

**KLAHOOSE FIRST NATION  
INCREMENTAL TREATY AGREEMENT  
March 5, 2009**



**KLAHOOSE FIRST NATION**



**BRITISH  
COLUMBIA**

The Best Place on Earth

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## INCREMENTAL TREATY AGREEMENT

This Agreement is dated for reference the 5th day of March, 2009.

### BETWEEN:

**Her Majesty the Queen in right of the Province of British Columbia**, as represented by the Minister of Aboriginal Relations and Reconciliation

(the "Province")

### AND:

**Klahoose First Nation**, on behalf of itself and its Members, as represented by its Chief and Council

(the "Klahoose First Nation" )

(Both referred to as the "Parties" and individually referred to as a "Party")

### WHEREAS:

- A. The Klahoose First Nation asserts that it has used, occupied and governed its traditional territory from time immemorial.
- B. The Klahoose First Nation is engaged with the Province and Canada in negotiating an Agreement-in-Principle in accordance with Stage 4 of the British Columbia Treaty Commission process.
- C. The Parties are desirous of creating momentum in their treaty negotiations and wish to conclude an Agreement-in-Principle and Final Agreement.
- D. This Agreement will provide the Klahoose First Nation with incremental treaty benefits in advance of a Final Agreement and is in the spirit and vision of the New Relationship.

**NOW THEREFORE** the Parties agree as follows.

**ARTICLE 1**  
**INTERPRETATION**

1.1 **Definitions.** In this Agreement and the Recitals to this Agreement, unless the context requires otherwise:

**"AIP"** means the Klahoose First Nation Agreement-in-Principle, currently being negotiated by the Parties and Canada in accordance with Stage 4 of the British Columbia Treaty Commission process;

**"Chief"** means, in respect of the Klahoose First Nation, "chief" within the meaning of the *Indian Act*;

**"Closing Date"** means the date on which this Agreement is signed and delivered by both Parties, being March 5, 2009;

**"Council"** and **"Band Council"** mean, in respect of the Klahoose First Nation, the elected "council" within the meaning of the *Indian Act*;

**"Final Agreement"** means the Klahoose First Nation Final Agreement that may be concluded by Canada, the Province and the Klahoose First Nation at the conclusion of Stage 5 of the British Columbia Treaty Commission process;

**"Funds"** means the payments made by the Province under sections 5.1 and 5.2, for the benefit of the Klahoose First Nation;

**"Hayes"** means Hayes Forest Services Limited;

**"Indian Act"** means the *Indian Act*, R.S.C. 1985, c.1-5;

**"ITA"** means this Incremental Treaty Agreement;

**"Klahoose Aboriginal Rights and Title Litigation"** means BC Supreme Court Action Number L040942, Vancouver Registry;

**"Klahoose First Nation"** means the "Klahoose Indian Band", a "band" as that term is defined in the *Indian Act*, and includes each "member of a band", as that phrase is defined in the *Indian Act*;

**"Klahoose Forestry"** means Klahoose Forestry Limited Partnership, by its general partner Klahoose Forestry Inc.;

**"Klahoose Forestry Litigation"** means BC Supreme Court Action Number S082076, Vancouver Registry;

**"Member"** means any individual who is a "member of a band", as that phrase is defined in the *Indian Act*, of the Klahoose Indian Band;

**"New Relationship"** means the vision developed in March 2005 by the Province and the First Nations Leadership Council, representing the Assembly of First Nations-BC Region, First Nations Summit, and Union of BC Indian Chiefs, that resulted in a new relationship founded on principles of mutual respect, recognition and reconciliation of Aboriginal rights;

**"Probationary Community Forest Agreement"** means a probationary community forest agreement within the meaning of the *Forest Act*, RSBC 1996, c. 157, that is directly awarded in accordance with section 43.51 of the *Forest Act*;

**"Province"** means Her Majesty the Queen in right of the Province of British Columbia;

**"Provincial Official"** means:

- i) the Province;
- ii) any minister, public official, employee, or agent of the Province;
- iii) any government corporation;
- iv) any director, officer, employee, or contractor acting on behalf of a government corporation, the Province or an agent of the Province;  
or,
- v) any person acting as a decision maker under any enactment of the Province;

**"Purchase and Sale Agreement"** means the TFL 10 asset purchase agreement between Hayes and Klahoose Forestry, dated for reference December 16, 2008 and as amended January 15, 2009;

**"SOI Area"** means the statement of intent area filed by the Klahoose First Nation with the British Columbia Treaty Commission on August 29, 1994;

**"TFL 10 Transfer Date"** means the date referred to in section 8.6;

**"Transfer Date"** means the date, as soon as practicable after the Closing Date, and on or before March 9, 2009, on which the Funds referred to in section 5.1 are advanced by the Province in accordance with this Agreement; and

**"Tree Farm Licence 10" and "TFL 10"** mean the licence issued by British Columbia in accordance with the *Forest Act*, RSBC 1996, and dated March 1, 2000, to International Forest Products Limited, as amended by Instrument 15 dated March 20, 2006, and subsequently assigned to Hayes, the boundaries of which are depicted in the map attached as Schedule One to this Agreement.

1.2 **Interpretation.** For purposes of this Agreement, except as otherwise expressly provided:

- a) "this Agreement" means this Incremental Treaty Agreement, including the Schedules hereto, and any written agreement, document or instrument entered into, made or delivered pursuant to the terms hereof, as any of them may from time to time be supplemented or amended and in effect;
- b) all references in this Agreement to a designated "Article", "section", "subsection" or other subdivision or to a Schedule are to the designated Article, section, subsection or other subdivision of, or Schedule to, this Agreement;
- c) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, section, subsection or other subdivision or Schedule;
- d) the headings in this Agreement are for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision thereof;
- e) all references to currency refer to lawful money of Canada (unless expressed to be in some other currency);
- f) a reference in this Agreement to any particular enactment or other statute or regulation or any particular section or portion thereof will be deemed to be a reference to any enactment, statute, regulation or to any particular section or portion thereof, as the case may be, which is enacted in substitution therefore or in replacement thereof;
- g) any reference to a corporate entity includes and is also a reference to any corporate entity that was a predecessor to, or that is a successor to, such entity;
- h) words importing the masculine gender include the feminine or neuter gender and words in the singular include the plural and vice versa;

- i) the use of "including" is to be read as not limiting the generality of the preceding term or phrase;
- j) there will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party;
- k) any reference to the delivery on "closing" of an agreement or document "in the form" of an attached schedule means an agreement or document substantially in that form with such changes, additions or deletions as may be agreed by the representatives of the Province and the Klahoose First Nation authorized for that purpose; and
- l) each and every release, covenant and other agreement given, and action to be taken, by the Klahoose First Nation in this Agreement means the Klahoose First Nation acting by and through its Chief and Council, and will be conclusively deemed to have been given, or taken, by the Klahoose First Nation on its own behalf, and for and on behalf of its Members.

1.3 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.

## ARTICLE 2 PURPOSES

2.1 **Purposes.** The purposes of this Agreement are to:

- a) demonstrate the commitment of the Parties to renew negotiations towards a Final Agreement;
- b) provide the Klahoose First Nation with incremental treaty benefits in advance of a Final Agreement, in the spirit of the New Relationship, and the Funds to be transferred as part of this ITA will become an element of the Final Agreement;
- c) assist in developing capacity within the Klahoose First Nation to enable it to more effectively negotiate and implement a Final Agreement and pursue economic development initiatives; and
- d) establish additional certainty in relation to TFL 10.

**ARTICLE 3**  
**COMING INTO EFFECT AND TERM**

- 3.1 **Effective Date.** This Agreement comes into effect when it has been executed and delivered by both Parties.
- 3.2 **Termination.** This Agreement will terminate:
- a) on the date mutually agreed upon by both Parties; or,
  - b) following 30 days' advance written notice of termination to the other Party in respect of a breach by the Klahoose First Nation or the Province of any provision of this Agreement, that has not been remedied within 30 days of receipt of a written request to remedy the breach from the other Party; or
  - c) on the date of commencement or continuation of any litigation brought against a Provincial Official by the Klahoose First Nation, or a Member of the Klahoose First Nation, in respect of an action of a Provincial Official in relation to TFL 10 taken prior to the TFL 10 Transfer Date; and
  - d) for greater certainty, any steps taken by the Klahoose First Nation to enter an order in the form attached as Schedule Two and to obtain payment of costs in the Klahoose Forestry Litigation will not constitute the commencement or continuation of litigation within the meaning of section 3.2(c), and nothing in this Agreement is intended to prevent the Klahoose First Nation from taking any such steps.
- 3.3 **Dispute Resolution.** The Parties will make reasonable attempts to address any alleged breach of this Agreement prior to providing written notice of termination. Neither Party will provide a written notice of termination without first giving the other Party 30 days to cure any breach of the Agreement.
- 3.4 **Survival.** Articles 7 and 8 of this Agreement survive the termination of this Agreement.



**ARTICLE 4**  
**REPRESENTATIONS AND WARRANTIES**

4.1 **Klahoose First Nation Representations.** The Klahoose First Nation represents and warrants to the Province, with the intent and understanding that the Province will rely thereon in entering into this Agreement, that:

- a) it enters into this Agreement for, and on behalf of, its Members;
- b) its Members are supportive of accelerating efforts to negotiate an AIP and a Final Agreement;
- c) it, as represented by its Chief and Council, has the legal power, capacity and authority to accept, execute and deliver this Agreement and to carry out its obligations under this Agreement on behalf of the Klahoose First Nation and its Members;
- d) this Agreement is binding upon and enforceable against the Klahoose First Nation and its Members in accordance with its terms;
- e) this Agreement has been duly authorized, executed and delivered by and on behalf of the Klahoose First Nation and its Members; and
- f) that Klahoose Forestry, chosen by the Klahoose First Nation to receive the Funds under section 5.1, is duly constituted under the laws of British Columbia, is duly authorized to receive the Funds under section 5.1 on behalf of the Klahoose First Nation and its Members, and has the power and capacity to enter into and carry out the purchase of TFL 10 pursuant to the Purchase and Sale Agreement.

4.2 **Provincial Representations.** The Province represents and warrants to the Klahoose First Nation, with the intent and understanding that the Klahoose First Nation will rely thereon in entering into this Agreement, that:

- a) it has the power and authority to enter into this Agreement;

- b) it, as represented by the Minister of Aboriginal Relations and Reconciliation, has the legal power, capacity and authority to execute and deliver this Agreement and perform its obligations under this Agreement, including making payment of the Funds in accordance with this Agreement; and
- c) it is supportive of accelerating efforts to negotiate an AIP and a Final Agreement.

## **ARTICLE 5** **PAYMENT OF FUNDS**

- 5.1 **Funds to Assist in Purchase and Acquisition of TFL 10.** Subject to the provisions of this Agreement and upon receiving written confirmation from the Klahoose First Nation that all conditions necessary to close the Purchase and Sale Agreement, other than the payment of monies, have been satisfied, the Province will transfer two million and one hundred thousand dollars (\$2.1 million) to Klahoose Forestry on the Transfer Date, as a contribution toward the purchase price disclosed in the Purchase and Sale Agreement with Hayes.
- 5.2 **Treaty Negotiation and Economic Development Capacity Funds.** In addition, the Province will transfer the following amounts, to be used solely for advancing treaty negotiations and economic development capacity building:
  - a) a payment of seventy five thousand dollars (\$75,000) to the Klahoose First Nation on the Closing Date; and
  - b) a payment of seventy five thousand dollars (\$75,000) to the Klahoose First Nation within 3 months of the Parties and Canada agreeing on the tri-partite workplan referred to in section 6.1 of this Agreement.
- 5.3 **No Prejudice to Further Funding.** The Parties acknowledge that the amounts paid pursuant to this Agreement do not constitute the full amount the Klahoose First Nation will require to participate in treaty negotiations and to pursue economic development opportunities, and agree that the Klahoose First Nation is entitled to seek and obtain further funding for those purposes notwithstanding the amounts paid pursuant to this Agreement.
- 5.4 **Conditions Precedent in Favour of the Province.** The obligation of the Province to pay the Funds is subject to:
  - a) the availability of annual appropriations for that purpose by the Government of British Columbia;

- b) the representations and warranties of the Klahoose First Nation herein being true and correct on the applicable payment date;
  - c) the Klahoose First Nation having complied with the covenants and other provisions of this Agreement; and
  - d) the *Financial Administration Act*.
- 5.5 The Parties agree that the Funds provided under section 5.1 are solely for the purchase by Klahoose Forestry of TFL 10 from Hayes in accordance with this Agreement and the Purchase and Sale Agreement.
- 5.6 The Klahoose First Nation hereby designates Klahoose Forestry to receive the Funds pursuant to section 5.1 of this Agreement, for the purpose of purchasing TFL 10 from Hayes pursuant to the Purchase and Sale Agreement.
- 5.7 Before this Agreement is signed on behalf of the Province, the final purchase price for TFL 10, including all associated costs incurred by Klahoose First Nation and directly attributable to the implementation of the Purchase and Sale Agreement, will be disclosed to the Province in writing, by the Klahoose First Nation, including other sources of funding received by Klahoose First Nation for the purchase of TFL 10, in addition to the Funds received from the Province under this Agreement.

## **ARTICLE 6** **TREATY NEGOTIATIONS MATTERS**

- 6.1 **Implementation.** As part of the implementation of this Agreement, within six (6) months of both Parties signing this Agreement, the Parties will undertake to jointly request Canada to return to treaty negotiations, as evidenced by the development of a tri-partite workplan outlining the tasks to progress to AIP.

## **ARTICLE 7** **RECONCILIATION**

- 7.1 **Reconciliation.** This Agreement between the Klahoose First Nation and the Province has been designed to address the need to reconcile interests between the Parties within the spirit of the New Relationship. The Klahoose First Nation acknowledges that this Agreement and the Funds constitute contributions by the

Province toward the reconciliation of Klahoose First Nation interests, aboriginal rights and title, and that the Funds provided under this Agreement will be counted as a portion of the Province's contribution towards a Final Agreement settlement.

- 7.2 **Conversion of TFL 10.** The Parties acknowledge that, following the acquisition of TFL 10, the Klahoose First Nation will formally request the conversion of TFL 10 to an area-based probationary community forest licence. The appropriate Provincial Officials will consider and determine that request in a timely manner, and in a manner consistent with this Agreement and the spirit and vision of the New Relationship.

## **ARTICLE 8** **RELEASES, INDEMNITIES AND COVENANTS**

- 8.1 **Klahoose First Nation Release.** The Klahoose First Nation releases any action, cause of action, suit, claim or demand whatsoever, whether in law, in equity or otherwise, which the Klahoose First Nation and the past, present and future Members of the Klahoose First Nation and any of their respective heirs, descendants, legal representatives, successors or assigns may ever have had, may now have or may in the future have against any Provincial Official with respect to:
- a) any allegation of inadequate consultation and/or accommodation of the aboriginal rights or aboriginal title of the Klahoose First Nation in relation to TFL 10 by a Provincial Official in respect of any actions occurring before the TFL 10 Transfer Date;
  - b) the provision of Funds to the Klahoose First Nation in accordance with this Agreement; and
  - c) the procedures resulting in the ratification and execution of this Agreement by the Klahoose First Nation.
- 8.2 **Klahoose First Nation Indemnity.** The Klahoose First Nation agrees to indemnify the Province and its Provincial Officials from any obligation, liability, duty, loss or damage, excluding legal costs, resulting from any action, cause of action, suit, claim or demand whatsoever, whether known or unknown, and whether in law, in equity or otherwise, brought by any of the Members, and any of their respective heirs, descendants, against any Provincial Official with respect to:
- a) any allegation of inadequate consultation and/or accommodation of the aboriginal rights or aboriginal title of the Klahoose First Nation in relation

to TFL 10 by a Provincial Official in respect of any actions occurring before the TFL 10 Transfer Date;

- b) the provision of Funds to the Klahoose First Nation in accordance with this Agreement; and
- c) the procedures resulting in the ratification and execution of this Agreement by the Klahoose First Nation.

8.3 **Other Klahoose First Nation Covenants.** The Klahoose First Nation further agrees and covenants not to assert or bring any action, suit, claim or demand whatsoever, whether known or unknown, and whether in law, in equity or otherwise, in relation to:

- a) any allegation of inadequate consultation and/or accommodation of the aboriginal rights or aboriginal title of the Klahoose First Nation in relation to TFL 10 by a Provincial Official in respect of any actions occurring before the TFL 10 Transfer Date;
- b) the provision of Funds to the Klahoose First Nation in accordance with this Agreement; and
- c) the procedures resulting in the ratification and execution of this Agreement by the Klahoose First Nation.

8.4 **Commitment to Consultation within the Klahoose SOI.** The Klahoose First Nation and the Province mutually commit to pursuing good faith consultations, in a manner consistent with the common law and any additional agreements negotiated by the Parties.

8.5 **Abeyance of Litigation.** For a period of 24 months following the TFL 10 Transfer Date referred to in section 8.6, Klahoose First Nation will not take any step in the Klahoose Aboriginal Rights and Title Litigation.

8.6 **TFL 10 Transfer Coincides with the Date of Releases, Indemnities and Covenants.** The release, indemnity and other Klahoose First Nation covenants set out in this section 8 take effect on the same date and immediately after the "Closing" of the Purchase and Sale Agreement, as that term is defined therein.

## **ARTICLE 9** **DISPUTE RESOLUTION**

9.1 If a dispute arises between the Province and the Klahoose First Nation regarding the interpretation of a provision of this Agreement, or the compliance of a Party

with this Agreement, both Parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.

- 9.2 If both Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of the Province and the Klahoose First Nation.
- 9.3 Both Parties may agree upon other appropriate approaches to assist in reaching resolution of the interpretation issue.

## **ARTICLE 10** **NOTICES**

- 10.1 Any notice, document, statement, report, demand or grant desired or required to be given or made pursuant to this Agreement will be in writing and may be given or made if delivered personally to the Party to whom it is to be given or made, or if mailed in Canada with postage prepaid addressed to:

if to the Province:

Ministry of Aboriginal Relations and Reconciliation  
2955 Jutland Road – 4th Floor  
Victoria BC V8T 5J9  
Attention: Roger Graham, Senior Negotiator

and if to the Klahoose First Nation:

Klahoose First Nation  
Box 9 Squirrel Cove  
BC V0P 1T0  
Attention: Ken Brown, Chief Councilor

- 10.2 Any notice, document, statement, report or demand desired or required to be given or made pursuant to this Agreement may be transmitted by facsimile transmission from either Party and will be conclusively deemed validly given to and received by the other Party when so transmitted if transmitted to the following numbers:

If to the Province: @1-250-356-9467; and

If to the Klahoose First Nation: @1-250-935-6324

10.3 Either Party may, from time to time, give written notice to the other Party of any change of address or facsimile number of the Party giving such notice and after the giving of such notice, the address or facsimile number therein specified will, for purposes of this Agreement be conclusively deemed to be the address or facsimile number of the Party giving such notice.

## ARTICLE 11 GENERAL

11.1 **Non-waiver.** No term or condition of this Agreement and no breach by one Party of any such term or condition will be deemed to have been waived unless such waiver is in writing signed by the other Party.

11.2 **Written Waiver.** The written waiver by one Party of any breach by the other Party of any term or condition of this Agreement will not be deemed a waiver of any other term or condition or of any subsequent breach by the other Party of the same or any other term or condition of this Agreement.

11.3 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and there are no other understandings, representations, or agreements, oral or otherwise, that exist between the Parties with respect to the subject matter of this Agreement except as expressly set out herein.

11.4 **Further Acts and Assurances.** Each of the Parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better and absolute performance of the terms and conditions of this Agreement.

11.5 **Not a Treaty.** This Agreement does not:

- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982 (Canada)*; or
- b) recognize, affirm, define, deny, limit, amend, abrogate or derogate from any aboriginal rights, including aboriginal title, or any responsibilities of the Parties except as set out in this Agreement.

11.6 **Successors and Assigns.** This Agreement will enure to the benefit of and be binding upon the Klahoose First Nation and its successors and permitted assigns and the Province and its assigns.

- 11.7 **Band Council Resolution.** Prior to the execution of this Agreement, the Klahoose First Nation will deliver to the Province a Resolution made by its Council authorizing the Klahoose First Nation's representatives named in the Resolution to execute this Agreement on behalf of the Klahoose First Nation.
- 11.8 **Execution in Counterpart.** This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile transmission.
- 11.9 **Time.** Time will be of the essence.
- 11.10 **No Admissions.** Nothing in this Agreement will be construed as an:
- a) admission by the Province of the validity of any claim by the Klahoose First Nation to a specific aboriginal right or title within the meaning of section 35 of the *Constitution Act, 1982*;
  - b) acknowledgment by the Province that it has an obligation to provide financial or economic accommodation to the Klahoose First Nation;
  - c) admission by the Province of any liability whatsoever relating to any unperformed or inadequately performed obligations of International Forest Products Limited and/or Hayes Forest Services Limited under TFL 10;
  - d) admission by the Klahoose First Nation that it has ever ceded, released or surrendered any of its Aboriginal rights, including Aboriginal title; or
  - e) admission by the Klahoose First Nation regarding the nature and extent of provincial jurisdiction.



11.11 **No Fettering.** Nothing in this Agreement will be interpreted in a way that fetters the discretion given to any Provincial Official in an enactment.

IN WITNESS WHEREOF the Parties have executed this Agreement as set out below:

SIGNED on behalf of The KLAHOOSE FIRST NATION  
By the Klahoose Council in the presence of:

Signature: \_\_\_\_\_  
Name of Witness: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Occupation: \_\_\_\_\_

\_\_\_\_\_  
Chief Ken Brown

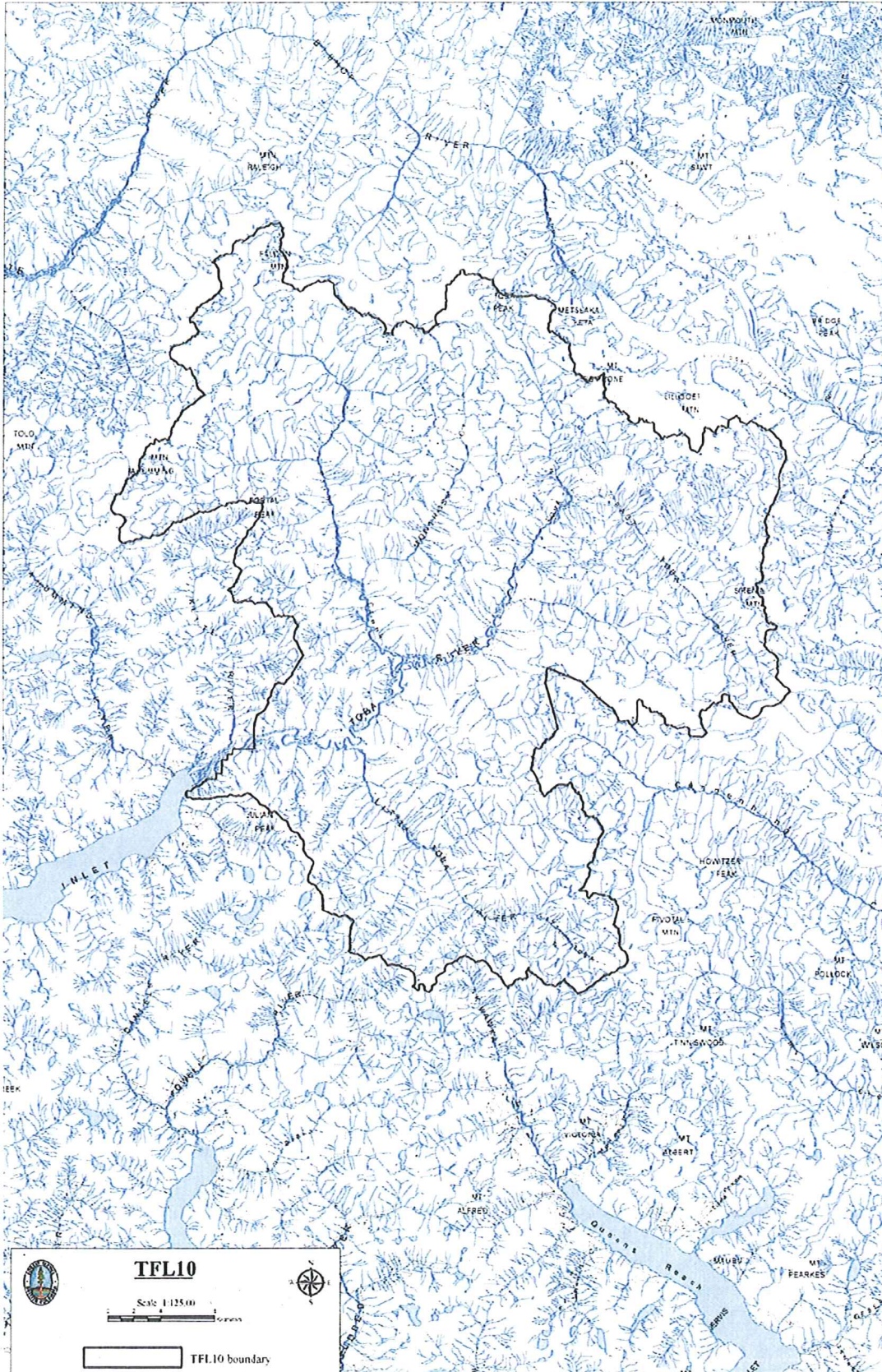
SIGNED on behalf of HER MAJESTY THE  
QUEEN IN RIGHT OF BRITISH  
COLUMBIA, as represented by the Minister  
of Aboriginal Relations and Reconciliation,  
in the presence of:

Signature: \_\_\_\_\_  
Name of Witness: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Occupation: \_\_\_\_\_

\_\_\_\_\_  
Minister of Aboriginal Relations  
and Reconciliation

# SCHEDULE ONE

## Map of the TFL 10 Licensed Area



SCHEDULE TWO

Signed Order in Klahoose Forestry Litigation



No. S082076  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**CHIEF KEN BROWN, on his own behalf and on behalf of  
members of the KLAHOOSE FIRST NATION**

PETITIONER

AND:

**BRIAN HAWRYS, in his capacity as DISTRICT MANAGER – SUNSHINE COAST  
FOREST DISTRICT  
and HAYES FOREST SERVICES LIMITED**

RESPONDENTS

**ORDER**

BEFORE THE HONOURABLE  
MR. JUSTICE GRAUER

} Friday, the 28th day of  
} November, 2008

THIS APPLICATION for judicial review coming on for hearing at Vancouver, British Columbia, on the 16th to 18th days of June, 2008, and on hearing Tim Howard and Bruce Stadfeld, counsel for the Petitioner Chief Ken Brown on behalf of the Klahoose First Nation (the "Klahoose"), Erin K. Christie and Joel Oliphant, counsel for the Respondent District Manager – Sunshine Coast Forest District (the "District Manager"), and Charles F. Willms and Katey Grist, counsel for the Respondent Hayes Forest Services Limited ("Hayes"), and on receiving further supplementary written submissions dated September 10, 17, 24, 30 and October 3 and 6, 2008;

AND JUDGMENT being reserved to this date:

THIS COURT ORDERS AND DECLARES that

1. The application for judicial review in relation to the District Manager's decision of February 15, 2008 approving a Forest Stewardship Plan dated December 9, 2007 in relation to Tree Farm Licence 10 (the "FSP" and the "FSP Approval Decision") is allowed, in part.

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2. The District Manager failed to fulfill his duty to engage in appropriately deep consultation with Klahoose, and to accommodate Klahoose's interests adequately, in the course of making the FSP Approval Decision.

3. All further activity and operations occurring under the FSP, including the consideration of applications for permits under the FSP but with the exception of the application to amend the FSP submitted by Hayes to the District Manager on February 29, 2008 (the "Amendment Application"), are hereby stayed.

4. The District Manager is directed to consider the Amendment Application in accordance with the Crown's duty of deep consultation owed to Klahoose and this Court's reasons for judgment.

5. Costs are awarded to Klahoose and to Hayes as against the District Manager, to be assessed on Scale C.

BY THE COURT

*AMB*

~~District~~ Registrar

*grault J.*

APPROVED AS TO FORM:

*[Signature]*  
\_\_\_\_\_  
Solicitor for the Petitioner

*[Signature]*  
\_\_\_\_\_  
Solicitor for the Respondents  
District Manager, Sunshine Coast Forest District

*[Signature]*  
\_\_\_\_\_  
Solicitor for the Respondent  
Hayes Forest Services Limited