

Mountain Pine Beetle Agreement
(the "Agreement")

Between:

Penticton Indian Band

as represented by Chief Jonathan Kruger and Council

and

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

as represented by the Minister of Forests and Range

(the "Government of British Columbia")

(collectively the "Parties")

Whereas:

- The Okanagan Nation, of which the Penticton Indian Band (the "PIB") is a member, affirms its unextinguished Aboriginal title and rights within its traditional territory, and its unique responsibility, bestowed by the Creator, and in accordance with Okanagan laws, to serve for all times as the primary stewards and protectors of Okanagan lands, waters and resources in and around the Penticton area ("PIB Stewardship Lands").
- The PIB, as represented by Chief and Council, acts on behalf of the present and future members of the PIB. PIB has the approval of the Okanagan Nation Alliance (the "ONA") to enter into this Agreement.
- The Penticton Indian Band signed a Forest and Range Opportunity Agreement (the "FRO") with the Government of British Columbia on March 2, 2009 (the "PIB FRO"). This Agreement is a short-term additional forestry economic opportunity and does not supersede or alter the FRO.
- Mountain pine beetle allowable annual cut increases in the Okanagan Timber Supply Area have led to increased harvesting activity and potential impacts on the Okanagan Nation's aboriginal rights and/or title on PIB Stewardship Lands.
- The Government of British Columbia wishes to support economic opportunities for the Penticton Indian Band.
- The Parties intend that this Agreement, and the benefits flowing from it, will assist the PIB in achieving progress towards the goals it shares with the Government of British Columbia of closing socio-economic gaps between the members of PIB and non-Aboriginal people, and, in particular, will assist the PIB in addressing some of

the immediate priorities of the community, by increasing the PIB capacity in the forestry sector.

In consideration of the mutual agreements in the Agreement and subject to the terms and conditions specified in the Agreement, the Parties agree as follows:

Definitions

All defined terms in the FRO have the same meaning in this Agreement.

Purpose

1. The purposes of this Agreement are to:
 - a. increase the participation of the PIB in the forestry sector, create economic opportunities for the PIB and assist in the improvement of social conditions of the PIB;
 - b. provide an economic opportunity by inviting the PIB to apply for a non-replaceable forest licence to assist the province in the management of mountain pine beetle in the Okanagan Timber Supply Area, in a manner linked to the FRO and as set out in this Agreement;
 - c. Provide a period of stability to forest development within the PIB Stewardship Lands during the term of this Agreement, while longer term interests are addressed through other agreements and processes; and
 - d. Provide an interim economic accommodation.

Forest Licence

2. After execution of this Agreement by the Parties, the Minister of Forests and Range (the "Minister") will invite the PIB, or such legal entity as the PIB has appointed as its representative to hold the licence, to apply for a non-replaceable forest licence (the "Licence") under section 47.3 of the *Forest Act* to harvest a total of up to 20,466 cubic metres annually of beetle infested timber over a five year term within the traditional territory of the Okanagan Nation within the Okanagan Timber Supply Area as identified in black bold in Appendix A. For greater certainty the maximum volume that may be available will be 102,330 cubic metres.
3. If the intended holder of the licence(s) is a legal entity other than the PIB, this Agreement must include supporting documentation as specified in Appendix B stating that the intended holder has been validly appointed by the Penticton Indian Band as its representative.

4. The invitation will be subject to a condition that prior to making an application for the Licence, the PIB will contact the Ministry of Forests and Range and the Parties will work co-operatively to identify an operating area within the traditional territory of the Okanagan Nation in the Okanagan Timber Supply Area.
5. The Licence(s) entered into as a result of the invitation to apply under this Agreement will:
 - a. be for a term of no longer than five years as determined by the Minister;
 - b. contain other terms and conditions required by law, including the condition that the PIB must comply with this Agreement and with the FRO during the term of the FRO;
 - c. include a term that PIB may not dispose of the Licence except in accordance with the *Forest Act*; and
 - d. include other terms and conditions as may be required by the Regional Manager.
6. A non-replaceable forest licence entered into as a result of the invitation to apply under this Agreement may be consolidated with other non-replaceable forest licenses in accordance with section 19(3)(a) of the *Forest Act*.
7. The volume that may be available under this Agreement has not been calculated to represent a sharing of resources and benefits within the PIB Stewardship Lands. It reflects a volume which the Government of British Columbia is willing to offer, and which the PIB has agreed to accept as an interim measure for the term of this Agreement.
8. During the term of this Agreement, and subject to the terms and intent of this Agreement being met and adhered to by the Government of British Columbia, and subject to a Licence being entered into under this Agreement and not being cancelled, the PIB agrees that the Government of British Columbia will have provided an interim accommodation, with respect to the economic component of potential infringements of the Okanagan Nation's Aboriginal title and rights in the PIB Stewardship Lands resulting from operational plans and administrative decisions pertaining to increases in harvest levels to address the mountain pine beetle epidemic in the Okanagan TSA as an interim measure.
9. Nothing in this Agreement restricts the ability of the PIB to seek additional economic or non-economic accommodation for impacts from forestry operations and allocations, including in relation to the mountain pine beetle epidemic, within the PIB Stewardship Lands during the term of this Agreement.

Consultation

10. The Government of British Columbia agrees to fulfill its honour of the Crown obligations including to consult PIB with respect to all potential infringements of

Okanagan Nation unextinguished Aboriginal title and rights arising from forestry decisions, including in relation to the mountain pine beetle, affecting the PIB Stewardship Lands.

11. The Parties agree to participate in consultation regarding forestry operational plans and administrative decisions pertaining to increases and/or potential increases in harvest levels to address the mountain pine beetle epidemic in the Okanagan TSA, as set out in sections 5.0, 6.0 and 7.0 of the PIB FRO.

Dispute Resolution

12. If a dispute arises between the Government of British Columbia and the Penticton Indian Band regarding the interpretation of a provision of this Agreement, the Parties will follow the dispute resolution process set out in section 8.0 of the PIB FRO.

Amendments

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

Term

15. This Agreement will take effect on the date on which the last Party has executed it.
16. This Agreement will terminate on the occurrence of the earliest of any of the following events:
 - a. five years from the date this Agreement is executed; or
 - b. the mutual agreement of the Parties, or
 - c. upon 90 days written notice by either of the Parties.
17. If the FRO is terminated, the consultation processes that were set out in sections 5.0, 6.0 and 7.0 of the FRO are incorporated by reference into this Agreement and will continue to be followed by the Parties for the term and for the purposes of this Agreement.
18. The Government of British Columbia will not terminate this Agreement on the grounds that the Penticton Indian Band has challenged an Administrative or Operational Decision by way of legal proceedings.

Suspension or Cancellation by the Minister

19. Without limiting the actions that may be taken by the Minister or by the Government of British Columbia, the Minister or a person authorized by the Minister may suspend or cancel this Agreement, if the Minister or a person authorized by the Minister determines that the PIB is not in compliance with this Agreement.
20. If this Agreement is cancelled in accordance with section 19, the Minister may cancel the forest tenure issued under this Agreement.
21. Prior to contemplating any action referred to in sections 19 and 20, the Government of British Columbia will provide notice to the PIB of any alleged contravention of this Agreement that may lead to the PIB not being in compliance with this Agreement.
22. Prior to suspension or cancellation, the Parties agree to meet and endeavour to resolve the dispute.

Notice


23. All of the provisions set out in the Notice section of the FRO apply to this Agreement.

Miscellaneous

24. All of the provisions set out in the Miscellaneous section (section 13.0) of the FRO apply to this Agreement.

Signed on behalf of:

Penticton Indian Band



**Chief Jonathan Kruger
Penticton Indian Band**

Date: May 17/10



Witness

Signed on behalf of:

Government of British Columbia



**Honourable Pat Bell
Minister of Forests and Range**

Date: July 24/10



Witness

April 29 2010

APPENDIX A
MAP OF OKANAGAN NATION TRADITIONAL TERRITORY
WITHIN THE OKANAGAN TIMBER SUPPLY AREA

APPENDIX B: (optional)

Description and Documentation pertaining to the Intended Holder of the licence

Please complete part A or B, whichever is appropriate, and attach appropriate documentation:

A) Applicant for the license: _____

OR

B) Full legal name, or corporate description of the legal entity, authorized to represent the applicant of the licence

- (i) Copy attached of legal instrument (letter) authorizing that legal entity to be their representative;

- (ii) Copy attached of the ownership structure of the legal entity (the intended holder of the licence).

Syilx

Okanagan Nation Territory

Suknaqinx

Senp^wix

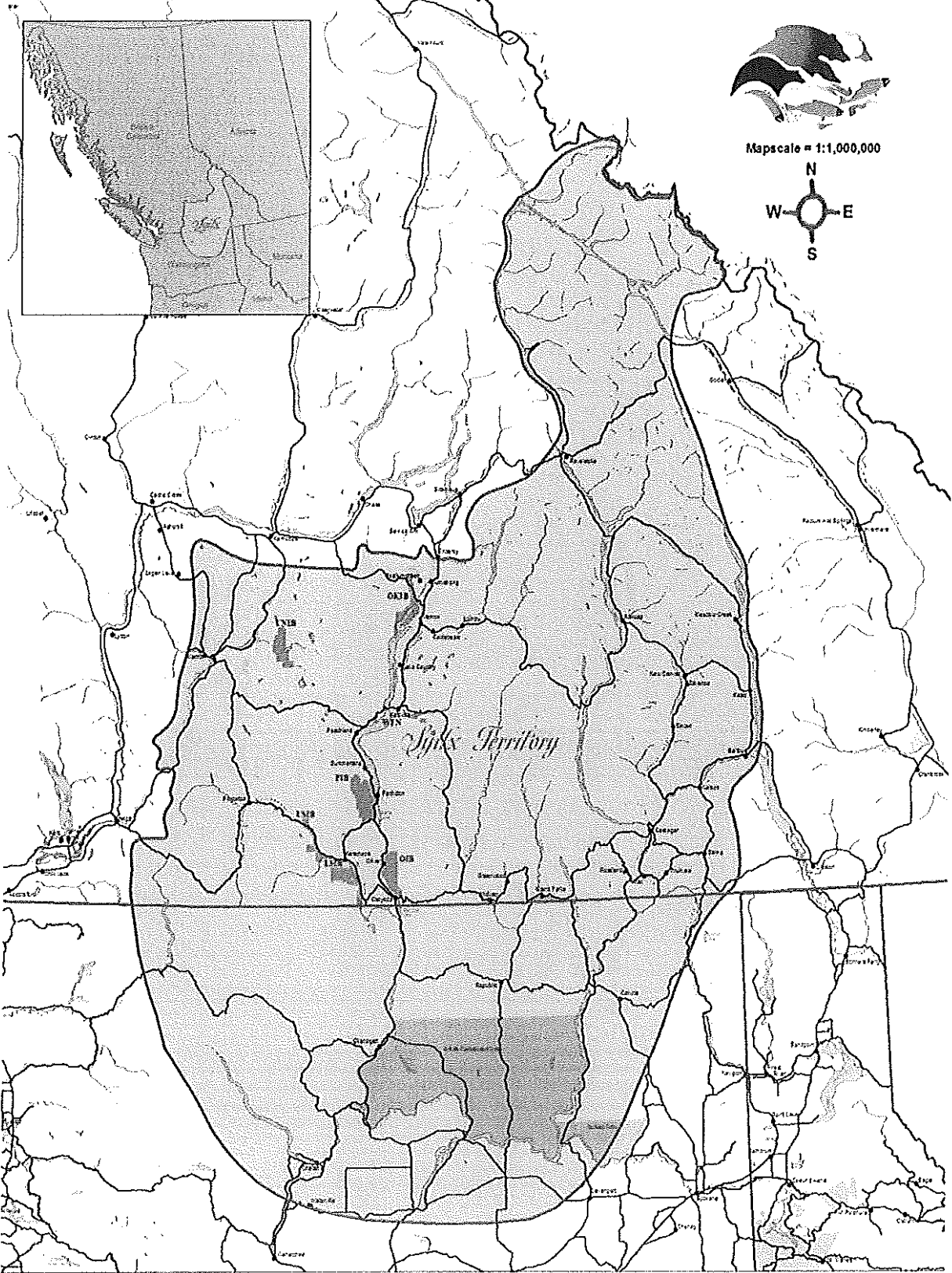
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Timber Bands

- 118 Lower Similkameen Timber Band
- 119 Upper Similkameen Timber Band
- 120 Okanagan Timber Band
- 121 Upper Shuswap Timber Band
- 122 Kootenai Timber Band
- 123 Lower Shuswap Timber Band
- 124 Kootenai Timber Band

"Nxwéixwéltantot" "That is Ntsh'q'wéixwéltantot"

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