

10450-20 KIB

Short Term Mountain Pine Beetle Agreement
(the "Agreement")

Between:

Kamloops Indian Band

As represented by
Chief and Council
Kamloops Indian Band

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 Kamloops Indian Band signed a Forest and Range Agreement (FRA) with the Government of British Columbia on March 24, 2005. This Agreement is a short-term additional forestry economic opportunity as referenced in 3.1.7 in the Preamble of the March 2005 FRA, and does not supersede the March 2005 FRA.
- The Kamloops Indian Band of the *Secwepemc* Nation has aboriginal rights and/or title within its asserted traditional territory (see attached map Appendix 1).
- The Kamloops Indian Band asserts that it has a relationship to the land that is important to *Secwepemc* culture and the maintenance of its community, governance and economy.
- This Agreement and any decisions and/or licenses issued during the term of this Agreement do not change or affect the positions either Party has, or may have, regarding jurisdiction and authorities.
- Mountain pine beetle uplifts in the Kamloops Timber Supply Area will lead to increased harvesting activity and potential infringements on Kamloops Indian Band aboriginal rights and/or title.
- The Parties wish to enter into an interim measures agreement in relation to mountain pine beetle uplifts and harvesting.
- The Government of British Columbia wishes to support additional economic opportunities for the Kamloops Indian Band.

Purpose

1. The purposes of this Agreement are to:
 - a. increase the participation of the Kamloops Indian Band in the forest sector;
 - b. provide an economic opportunity by inviting the Kamloops Indian Band to apply for a non-replaceable forest licence to assist the province in the management of mountain pine beetle in the Kamloops Timber Supply Area, in a manner linked to the 2005 FRA and as set out in this Agreement.

Therefore the Parties agree as follows.

2. After execution of this Agreement by the Parties, the Minister of Forests and Range (the "Minister") will invite the Kamloops Indian Band to apply for a non-replaceable forest licence (the "Kamloops uplift licence opportunity") under section 47.3 of the *Forest Act* to harvest a total of up to 123,747 cubic meters over a three year term in the Kamloops Timber Supply Area and within the asserted traditional territory of the Kamloops Indian Band.
3. If during the term of this Agreement a Mountain Pine Beetle a temporary volume uplift becomes available in the Kamloops Timber Supply Area, the parties agree to explore further tenure opportunities in this Timber Supply Area, in accordance with Section 47.3 of the *Forest Act*.
4. Any invitation will be subject to a condition that prior to making an application for the Licence, the Kamloops Indian Band will contact the Ministry of Forests and Range and the Parties will work co-operatively to identify an operating area within the asserted traditional territory of the Kamloops Indian Band.
5. Any licence(s) entered into as a result of the invitation to apply under this Agreement:
 - a. will be for a term of no longer than 3 years as determined by the Minister,
 - b. will contain other terms and conditions required by law, including the condition that the Kamloops Indian Band must comply with this Agreement and with the *Kamloops Indian Band FRA* (March 2005);
 - c. will include a term that Kamloops Indian Band may not dispose of the Licence except in accordance with the *Forest Act*; and
 - d. will include other terms and conditions as may be required by the Regional Manager.
6. An invitation to apply for a licence(s) and any licence(s) entered into as a result of the invitation to apply under this Agreement may be combined with a tenure opportunity included in any other agreement in accordance with the *Forest Act*.

Consultation

7. The Government of British Columbia intends to consult with the Kamloops Indian Band 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 Kamloops TSA, as set out in this agreement and sections 4 and 5 of the *Kamloops Indian Band FRA* (March 2005).
8. The Kamloops Indian Band agrees to participate in any consultation initiated by the Government of British Columbia 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 Kamloops TSA, as set out in this agreement and sections 4 and 5 of the *Kamloops Indian Band FRA* (March 2005).
9. During the term of this Agreement, and subject to the terms and intent of this Agreement being met and adhered to by British Columbia, the Kamloops Indian Band agrees that British Columbia will have provided an accommodation, with respect to the economic component of potential infringements of the Kamloops Indian Band's aboriginal title and/or rights resulting from operational plans and administrative decisions pertaining to increases and/or potential increases in harvest levels to address the mountain pine beetle epidemic in the Kamloops TSA, as an interim measure.
10. The Kamloops Indian Band is entitled to full consultation, and accommodation where required, with respect to all potential infringements of their aboriginal rights and/or title arising from operational plans or administrative decisions affecting Kamloops Indian Band's rights and/or title, regardless of the economic opportunity afforded to the Band under this Agreement.

Dispute resolution

11. If a dispute arises between the Government of British Columbia and the Kamloops 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.
12. 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 Kamloops Indian Band.
13. The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

Subsequent Agreement

14. Any subsequent agreement between the Government of British Columbia and the Kamloops Indian Band may provide for an opportunity to acquire a renewable Forest Tenure, and/or other economic benefits.
15. This Agreement is intended to be a short-term economic agreement, and thus does not preclude the Kamloops Indian Band from accessing other forestry economic opportunities and benefits, which may be available from time to time.

Amendments

16. Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.
17. 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

18. This Agreement will take effect on the date on which the last Party has executed it.
19. This Agreement will terminate on the occurrence of the earliest of any of the following events:
 - a. Three years from the date this Agreement is executed; or,
 - b. the mutual agreement of the Parties.
20. If the *Kamloops Indian Band FRA* (March 2005) is terminated, the consultation processes that were set out in sections 4 and 5 of that agreement are incorporated by reference into this Agreement and will continue to be followed by the Parties for the term and purposes of this Agreement.
21. The Government of British Columbia shall not terminate this Agreement on the grounds that the Kamloops Indian Band has challenged an Administrative or Operational Decision by way of legal proceedings.
22. Notwithstanding section 21, the Government of British Columbia may terminate the Agreement when there is a challenge on the basis that the economic benefits are not adequate or sufficient interim accommodation as set out in this Agreement.
23. Prior to termination under section 22, the Parties agree to meet and endeavour to resolve the dispute.

Notice

24. 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 as in this section of the Agreement.

25. 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.
26. 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 and Range
P.O. Box 9525 STN PROV GOVT
Victoria, B.C. V8W 9C3
Telephone: (250) 387-3656
Facsimile: (250) 953-3687

Kamloops Indian Band

Chief and Council
Kamloops Indian Band
200-355 Yellowhead Highway
Kamloops, BC
V2H 1H1
Telephone: (250) 828-9700
Facsimile: (250) 372-8833

Miscellaneous

27. This Agreement shall be interpreted in a manner consistent with provincial, federal and constitutional law
28. This Agreement is not a treaty or a land 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.
29. This Agreement will not limit the positions that a Party may take in future negotiations or court actions.
30. Nothing in this Agreement, including the recitals defines or confirms the specific nature, scope, location or geographic extent of aboriginal rights and/or title of the Kamloops Indian Band.
31. This Agreement shall not be interpreted as addressing any potential infringements other than potential infringements associated with increased harvesting activity pursuant to temporary Mountain Pine Beetle uplifts in Allowable Annual Cut in the Kamloops Timber Supply Area. Area that may result from decisions contemplated by this Agreement during the term of this Agreement. Nothing in this Agreement shall

be interpreted to authorise any infringement that may occur following the termination of this Agreement, even if that infringement is caused by a decision that was made during the term of this Agreement.

- 32. This Agreement does not address or affect any claims by the Kamloops Indian Band regarding infringements of aboriginal rights and/or title, arising from Operational or Administrative Decisions made previous to the signing of this Agreement, nor any future settlement related to an aboriginal right or title claim.
- 33. 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.
- 34. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 35. The applicable laws of British Columbia and Canada shall govern this Agreement.
- 36. 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 via facsimile. 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:

Kamloops Indian Band:

Date: July 14/06



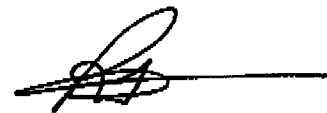
Chief Shane Gottfriedson



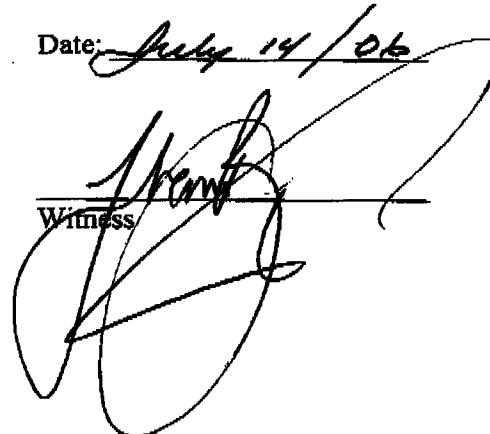
Witness

Signed on behalf of:
Government of British Columbia

Date: July 14/06

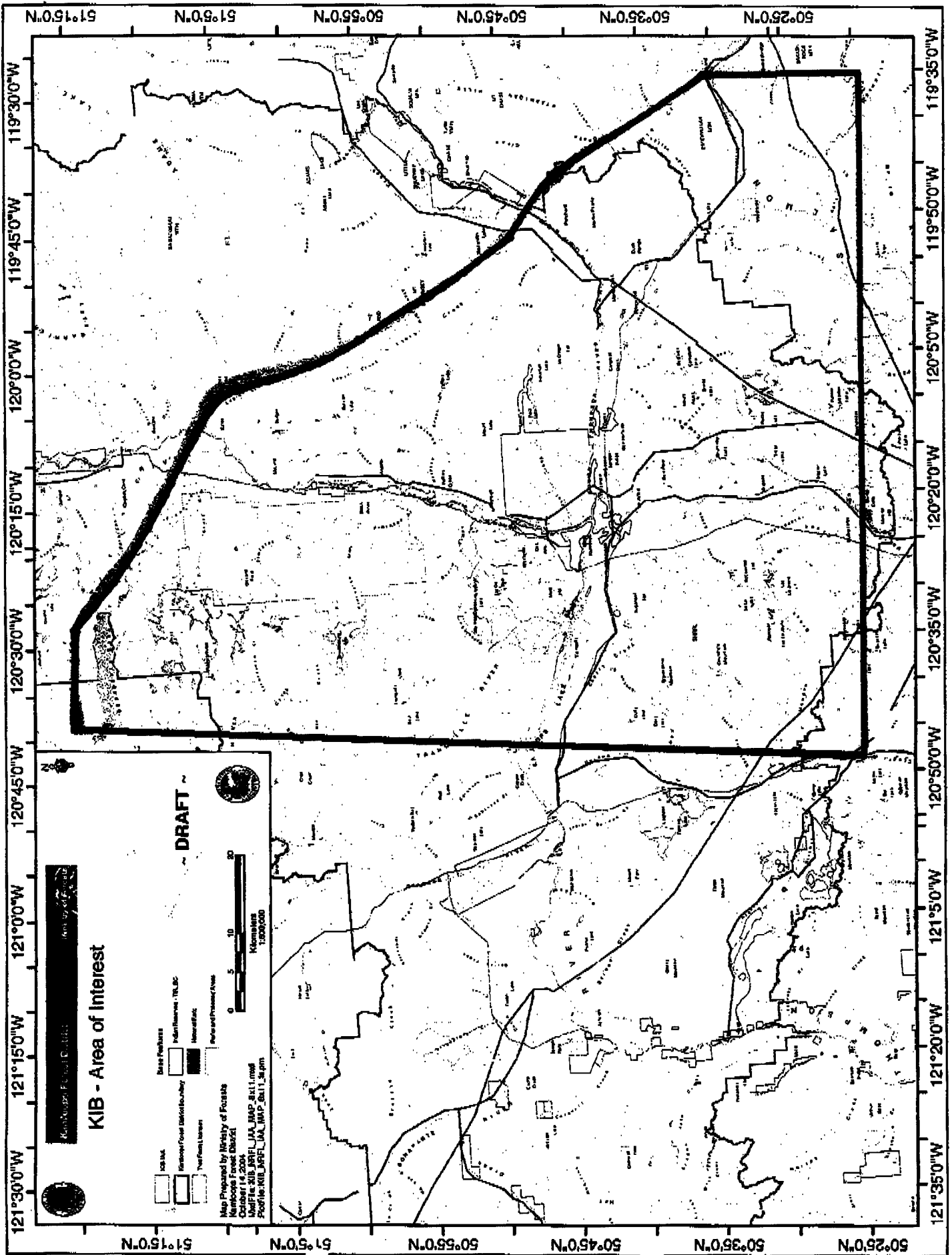


Honourable Rich Coleman
Minister of Forests and Range



Witness

APPENDIX 1 MAP OF KAMLOOPS TRADITIONAL AREA



KIB - Area of Interest

DRAFT

Map Prepared by Ministry of Forests
 Kamloops Forest District
 October 14, 2004
 Modifier: JIB, JRP, JJA, JMA, JML, JMM, JNN, JPP, JRR, JSS, JTT, JVV, JWW, JXX, JYY, JZZ
 Profile: KIB_JRP_L1_M1P_0411_34.gm



- Base Features
- Information, T&E, etc.
- Intermittent
- Perennial/Seasonal Flow

- 100 m
- 500 m
- 1 km
- 2 km
- 5 km
- 10 km
- 20 km
- 50 km
- 100 km
- 200 km
- 500 km
- 1000 km



APPENDIX 2:***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: Kamloops Indian Band

OR

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

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- (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); and,
 - (iii) Copy of verification that the applicant has the controlling interest in that legal entity.