





- 1.5 Forest Tenure" means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.
- 1.6 "Licensee" means a holder of a Forest and/or Range Tenure under the *Forest Act*.
- 1.7 "Operational Decision" means a decision that is made by a person with respect to the statutory approval of an Operational Plan, Forest Development Plan, a Forest Stewardship Plan, a Range Use Plan, or a Woodlot Licence Plan, that has an effect in the Territory.
- 1.8 "Operational Plan" means a Forest Development Plan, a Forest Stewardship Plan, a Range Use Plan, or a Woodlot Licence Plan that has an effect in the Territory.
- 1.9 "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 N'Quatqua is notified of an Administrative Decision or Timber Supply Review process, or in the case of Operational Plan reviews, the date on which N'Quatqua 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.
- 1.10 "Territory" means the N'Quatqua asserted territory as shown on bold black on the map attached in Appendix A.

**2.0 Purpose**

2.1 The purposes of this Agreement are to:

- 2.1.1 Increase the N'Quatqua opportunity for participation in the forest sector.
- 2.1.2 Provide economic benefits to the N'Quatqua through a forest tenure opportunity and/or the sharing of revenues received by the Government of British Columbia from forest resource development activities.
- 2.1.3 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 N'Quatqua Aboriginal Interests that result from

S.N.O.

Administrative Decisions and/or Operational Decisions relating to forest and/or range resource development activities within the Territory, during the term of this Agreement.

2.1.4 Provide a period of stability to forest and/or range resource development activities on Crown lands within the Territory during the term of this Agreement, while longer-term interests are addressed through other agreements or processes.

2.1.5 Further the objectives relating to forestry contained in the Government to Government Protocol between the Province of British Columbia and the St'a'imc Chiefs dated June 7<sup>th</sup>, 2004.

**3.0 Economic Benefits to N'Quatqua**

During the term of this Agreement, the Government of British Columbia will provide the following economic benefits to N'Quatqua to provide an interim workable accommodation, as set out in this Agreement, in respect of any infringements of the economic component of N'Quatqua Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest and/or range resource development activities within the Territory.

**3.1 Forest Tenure**

After the execution of this Agreement by the Parties, and as soon as reasonably possible after the Minister has determined that sufficient volume of timber is available to the N'Quatqua as a result of the implementation of the *Forestry Revitalisation Act*, the Minister will invite N'Quatqua to apply under section 47.3 of the *Forest Act* for a non-replaceable forest licence (the "licence") for up to 8,361 cubic meters annually for a period of 5 years in the Soo Timber Supply Area. For greater certainty, the maximum volume that may be available under this licence is up to 41,805 cubic meters over 5 years.

3.1.1 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.

SNO.

- 3.1.2 Any invitations will be subject to a condition that prior to N'Quatqua making an application for the licence, the N'Quatqua will contact Ministry of Forests to discuss and provide input to assist the Ministry of Forests in identifying the operating area for the licences. If possible, the operating area will be within the Territory.
- 3.1.3 Any licences entered into as a result of any invitations to apply under Section 3.1 of this Agreement will:
  - 3.1.3.1 be for a term of no longer than 5 years, as determined by the Minister;
  - 3.1.3.2 contain other terms and conditions required by law, including the condition that N'Quatqua must comply with this Agreement;
  - 3.1.3.3 may not dispose of the licences or an interest in the licences except in accordance with Section 54(4) of the *Forest Act*; and,
  - 3.1.3.4 include other terms and conditions as may be required by the Regional Manager.
- 3.1.4 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 and considered to be an economic benefit in any subsequent Forest and Range Agreement between N'Quatqua 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 N'Quatqua 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 N'Quatqua,

S.O.

the Minister may invite N'Quatqua 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 N'Quatqua \$139,343 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 execution of this Agreement, the N'Quatqua will be paid the full revenues for the quarter in which the Agreement takes effect as set out in section 8.1 with subsequent payments being made at the end of each quarter.
- 3.2.5 N'Quatqua 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, N'Quatqua will provide an audit extract of the revenue sharing expenditures to the Government of British Columbia.
- 3.2.7 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 N'Quatqua has agreed to accept as an interim measure for the term of this Agreement.

**4.0 Consultation and Accommodation Regarding Operational Plans**

N.O.

- 4.1 The Government of British Columbia agrees to consult with N'Quatqua in a timely manner on Operational Plans that may potentially infringe N'Quatqua Aboriginal Interests within the 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, subject to the terms of this Agreement being met and adherence by the Government of British Columbia to the consultation process set out in section 4.0, N'Quatqua 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 N'Quatqua Aboriginal Interests in the context of Operational Decisions that the Government of British Columbia will make and any forest practices that may be carried out under an Operational Plan in the Territory.
- 4.3 N'Quatqua agrees to fully participate, as set out in this section, in the review of all Operational Plans dealing with forest development within the 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, N'Quatqua 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 occur as a result of proposed forest and/or range resource development activities within the 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 Where information provided by the N'Quatqua to the Government of British Columbia is deemed to be confidential by the N'Quatqua, 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.
- 4.6 Upon receiving the response from N'Quatqua as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss and attempt to seek workable accommodation of any site specific operational impacts on N'Quatqua's Aboriginal Interests that may occur as a result of proposed forest and/or range resource

N.D.

development activities within the 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.

- 4.7 If no response is received from N'Quatqua within the Response Period, then the Government of British Columbia may conclude that N'Quatqua has no objections 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 N'Quatqua whether received directly or through a Licensee, and will consider whether concerns identified by N'Quatqua have been addressed.
- 4.9 The Government of British Columbia will provide N'Quatqua with a copy of its final decision on an Operation Plan at the same time it is provided to the Licensee. Within a reasonable time frame after making a final decision, the Government of British Columbia will also inform the N'Quatqua of the ways in which N'Quatqua concerns have been considered and sought to be addressed.

**5.0 Consultation and Accommodation Respecting Administrative Decisions**

- 5.1 The Government of British Columbia will provide to N'Quatqua on an annual basis a list of all proposed Administrative Decisions anticipated within the year that will have an effect in the Territory, and either upon the request of N'Quatqua or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to N'Quatqua an updated list.
- 5.2 The Government of British Columbia will meet with N'Quatqua at mutually agreed times throughout the year to provide an opportunity for N'Quatqua 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 Territory.
- 5.3 The Government of British Columbia will include N'Quatqua in public Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Soo and Lillooet Timber Supply Areas.

*SNO*





- 6.1 N'Quatqua 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 N'Quatqua members with provincially authorized activities related to forest and/or range resource development including timber harvesting or other forest economic activities which occur within the Territory.

**7.0 Dispute Resolution**

- 7.1 If a dispute arises between the Government of British Columbia and N'Quatqua 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 N'Quatqua.
- 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 December 31, 2004.
- 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 takes effect under section 8.1; 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 the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement pursuant to Section 9.0.

*SFO.*

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 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 N'Quatqua 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 N'Quatqua of any alleged contravention of this Agreement that may lead N'Quatqua being determined to not be in compliance with this Agreement, and will provide N'Quatqua with a reasonable period of time to remedy the alleged contravention.

9.3 If, during the term of this Agreement, N'Quatqua 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 N'Quatqua concerns and to provide an interim workable accommodation in respect of any potential infringements of N'Quatqua Aboriginal Interests with regard to Administrative Decisions relating to forest and/or range resource development activities within the Territory, or

9.3.2 substantially address the economic component of N'Quatqua Aboriginal Interests with regard to Operational Decisions relating to forest and/or range resource development activities within the Territory,

N.O.

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 The Government of British Columbia will not deem any legal action initiated by the N'Quatqua that relates only to events that precede the execution of this agreement to be a challenge that would trigger section 9.3.
- 9.5 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, if the terms and conditions of this Agreement are being met, and subject to 3.2.2, the Government of British Columbia and N'Quatqua will seek the necessary authorities and approvals to renew this Agreement.
- 10.2 Any subsequent Forest and Range Agreement between the Government of British Columbia and N'Quatqua 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.

**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.

S.V.O.

**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

**N'Quatqua**

Chief Harry O'Donaghey  
 N'Quatqua  
 21 Lakeshore Dr.,  
 P.O. Box 88, D'Arcy, BC  
 V0N 1L0  
 Telephone: (604) 452-3221  
 Facsimile: (604) 452-3295

*S.O.*

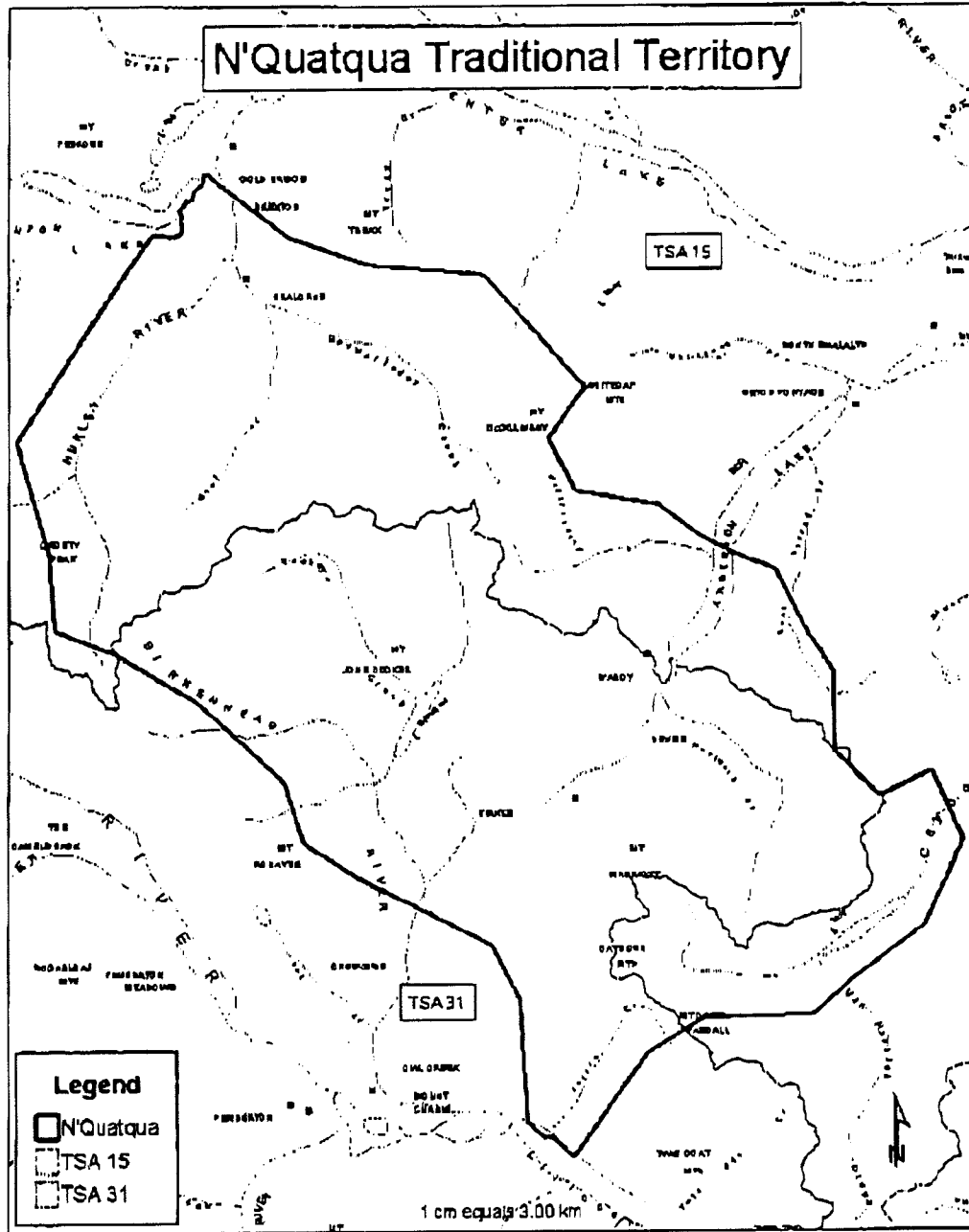
**14.0 Miscellaneous**

- 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 occurred before the execution of this agreement or may occur following the termination of this Agreement.
- 14.5 This Agreement, including section 9.3, does not address or affect any claims by the N'Quatqua arising from past interference with its Aboriginal Interests or any future treaty settlement related to an aboriginal right and title claim.
- 14.6 Subject to the terms in this agreement, this Agreement does not prevent N'Quatqua from discussing forest related issues in the process established under the St'at'imc – British Columbia protocol of June 7, 2004.
- 14.7 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.
- 14.8 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 executed by each Party signing a

S.O.



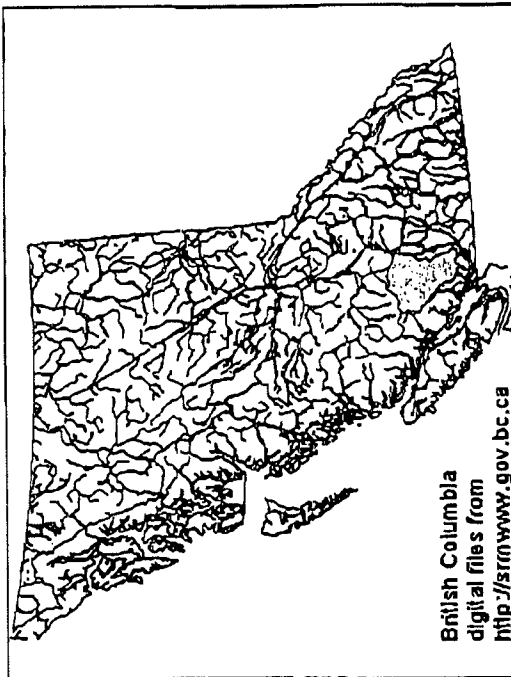
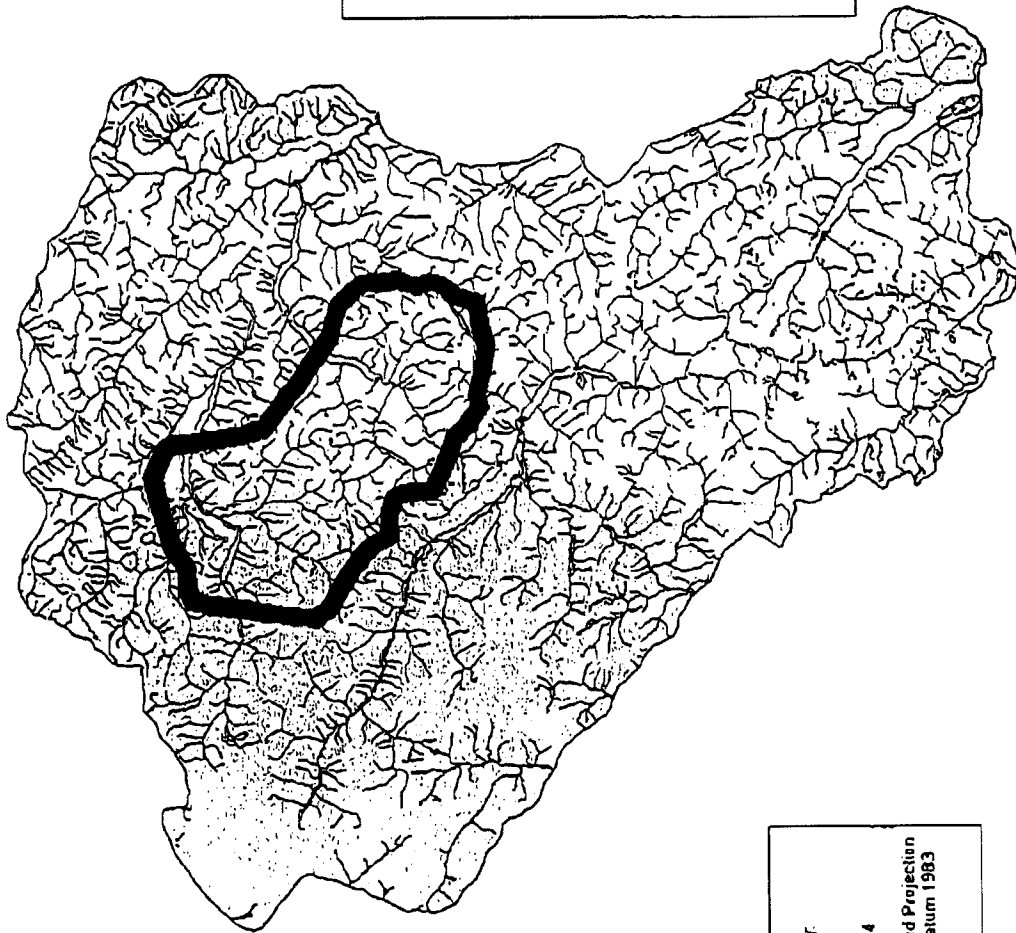
# APPENDIX A N'QUATQUA TERRITORY



SGO.






# N'Quatqua: Area of Interest Within St'at'imc Nation - Draft



British Columbia  
digital files from  
<http://strnwww.gov.bc.ca>

Digital Mapping By:  
Chris Thevaige  
December 17, 2004

BC Albers Standard Projection  
North American Datum 1983  
GRS 80 ellipsoid


 N'Quatqua's Area of Interest  

 Water  

 St'at'imc Nation

40 0 40 80 Kilometers



*g.d.*