2019, Uni'stot'en reported two people with limited archaeological knowledge found the artifacts s.13,s.16 : in the recently cleared Camp 9A. CGL stopped work near the discovery and flagged a 100 m no work zone.
- On February 15, 2019, under Heritage Inspection Order H2019-001, OGC archaeologists and Compliance and Enforcement representatives, as well as an archaeologist from the Archaeology Branch, conducted an inspection of the alleged find location. Four artifacts were observed on top of a flagged, frozen clay slab. The artifacts were collected by OGC and kept in a secure location in Fort St John for analysis.
- The find location of the artifacts was recorded as archaeological site s.18 . In line with current Branch policy, the site was assigned Legacy status (i.e., no further protection under the HCA), as the small surface scatter was 100% collected s.13,s.16

Comment [AMF5]: Uni'stot'en?

Comment [TPF6]: Yes; corrected

s.13,s.16

- On March 1, 2019, the Archaeology Branch reviewed the mitigation plan for Camp 9A, and it was approved by the OGC. The plan included archaeological testing of the nearby topsoil pile under non-frozen conditions, a full surface visual inspection of 10 m x 1 m area of interest where artifacts were recovered, a surface inspection of approximately 800 m² of exposed deposits within cleared area of Camp 9A, and archaeological monitoring of CGL's construction and reclamation phases.
- The archaeological consultant holding HCA Permit 2016-0131 conducted a field visit on February 28th and March 1st and did not observe additional artifacts, as reported on March 4, 2019.
- Following artifact analysis, the Archaeology Branch sent letters on March 8, 2019 to all First Nations with traditional territory overlapping Camp 9A for opportunity to comment on the artifact return. Responses were requested by April 5th, 2019.
- s.13,s.16

- On March 15, 2019, Karla Tait of Dark House requested a meeting with the Archaeology Branch to discuss the artifact return. No other comments were received.
- On March 19, 2019, the Archaeology Branch responded to Dark House. The Branch declined to meet as several First Nations still had the opportunity to respond. Further, the Branch directed Dark House to contact the OGC regarding activities at Camp 9A.
- In their response on March 23, 2019, Dark House conveyed disappointment there would be no meeting, and asserted they were the only indigenous group with authority over the lands with Camp 9A. They requested a list of the referral nations who received the March 8, 2019 referral letter.
- In the absence of responses from other First Nations, the Branch sent letters on April 12, 2019 and April 23, 2019 to Dark House to arrange the artifact return.
- Dark House responded on May 8, 2019 indicating their interest to proceed with the return of the artifacts to their territory.

BRIEFING NOTE FOR DECISION

DATE: May 16, 2019

PREPARED FOR: The Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Request to restrict bidding for forest licences in the Peace District

RECOMMENDED OPTION:

OPTION 1: Approve advertisement of three deciduous forest licences with bidding restrictions.

BACKGROUND:

- The deciduous industry producers are requesting bidding restrictions to support their local manufacturing facilities. Louisiana Pacific (LP) has been the most vocal, citing recent investment in a conversion of the oriented strand board (OSB) plant to OSB siding.
- Between 2020 and 2024, six non-replaceable forest licences (NRFLs) and four pulpwood agreements (PAs) in the Fort St. John and Dawson Creek timber supply areas (TSAs) are set to expire. These licences support Fort St. John Peace Valley OSB (LP), Dawson Creek LP Smart Side (LP), and the shuttered Chetwynd Mechanical Pulp.
- A tenure disposition strategy, supported by the Northeast Regional Executive Director (RED), has been circulated to the licensees in the Peace District.
- Canfor supports the tenure strategy as they manage the fibre supply for LP.
- LP has met with the North Area ADM, who acknowledges their community support and recognizes the importance of the tenure and facilities in providing regional and community economic stability.
- The Peace Caribou Recovery Strategy, First Nations Agreements, and Regional Strategic Environmental Assessment process (RSEA) may impact future fibre supply. The deciduous profile is not forecasted to be impacted to the same extent as the coniferous.
- Under Section 13(2.1) of the *Forest Act*, the Minister may specify that applications for a NRFL may only come from one or more categories established by Sections 3 and 4 of the *Forest Licence Regulation* (Restricted Forest Licence criteria).
- No First Nation partnerships have emerged.

DISCUSSION:

LP in Fort St. John and Dawson Creek completed significant upgrades to their facilities in 2018/19. LP Dawson has retooled their plant from OSB panels to OSB based siding (a value-added secondary forest product) and LP Fort St. John has increased input capacity up to 1.2 million m³ per year. Both facilities have increased employment as a result. Neither plant holds replaceable tenure and are concerned about future sustainability of their facilities and workforce.

A mandate is being requested to advertise three deciduous leading NRFLs with restrictions. Total volumes advertised would provide approximately 73% of fibre needs for existing facilities while ensuring volumes from BC Timber Sales and other business arrangements remain a competitive option.

Restricted tenures providing the opportunity for LP and other interested parties in the Peace District (including Paper Excellence) are proposed in the following table:

Volume (m ³ /year)	Interest in Facility	Type of Processing Facility	Facility Location	Annual Combined Input Capacity
375 000	owns	Secondary Processing Facility	Forest District (Peace)	Any annual combined range
325 000	owns	Produces pulp, paper, oriented strand board or newspaper or Secondary Processing Facility	Forest District (Peace)	Any annual combined range
193 000	owns	Produces pulp, paper, oriented strand board or newspaper	Forest District (Peace)	Any annual combined range

OPTIONS:

OPTION 1: Approve advertisement of three deciduous forest licences with bidding restrictions identified in the table above.

Implications:

- Demonstrates support for communities, regional employment and existing facilities.
- The secondary processing facility restriction will limit the number of eligible bidders to one; the other tenders will allow for up to three bidders each.
- May create concern with restriction of competition.
- Does not guarantee existing tenure holders' full replacement of expiring volumes.

OPTION 2: Approve the advertisement of three deciduous licences with identical bidding restrictions for pulp, paper, OSB, newsprint (no secondary processing facility restriction).

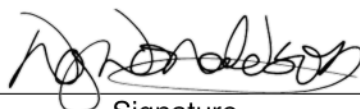
Implications:

- Bidding restrictions would allow competition for the tenures by the three existing facilities.
- Does not fully support LP's request for restricted bidding.
- Increases risk of unbalanced fibre supply to existing mills.
- Increases uncertainty in regional economic stability and employment.

RECOMMENDATION:

OPTION 1: Approve advertisement of three deciduous forest licences with bidding restrictions.

Approved / Not Approved



Signature

July 22, 2019

Date

Honourable Doug Donaldson
Minister of Forests, Lands, Natural Resource
Operations and Rural Development

Attachments: 1) Schedule 1 – Peace District Disposition NRFL volumes
2) Table 1 from the *Forest Licence Regulation* indicating categories of restrictions.

PREPARED BY:

Andrew Tait, RPF
Timber Tenures Specialist
North Area
(250) 561-3408

REVIEWED BY:

	Initials	Date
Deputy Minister	JA	
ADM North Area	EO	
Northeast RED	KV	
Program Dir/Tenures	JS	May 16, 2019
Team Lead/Tenures	AG	May 14, 2019
District Review	MV	

Schedule 1 – Draft Peace Natural Resource District Disposition Strategy version 3 - updated April 11 2019

Disposition year	Apportionment Category	Volume m3/year	Term (years)	TSA	Disposition start	Consultation Start	Advertising	Evaluation and Award Start	Tenure Issuance	Tenure(s) replacing	Restriction(s)	Comments
On Hold	First Nations	50,000		FSJ						Expired Cameron River		On Hold for potential First Nations Strategic Use
2019	Deciduous leading NRFL	375,000	10	Dawson	2019-05-01	2019-06-01	2019-09-01	2019-12-01	2020-05-15	A60064 A70730	restricted to owned facility, Either a) produces pulp/paper/ OSB/ newspaper or b) secondary processing, any combined annual input capacity - restricted to Peace District	Offer larger NRFL, will show seriousness of bidder and provide greater security to facilities. Legal opinion received, decision required
2019	Deciduous leading NRFL	325,000	10	Dawson	2019-05-01	2019-06-01	2019-09-01	2019-12-01	2020-05-15	A60064 A70730 PA 10	restricted to owned facility, produces pulp/paper/ OSB/ newspaper, any combined annual input capacity - a) restricted to Peace District or b) open to any	* 100,000 m3 sourced from PA10 will result in a TSA overcommitment for 3 year period. This is offset by undercut situation since 2015 TSR decision and no harvest performance on PA 10
2019	Deciduous leading NRFL	193,000	10	FSJ	2019-05-01	2019-06-01	2019-09-01	2019-12-01	2022-01-01	A60049	restricted to owned facility, produces pulp/paper/ OSB/ newspaper, any combined annual input capacity, restricted to Peace District	*Advertise and award in short term to show commitment/security of fibre for facilities needs in FSJ TSA, effective date will coincide with expiry of tenure it s replacing.
2021	Conventional NRFL	70,000	10	FSJ	2020-01-02	2020-02-15	2020-06-15	2020-07-15	2021-05-15	A60972 plus FSR top up	unrestricted	
2023	Conventional NRFL	100,000	10	Dawson	2022-10-15	2022-11-15	2022-03-15	2022-04-15	2023-02-15	A57332	unrestricted	*potential caribou impacts on conifer licence
2024	Deciduous leading NRFL	115,000	10	Dawson	2022-09-01	2022-10-01	2023-01-28	2023-03-01	2024-01-01	PA13 conversion plus 4,000 m3 from PA 10 and FSR top-up	restricted to owned facility, produces pulp/paper/ OSB/ newspaper, any combined annual input capacity, available province wide	
2024	Conventional NRFL	150,000	10	FSJ	2023-03-01	2022-10-01	2023-01-28	2023-03-01	2024-01-01	A56771	unrestricted	

2024	Deciduous leading NRFL	518,000	10	FSJ	2023-08-01	2023-09-01	2024-01-02	2024-02-02	2024-11-01	PA12,13,20 conversion	restricted to owned facility, produces pulp/paper/ OSB/ newspaper, any combined annual input capacity - restricted to Peace District	
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Table – Forest Licence Regulation

Item	Column 1 Types of Interest in Processing Facilities	Column 2 Types of Processing Facility	Column 3 Location of Processing Facility	Column 4 Annual Combined Input Capacity Range of Processing Facilities
1	owns	secondary processing facility	a forest district	over 5 000 m ³ to 50 000 m ³
2	leases	processing facility that produces pulp, paper, oriented strand board or newspaper	an area comprising up to 6 forest districts	over 50 000 m ³ to 100 000 m ³
3	intends to lease	processing facility that produces wood chips or ground wood and is not an excluded processing facility	the Province	over 100 000 m ³ to 250 000 m ³
4	intends to own by way of purchase	processing facility that produces pellets, bioenergy or biochemicals from timber or wood residue		over 250 000 m ³ to 500 000 m ³
5	intends to build and own	any type of processing facility		any annual combined input capacity range

BRIEFING NOTE FOR DECISION

DATE: May 24, 2019

PREPARED FOR: Honourable Doug Donaldson, Minister of Forests, Lands, Natural Resource Operations and Rural Development

ISSUE: Engagement options regarding predator management for the Tweedsmuir, Itcha-Ilgachuz, and Hart Ranges Caribou herds

RECOMMENDED OPTION:

Engage on predator management through the *Wildlife Act* process (to be completed by July 2019) and then engage on primary prey management through herd planning (to be completed Feb. 2020).

BACKGROUND:

- The Tweedsmuir, Itcha-Ilgachuz, and Hart Ranges caribou herds, part of the Southern Mountain population of woodland caribou (SMC), are listed as *threatened* under the federal *Species at Risk Act (SARA)* and have been identified as high priority herds for immediate predator management.
- These herds have experienced significant population decline (~50%) over the past decade largely driven by habitat disturbance, resulting in an increase in the abundance of other prey species (i.e. moose) and their predators (wolves). Wolf densities exceed SARA related targets.
- Because of population trend, likelihood of a significant population response, and evidence of unsustainable predation rate of these herds the Caribou Program and regional biologists are recommending predator and primary prey management as immediate actions to stop the population declines and to increase the probability of long-term successful population recovery.
- Predator management is a short-term solution to recover caribou, managing moose to target densities that support caribou recovery is an intermediate-term approach (i.e. 10-20 year) until long term habitat needs are met. If caribou habitat is protected and existing habitat alterations recovered, the need for wolf removal is expected to diminish over time.
- Technically sound and legally permitted predator management can be controversial; however it appears to have local support through recent community engagement sessions. Likewise, reducing moose numbers to benefit caribou is controversial among First Nations, Guide Outfitters and Resident Hunters who do not want to experience further moose declines.

DISCUSSION:

Prior to the implementation of predator or prey management the Province will consult, and engage with the people of BC. Recent community engagement sessions on the draft Bilateral and Partnership Agreements demonstrated concern from the public regarding the perceived lack of involvement and constrained timelines of the engagement process. During these sessions the Province committed to herd planning as the opportunity for significant community and interest group participation.

Consultation and engagement could be approached in two ways: through the normal *Wildlife Act* regulation change consultation process (to be completed by July 2019) or through the herd planning process (to be completed February 2020). In order to implement predator management in the winter of 2019-2020 contracts must be awarded no later than August 2019.

OPTIONS:

OPTION 1: Engage on predator management through the *Wildlife Act* process (to be completed by July 2019) and then engage on primary prey management through herd planning (to be completed Feb. 2020).

Implications:

- Demonstrates the Province is taking immediate action to stabilize prioritized caribou herds.

- Predator management was broadly supported, predominantly, as a recovery action during the recent Bilateral and Partnership Agreements engagement sessions.
- Engagement letters will be sent to First Nations, local government and affected stakeholders only.
- Discussions outside of herd planning may be perceived by the public and stakeholders as inconsistent with herd planning commitments made during Partnership Agreement/Bilateral Conservation Agreement engagement sessions.
- High likelihood of meeting timelines for 2019/2020 predator management implementation.
- Time is afforded for anticipated controversy regarding reduction of moose numbers. Moose management regulation changes can occur within the 2020 hunter regulation cycle.

Option 2: Engage on predator and primary prey management for Tweedsmuir, Itcha-Ilgachuz and Hart Ranges caribou herds through herd planning (to be completed Feb. 2020).

Implications:

- Addressing predator and primary prey management actions through the herd planning process is consistent with commitment made in the community engagement sessions.
- Will include engagement with Nations, local governments, industry, and stakeholders through individual face-to-face meetings and a facilitated process to identify recommendations for management actions for each herd.
- Will delay predator management implementation to the 2020-2021 fiscal year at the earliest and potentially longer if herd planning process is delayed.
- Steep population declines are expected to continue until predator management is implemented; ultimately, this decreases the likelihood of achieving caribou recovery goals.
- Will delay potential moose management regulation changes past the 2020 regulation cycle.

RECOMMENDATION:

Option 1

Approved / Not Approved



Signature

Honourable Doug Donaldson, Minister of
Forests, Lands, Natural Resource Operations
and Rural Development

May 30, 2019

Date

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