

**Chehalis Indian Band
Interim Forest Agreement
(the "Agreement")**

Between:

The Chehalis Indian Band
As represented by Chief Alexander Paul
(the "Chehalis Indian Band")

And

Her Majesty the Queen in Right of the Province of British Columbia
As represented by the Minister of Forests
(the "Government of British Columbia")

(collectively the "Parties")

Whereas:

- **The Chehalis Indian Band has Aboriginal Interests within its Traditional Territory as outlined in Appendix A map.**
- **The Parties wish to enter into an interim forest agreement in relation to forest resource development and related economic benefits arising from this development within the Chehalis Traditional Territory.**
- **Chehalis asserts that the historic and contemporary uses and stewardship of land and resources by the Chehalis are integral to the maintenance of the Chehalis society, governance and economy within Chehalis Territory.**
- **The Government of British Columbia will fulfil any responsibility it has to consult and to seek workable accommodation with the Chehalis Indian Band on forest resource development activities proposed within the Traditional Territory that may lead to the potential infringement of the Chehalis Indian Band's Aboriginal Interests.**

- **Chehalis Indian Band has a responsibility to participate in any consultation initiated by the Government of British Columbia or a Licensee, in relation to forest resource development activities proposed within the Traditional Territory, that may lead to a potential infringement of Chehalis Indian Band's Aboriginal Interests.**
- **The Parties have an interest in seeking workable interim accommodation of Chehalis Indian Band's Aboriginal Interests where forest development activities are proposed within the Traditional Territory that may to lead to the infringement of Chehalis Indian Band's Aboriginal Interests.**
- **The Government of British Columbia and the Chehalis Indian Band wish to resolve issues relating to forest resource development on a government to government basis as set out in this Agreement, where possible through negotiation as opposed to litigation.**
- **Chehalis Indian Band wishes to assert that it has a longer-term interest in sustainable resource management and harvesting through the eventual acquisition by Chehalis Indian Band of an area-based Forest Tenure within Chehalis Traditional Territory.**

Therefore the Parties agree as follows:

1.0 Definitions

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

- 1.1 **"Traditional Territory" means the Chehalis Indian Band's asserted traditional territory as shown on bold black on the map attached in Appendix A.**
- 1.2 **"Aboriginal Interests" means asserted and/or proven aboriginal rights and/or title.**
- 1.3 **"Economic component of Aboriginal Interests" as used in this agreement is intended to refer to the financial or commercial aspects of Aboriginal Interests relating to forest resources.**
- 1.4 **"Operational Plan" means a Forest Development Plan, Forest Stewardship Plan, Woodlot Licence Plan, a Range Use Plan or a Range Stewardship Plan that has an effect in the Traditional Territory.**
- 1.5 **"Operational Decision" means a decision that is made by a person with respect to the statutory approval of an Operational Plan that has an effect in the Traditional Territory.**

- 1.6 “Administrative Decision” means one or more of the following decisions made by a person under the *Forest Act*:**
- Decisions that set or vary Allowable Annual Cut (AAC) for a Timber Supply Area or a Forest Tenure;
 - The issuance, subdivision or amendment of a Forest Tenure;
 - The replacement of Forest Tenures;
 - The transfer or change of control of Forest Tenures, including any associated reductions in AAC with respect to Forest Tenures, and exchange of rights between or among tenure holders;
 - The disposition of timber volumes arising from undercut decisions on a Forest Tenure;
 - AAC apportionment and reallocation decisions;
 - Timber Sale Licence and Timber Licence conversion to other forms of tenure and Timber Licence term extensions; and,
 - The reallocation of harvesting rights as a result of the implementation of the *Forestry Revitalization Act*.
- 1.7 “Forest Tenure” means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.**
- 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 Chehalis Indian Band is notified of an Administrative Decision or Timber Supply Review process, or in the case of Operation Plan reviews, the date on which Chehalis Indian Band receives the plan to be reviewed. Where an emergency operation arises and/or expedited salvage has to occur, the Response Period will be shortened accordingly, but will not be less than the time period for advertising Operational Plans for those operations.**
- 1.9 “Licensee” means a holder of Forest Tenure under the *Forest Act*.**

2.0 Purpose

The purposes of this Agreement are to:

- 2.1 Increase the Chehalis Indian Band's opportunity for participation in the forest sector.**

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

3.0 Economic Benefits to Chehalis Indian Band

During the term of this Agreement, the Government of British Columbia will adopt the consultation processes set out in Sections 4.0 and 5.0 of this Agreement and will provide one or more of the following economic benefits to Chehalis Indian Band to address consultation and to provide an interim workable accommodation, as set out in this Agreement, in respect of any infringements of Chehalis Indian Band's Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest resource development within the Traditional Territory.

3.1 Forest Tenure

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 Chehalis Indian Band as a result of the implementation of the *Forestry Revitalization Act*, the Minister will invite Chehalis Indian Band to apply under Section 47.3 of the *Forest Act* for a non-replaceable licence (the "licence") for up to 27,728 cubic meters annually (total of up to 138,640 m³ over the term of the licence) in the Fraser Timber Supply Area.

- 3.1.1 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.**

3.1.2 An invitation:

3.1.2.1 will be subject to a condition that prior to Chehalis Indian Band making an application for the licence, the Chehalis Indian Band must contact and work together with Ministry of Forests' personnel to assist in identifying the location of an operating area for the licence, which to the extent that it is operationally feasible will be within the Traditional Territory; and

3.1.2.2 will contain terms and conditions required by the Minister.

3.1.3 A licence entered into as a result of an invitation

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

3.1.3.2 will contain other terms and conditions required by law, including the condition that Chehalis Indian Band must comply with this Agreement; and,

3.1.3.3 will include other terms and conditions as may be required by the regional manager including a term that Chehalis Indian Band may not divide, subdivide, transfer, or otherwise dispose of the licence or an interest in the licence.

3.1.4 If the term of the licence entered into as a result of an invitation to apply under this Agreement exceeds the term of this Agreement, then that licence may be referenced in and considered to be an economic benefit that addresses consultation and provides an interim workable accommodation in respect of any infringement of Chehalis Indian Band's Aboriginal Interests in any subsequent forest agreement between Chehalis Indian Band and the Government of British Columbia, for the purposes described in Section 3.0.

3.1.5 Subject to:

3.1.5.1 The Government of British Columbia and Chehalis Indian Band entering into another interim measures agreement providing for an invitation to apply for a licence; and,

3.1.5.2 the Minister determining that there is sufficient volume of timber available for disposition to Chehalis Indian Band,

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

3.2 Revenue Sharing

- 3.2.1 During the term of this Agreement, the Government of British Columbia will pay to Chehalis Indian Band \$460,080 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 Chehalis Indian Band will be paid the full revenues for the quarter in which the Agreement is signed (e.g. if this Agreement is signed at the end of the quarter, the Band would receive payment for that entire quarter), with subsequent payments being made at the end of each quarter.**
- 3.2.5 Chehalis Indian Band 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, Chehalis Indian Band will supply 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 Chehalis Indian Band on Operational Plans that may potentially infringe Chehalis Indian Band's Aboriginal Interests within the Traditional Territory, except for any economic component of those interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0 of this Agreement.**
- 4.2 During the term of this Agreement, Chehalis Indian Band 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 Chehalis Band's Aboriginal Interests in the context of Operational Decisions that the Government of British Columbia will make and any forest practices activities that may be carried out under an Operational Plan in the Traditional Territory.**
- 4.3 Chehalis Indian Band 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, Chehalis Indian Band 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 that may result from the forestry development activities within the Traditional Territory, other than the economic component of those interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0.**
- 4.5 Upon receiving the response from Chehalis Indian Band as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss and attempt to resolve with Chehalis Indian Band any site specific operational impacts on Chehalis Indian Band's Aboriginal Interests 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** If no response is received from Chehalis Indian Band within the Response Period, then the Government of British Columbia may assume that Chehalis Indian Band 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.
- 4.7** In making a final decision on an Operational Plan, the Government of British Columbia will fully consider information it receives from Chehalis Indian Band, whether received directly or through a Licensee, and will consider whether concerns identified by Chehalis Indian Band have been addressed.

5.0 Consultation and Accommodation Respecting Administrative Decisions

- 5.1** The Government of British Columbia will provide to Chehalis Indian Band 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 Chehalis Indian Band or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to Chehalis Indian Band an updated list.
- 5.2** The Government of British Columbia will meet with Chehalis Indian Band at mutually agreed times throughout the year to provide an opportunity for Chehalis Indian Band 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 within the Traditional Territory.
- 5.3** The Government of British Columbia will include the Chehalis Indian Band in public Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Fraser Timber Supply Area and/or Tree Farm Licence 043. These processes will be consistent with approved land use plans when higher-level objectives have been established.

- 5.4 Chehalis Indian Band agrees to fully participate, within the Response Period, in public Timber Supply Review processes by providing all reasonably available information about their Aboriginal Interests 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 Chehalis Indian Band, the statutory decision maker is of the opinion that an Administrative Decision creates a potential infringement of Chehalis Indian Band's Aboriginal Interests 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 the Chehalis Indian Band as to how their concerns raised in Section 5.2 have been addressed, in a timely manner.**
- 5.7 Chehalis Indian Band 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 Chehalis Indian Band's Aboriginal Interests resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement.**
- 5.8 Chehalis Indian Band 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 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 Chehalis Indian Band's Aboriginal Interests.**

6.0 Stability for Land and Resource Use

- 6.1 Chehalis Indian Band will respond as soon as is practicable to any discussions initiated by the Government of British Columbia and will work co-operatively to assist in resolving any issues that may arise where acts of intentional and unlawful interference by Chehalis Indian Band members with provincially authorized activities related to forestry resource development including timber harvesting or other forestry economic activities occur. For greater certainty, this section does not apply to lawful actions taken by the Chehalis Indian Band in respect of trespass on their reserves.**

7.0 Dispute Resolution

- 7.1 If a dispute arises between the Government of British Columbia and Chehalis Indian Band 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 Chehalis Indian Band.**
- 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.**
- 8.2 This Agreement will terminate on the occurrence of the earliest of any of the following events:**
- five years from the date this Agreement is executed; or**
 - the coming into effect of a treaty between the Parties; or**
 - the mutual agreement of the Parties; or**
 - the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement pursuant to Section 9.0; or**
 - written notice of withdrawal to the Agreement by either Party which will take effect 90 days following receipt of the notice by the other Party.**

- 8.3 If the 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 Chehalis Indian Band 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 Chehalis Indian Band of any alleged contravention of this Agreement that may lead Chehalis Indian Band being determined to not be in compliance with this Agreement.**

- 9.3 If, during the term of this Agreement, Chehalis Indian Band 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 Chehalis Indian Band's concerns and to provide an interim workable accommodation in respect of any potential infringements of Chehalis Indian Band's Aboriginal Interests with regard to Administrative Decisions relating to forest resource development within the Traditional Territory, or

9.3.2 substantially address the economic component of Chehalis Indian Band's Aboriginal Interests 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 Chehalis Indian Band will seek the necessary authorities and approvals to renew this Agreement.**
- 10.2 Any subsequent forestry agreement between the Government of British Columbia and Chehalis Indian Band 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 subject to available appropriations and available timber volume.**
- 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 Chehalis Indian Band 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.**
- 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 (with receipt acknowledgement) 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
Minister of Forests
P.O. Box 9525 STN PROV GOVT
Victoria B.C. V8W 9C3
Telephone (250) 387-4809
Facsimile (250) 387-7065

Chehalis Indian Band

Chief or Chief and Council
4690 Salish Way
Agassiz, British Columbia
V0M 1A1
Telephone (604) 796-2116
Facsimile (604) 796-3946

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 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.**
- 14.7 The applicable laws of British Columbia and Canada shall govern this Agreement.**
- 14.8 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.**
- 14.9 This Agreement is not intended to change or affect the positions either Party has, or may have regarding its jurisdictions or authorities.**

14.10 This Agreement does not exclude the Chehalis Indian Band from accessing other forestry activities or benefits, which may be available outside this Agreement.


Signed on behalf of:

Chehalis Indian Band



Chief Alexander Paul

Date: March 22/04



Witness

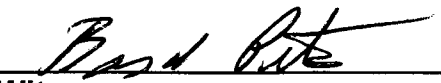
Signed on behalf of:

Government of British Columbia

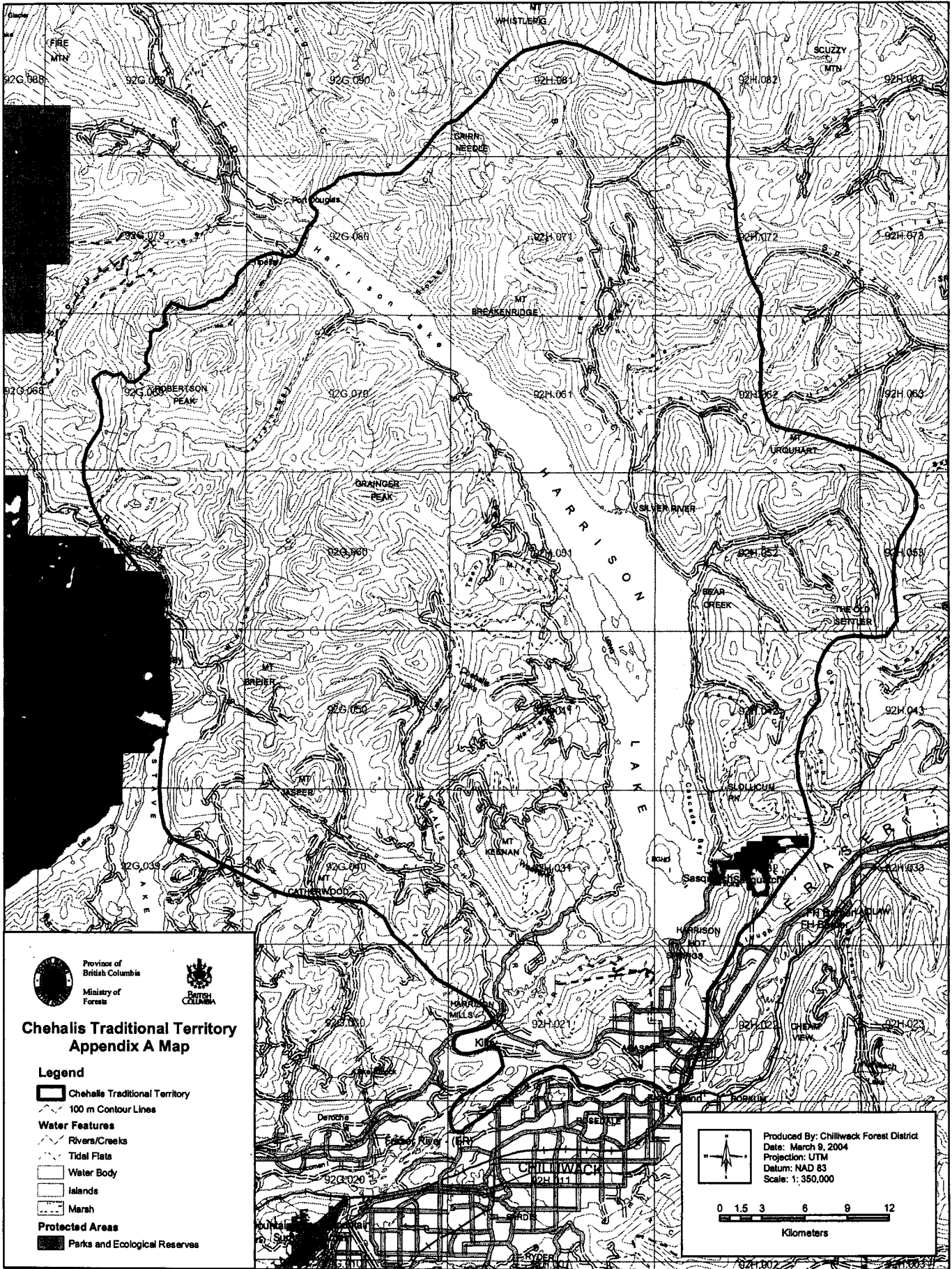


Michael de Jong
Minister of Forests

Date: March 22, 2004.



Witness



Province of
British Columbia
Ministry of
Forests



BRITISH
COLUMBIA

Chehalis Traditional Territory Appendix A Map

Legend

- Chehalis Traditional Territory
- 100 m Contour Lines
- Water Features**
 - Rivers/Creeks
 - Tidal Flats
 - Water Body
 - Islands
 - Marsh
- Protected Areas**
 - Parks and Ecological Reserves



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