

**Katzie First Nation  
Forest Agreement**

**(the "Agreement")**

**Between:  
Katzie**

**As represented by Chief Peter James and Council  
(the "Katzie")**

**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 Katzie has Aboriginal Interests within its Traditional Territory.
- The Parties wish to enter into an interim measures agreement in relation to forest resource development activities 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 meaningfully consult and to seek workable accommodation with the Katzie on forest resource development activities proposed within the Traditional Territory that may lead to the infringement of the Katzie's Aboriginal Interests.
- Katzie intends 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 an infringement of Katzie's Aboriginal Interests.

- The Parties have an interest in seeking workable interim accommodation of Katzie's Aboriginal Interests where forest resource development activities are proposed within the Traditional Territory that may lead to the infringement of Katzie's Aboriginal Interests.
- The Government of British Columbia and the Katzie wish to resolve issues relating to forest resource development activities where possible through negotiation as opposed to litigation.
- The Government of British Columbia acknowledges that Katzie has a vision of acquiring an area-based tenure, and being involved in the management of forest resources in the Traditional Territory.

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 and/or proven aboriginal rights and/or aboriginal title.
- 1.2 "Allowable Annual Cut" (AAC) means the allowable rate of timber harvest from a specified area of land. The Chief Forester sets the AAC for timber supply areas and tree farm licences in accordance with section 8 of the *Forest Act*.
- 1.3 "Administrative Decision" means one or more of the following decisions made by a person under forestry legislation:
  - the decision setting or varying the Allowable Annual Cut (AAC) for a Timber Supply Area or a Forest Tenure;
  - the issuance, consolidation, subdivision or amendment of a Forest Tenure;
  - 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 establishment of a interpretative forest site, recreation site and/or recreation trail; and
  - The apportionment of harvesting rights as a result of the implementation of the *Forestry Revitalization Act*.

- 1.4 "Cultural Component of Aboriginal Interests" as used in this agreement means the cultural values and traditional practices of the Katzie First Nation.
- 1.5 "Economic Component of Katzie's Aboriginal Interests" means the financial and commercial aspects of Katzie Aboriginal Interests, but not cultural or traditional use aspects.
- 1.6 "Forest Tenure" means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.
- 1.7 "Licensee" means a holder of a Forest Tenure.
- 1.8 "Operational Decision" means a decision that is made by a person with respect to the statutory approval of a Forest Development Plan, a Forest Stewardship Plan or a Woodlot Licence Plan, that has an effect within the Traditional Territory.
- 1.9 "Operational Plan" means a Forest Development Plan, Forest Stewardship Plan or a Woodlot Licence Plan that has an effect within the Traditional Territory.
- 1.10 "Response Period" means a period of up to 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 Katzie is notified of an Administrative Decision or Timber Supply Review process, or in the case of Operational Plan reviews, the date on which Katzie 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.
- 1.11 "Traditional Territory" means the Katzie 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 Katzie's opportunity for participation in the forest sector.
- 2.2 Provide economic benefits to the Katzie through a forest tenure opportunity and the sharing of revenues received by the Government of British Columbia from forest resource development activities.



- 2.3 Meaningfully address consultation and to provide an interim workable accommodation as set out in this Agreement, with regard to any infringements of Katzie's Aboriginal Interests, that result from Administrative Decisions and/or Operational Decisions relating to forest resource development activities within the Traditional Territory, during the term of this Agreement.
- 2.4 Provide a period of stability to forest resource development activities 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 Katzie**


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 the following economic benefits to Katzie to address consultation and to provide an interim workable accommodation, as set out in this Agreement, in respect of any infringements on the Katzie's Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest resource development activities within the Traditional Territory. For greater certainty, the Government of British Columbia agrees that it will not seek to use economic benefits provided to the Katzie pursuant to Section 3.0 as justification for the infringement of any Cultural Component of the Katzie's Aboriginal Interests in respect of Operational Decisions.

**3.1 Forest Tenure**

3.1.1 After the execution of this Agreement by the Parties, and as soon as possible after the Minister has determined that sufficient volume of timber is available for disposition to Katzie as a result of the implementation of the *Forestry Revitalization Act*, the Minister will invite Katzie to apply under section 47.3 of the *Forest Act* for a non-replaceable forest licence (the "licence") for up to 13,890 cubic meters annually in the Fraser Timber Supply Area. For greater certainty, the maximum volume that may be available under this licence is up to 69,450 cubic meters over 5 years.



- 3.1.2 Any invitations to apply for a licence (an "invitation") and any licences entered into as a result of the invitations to apply under this Agreement will be subject to the policies, regulations and statutes of British Columbia as amended from time to time.
- 3.1.3 Any invitations will be subject to a condition that prior to Katzie making an application for the licence, the Katzie and Ministry of Forests will work together to identify the operating area for the licence within the Katzie Traditional Territory.
- 3.1.4 Any licences entered into as a result of any invitations to apply under Section 3.1 of this Agreement :
  - 3.1.4.1 will be for a term of no longer than 5 years, as determined by the Minister;
  - 3.1.4.2 will contain other terms and conditions required by law, including the condition that Katzie must comply with this Agreement;
  - 3.1.4.3 will be subject to any Allowable Annual Cut adjustments in the Fraser TSA that result from the implementation of land use planning decisions ;
  - 3.1.4.4 may not dispose of the licences or an interest in the licences except in accordance with Section 54(4) of the *Forest Act*; and,
  - 3.1.4.5 will include other terms and conditions as may be required by the Regional Manager.
- 3.1.5 If the term of the licences 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 any subsequent agreement between the Parties and considered to be an economic benefit.



3.1.6 Subject to:

- 3.1.6.1 the Government of British Columbia and Katzie 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 Katzie,

the Minister may invite Katzie 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 Katzie will meet at mutually agreeable times, and at least once annually for the term of this Agreement, to review forestry business opportunities that may be available to Katzie.
- 3.1.8 The Government of British Columbia acknowledges the Katzie interest in examining the use of forest certification as a forest management tool.
- 3.1.9 The Government of British Columbia will support Katzie in their pursuit of access to potential forest business and management funding sources.

3.2 Forest Resource Revenue Sharing

- 3.2.1 During the term of this Agreement, the Government of British Columbia will pay to Katzie \$231,570 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. ¼) 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 Katzie will be paid the full revenues for the quarter starting January 1, 2005 to March 31, 2005, with subsequent payments being made at the end of each quarter.
- 3.2.5 Upon signing of this Agreement, the Katzie 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.
- 3.2.6 Katzie will maintain financial records and prepare financial statements in accordance with generally accepted accounting principles for each year of this Agreement.
- 3.2.7 Upon request, Katzie will provide an audit extract of the revenue sharing expenditures to the Government of British Columbia.

#### **4.0 Consultation and Accommodation Regarding Operational Plans**

- 4.1 The Government of British Columbia agrees to meaningfully consult in a timely manner with Katzie on Operational Plans that may potentially infringe Katzie's Aboriginal Interests within the Traditional Territory, except for any Economic Component of Katzie's Aboriginal Interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0 of this Agreement.
- 4.2 The Government of British Columbia will provide to Katzie in a timely manner, all reasonably available information in their possession on the Operational Plan that will enable Katzie to understand and comment on potential infringements of its Aboriginal Interests arising out of Operational Plans that will have an effect in the Traditional Territory.
- 4.3 During the term of this Agreement, and subject to adherence by British Columbia to the consultation processes set out in Sections 4.0 and 5.0 of this Agreement, Katzie agrees that the Government of British Columbia has fulfilled its duties to consult and to seek interim workable accommodation with respect to the potential infringements of Katzie's Aboriginal Interests in the context of Operational Decisions that the Government of British Columbia will make and any forest resource development activities that may be carried out under an Operational Plan within the Traditional Territory.



- 4.4 Katzie intends 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/or by Licensees.
- 4.5 In reviewing and responding to an Operational Plan submitted to them, Katzie will, within the Response Period, or such longer period as the Parties may agree, provide the Government of British Columbia and/or the Licensee that supplied the plan to them with all reasonably available information that will identify any concerns related to potential impacts to their Aboriginal Interests that may occur as a result of proposed forest resource development activities within the Traditional Territory, other than the Economic Component of Katzie's Aboriginal Interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0.
- 4.6 Upon receiving the response from Katzie as specified in Section 4.5, the Government of British Columbia and/or the Licensee will discuss and seek to accommodate any site specific operational impacts on Katzie's Aboriginal Interests that may occur as a result of proposed forest resource development activities within the Traditional Territory, other than the Economic Component of Katzie's Aboriginal Interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0.
- 4.7 If no response is received from Katzie within the Response Period, or such longer period that the Parties may have agreed to, then the Government of British Columbia may conclude that Katzie 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 In making a final decision on an Operational Plan, the Government of British Columbia will fully consider information it receives from Katzie, whether received directly or through a Licensee, and will consider whether concerns identified by Katzie have been addressed.
- 4.9 Upon Katzie's request, the Government of British Columbia will, in a timely manner, provide the decision rationale of an Operational Plan in writing.





- 4.10 Where information provided by the Katzie to the Government of British Columbia is deemed to be confidential by the Katzie then, subject to the Freedom of Information and Privacy Act, the Government of British Columbia will not seek to make this information available to the public other than to the Licensees operating in the area in question.

**5.0 Consultation and Accommodation Respecting Administrative Decisions**

- 5.1 The Government of British Columbia will provide to Katzie on an annual basis a list of all proposed Administrative Decisions anticipated within the year that will have an effect within the Traditional Territory, and either upon the request of Katzie or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to Katzie an updated list.
- 5.2 For greater certainty, the Government of British Columbia will provide Katzie with notice before making an Administrative Decision.
- 5.3 The Government of British Columbia will meet with Katzie at mutually agreed times throughout the year to provide an opportunity for Katzie to make known to representatives of the Government of British Columbia their concerns and comments relative to the potential effect of the proposed Administrative Decisions on their Aboriginal Interests within the Traditional Territory.
- 5.4 The Government of British Columbia will include Katzie 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.
- 5.5 Katzie intends to fully participate, within the Response Period, or such longer period as the Parties may agree, in public Timber Supply Review processes by providing all reasonably available information to identify concerns related to potential impacts on Katzie Aboriginal Interests within their Traditional Territory potentially affected by AAC determinations to be made pursuant to Section 8 of the *Forest Act*.
- 5.6 The Parties acknowledge that the public Timber Supply Review processes will be consistent with approved land use plans when higher-level objectives have been established.



- 5.7 If after considering the concerns and comments of Katzie, the delegated decision maker is of the opinion that an Administrative Decision creates a potential infringement of Katzie's Aboriginal Interests that is not adequately addressed by the economic benefits provided by the Government of British Columbia in Section 3.0, the delegated 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.
- 5.8 The Government of British Columbia will provide a response to Katzie as to how their concerns raised in Section 5.3 will be addressed.
- 5.9 Katzie 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 Katzie's Aboriginal Interests resulting from Administrative Decisions made by delegated decision makers from time to time during the term of this Agreement.
- 5.10 Katzie further agrees that, in consideration of Sections 5.1 to 5.9 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 that may go beyond the Economic Component of Katzie's Aboriginal Interests resulting from Administrative Decisions made by delegated decision makers from time to time during the term of this Agreement.

## 6.0 Stability for Land and Resource Use

- 6.1 Katzie will respond immediately 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 interference by Katzie members with provincially authorized activities related to Administrative Decisions and or Operational Decisions, including timber harvesting or other forestry economic activities will have an effect in the Traditional Territory.



**7.0 Dispute Resolution**

- 7.1 If a dispute arises between the Government of British Columbia and Katzie 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 Katzie.
- 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:
  - 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 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 Katzie 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 Katzie of any alleged contravention of this Agreement that may lead to Katzie being determined to not be in compliance with this Agreement and provide a reasonable opportunity to the Katzie to resolve the contravention, within twenty days.

9.3 If, during the term of this Agreement, Katzie 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, civil disobedience, or other disruptive methods or actions 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 Katzie's concerns and to provide an interim workable accommodation in respect of any potential infringements of Katzie's Aboriginal Interests with regard to Administrative Decisions relating to forest resource development activities within the Traditional Territory; or

9.3.2 substantially address the Economic Component of Katzie's Aboriginal Interests with regard to Operational Decisions relating to forest resource development activities 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 pursuant to this Agreement, then this Agreement may be terminated.

Final Agreement

- 9.5 The Parties agree that Katzie litigation filed prior to the effective date of this Agreement will not constitute a challenge for purposes of section 9.3 provided that an Abeyance Agreement is in effect in respect of that litigation.

#### **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 Katzie will seek the necessary authorities and approvals to renew this Agreement.
- 10.2 Any subsequent forestry agreement between the Government of British Columbia and Katzie 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 Katzie has agreed to accept as an interim measure for the term of this Agreement and is not a calculation of the value of forest resources removed from the Traditional Territory.

#### **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 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  
P.O. Box 9525 STN PROV GOVT  
Victoria B.C. V8W 9C3  
Telephone (250) 387-3656  
Facsimile (250) 953-3687

#### **Katzie First Nation**

Chief Peter James  
Katzie First Nation  
10946 Katzie Road  
Pitt Meadows, B.C. V3Y 2G6  
Telephone: (604) 465-8961  
Facsimile: (604) 465-5949

### **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 have occurred prior to the commencement of this Agreement or may occur following the termination of this Agreement.
- 14.5 This Agreement does not address or affect any claims by the Katzie arising from past interference with its Aboriginal Interests or any future treaty settlement related to an aboriginal right and title claim.
- 14.6 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.
- 14.7 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 14.8 The applicable laws of British Columbia and Canada shall govern this Agreement.
- 14.9 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:

Katzie First Nation

Date: April 14/05

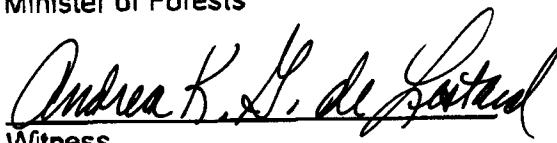
  
Chief Peter James

  
Witness

Signed on behalf of:

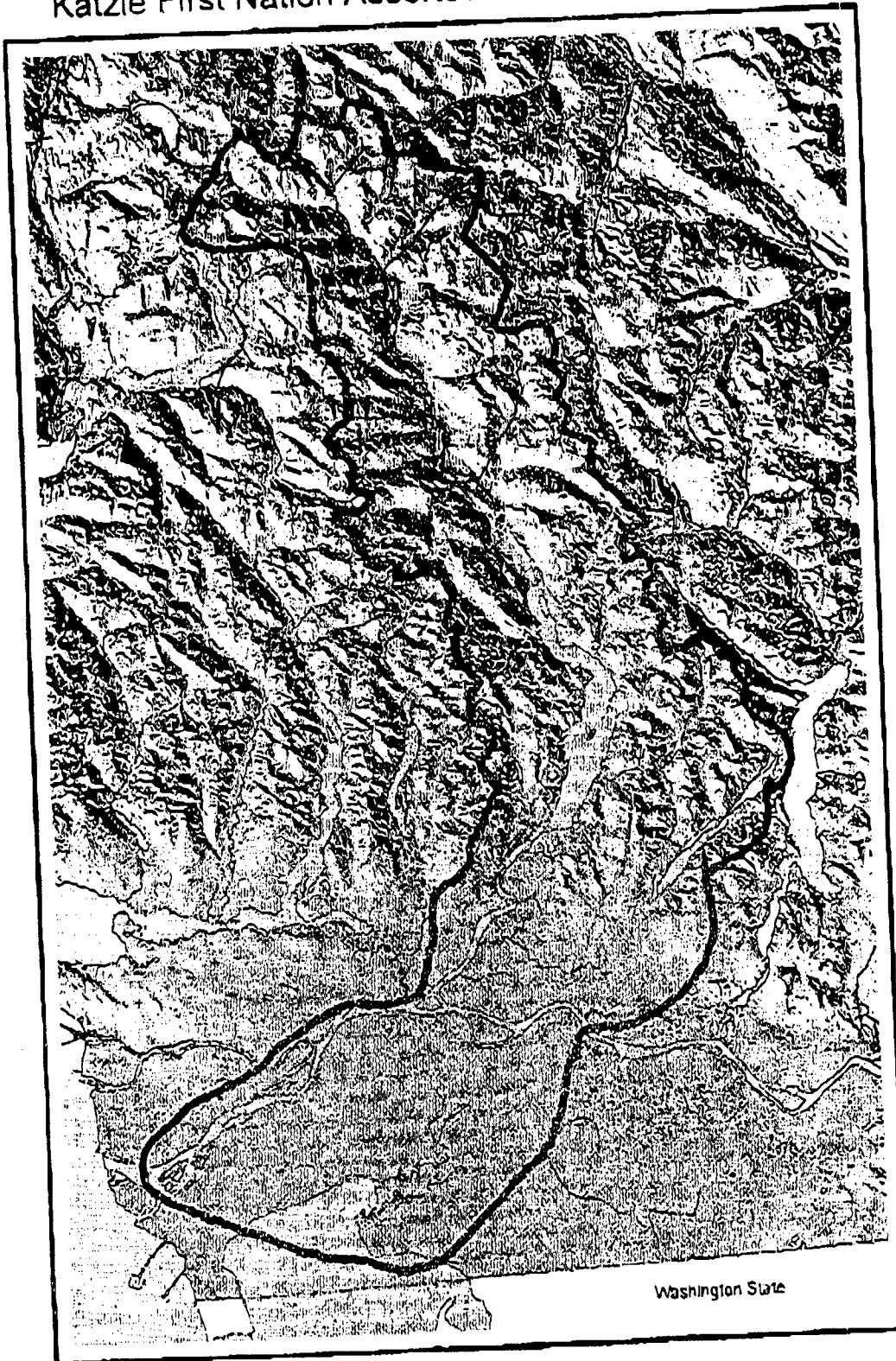
Government of British Columbia Date: March 31/05

  
Michael de Jong  
Minister of Forests

  
Witness



# Katzie First Nation Asserted Traditional Territory



Prepared by Infinity Resource Consulting



**KATZIE FIRST NATION ASSERTED TRADITIONAL TERRITORY**

