

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

Between:

Simpw First Nation

**As represented by
Chief and Council
Simpw First Nation**

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 **Simpw First Nation of the Secwepemc Nation has aboriginal rights and/or title (i.e. Aboriginal Interests) within its asserted traditional territory as outlined in bold on the map attached as Appendix A.**

- **Mountain pine beetle uplifts in the Kamloops Timber Supply Area will lead to increased timber harvesting activity and potential impacts on Simpcw First Nation's Aboriginal Interests.**
- **The Government of British Columbia wishes to support economic opportunities for the Simpcw First Nation.**

Purpose

1. The purposes of this Agreement are to:
 - a. Provide an interim accommodation of potential infringements of the economic component of the Simpcw First Nation's Aboriginal Interests arising from or as a result of forest and range development that:
 - i. occur during the term of this Agreement;
 - ii. are within the Kamloops Timber Supply Area; and,
 - iii. are a result of temporary mountain pine beetle uplifts to the Allowable Annual Cuts in the Kamloops Timber Supply Area, and consequent increased harvest levels;
 - b. increase the participation of the Simpcw First Nation in the forest sector and increase the operation of their sawmill located on their reserve;

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- c. provide an economic development opportunity by inviting the Simpcw First Nation to apply for a non-replaceable forest licence in the Kamloops Timber Supply Area; and,
- d. assist in providing stability to provincially authorised forest resource development on Crown lands within the asserted traditional territory of the Simpcw First Nation.

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 Simpcw First Nation to apply for a non-replaceable forest licence (the "Licence") under section 47.3 of the *Forest Act* to harvest a total of up to 200,000 cubic meters of beetle infested timber over a three year term within the asserted traditional territory of the Simpcw First Nation in the Kamloops Timber Supply Area. If the intended holder of the licence(s) is a legal entity other than the Simpcw First Nation, this Agreement must include supporting documentation as specified in Appendix B stating that the intended holder has been validly appointed by the Simpcw First Nation as its representative and that the Simpcw First Nation holds the controlling interest in that legal entity.
3. The invitation to apply and any Licence entered into as a result of the invitation to apply under this Agreement will be subject to the policies, regulations and statutes of British Columbia as amended from time to time.
4. The invitation to apply under this Agreement will contain terms and conditions required by the Minister.
5. The invitation will be subject to a condition that prior to making an application for the Licence; the Simpcw First Nation will identify and negotiate a operating area within the asserted traditional territory of the Simpcw First Nation in the Kamloops TSA with existing operators.
6. A Licence 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 Simpcw must comply with this Agreement;
 - c. will include a term that Simpcw First Nation 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.
7. The Government of British Columbia does not guarantee the financial outcome of the Licence made available to Simpcw First Nation under this Agreement, or the financial success of the Simpcw mill.

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8. An invitation to apply for the Licence and any licence 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. As Simpcw First Nation has clearly stated it will not entertain a Forest and Range Agreement (FRA) offer from the Government of British Columbia using the existing FRA template, the Parties agree to explore negotiating an alternative interim measures agreement that may be more suitable to the needs of the Parties, and to this end, the Parties agree to form a negotiation team and meet within 30 days of the signing of this Agreement to begin discussions toward an alternative interim measures agreement. It is the intention of the Parties that this Agreement will continue and will not be replaced or amended by a later agreement, unless the Parties otherwise agree.
 10. As Simpcw First Nation has been invoicing the Government of British Columbia for the Simpcw First Nation's participation in consultation and as the Parties have not reached agreement that the Government of British Columbia will pay Simpcw First Nation for consultation as invoiced, the Parties agree to seek possible resolution of this issue through further discussions.
 11. Simpcw First Nation acknowledges that the Government of British Columbia will consult with other First Nations on the issuance of the Licence.
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12. During the term of this Agreement, the Simpcw First Nation acknowledges that the Government of British Columbia has provided an interim accommodation in respect of the economic component of potential infringements of Simpcw Nation's Aboriginal Interests that may occur as a result of a temporary uplift to the Allowable Annual Cut in the Kamloops Timber Supply Area and consequent increased harvest levels due to the Mountain Pine Beetle epidemic.
 13. Pursuant to section 9, the Simpcw First Nation further agrees to continue to work cooperatively, through a negotiation team towards an alternative interim measures agreement that would provide for interim workable accommodation with respect to the economic component of potential infringements resulting from forest and range resource development activities within the entire Simpcw Nation asserted traditional territory for the term of such an agreement.

Confidential Information

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Consultation on Crown lands

15. In consideration of the Minister's invitation to apply for the Licence under Section 2 of this Agreement, Simpcw First Nation agrees to participate, in a timely manner, in any consultation initiated by the Government of British Columbia regarding Mountain Pine Beetle related forestry operational plans and administrative decisions within the asserted traditional territory of the Simpcw First Nation.

Dispute resolution

16. If a dispute arises between the Government of British Columbia and the Simpcw First Nation 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.
17. 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 Simpcw First Nation.
18. The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

Amendments

19. Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.
20. Either Party may request in writing the participation of the other Party to review the effectiveness of this Agreement annually and consider amendments to this Agreement.

Term and Termination

21. This Agreement will take effect on the date on which the last Party has executed it.
22. This Agreement will terminate on the occurrence of the earliest of any of the following events:
- three years from the date this Agreement is executed; or,
 - the mutual agreement of the Parties, or,
 - ninety (90) days written notice by either party, or,
 - the date on which the Government of British Columbia cancels the Licence under this Agreement pursuant to section 23, or,

- e. if there is a challenge by Simpcw First Nation on the basis that the Licence in section 2 is not adequate or sufficient interim accommodation as set out in this Agreement.

Suspension or Cancellation of the Licence by the Minister

23. Without limiting the actions that may be taken by the Minister of Forests and Range or by the Government of British Columbia, the Minister or a person authorised by the Minister may suspend or cancel the Licence entered into as a result of the invitation under this Agreement. Prior to cancelling or suspending the Licence, the Government of British Columbia will provide notice to Simpcw First Nation of any alleged contravention of the Agreement and Simpcw First Nation will have 60 days to come into compliance.

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. 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

Simpcw First Nation

Chief and Council
Simpcw First Nation
Box 220
Barriere, BC
V0E 1E0
Telephone: (250) 672-9995
Facsimile: (250) 672-5858

Miscellaneous

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26. 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, federal or constitutional law, or that fetters the statutory discretion of any government decision-maker.
 27. 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 recognise, define, amend, affirm, deny or limit any priorities afforded to aboriginal rights, including aboriginal title, or treaty rights.
 28. This Agreement will not limit the positions that a Party may take in future negotiations or court actions.
 29. This Agreement shall not be interpreted as addressing any potential infringements of Aboriginal Interests other than potential infringements associated with increased harvesting activity pursuant to temporary uplifts in Allowable Annual Cut in the Kamloops Timber Supply 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.
 30. This Agreement does not address or affect any claims by the Simpcw First Nation arising from past interference with asserted aboriginal rights and title, nor any future settlement related to an aboriginal right or title claim.
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31. Nothing in this agreement, including the recitals, defines or confirms the specific nature, scope, location or geographic extent of Aboriginal Interests of the Simpcw First Nation.
 32. 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.
 33. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
 34. The applicable laws of British Columbia and Canada shall govern this Agreement.

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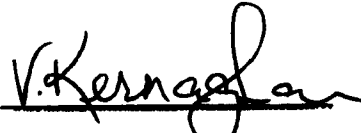
35. This Agreement may be entered into by each Party signing a separate copy of this agreement, including a photocopy or faxed copy, and delivering it to the other Party via facsimile. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

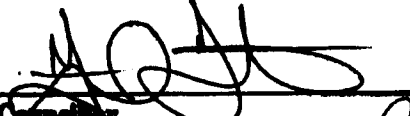
Signed on behalf of:

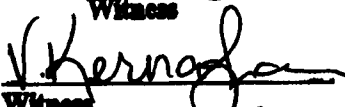
Simpw First Nation:

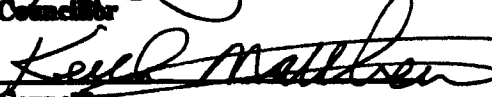
Date: Feb 2, 2006

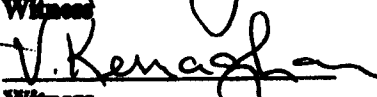

Chief Nathan Matthew


Witness


Councilor


Witness

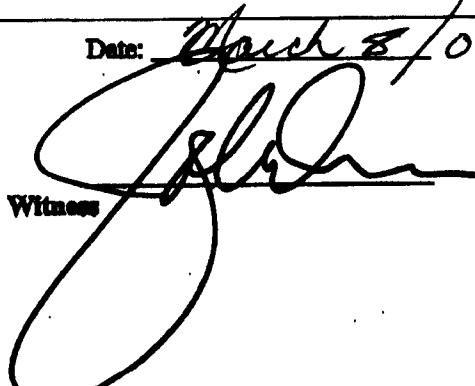

Councilor


Witness

Signed on behalf of:
Government of British Columbia

Date: March 8 / 06


Honourable Rich Coleman
Minister of Forests and Range


Witness

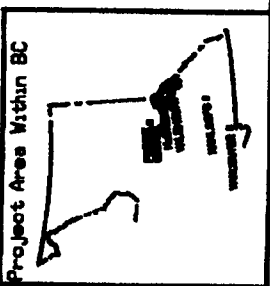
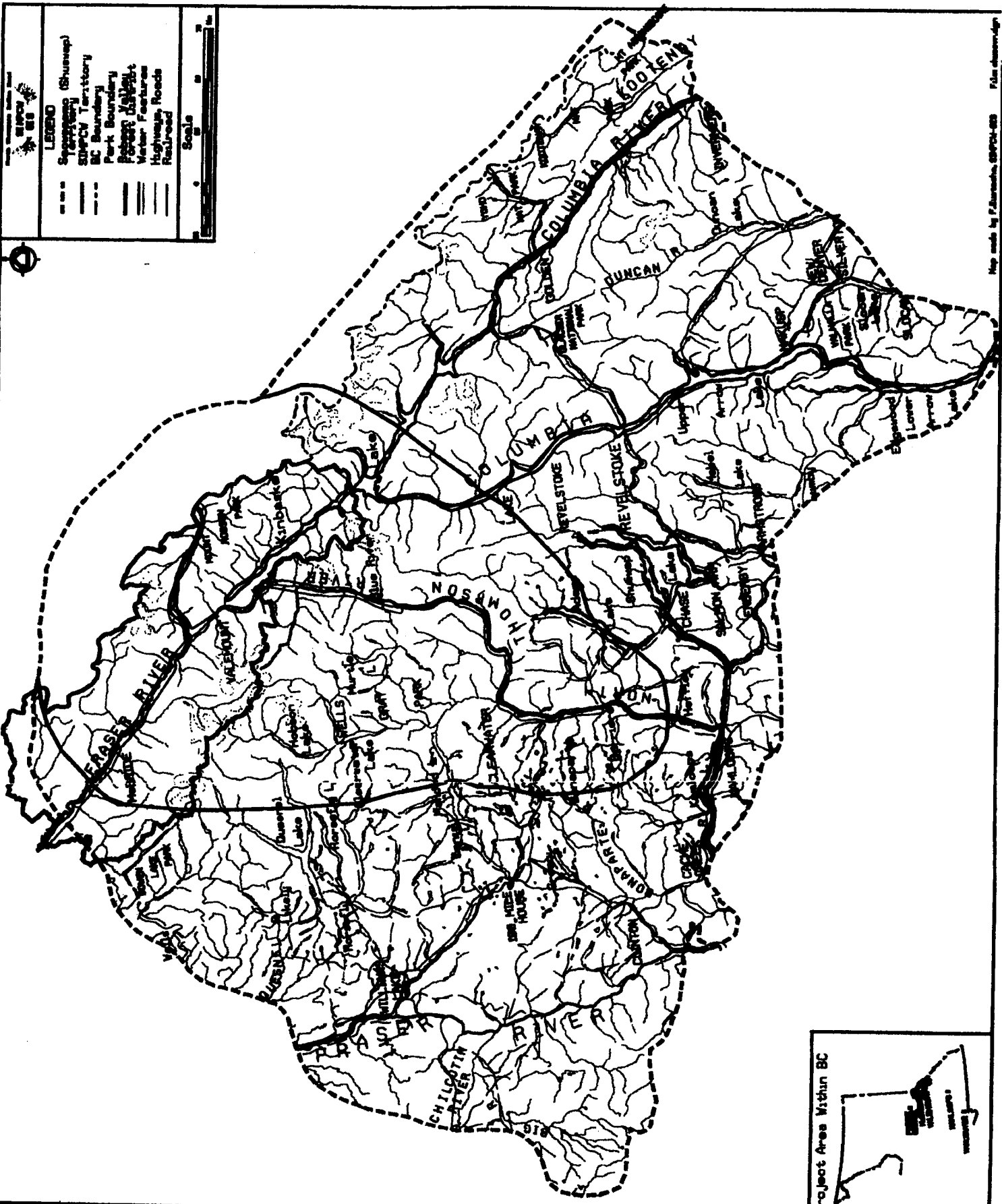
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APPENDIX A: SIMPCW FIRST NATION ASSERTED TRADITIONAL TERRITORY



LEGEND

- Settlement (Shuswap)
- Settlement
- Settlement Territory
- BC Boundary
- Park Boundary
- Forest Boundary
- Water Features
- Highway Roads
- Road-Red



SIMPCW FIRST NATION
Box 220, Barriere, B.C.
V0E 1E0

BAND COUNCIL RESOLUTION

The Council of: **SIMPCW FIRST NATION**
Place: **Barriere**
Province: **British Columbia**
District: **Coast Interior**
Date: **February 2, 2006**

Hereby resolves;

Therefore be it resolved and agreed that the Simpcw First Nation approve the Short Term Mountain Pine Beetle Agreement dated February 01, 2006, and authorize Simpcw Development Corporation Ltd. to represent the Simpcw First Nation with respect to holding and managing the Mountain Pine Beetle license.




Chief



Councillor




Councillor



Councillor

Councillor



Councillor

Councillor

A quorum for this Band
Consists of 4

APPENDIX B:

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 licence: _____

OR

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

Simpco Development Corporation

(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.