

Interim Measures Agreement

THIS AGREEMENT dated for reference this 23rd day of December 2003.

BETWEEN:

NADLEH WHUT'EN BAND
As represented by Chief Martin Louie

("Nadleh Whut'en Band")

AND

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA**

As represented by the Minister of Forests

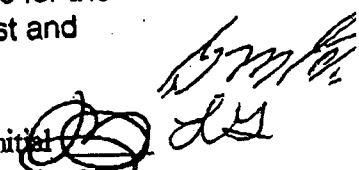
(The "Government of British Columbia")

each of whom is a "party" to this Agreement and both of whom are
sometimes referred to as the "parties".

Purpose:

1. The purpose of this Agreement is to:
 - (a) offer some economic accommodation, within the parameters of this Agreement, regarding potential aboriginal rights and title ("aboriginal interests") raised by Nadleh Whut'en Band in relation to forest and range decisions that occur during the term of this Agreement;
 - (b) increase Nadleh Whut'en Band's participation in the forest sector;
 - (c) provide for an economic development opportunity for Nadleh Whut'en Band by providing for an invitation to Nadleh Whut'en Band for a non-replaceable forest licence;
 - (d) assist in providing stability to provincially authorized forest and range resource development on Crown lands within the asserted traditional territory (the "Traditional Territory"); of Nadleh Whut'en Band as outlined in bold black on the attached Appendix "A";
 - (e) provide for the development of a specific consultation process for the Ministry of Forests and Nadleh Whut'en Band regarding forest and range development within the Traditional Territory; and

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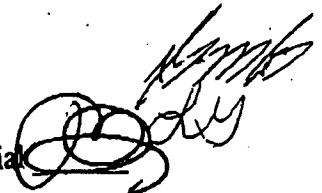
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- (f) further the Government of British Columbia's objective to offer other future forestry economic benefits to Nadleh Whut'en Band, including revenue sharing and additional forest tenure opportunities, in order to provide Interim workable accommodation for aboriginal interests under this Agreement, with a view to concluding an agreement dealing with those matters within one year.

Invitation to Apply for a Non-Replaceable Forest Licence

2. After the execution of this Agreement by the parties, the Minister of Forests (the "Minister") will invite Nadleh Whut'en Band to apply for a coniferous non-replaceable forest licence (the "Licence") for up to 150 000 cubic meters annually in the Prince George Timber Supply Area under section 47.3 of the *Forest Act* and within the Traditional Territory.
3. Any invitation to apply and any Licence entered into as a result of an invitation under this Agreement are subject to the policies, regulations and statutes of British Columbia as amended from time to time.
4. Any invitation to apply under section 2 of this Agreement will:
 - (a) include the commitment that if an application is received from Nadleh Whut'en Band before March 31, 2004, it will be processed in an expeditious manner in an attempt to issue a Licence as soon as possible, and
 - (b) terminate on March 31, 2004, if the Ministry has not received an application from Nadleh Whut'en Band for a Licence.
5. Any Licence entered into as a result of an invitation under this Agreement, subject to s. 5(b) and (c), will permit the band to harvest a total volume of up to 750 000 cubic meters of timber as specified by the Nadleh Whut'en Band and as agreed to by the Regional Manager, and,
 - a) will be for a term of no longer than five years as determined by the Minister,
 - b) where the term of the license is 4 years, will only permit the Nadleh Whut'en Band to harvest $\frac{1}{4}$ of the total volume agreed to in the licence in the final year of the licence,
 - c) where the term of the license is 5 years, will only permit the Nadleh Whut'en Band to harvest a total of $\frac{2}{5}$ of the total volume agreed to in the licence in the final two years of the licence,

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- d) will not be transferable without the consent of the Minister;
- e) will contain other terms and conditions required by law, including the condition that Nadleh Whut'en Band must comply with this Agreement; and
- f) will include such other terms and conditions as may be required by the Regional Manager, including the condition that the harvesting of timber under the Licence will be conducted in accordance with the Provincial Forest Health Strategy for dealing with the Mountain Pine Beetle infestation.

Consultation

6. In consideration of the Minister's invitation to apply under this Agreement and the attempt to reach a further agreement as contemplated by section 1(f):
- (a) Upon executing this Agreement, the Parties will immediately initiate discussions towards creating a specific consultation process that sets out the basic responsibilities and timeframes for efficient and effective consultation with respect to Nadleh Whut'en Band aboriginal interests regarding forest and range resource development within the Traditional Territory.
 - (b) Whether in accordance with a process agreed to be the parties pursuant to section 7(a) of this Agreement or otherwise, the Ministry of Forests commits to consult with Nadleh Whut'en Band in a timely manner on all proposed forest and range development within the Traditional Territory and Nadleh Whut'en Band will upon reasonable notice and in a timely manner, share necessary aboriginal interests information and consult on forest and range decisions and related activities with:
 - (i) the Ministry of Forests;
 - (ii) a holder of an agreement entered into under the *Forest Act* granting the holder a right to harvest Crown timber; and
 - (iii) a holder of an agreement entered into under the *Range Act* granting the holder a right to use or improve Crown range for grazing or cutting hay,

within the Traditional Territory;

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- (c) Nadleh Whut'en Band acknowledges that the Ministry of Forests will follow the Provincial Policy for Consultation with First Nations dated October, 2002 and the Ministry of Forests Aboriginal Rights and Title Policy dated May 14, 2003 as each of them may be amended from time to time, in the absence of a different consultation process being agreed upon under section 7(a) of this Agreement.

Stability on Crown Land

7. In consideration of the Minister's invitation to apply under section 2 of this Agreement and the attempt to reach a further agreement as contemplated by section 1(f):
- (a) Nadleh Whut'en Band will not unlawfully interfere with timber harvesting related, grazing, or hay cutting, activities of:
- (i) the Ministry of Forests;
 - (ii) a holder of an agreement entered into under the *Forest Act* granting the holder a right to harvest Crown timber; and
 - (iii) a holder of an agreement entered into under the *Range Act* granting the holder a right to use or improve Crown range for grazing or cutting hay,
- within the Traditional Territory; and
- (b) In consideration of the Minister's invitation to apply under section 7 and issuance to Nadleh Whut'en Band of a licence as referred to in that section, Nadleh Whut'en Band will not assert in legal proceedings or otherwise that the licence does not provide some measure of economic accommodation in respect of their aboriginal interests with regard to forestry and range decisions that may be made by the Ministry of Forests within the Traditional Territory during the term of this Agreement or for the term of any further agreement between the parties as contemplated in section 1(f).

Dispute Resolution

8. If a dispute arises between the Ministry of Forests and Nadleh Whut'en Band regarding the interpretation of a provision of this Agreement, or the obligation of a party under this Agreement, the parties or their duly appointed representatives will meet forthwith to consider the dispute and may attempt to resolve the dispute.

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Amendments

9. Any amendment to the terms and conditions of this Agreement must be in writing and duly executed by the parties.

Entire Agreement

10. Without restricting the legal obligations of either party except as set out in this Agreement, this Agreement and any amendments to it constitute the entire Agreement between the parties with respect to the subject matter of the Agreement.

Term

11. This Agreement will take effect on the date that it is executed by the parties.
12. This Agreement will terminate on the occurrence of any of the following events, whichever occurs earliest:
- (a) If the Licence contemplated by paragraph 2 is not issued by September 30, 2004;
 - (b) January 30, 2009, unless extended for a further term by agreement of the parties;
 - (c) the cancellation, expiry or termination of a Licence entered into as a result of the invitation in section 2 ;
 - (d) the date of a treaty among Nadleh Whut'en Band, the Government of Canada and the Government of British Columbia under the British Columbia treaty process; or
 - (e) agreement of the parties to terminate this Agreement.

Suspension or Cancellation

13. The parties acknowledge that any tenure issued to implement or further this Agreement will contain a condition that makes compliance with this Agreement a condition of that Licence.

Notice

14. 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 delivered, sent by registered mail, or transmitted by facsimile to the address of the other party as set below:

Nadleh Whut'en Band Initial



Ministry of Forests

Deputy Minister
Ministry of Forests
PO Box 9525 STN PROV GOVT
Victoria BC V8W 9C3
Facsimile (250) 387-7065

Nadleh Whut'en Band

Chief Martin Louie
Box 36
Fraser Lake BC V0J 1S0
Facsimile (250) 690-7316

15. Subject to section 21, any notice or other communication will be deemed to have been given on the date it is actually received.
16. If any notice or other communication is received after 4:00 p.m., it will be deemed to have been received on the next business day.
17. An address change by either party will be the subject of notice in accordance with this Agreement.

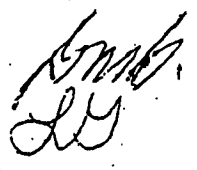
Counterpart

18. This Agreement may be entered into by each party signing a separate copy of this Agreement, and delivering it to the other party by 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.

Miscellaneous

19. This Agreement is not intended to affect any position Nadleh Whut'en Band may take in litigation or other negotiations with regard to the extent of Provincial jurisdiction over forest and range resources within the Traditional Territory.
20. Nothing in this Agreement will be interpreted in a manner that requires the Ministry of Forests to act in a manner inconsistent with provincial or federal law, or that fetters the statutory discretion of any provincial decision-maker.
21. This Agreement is not a treaty or a lands claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* and does not define, recognise, affirm, amend or deny the existence of any aboriginal right, including aboriginal title, or any treaty right.

Nadleh Whut'en Band Initial



22. This Agreement will not limit the position that a party may take in future negotiations or court proceedings, including claims that may be made by Nadleh Whut'en Band in respect to asserted infringements of Nadleh Whut'en Band aboriginal interests regarding forest and range decisions that occurred prior to the effective date of this Agreement.
23. Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute.
24. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either party.

Signed on behalf of Her Majesty
the Queen in right of the Province
of British Columbia

Date: MAR 20 2004
Witness: [Signature]

Signed on behalf of Nadleh
Whut'en Band

Date: MAR 20 2004
Witness: [Signature]

Date: MAR 20 2004
Witness: [Signature]

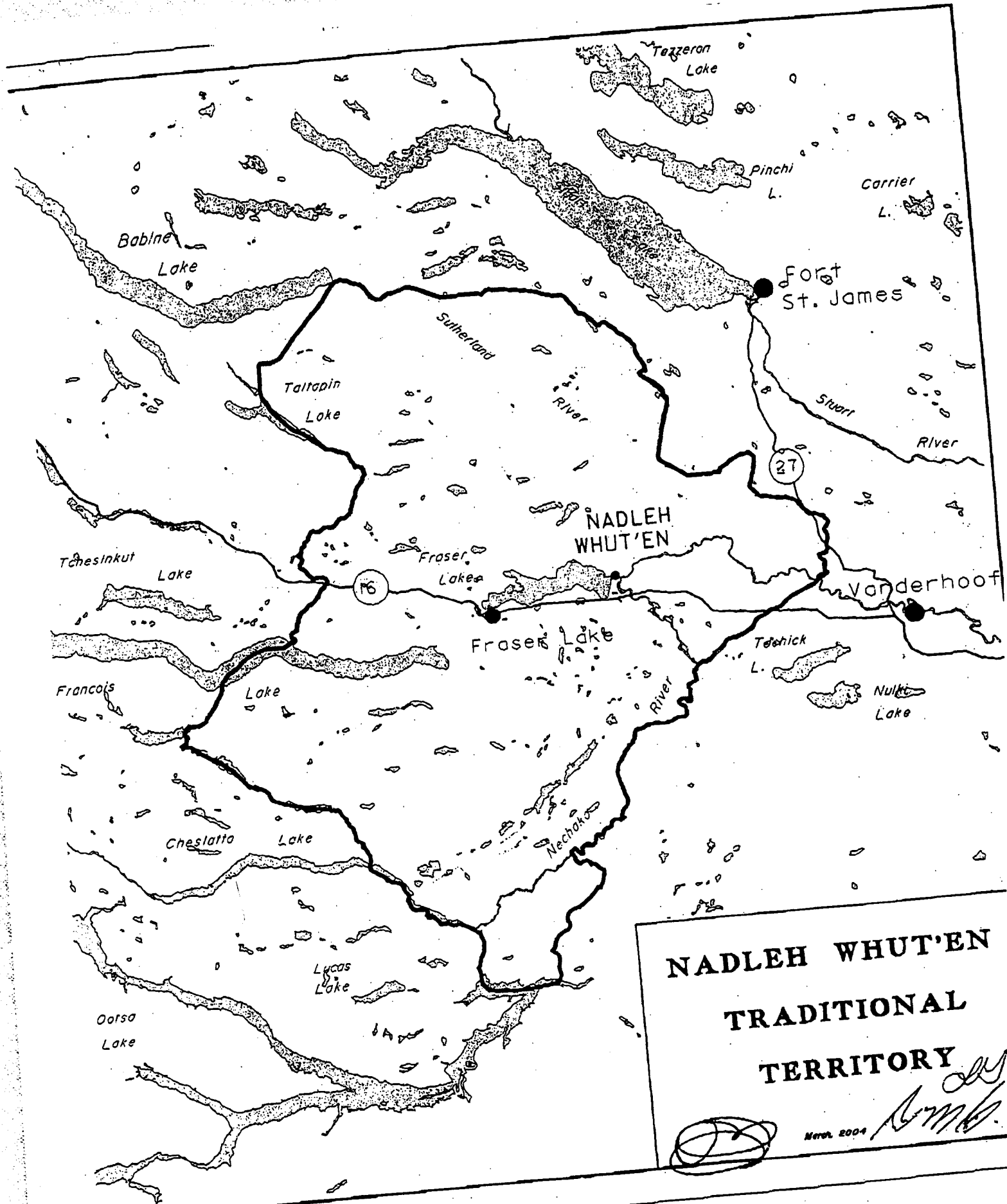
[Signature]
Minister of Forests

[Signature]
Chief Martin Louie

[Signature]
Councillor
Lucille George

[Signature]

APPENDIX "A"
THE ASSERTED TRADITIONAL TERRITORY
OF THE NADLEH WHUT'EN BAND



**NADLEH WHUT'EN
TRADITIONAL
TERRITORY**



Nov. 2004

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