

05/02/2007

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

**Between:**

***Shuswap Nation Tribal Council:***

***As represented by***

Chief Nelson Leon, Adams Lake Indian Band  
Chief Shane Gottfriedson, Kamloops Indian Band  
Chief Felix Arnouse, Little Shuswap Indian Band  
Chief Judy Wilson, Neskonlith Indian Band  
Chief Wayne Christian, Splots'in First Nation  
Chief Keith Matthew, Simpcw First Nation  
Chief Ron Ignace, Skeetchestn Indian Band

Chief Mike LeBourdias, Whispering Pines/Clinton Indian Band, each of which is Party to this Agreement but which are collectively represented by the Shuswap Nation Tribal Council (the SNTC)

**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:**

- Shuswap Nation Tribal Council of the *Secwepemc* Nation, and its member Bands as collectively making up the *Secwepemc* Nation, or the *Secwepemc* Nation, have aboriginal rights and/or title ("Aboriginal Interests") within their traditional territory (see attached map Appendix A).
- Shuswap Nation Tribal Council, in its capacity as representing the member Bands set out above, asserts that it or those Bands collectively or the *Secwepemc* Nation, 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 of Aboriginal Interests of

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Shuswap Nation Tribal Council member band's with traditional territory in the Kamloops TSA.

- The Parties wish to enter into an agreement as per Section 47.3 of the Forest Act in relation to mountain pine beetle uplifts and harvesting in the Kamloops Timber Supply Area.
- The Government of British Columbia wishes to support additional economic opportunities for the Shuswap Nation Tribal Council.
- The Shuswap Nation Tribal Council will manage the volumes to ensure that all member bands potentially affected by increased harvesting and potential infringements of Aboriginal Interests in the Kamloops Timber Supply Area due to the Mountain Pine Beetle epidemic will have to opportunity to participate in this economic opportunity.

### **Purpose**

1. The purposes of this Agreement are to:
  - a. increase the participation of the Shuswap Nation Tribal Council in the forest sector; and
  - b. provide an economic opportunity by inviting the Shuswap Nation Tribal Council 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.

### **Therefore the Parties agree as follows.**

2. The Minister of Forests and Range (the "Minister") will invite the Shuswap Nation Tribal Council 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 300,000 m<sup>3</sup> during the term of this agreement in the Kamloops Timber Supply Area and within the traditional territory of the Shuswap Nation Tribal Council.
3. If during the term of this Agreement further disposable and/or additional volume 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. The parties agree that the Government of British Columbia will be disposing of mountain pine beetle uplift volume competitively as well as providing direct award opportunities to First Nations.
5. Shuswap Nation Tribal Council acknowledges that the Government of British Columbia views this agreement as an illustration of the provinces' effort to seek compromises in an attempt to harmonize forest and range activities with Aboriginal Interests and move down the path of reconciliation.

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6. Any invitation will be subject to a condition that prior to making an application for the Licence, the Shuswap Nation Tribal Council will contact the Ministry of Forests and Range and the Parties will work co-operatively to identify an operating area, consistent with the intent of this agreement, within the Kamloops TSA.
7. 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 5 years as determined by the Minister;
  - b. will contain other terms and conditions required by law, including the condition that the Shuswap Nation Tribal Council must comply with this Agreement;
  - c. will include a term that Shuswap Nation Tribal Council 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.
8. As agreed to by both parties, 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*.
9. If the intended holder of the licence is a legal entity other than the Shuswap Nation Tribal Council, the Shuswap Nation Tribal Council must supply the Government of British Columbia with the supporting documentation stating that, the intended holder has been validly appointed by the Shuswap Nation Tribal Council as its representative. Refer to Appendix B.

### **Consultation**

10. The representative bands agree to participate, in any consultation initiated by the Government of British Columbia regarding mountain pine beetle related forestry operational plans and administrative decisions within the Kamloops TSA.

### **Dispute resolution**

11. If a dispute arises between the Government of British Columbia and the Shuswap Nation Tribal Council 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 Shuswap Nation Tribal Council.

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13. If the interpretation dispute cannot be resolved by the Parties directly, they may appoint an independent and mutually agreeable mediator to assist them to resolve that dispute within 60 days, or such period as agreed upon, or 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 Shuswap Nation Tribal Council may provide for an opportunity to acquire a 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 Shuswap Nation Tribal Council 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. Five years from the date this Agreement is executed; or,
  - b. the mutual agreement of the Parties; or
  - c. 90 days notice.
20. The Government of British Columbia will not terminate this Agreement on the grounds that the Shuswap Nation Tribal Council has challenged an Administrative or Operational Decision by way of legal proceedings.

**Notice**

21. 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.

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22. 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.
23. 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

***Shuswap Nation Tribal Council***

Shuswap Nation Tribal Council  
Suite #304-355 Yellowhead Highway  
Kamloops BC  
V2H 1H1  
Telephone: (250) 828 9789  
Facsimile: (250) 374-6331

***Miscellaneous***

24. This Agreement shall be interpreted in a manner consistent with provincial, federal and constitutional law
25. 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.
26. This Agreement is without prejudice to the positions that a Party may take in future negotiations or in current or future legal proceedings, except as provided in this Agreement.
27. The Province acknowledges and enters into this Agreement on the basis that the Shuswap Nation Tribal Council, and/or its member Bands collectively and/or the *Secwepemc* Nation, have Aboriginal Interests within their Traditional Territory and further that the specific nature, scope or geographic extent of those Aboriginal Interests, and the question of which of those entities hold those aboriginal rights and/or title in law, have not yet been determined. Broader processes engaged in to bring about reconciliation will result in a common understanding of the nature, scope and geographic extent of Aboriginal Interests or treaty interests of the Shuswap Nation Tribal Council.

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28. This Agreement harmonizes forest and range activities with Aboriginal Interests and moves the Parties down the path of reconciliation.
29. This Agreement does not address or affect any claims by the Shuswap Nation Tribal Council regarding infringements of Aboriginal Interests, 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.
30. 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.
31. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
32. The applicable laws of British Columbia and Canada shall govern this Agreement.
33. 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.

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Signed on behalf of:

Shuswap Nation Tribal Council:


Date: \_\_\_\_\_

  
Splats'in Chief


  
Little Shuswap Chief


  
Simpcw Chief

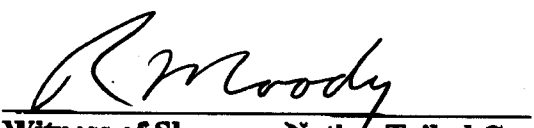
  
Kamloops Chief

  
Adams Lake Chief

  
Neakonlith Chief

  
Skeetchestn Chief

  
Whispering Pines/Clinton Chief

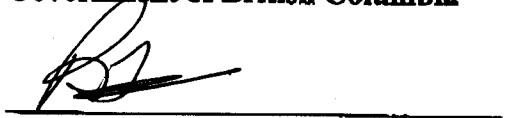


Witness of Shuswap Nation Tribal Council signatures

Signed on behalf of:

Government of British Columbia

Date: March 14/07

  
Honourable Rich Coleman  
Minister of Forests and Range

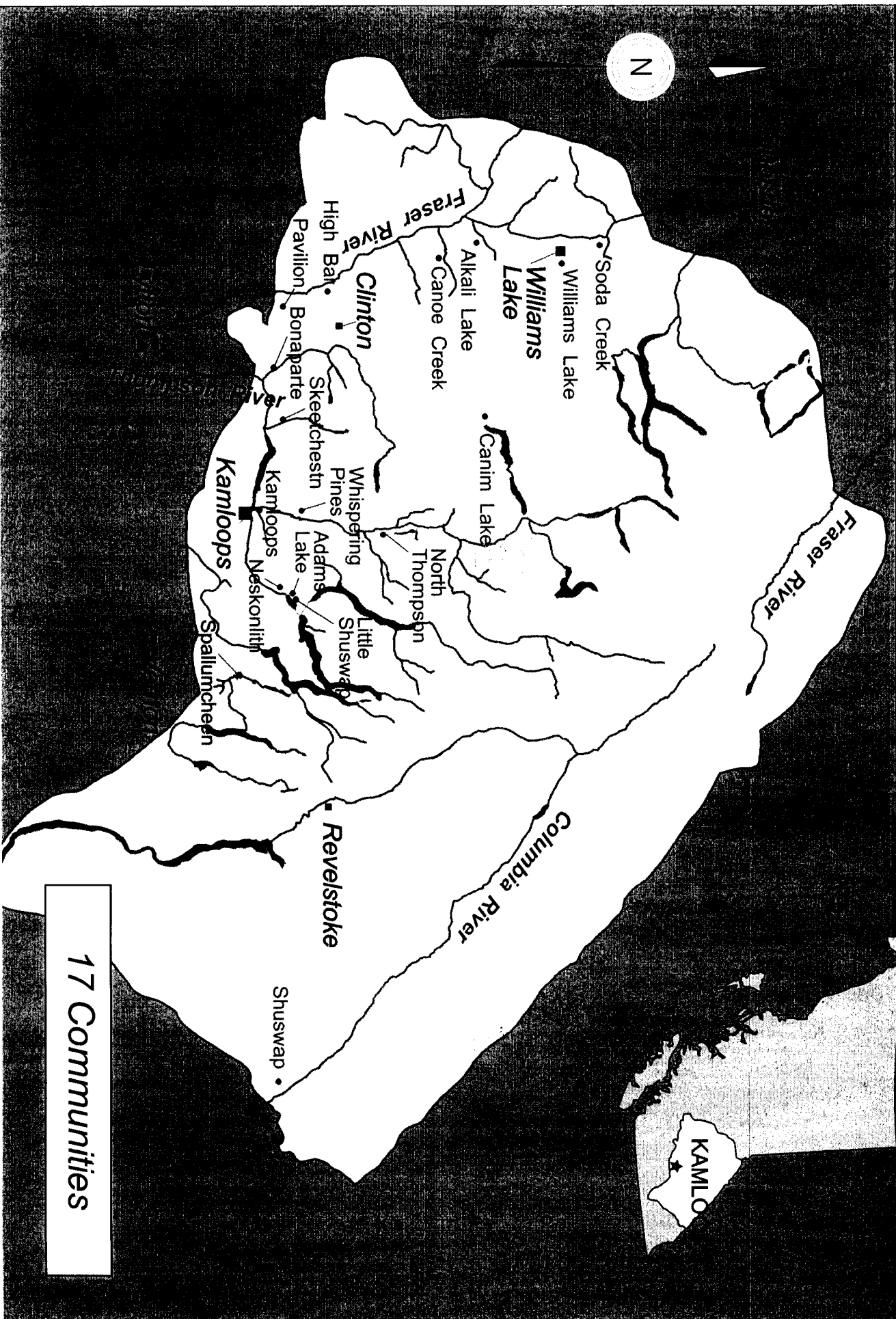
  
Witness of Minister signature

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**APPENDIX A**  
**MAP OF SHUSWAP NATION TRADITIONAL AREA**  
**(SNTC Map)**



# Secwepemc Traditional Territory



17 Communities

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**APPENDIX B:  
SNTC Tribal Council Resolution Designating Licensee**



## Shuswap Nation Tribal Council

SUITE 304 - 355 YELLOWHEAD HIGHWAY, KAMLOOPS, B.C. V2H 1H1  
Phone: (250) 828-9789 Fax: (250) 374-6331 e-mail: sntcadmn@shuswapnation.org

### ISOLATED RESOLUTION

**FORESTRY LICENSEE**

**12/06/06/CC:#527**

Moved by Chief Nelson Leon

Seconded by Chief Mike LeBourdais

*Whereas the following bands: Adams Lake, Little Shuswap, Nexkanlith, Simpcw, Skatchestn, Splats in, Kamloops, and the Whispering Pines/Clinton Indian Band and are affected by the Mountain Pine Beetle in the Kamloops Timber Supply Area;*

*THEREFORE LET IT BE RESOLVED that these bands agree that the Secwepemc Economic Development Corporation will be the designated licensee for the 300,000 m3, an economic opportunity provided by the Ministry of Forests.*

Motion Carried.

One Abstention.