



Memorandum of Understanding

BETWEEN

Xeni Gwet'in First Nations Government

And:

**The Province of British Columbia (the "Province"),
Represented by the Ministry of Environment
Conservation Officer Service**

(Each a "Party" and collectively the "Parties")

This Memorandum of Understanding dated for Reference the 27 day of Aug 2018

Whereas:

- A. The BC Court of Appeal confirmed and declared Aboriginal Rights in the Tsilhqot'in Nation (William Case) November 22, 2010.
- B. The Supreme Court of Canada unanimously recognized and declared Aboriginal Title in the Tsilhqot'in Nation (William Case), on June 26, 2014, over a portion of Tsilhqot'in territory ("Declared Title Lands").
- C. The Xeni Gwet'in First Nations Government ("XGFN") is the steward of the Xeni Gwet'in Caretaker Area which includes the Tsilhqot'in Declared Title Lands.
- D. The Conservation Officer Service (COS) is empowered to enforce Provincial and Federal Acts and Regulations relating to the conservation and protection of the environment, including managing human wildlife conflicts, investigation and enforcement actions relating to conservation;
- E. XGFN and the Tsilhqot'in Nation ("TN") asserts Aboriginal rights and title within its Xeni Gwet'in Caretaker Area, as described in the map attached as Appendix 1 ("XGCA"), including the exercise of customs and traditions relating to the stewardship, conservation and protection of its XGCA, and managing human-wildlife conflicts ("Aboriginal Interests"); and
- F. The Parties wish to collaborate and cooperate to steward and manage the environment, fish, wildlife, and plant resources in the XGCA based on a relationship of mutual recognition, respect and benefit.

Therefore, the Parties have reached the following understanding:

1. Scope of this MOU

- 1.1 This Memorandum of Understanding (MOU) is between the XGFN and the Province.
- 1.2 This MOU applies within the XGCA.
- 1.3 This MOU is not intended to create, amend, recognize, define, deny, limit, abrogate or derogate from any of the rights or responsibilities of the Parties.
- 1.4 This MOU is not intended to be legally binding or create legally enforceable rights or obligations between the Parties.
- 1.5 This MOU is not intended to fetter or derogate from any statutory, regulatory, or delegated authority under provincial or federal legislation.
- 1.6 This MOU is not intended to replace any policies, protocols, or procedures of XGFN.

- 1.7 This MOU is not intended to limit any position either Party may take in present or future negotiations or any legal proceedings.
- 1.8 Nothing in this MOU affects the ability of the Province to respond to any exceptional or emergency circumstances, including responding to flooding, forest fires, mine tailing pond breaches, and other exceptional circumstances.

2. Objectives of this MOU

- 2.1 To foster understanding of XGFN customs, traditions and cultural and spiritual practices, as well as traditional knowledge of XGCA.
- 2.2 To promote collaboration and communication between the Parties regarding:
 - a. the prevention of human-wildlife conflicts;
 - b. the management, protection and stewardship of natural resources, fish and wildlife in the XGCA according to both XGFN laws, policies, customs, traditions, cultural and spiritual practices, and provincial and federal laws; and
 - c. the enforcement of provincial and federal laws and XGFN laws and policies relating to the management, protection and stewardship of natural resources in the XGCA.
- 2.3 For the Parties to promote and participate together in:
 - a. Promoting understanding of XGFN traditional use and knowledge of the XGCA;
 - b. Ensuring respect and compliance with federal and provincial laws to protect the environment, fish, wildlife and other natural resources;
 - c. Preventing and addressing human wildlife conflict; and
 - d. Improving sharing of information between the Parties.

3. Communications

- 3.1 The Parties will communicate regularly regarding the enforcement of laws relating to the protection of the environment, fish, wildlife and other natural resources, human wildlife conflicts, and investigation and enforcement actions.
- 3.2 Members of the Conservation Officer Service (COS) will attend the XGFN Council meetings on an annual basis, or as requested to discuss matters relating to the protection of the environment, fish, wildlife and other natural resources, compliance verification activities, human wildlife conflicts, and investigation and enforcement actions.

3.3 XGFN will provide their current communal restrictions in respect to fish and wildlife harvesting in XGCA in writing to the COS ("XGFN Communal Restrictions").

3.4 The Parties agree to maintain a current Contact List outlining contact information for communications and operational activities.

4. Education

4.1 The Parties will collaborate on raising the awareness within their entities regarding XGFN's Aboriginal Interests, XGFN Communal Restrictions and provincial laws and policies regarding fish and wildlife harvesting.

4.2 The Parties agree that cross cultural training would benefit both Parties in moving forward in a collaborative effort to achieve the objectives of this MOU. The Parties will work together with the goal of developing such cross cultural training.

5. Compliance Verification Activities

5.1 The Parties agree to meet on an annual basis or as needed to discuss compliance verification issues and activities in relation to protection of the environment, human health and safety, and fish and wildlife resources.

6. Investigation and Enforcement

6.1 The Parties agree to notify each other (ie. via RAPP in the case of the COS) as soon as practicable when they become aware of an activity in relation to the harvest of fish, wildlife or other natural resources that may put any person's safety at risk. The discussion will be consistent with the requirements of the *Freedom of Information and Protection of Privacy Act*.

6.2 If a Conservation Officer of the COS becomes aware of a XGFN member in contravention of a XGFN Communal Restriction, he or she will initiate an investigation as described in section 6.3.

6.3 Prior to COS initiating an investigation or enforcement action against a XGFN member of the XGFN participating in the harvest of fish and /or wildlife or activities that may be contrary to provincial laws, federal laws, or XGFN Communal Restrictions, the Parties will discuss the proposed enforcement action, except where COS is of the opinion that prior discussion may impede the successful collection of evidence or jeopardize the safety of investigating officers. The discussion will be consistent with the requirements of the *Freedom and Information and Protection of Privacy Act*.

6.4 Where an investigation or enforcement action is taken against a XGFN member without prior discussion with designated representatives of XGFN, the COS will discuss the nature of the investigation with a designated representative of XGFN as soon as possible after conducting the investigation or taking an enforcement action.

- 6.5 The Parties will work together to explore approaches to resolve non-compliance both at the individual and community level, including restorative justice, as may be determined through discussions between the Parties and representatives of restorative justice programs.
- 6.6 The Parties agree to discuss XGFN interests regarding harvest of freshwater fish and/or wildlife within the XGCA to develop strategies and approaches to address issues that may be encountered by members of the COS.

7. Human Wildlife Conflict

- 7.1 The Parties agree to work together to promote pro-active measures to minimize potential conflicts with wildlife in the XGCA in order to protect the safety of both humans and of wildlife. Measures may include (but are not limited to) education and awareness activities, developing wildlife hazard assessments and management plans, installation of wildlife resistant waste containers and/or other waste management systems.
- 7.2 If a human wildlife conflict takes place involving a XGFN member and a Party considers that a Dangerous Wildlife Protection Order (DWPO) may be appropriate, the Parties will meet as soon as practicable to discuss. A DWPO will only be issued to a XGFN member as a last resort, after all other options for addressing the human wildlife conflict has been tried.
- 7.3 For greater clarity, the COS will continue to respond to human/wildlife conflicts where public safety is at risk, and/or significant property damage has occurred.
- 7.4 XGFN agrees to utilize the COS Call Center (1-877-952-7277) to request COS support to address human/wildlife conflicts.

8. Identified Issues

Invasive Species

- 8.1 XGFN and COS wish to restrict the introduction of invasive species (as defined in the *Wildlife Act* Controlled Alien Species Regulation) and the transporting of non-permitted live fish (ex. bait fish) in the XGCA.
- 8.2 The Parties will cooperate in the education, and where appropriate, COS enforcement actions of individuals involved in transportation or possession of non-permitted and invasive species.

Cow and Yearling Moose Hunting and Steelhead Fishing

- 8.3 The Parties agree that harvesting of cow moose at current densities threatens the sustainability of these species in portions of the Cariboo-Chilcotin region. XGFN will include restrictions to prohibit harvesting of cow and yearling moose in its XGFN

Communal Restrictions until such time that the moose population within XGCA recovers to an appropriate density.

- 8.4 XGFN will not give a visiting First Nation Individual permission to harvest any cow and yearling moose or Steelhead within the XGCA.

Raptor Parts, Freshwater Fish, and Wildlife

- 8.5 The Parties agree that no XGFN member may buy, sell, trade or distribute for gain or consideration raptors, raptor parts, freshwater fish, or wildlife, nor may any person offer to do so.
- 8.5.1 For greater clarity, paragraph 8.5 does not preclude XGFN or a XGFN designated representative from distributing raptors and raptor parts according to its traditions and customs, provided such distribution does not include exchange for gain or consideration.
- 8.5.2 For greater clarity, paragraph 8.5 does not preclude XGFN or a XGFN designated representative from authorizing the exchange or distribution of freshwater fish or wildlife according to its traditions and customs, provided such exchange or distribution does not include exchange for gain or consideration, and that XGFN advises COS.
- 8.6 The COS will provide to XGFN raptor (as defined in the *Wildlife Act*) and raptor parts in its possession that have been obtained from within the XGCA where appropriate and practical as soon as possible once they are no longer required for law enforcement or scientific purposes.
- 8.7 A XGFN representative will distribute the raptor or raptor parts among XGFN members and will document the XGFN member's possession of the raptor and/or raptor parts by issuing a certificate in the form attached as Appendix 2.
- 8.8 The COS agrees to distribute to XGFN members fish and wildlife that comes into its possession from within the XGCA when appropriate and practical. This provision applies to the distribution of fish and wildlife not required for legal or scientific purposes and which the COS has authority to distribute.
- 8.9 When appropriate and practical, the COS, on behalf of XGFN, will donate the fish and Wildlife referred to in sec.8.8 to Abrahams Lodge and Care Society.
- 8.10 XGFN agrees to appoint representatives to distribute raptors and to work directly with the COS to facilitate delivery of fish and wildlife. The XGFN representative(s) will be identified on the Contact List.

Night Hunting

- 8.11 The Parties agree that hunting at night is a public safety concern and will not be permitted within the XGCA.

9. Dispute Resolution

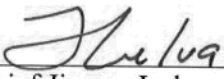
- 9.1 Where possible, disputes will be resolved at the operational (field) level between the XGFN representative(s) and the COS Officer(s). Any disputes that cannot be resolved at the field level will be jointly referred to the Chief Conservation Officer of the COS and the Chief and Council of the XGFN.

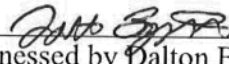
10. Amendment

- 10.1 Either Party may initiate a review of this MOU, but not more frequently than annually.
- 10.2 This MOU may be amended in writing by the Parties.
- 10.3 This MOU will remain in effect for a period of two years from the date of execution.
- 10.4 Either party may unilaterally terminate this MOU, by giving the other party 30 days advance written notice.

The Parties have reached this MOU on the 27 of August, 2018

Signed on behalf of the XGFN by:


Chief Jimmy Lulua


Witnessed by Dalton Baptiste

Signed on behalf of The Province of British Columbia by:



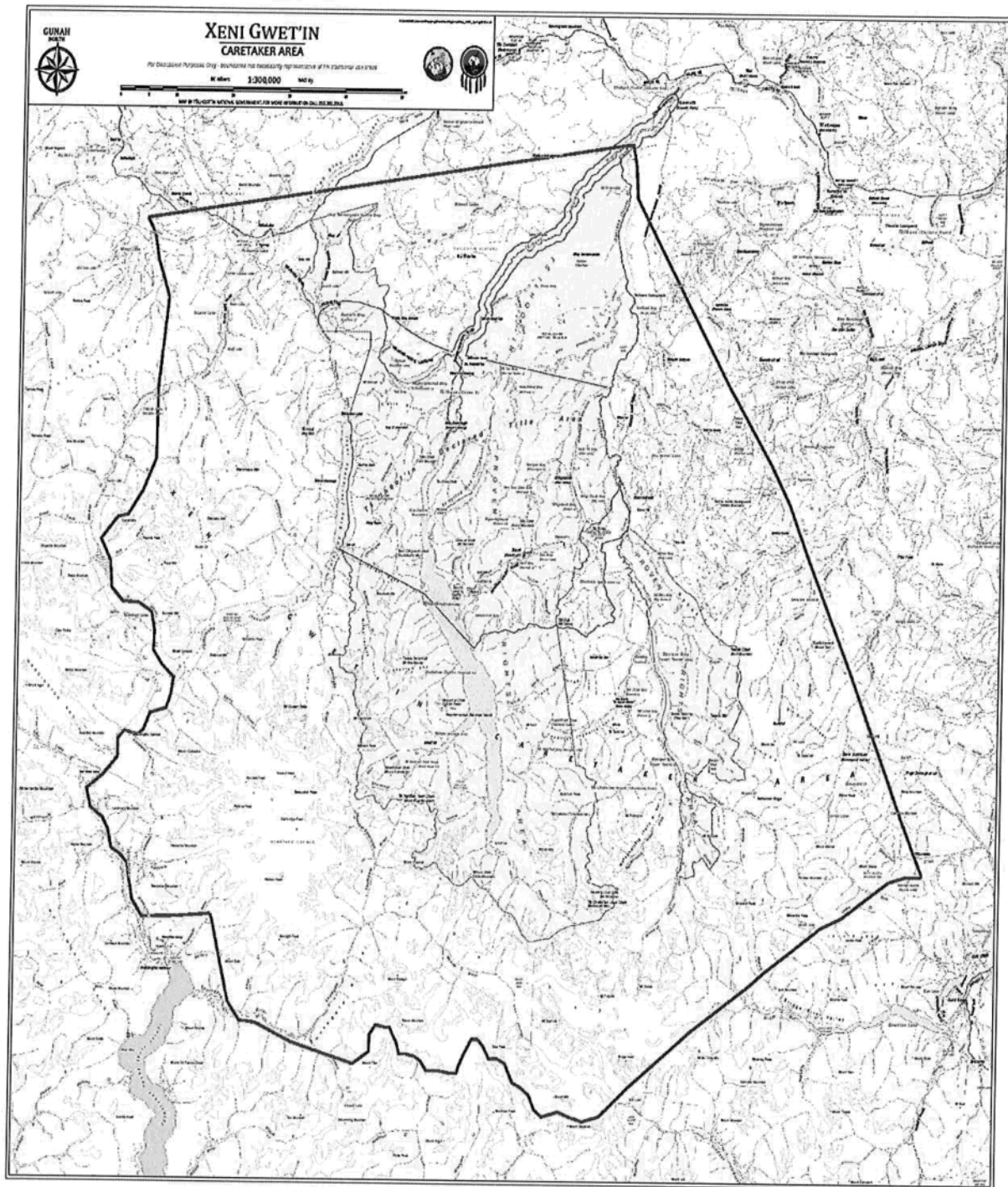
Doug Forsdick
Chief Conservation Officer

Witnessed by:

Len Butler
Inspector, Thompson/Cariboo

Jeff Tyre
Sergeant, Cariboo Chilcotin Zone

Appendix 1. Map of XGCA with Rights and Title Areas Delineated



Appendix 2. Wildlife and Raptor Parts Possession and Transportation Permit



TSILHQOT'IN
PEOPLE OF XENI

Xeni Gwet'in First Nations

Government

General Delivery, Nemiah Valley, BC V0L 1X0

Phone: 250-394-7023

Fax: 250-394-7043

Wildlife and Raptor Parts Possession and Transportation Permit

Tracking Number: _____

1. Name: _____

2. Address: _____

3. Phone Number: _____

4. Species: _____

5. Description of Parts (ex. age, quantity, type, etc.)

6. Intended Use of the Wildlife Parts (ex. ceremonial or social purposes)

7. Cause of Death:

8. The Xeni Gwet'in First Nation Government authorizes _____ to possess and/or transport wildlife and raptor parts for cultural, spiritual or ceremonial purposes.

Stewardship Coordinator

Date