
**Cheam First Nation
Forest Agreement
(the "Agreement")**

**Between:
Cheam First Nation**

**As represented by
Chief Sidney Douglas**

And

**Her Majesty the Queen in Right of the Province of British Columbia
As represented by the Ministry of Forests & Range
(the "Government of British Columbia")**

(collectively the "Parties")

Whereas:

- The Cheam First Nation has Aboriginal Interests within its Traditional Territory as outlined on the map attached as Appendix "A" to this Agreement ("Traditional Territory").
- The Cheam hold that historic and contemporary use and stewardship of land and resources by the Cheam are integral to the maintenance of the Cheam society, governance and economy within the Traditional Territory.
- The Parties wish to enter into an interim measures agreement in relation to forest resource development and related economic benefits arising from this development within the Traditional Territory.
- The Government of British Columbia intends to fulfil any responsibility it has to consult and to seek workable accommodation with the Cheam First Nation on forest resource development activities proposed within the Cheam First Nation Traditional Territory that may lead to the infringement of the Cheam First Nation's Aboriginal Interests.
- The Cheam First Nation agrees to participate in consultation initiated by the Government of British Columbia or a Licensee in relation to forest resource development activities proposed within the Cheam First Nation

Traditional Territory, that may lead to the potential infringement of Cheam First Nation Aboriginal Interests.

- The Parties have an interest in seeking workable interim accommodation of Cheam First Nation's Aboriginal Interests where forest development activities are proposed within the Cheam First Nation Traditional Territory that may lead to the infringement of Cheam First Nation's Aboriginal Interests.
- The Government of British Columbia and the Cheam First Nation wish to resolve issues relating to forest resource development where possible through Government to Government negotiation as opposed to litigation.

Therefore the Parties agree as follows:

1.0 Definitions

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

- 1.1. "Aboriginal interests" means asserted aboriginal rights and/or aboriginal title.
- 1.2. "Administrative Decision" means one or more of the following decisions made by a person under the *Forest Act*.
 - the decision setting or varying the Allowable Annual Cut (AAC) for a timber supply area or a Forest Tenure;
 - the issuance, consolidation, subdivision, amendment or adjustment of boundary change of a Forest Tenure as defined as a major licence under the *Forest Act* and including woodlot licence, and community forest agreement where such changes may have an impact on Aboriginal Interests;
 - the replacement or extension of a Forest Tenure;
 - the disposition of volumes of timber arising from undercut decisions on a Forest Tenure;
 - the conversion of a timber sale licence to another form of Forest Tenure;
 - the issuance of a special use permit;
 - the reallocation of harvesting rights as a result of the implementation of the *Forestry Revitalization Act*;
 - the decision regarding a tree farm licence management plan, community forest management plan and/or woodlot licence management plan;
 - the deletion of land from provincial forest; and,
 - the transfer of cuts between timber supply areas.

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- 1.3. "Economic component of aboriginal interests" as used in this agreement is intended to refer to the financial or commercial aspect of Aboriginal Interests.
 - 1.4. "Forest Tenure" means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.
 - 1.5. "Licensee" means a holder of a Forest Tenure or a Forest Agreement.
 - 1.6. "Operational Decision" means a decision that is made by a person with respect to the statutory approval of a Forest Development Plan, Forest Stewardship Plan, or a Woodlot Licence Plan that has an effect in Cheam First Nation's Traditional Territory.
 - 1.7. "Operational Plan" means a Forest Development Plan, Forest Stewardship Plan or a Woodlot Licence Plan that has an effect in Cheam First Nation's Traditional Territory.
 - 1.8. "Response Period" means a period of 60 days from initiation of the processes set out in Sections 4 and 5 of this Agreement, where the initiation date is the date on which Cheam First Nation is notified of an Administrative decision or Timber Supply Review process, or in the case of Operational Plan reviews, the date on which Cheam First Nation receives the plan to be reviewed. Where an emergency operation arises and/or expedited operation has to occur, or for circumstances where the advertising period for an operational plan is reduced below 60 days by a ministry decision maker for reasons other than emergency or expedited operations, the Response Period will be shortened accordingly, but will not be less than the time period for advertising Operational Plans for those operations. The Parties may also mutually agree to adjust the Response Period at any time.
 - 1.9. "Traditional Territory" means the Cheam First Nation asserted traditional territory as shown on bold black on the map attached in Appendix A.

2.0 Purpose

The purposes of this Agreement are to:

- 2.1. Increase the Cheam First Nation's opportunity for participation in the forest sector.

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- 2.2. Provide economic benefits to the Cheam First Nation through a forest tenure opportunity and/or the sharing of revenues received by the Government of British Columbia from forest resource development.
 - 2.3. Address consultation and to provide an interim workable accommodation, as set out in this Agreement, with regard to any infringements of the economic component of Cheam First Nation's Aboriginal Interests or proven aboriginal rights that result from Administrative Decisions and/or Operational decisions relating to forest resource development within the Cheam First Nation's Traditional Territory, during the term of this Agreement.
 - 2.4. Provide a period of stability to forest resource development on Crown lands within the Cheam First Nation Traditional Territory during the term of this Agreement, while longer-term interests are addressed through other agreements or processes.

3.0 Economic Benefits to Cheam First Nation

During the term of this Agreement, the Government of British Columbia will adopt the consultation processes set out in sections 4 and 5 of this Agreement and will provide one or more of the following economic benefits to Cheam First Nation to address consultation and to provide an interim workable accommodation, as set out in this Agreement, in respect of any potential infringements of the economic component of Cheam First Nation's Aboriginal Interests or proven aboriginal rights that result from Administrative Decisions and/or Operational decisions relating to forest resource development within the Cheam First Nation's Traditional Territory.

3.1. Forest Tenure

- 3.1.1. After the execution of this agreement by the Parties and after the Minister has determined that sufficient volume of timber is available for disposition to Cheam as a result of the implementation of the *Forestry Revitalization Act*, the Minister will invite Cheam First Nation to apply under section 47.3 of the *Forest Act* for a non-replaceable licence (the "licence") for up to 12,800 cubic meters annually in the Fraser Timber Supply Area.
- 3.1.2. For greater certainty, the maximum volume that may be available under the licence referred to in Section 3.1.1 will be up to 64,000 cubic meters over 5 years.

3.1.3. An invitation to apply for a licence (an "invitation") and any licence entered into as a result of an invitation will be subject to the policies, regulations and statutes of British Columbia as amended from time to time.

3.1.4. An invitation:

3.1.4.1. will be subject to a condition that prior to Cheam First Nation making an application for the licence, the Cheam First Nation must contact and provide input to Ministry of Forest & Range personnel to assist the Ministry of Forest & Range to identify the location of an operating area for the licence within the Fraser Timber Supply Area, which to the extent that it is operationally feasible will be within the Traditional Territory; and

3.1.4.2. will contain terms and conditions required by the Minister.

3.1.5. Any licence entered into as a result of the invitation to apply under Section 3.1.1 of this Agreement will:

3.1.5.1. be for a term of no longer than 5 years, as determined by the Minister;

3.1.5.2. contain other terms and conditions required by legislation including the condition that Cheam First Nation must comply with this Agreement;

3.1.5.3. include a term that the Cheam First Nation may not dispose of the licence other than as specified in Section 54(4) of the Forest Act; and

3.1.5.4. include other terms and conditions as may be required by the Regional Manager.

3.1.6. Subject to:

3.1.6.1. The Government of British Columbia and Cheam First Nation entering into another interim measures agreement providing for an invitation to apply for a licence; and,

3.1.6.2. the Minister determining that there is sufficient volume of timber available for disposition to Cheam First Nation,

the Minister may invite Cheam First Nation to apply for a subsequent licence under the *Forest Act* for a term that would commence after the expiry of this Agreement.

3.1.7. The Government of British Columbia and the Cheam First Nation will meet from time to time during the term of this Agreement to identify and review forestry business/tenure opportunities.

3.2. Revenue Sharing

3.2.1. During the term of this Agreement, the Government of British Columbia will pay to Cheam First Nation \$214,528.00 annually for purposes described in Section 3.0.

3.2.2. The funding commitment set out in section 3.2.1 is subject to the availability of annual appropriations for that purpose by the Government of British Columbia.

3.2.3. For the purposes of determining amounts for partial years, one-fourth (i.e. $\frac{1}{4}$) of the annual amount will be used for each fiscal quarter or part thereof that the Agreement is in effect. Payments will be made quarterly.

3.2.4. Upon signing of this Agreement, the Cheam First Nation will be paid the full revenues for the quarter in which the Agreement is signed, with subsequent payments being made at the end of each quarter.

3.2.5. Cheam First Nation will maintain financial records and prepare financial statements in accordance with generally accepted accounting principles for each year of this Agreement.

3.2.6. Upon request, Cheam First Nation will conduct an audit of the revenue sharing expenditures and will provide a copy of the audit to the Government of British Columbia.

4.0 Consultation and Accommodation Regarding Operational Plans

- 4.1. The Government of British Columbia agrees to consult with Cheam First Nation on Operational Plans that may potentially infringe Cheam First Nation's Aboriginal Interests or proven aboriginal rights within the Traditional Territory, except for any economic component of those interests or rights that the Parties agree are addressed by the economic benefits provided for under Section 3.0 of this Agreement. The Government British Columbia will provide the Cheam First Nation all relevant information that it is legally in a position to provide related to operational plans provided to it by the licensees.**
- 4.2. During the term of this Agreement, Cheam First Nation agrees that the Government of British Columbia has fulfilled its duties to consult and to seek interim workable accommodation with respect to the economic component of potential infringements of Cheam First Nation's Aboriginal Interests or proven aboriginal rights in the context of Operational Decisions that the Government of British Columbia will make and any forest development activities that may be carried out under an Operational Plan in Cheam First Nation's Traditional Territory.**
- 4.3. Cheam First Nation agrees to fully participate, as set out in this section, in the review of all Operational Plans dealing with forest development within the Traditional Territory provided to them by the Government of British Columbia, and by Licensees.**
- 4.4. In reviewing and responding to an Operational Plan submitted to them, Cheam First Nation will, within the Response Period, provide the Party that supplied the plan to them with all reasonably available information that will identify any potential impacts to their Aboriginal Interests or proven aboriginal rights that may result from the forestry development activities within the Traditional Territory that are described in that Operational Plan other than the economic component of those Interests or rights that the Parties agree are addressed by the economic benefits provided for under Section 3.0.**
- 4.5. Upon receiving the response from Cheam First Nation as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss and attempt to resolve with Cheam First Nation any site or area specific operational impacts on Cheam First Nation's Aboriginal Interests or proven aboriginal rights that may occur as a result of proposed forest development activities within the Traditional Territory, other than the economic component of**

those Aboriginal Interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0.

- 4.6. Where information provided by the Cheam First Nation to the Government of British Columbia is deemed to be confidential by the Cheam First Nation, the Government of British Columbia will not make this information available other than to the licensees operating in the area in question, except as required by law.
- 4.7. If no response is received from Cheam First Nation within the Response Period, then the Government of British Columbia may assume that Cheam First Nation does not intend to respond or participate in the consultation process in respect of the Operational Plan and that a decision on the Operational Plan may proceed.
- 4.8. Prior to the decision, the Cheam First Nation will be provided with the licensee and/or the Ministry of Forest & Range response seeking to address the Cheam First Nation's Aboriginal Interests raised through the Operational Planning consultation process.
- 4.9. In making a final decision on an Operational Plan, the Government of British Columbia will fully consider information it receives from Cheam First Nation, whether received directly or through a Licensee, and will consider whether concerns identified by Cheam First Nation have been addressed.
- 4.10. The Government of British Columbia will provide the Cheam First Nation with a copy of the approval letter for all operational plans at the same time that it is provided to the Licensee, and within a reasonable time after the decision, will inform the Cheam First Nation of the manner in which the Cheam First Nation's concerns under Section 4.4 have been considered and sought to be addressed.
- 4.11. Where new information regarding Cheam First Nations Aboriginal Interests is provided by Cheam First Nation to the Ministry of Forest & Range, the statutory decision maker will consider that information prior to the issuance of any subsequent permit of licence further to an Operational Plan

5.0 Consultation and Accommodation Respecting Administrative Decisions

- 5.1. The Government of British Columbia will provide to Cheam First Nation on an annual basis a list of all proposed Administrative Decisions anticipated within the year that will have an effect in the Traditional Territory, and either upon the request of Cheam First

Nation or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to Cheam First Nation an updated list. Upon request of the Cheam First Nation, the Government of British Columbia will make available to Cheam First Nation reasonably available relevant information about the proposed Administrative Decisions on the list.

- 5.2. The Government of British Columbia will meet with Cheam First Nation at mutually agreed times throughout the year to provide an opportunity for Cheam First Nation to make known to representatives of the Government of British Columbia their concerns and comments relative to the effect of the Administrative Decision(s) on their Aboriginal Interests or proven aboriginal rights within the Traditional Territory.
- 5.3. The Government of British Columbia will ensure the opportunity for the Cheam First Nation to participate, as set out in Section 5.4, in Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Fraser TSA and TFL 43.
- 5.4. Cheam First Nation agrees to fully participate, within the Response Period, in Timber Supply Review processes by providing all reasonably available information about their Aboriginal Interests or proven aboriginal rights within the Traditional Territory potentially affected by AAC determinations to be made pursuant to Section 8 of the *Forest Act*
- 5.5. If after considering the concerns and comments of Cheam First Nation, the statutory decision maker is of the opinion that an Administrative Decision creates a potential infringement of Cheam First Nation's Aboriginal Interests or proven aboriginal rights that is not adequately addressed by the economic benefits provided by the Government of British Columbia in Section 3.0, the statutory decision maker will seek to address the concerns and comments in the Administrative Decision or through the process in Section 4.0 of this Agreement.
- 5.6. The Government of British Columbia will provide a response to Cheam First Nation as to how their concerns raised in Section 5.2 have been addressed.
- 5.7. Cheam First Nation agrees that in consideration of the economic benefits provided by the Government of British Columbia in Section 3.0 and adherence to the consultation processes in Sections 4.0 and 5.0 of this Agreement, the Government of British Columbia has

fulfilled its duties to consult and to seek an interim workable accommodation with respect to the economic component of potential infringements of Cheam First Nation's Aboriginal Interests or proven aboriginal rights resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement.

- 5.8. Cheam First Nation further agrees that, in consideration of Sections 5.1 to 5.7 of this Agreement, the Government of British Columbia has, for the purposes of this Agreement, developed an adequate consultation and interim workable accommodation process with respect to potential infringements of their Aboriginal Interests or proven aboriginal rights resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement that may go beyond the economic component of Cheam First Nation's Aboriginal Interests or proven aboriginal rights.

6.0 Stability for Land and Resource Use

- 6.1. Cheam First Nation will respond immediately to any discussions initiated by the Government of British Columbia and will work cooperatively to assist in resolving any issues that may arise where acts of intentional interference by Cheam First Nation members with provincially authorized activities related to forestry resource development including timber harvesting or other forestry economic activities occur.

7.0 Dispute Resolution

- 7.1. If a dispute arises between the Government of British Columbia and Cheam First Nation regarding the interpretation of a provision of this Agreement, the Parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.
- 7.2. If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of the Government of British Columbia and Cheam First Nation.
- 7.3. The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

8.0 Term

- 8.1. This Agreement will take effect on the date on which the last Party has executed it.

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- 8.2. This Agreement will terminate on the occurrence of the earliest of any of the following events:
- 8.2.1. five years from the date this Agreement is executed; or
 - 8.2.2. the coming into effect of a treaty between the Parties; or,
 - 8.2.3. the mutual agreement of the Parties; or
 - 8.2.4. upon written notice of withdrawal from this Agreement by either party, which will take effect 90 days following the receipt of the notice by the other Party; or
 - 8.2.5. the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement pursuant to Section 9.0.
- 8.3. If this Agreement is terminated in accordance with Section 8.2, then the Minister may terminate the economic benefits under this Agreement.

9.0 Suspension or Cancellation of Economic Benefits by the Minister

- 9.1. Without limiting the actions that may be taken by the Minister of Forests or by the Government of British Columbia, the Minister or a person authorized by the Minister may suspend or cancel revenue sharing payments and the licence(s) entered into as a result of the invitation under this Agreement, if the Minister or a person authorized by the Minister determines that Cheam First Nation is not in compliance with this Agreement.
- 9.2. Prior to taking any action referred to in Section 9.1, the Government of British Columbia will provide notice to Cheam First Nation of any alleged contravention of this Agreement that may lead Cheam First Nation being determined to not be in compliance with this Agreement.
- 9.3. If, during the term of this Agreement, Cheam First Nation challenges or supports a challenge to, an Administrative Decision and/or Operational Decision or an Operational Plan or activities carried out pursuant to those decisions/plans, by way of legal proceedings or otherwise, on the basis that the economic benefits set out in Section 3.0, and the consultation processes set out in Sections 4.0 and 5.0 of this Agreement are not adequate or sufficient to

9.3.1. provide adequate consultation, to substantially address Cheam First Nation's concerns and to provide an interim workable accommodation in respect of any potential infringements of Cheam First Nation's Aboriginal Interests or proven aboriginal rights with regard to Administrative Decisions relating to forest resource development within the Traditional Territory, or

9.3.2. substantially address the economic component of Cheam First Nation's Aboriginal Interests or proven aboriginal rights with regard to Operational Decisions relating to forest resource development within the Traditional Territory,

then, without limiting any other remedies that may be available to the Government of British Columbia, the Government of British Columbia may suspend or cancel the economic benefits set out in Section 3.0.

9.4. If the Minister or a person authorized by the Minister cancels any economic benefits as a result of this Agreement, then this Agreement may be terminated.

10.0 Renewal of the Agreement

10.1. Prior to this Agreement terminating in accordance with Section 8.2., and subject to Section 10.3, if the terms and conditions of this Agreement are being met, the Government of British Columbia and Cheam First Nation will seek the necessary authorities and approvals to renew this Agreement.

10.2. Any subsequent forestry agreement between the Government of British Columbia and Cheam First Nation may provide for an opportunity to acquire a licence, and/or other economic benefits, as well as other terms and conditions that are agreed to by the Parties.

10.3. The revenue sharing set out in this Agreement reflects an amount that the Government of British Columbia is willing to pay, subject to available appropriations, as an interim measure and Cheam First Nation has agreed to accept as an interim measure for the term of this Agreement.

11.0 Amendment of Agreement

11.1. Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.

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- 11.2. Either Party may request the participation of the other Party to review the effectiveness of this Agreement annually and consider amendments to this Agreement.

12.0 Entire Agreement

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

13.0 Notice

- 13.1. Any notice or other communication that is required to be given or that a Party wishes to give to the other Party with respect to this Agreement, will be in writing and will be effective if delivered, sent by registered mail, or transmitted by facsimile to the address of the other Party as 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. If received after 4:00 p.m., it will be deemed to have been received on the next business day.
- 13.3. The address of either Party may be changed by notice in the manner set out in this section of the Agreement.

British Columbia

Deputy Minister
Ministry of Forests & Range
P.O. Box 9525 STN PROV GOVT
Victoria B.C. V8W 9C3
Telephone (250) 387-4809
Facsimile (250) 387-7065

Cheam First Nation
Chief Sidney Douglas and Council
Cheam First Nation
52130 Old Yale Rd.
Rosedale, BC
V0X 1X0
Telephone: (604) 794-7924
Facsimile: (604) 794-7456

14.0 Miscellaneous

- 14.1. Nothing in this Agreement shall be interpreted in a manner that requires the Government of British Columbia to act in a manner inconsistent with provincial or federal law, or that fetters the statutory discretion of any government decision-maker.
- 14.2. This Agreement is not a treaty or a lands claims agreement within the meaning of section 25 and 35 of the Constitution Act, 1982 and does not recognise, define, amend, affirm, deny or limit any priorities afforded to aboriginal rights, including aboriginal title, or treaty rights, other than as provided in this Agreement.
- 14.3. Subject to Section 9.3, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 14.4. This Agreement shall not be interpreted as addressing any potential infringements other than potential infringements that may result from decisions contemplated by this Agreement during the term of this Agreement. Nothing in this Agreement shall be interpreted to authorize any infringement that may occur following the termination of this Agreement.
- 14.5. Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute and its regulations.
- 14.6. This Agreement does not address or affect any claims by the Cheam First Nation arising from past interference with its Aboriginal Interests or any future treaty settlement related to an aboriginal right or title claim.
- 14.7. This Agreement and any licences issued as contemplated by this Agreement do not change or affect the positions either Party has, or may have, regarding jurisdiction and authorities.
- 14.8. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 14.9. The applicable laws of British Columbia and Canada shall govern this Agreement.

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

Signed on behalf of:

Cheam First Nation

Date: Sept. 27/05


Chief Sidney Douglas


Witness

Witness

Signed on behalf of:

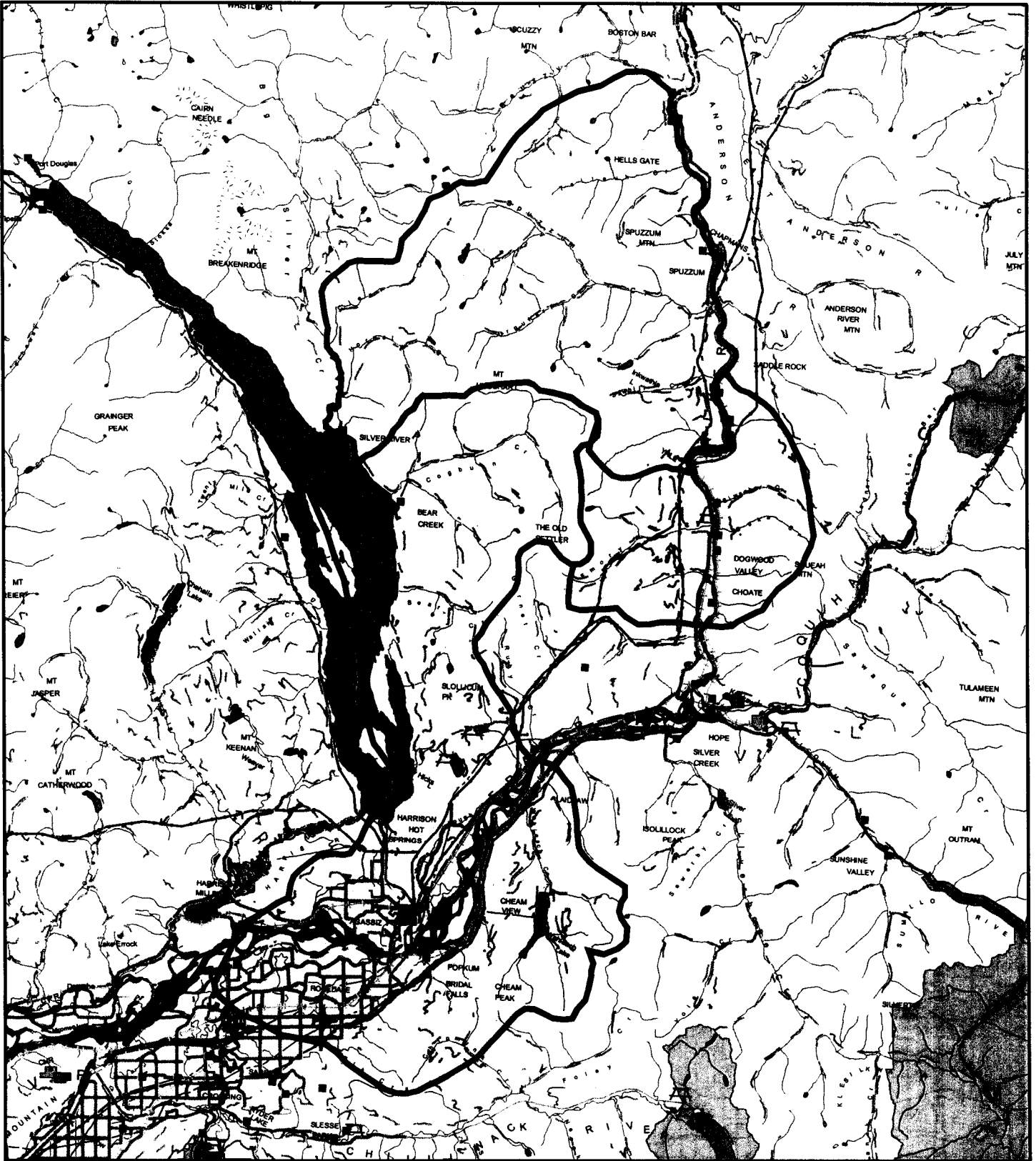
Government of British Columbia




Date: NOV. 3/05



Rich Coleman
Minister of Forests and Range


Witness

Cheam First Nation Traditional Territory - Appendix A



	Cheam First Nation Traditional Territory
	Provincial Park
	Protected Area



Produced By: Chilliwack Forest District
 Date: September 28, 2005
 Projection: Albers
 Datum: NAD 83
 Scale: 1:425,000