

We Wai Kai First Nation
Forest Consultation and Revenue Sharing Agreement (FCRSA)
(The "Agreement")
Amendment Agreement #1

Between:

We Wai Kai First Nation

As Represented by

Chief and Council

(We Wai Kai First Nation)

And

Her Majesty the Queen in Right of the Province of British Columbia

as represented by the Minister of Indigenous Relations and Reconciliation

("British Columbia")

(Collectively the "Parties")

WHEREAS:

- A. The Parties entered into the *We Wai Kai First Nation Forest Consultation and Revenue Sharing Agreement* on May 16, 2018.
- B. The We Wai Kai First Nation has withdrawn from the *Nanwakolas / British Columbia Framework Agreement* as of September 28, 2018.

- C. The Parties wish to amend the Agreement as set out in this Amendment Agreement #1 for the purposes of including a consultation process and amending the revenue sharing formula.

THEREFORE:

The Parties agree to amend the Agreement as follows:

1. Effective October 1, 2018, Appendix B replaced with Appendix B as attached to this Amending Agreement #1.
2. Effective October 1, 2018, Appendix C Section 1.3 is amended to read as follows:

The Traditional Territory Forest Revenue Sharing Component will be calculated by multiplying 3 percent of the forest revenue attributed to the We Wai Kai First Nation as described in section 1.2 of this Appendix.

3. Effective October 1, 2018, Appendix C Section 2.1 is amended to read as follows:

The Direct Award Forest Tenure Revenue Sharing Component will be calculated by multiplying 35 percent of the forest revenue as described in section 2.0 of this Appendix.

In all other respects the Agreement remains the same.

Signed on behalf of:

We Wai Kai First Nation


Chief Brian Assu

Date Oct 8/18


Councillor


Councillor


Witness of We Wai Kai First Nation
Signatures

Signed on behalf of:

Government of British Columbia


Hon. Scott Fraser
Minister of Indigenous Relations and
Reconciliation

Dec. 5, 2018
Date


Witness of Minister Signature

APPENDIX B

Consultation Process for Administrative and/or Operational and Operational Plans within First Nation Traditional Territory

- 1.1 British Columbia will consult with We Wai Kai First Nation on proposed Administrative and/or Operational Decisions and Operational Plans that may potentially adversely impact We Wai Kai First Nation's Aboriginal Interests within the Traditional Territory, in accordance with this Appendix B.
- 1.2 We Wai Kai First Nation will fully participate in information sharing and/or consultation with British Columbia, Licensees or proponents regarding proposed Administrative and/or Operational Decisions or Operational Plans within the Traditional Territory in accordance with this Appendix B.
- 1.3 In order to facilitate consultation, the Parties will use the Matrix set out in section 1.10 of this Appendix to determine which proposed Administrative and/or Operational Decisions and Operational Plans will require consultation, as well as the appropriate level of consultation for those decisions and plans.
- 1.4 The level of consultation required for the types of Administrative and/or Operational Decisions and Operational Plans listed in Schedule 1 (the "List of Decisions") will be the level indicated in the column of Schedule 1 headed "Consultation Level", unless the Parties agree to a different consultation level under section 1.11 of this Appendix.
- 1.5 If on or before January 31st a Party requests that the List of Decisions or the consultation level for a type of decision or plan set out in it be revised for a subsequent BC Fiscal Year, the Parties will discuss that request and if the Parties agree to a revision, update the List of Decisions on or before March 31st of the current fiscal year.
- 1.6 If British Columbia becomes aware of proposed Administrative and/or Operational Decisions or Operational Plans not contained in the List of Decisions that will have effect within the Traditional Territory of We Wai Kai First Nation during the current fiscal year, British Columbia will notify the We Wai Kai First Nation of those decisions or plans and the Parties will, with reference to the criteria set out in the Matrix, seek to agree on the consultation levels that will be applicable to those decisions or plans.
- 1.7 If the Parties cannot agree upon which consultation level in section 1.10 of this Appendix should apply to a particular or any Operational or Administrative Decision or Operational Plan, then British Columbia will consult with We Wai Kai First Nation on the basis of British Columbia's consultation procedures in effect at the time as well as the applicable case law respecting consultation obligations.
- 1.8 In reviewing and responding to a proposed Administrative and/or Operational Decision or Operational Plan submitted to them, We Wai Kai First Nation will, unless otherwise agreed by the Parties, provide the party (i.e. British Columbia,

Licensee or proponent) that supplied the proposed decision or plan to them, with all reasonably available information that will identify any potential adverse impacts to their Aboriginal Interests that may occur as a result of the proposed Administrative and/or Operational Decision or Operational Plan within the Traditional Territory or forest or range resource development practices that may be carried out pursuant to that decision or plan.

- 1.9 If a proposed Administrative and/or Operational Decision or Operational Plan is submitted to We Wai Kai First Nation and no response is received within the consultation period set out in section 1.10 of this Appendix for the consultation level applicable to the proposed Administrative and/or Operational Decision or Operational Plan, then British Columbia may proceed to make a decision regarding the decision or plan.

1.10 The Parties agree that:

- (a) as set out in the table below (the "Matrix") there will be six (6) potential levels of consultation for a proposed Administrative and/or Operational Decision or Operational Plan;
- (b) subject to the List of Decisions, the appropriate consultation level for a proposed Administrative and/or Operational Decision or Operational Plan will be determined by reference to the criteria set out in the Matrix; and
- (c) the consultation period applicable to a consultation level is the period referred to in the Matrix, the List of Decisions or as otherwise agreed to by the Parties, whichever period is the longest.



Level	Description	Intent
1. Information Sharing: prior to formal consultation process	Proponent or tenure holder engages We Wai Kai First Nation during planning to provide opportunity to incorporate Aboriginal Interests prior to submitting plan/request to Decision Maker.	Proponent or tenure holder engages directly with We Wai Kai First Nation and provides summary of communications to British Columbia.
2. Available on Request	Type of notification whereby British Columbia informs We Wai Kai First Nation they will not be sending out information.	We Wai Kai First Nation can request from British Columbia more detailed information about decisions made at this level.

Level	Description	Intent
3. Notification	Notify in writing We Wai Kai First Nation about an upcoming decision and provide overview information. Would be an opportunity for comment.	British Columbia provides We Wai Kai First Nation base level information and a short reasonable time (21-30 calendar day consultation period determined by the Parties) to comment. Limited follow-up.
4. Expedited Consultation Process	Where there is an imminent threat to a resource value (e.g. mountain pine beetle spread control) an expedited consultation process is undertaken.	Intense but short timeline (about 10 calendar days). A justification for shortening the period would be given by describing the imminent threat. May require a meeting.
5. Normal Consultation	Follow on "normal" track for consultation guided by up-to-date consultation policy. Meetings to resolve issues where possible and make decision in a timely manner.	Intent to follow this course in most circumstances. Usually a 30 – 60 calendar day consultation period. May involve meaningful discussion of accommodation options where appropriate. British Columbia will notify We Wai Kai First Nation of the final decision where requested by the We Wai Kai First Nation.
6. Deep Consultation	Use reasonable effort to inform in an accessible manner and to engage in full discussions around the proposed decision. Make reasonable efforts to accommodate where necessary. Preliminary assessments may indicate a significant Aboriginal interest and a significant impact to that interest.	Would involve meaningful discussion of suitable accommodation options and interim solutions where appropriate. May require extended timelines. British Columbia will provide the We Wai Kai First Nation with the final decision and rational in writing.

- 1.11 The Parties may agree to increase or decrease the consultation level for a specific proposed Administrative and/or Operational Decision or Operational Plan where detailed Aboriginal Interest information is provided that indicates a different consultation level is appropriate.
- 1.12 Unless requested by the We Wai Kai First Nation, the Province is not obligated to inform the We Wai Kai First Nation of the Delegated Decision Maker's decision where the consultation level in respect of the proposed decision was level three (3) or lower.

Schedule 1 – List of Decisions

FCRSA List of Decisions					
As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ¹	Consultation Level	Consultation Period	Comments
Allowable Annual Cut (AAC) for the Timber Supply Area					
Timber supply reviews for AAC determination	Admin	Chief Forester	5	24 months total several 60-day consultations	Multiple 60 day processes at discreet intervals over 24 month period
AAC apportionment (disposition)	Admin	Minister FLNRO	5	60 days	
Innovative Forestry Practices AAC	Admin	Regional Executive Director	5	60 days	
Community Forest Agreements (CFA)					
Timber supply reviews for AAC determination	Admin	Regional Executive Director	5	60 days	
Issue CFA	Admin	RED/DM	5	60 days	
CFA management plan approvals	Admin	Regional Executive Director	5	60 days	
CFA management plan amendments	Admin	Regional Executive Director	3	30 days	

FCRSA List of Decisions					
As per Section 1.3- We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ¹	Consultation Level	Consultation Period	Comments
Probationary CFA transition into a CFA	Admin	Regional Executive Director	3	30 days	
Boundary/Area amendment	Admin	Regional Executive Director (legislation indicates DM or RED but currently it is the RED)	5	30 days	
CFA Replacement	Admin	RED/DM	5	60	
Cutting permit (CP) issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee-led information sharing.
Road permit (RP) issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee lead information sharing.
CP/RP minor amendments	Operational	District Manager	1-2	30 days	Generally no consultation obligations with these minor amendments. Licensee led information sharing in exceptional situations according to the nature/significance of the amendment as per the consultation procedures.
Establishing or Amending Community Watersheds					
Community Watersheds	Admin	Regional Executive Director	5	60 days	
Forest Licence (FL)					
AAC Designation	Admin	Regional Executive Director	5-6	60 days	
Licence transfer	Admin	Minister FLNRO	3	30 days	
Section 18 transfers of AAC between TSA's	Admin	Regional Executive Director	5	60 days	
Innovative Forest Practises Agreements	Admin	Regional Executive Director	3-5	6 months	

FCRSA List of Decisions					
As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ¹	Consultation Level	Consultation Period	Comments
Issuance of Forest Licence	Admin	Regional Executive Director	5	60 days	
Non-replaceable forest licence (NRFL)	Admin	Regional Executive Director	3	30 days	
Extension of Forest licence/Non-replaceable forest licence (NRFL)	Admin	Regional Executive Director	3	30 days	
FL consolidation, and subdivision	Admin	Regional Executive Director	3	30 days	
FL replacement	Admin	Regional Executive Director	3	30 days	
Exemptions from cut control limits for forest health	Admin	Regional Executive Director	3	30 days	
Cutting permit (CP) Issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee-led information sharing.
Road permit (RP) Issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee lead information sharing.
CP/RP minor amendments	Operational	District Manager	1-2	30 days	Generally no consultation obligations with these minor amendments. Licensee led information sharing in exceptional situations according to the nature/significance of the amendment as per the consultation procedures.
Forestry Licence to Cut (FLTC)					
Licence transfer	Admin	Regional Executive Director	3	30 days	
Forestry licence to cut Issuance	Operational	Regional Executive Director	3	30 days	

FCRSA List of Decisions					
As per Section 1.3 – We Wai Kal First Nation					
Decision	Decision Type	Delegated Decision Maker ¹	Consultation Level	Consultation Period	Comments
Licence to cut issuance (minor cutting, small scale salvage, recreation sites and trails), commercial CTP mature timber harvest, and OLTC Extensions	Operational	District Manager and Regional Executive Director	2	n/a	
Salvage permit (i.e. commercial operators seeking cedar), and FLTC Extensions	Operational	District Manager	3	30 days	
Community wildfire protection. (FLTC) Non-emergency licence to cut for wildfire prevention	Operational	Regional Executive Director	3	30 days	
OLTC issuance. Tree removal required for new infrastructure/ facilities installations. Most are consulted on in association with Land Act tenures	Operational	District Manager	2	n/a	
Forestry licence to cut issuance by BC Timber Sales	Operational	Timber Sales Manager	2	n/a	
First Nation Woodland Licence (FNWL)					
Issue FNWL through treaty or interim measures agreement	Admin	Regional Executive Director	3-5	30-60 days	
Cutting permit (CP) issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee-led information sharing.
Road permit (RP) issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee lead information sharing.

FCRSA List of Decisions					
As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker?	Consultation Level	Consultation Period	Comments
CP/RP minor amendments	Operational	District Manager	1-2	30 days	Generally no consultation obligations with these minor amendments. Licensee led information sharing in exceptional situations according to the nature/significance of the amendment as per the consultation procedures.
FNWL Replacement	Admin	RED/DM	3	30	
Approval of management plan and AAC	Admin	RED	5	60	
Area or boundary amendments/changes	Admin	RED/DM	5	60	
Management Plan amendments including AAC amendments	Admin	RED/DM	3	30	
Forest Investment Account (FIA) Stewardship					
Sustainable forest management planning; management unit and watershed level strategies/plans; resource inventories; monitoring; decision support; recreation, etc. Intended to improve the economic and ecological stability of the forest land base	Operational	District Manager	1-5	Variable	Consultation is proponent driven as per FIA program guidelines 2010.
Stand Treatments to meet timber objectives	Operational	District Manager	1-5	Variable	Consultation proponent driven as per FIA program guidelines
Free Use Permits					
Free Use Permits for First Nations' traditional and cultural activities	Operational	District Manager	1	n/a	Applicant driven information sharing with overlapping First Nations where required.

FCRSA List of Decisions					
As per Section 1.3 – We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ¹	Consultation Level	Consultation Period	Comments
Government Actions Regulation Orders (GARS)					
Generally GARS serve to protect lands from development (i.e. Visual quality objectives, old growth management areas, wildlife habitat areas/ measures, etc)	Admin	District Manager	3	30 days	Consultation level set at notification.
Higher Level Plan Orders					
Higher level plan orders	Admin	Regional Executive Director	5	60 days	
Land Act					
Issue new <i>Land Act</i> Tenure over previously un-impacted site/submerged land generally related to forestry activities. Examples may include dryland sort and foreshore lease tenures	Admin	Minister Forests, Lands and Natural Resource Operations or designate	5	60 days	
<i>Land Act</i> tenure amendments, extensions and replacements related to forestry activities. Examples may include dryland sort and foreshore lease tenures	Admin	Minister Forests, Lands and Natural Resource Operations or designate	3	30 days	
<i>Land Act Tenure assignment</i>	Admin	MFLNRO	2	0 days	

FCRSA List of Decisions					
As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker	Consultation Level	Consultation Period	Comments
Misc. Forest Tenure					
Authority to harvest timber by Crown agents. (Forest Act Sec 52) May be used FSR realignments, heli pad clearing for BCTS, research branch destructive sampling, and parks staff	Operational	District Manager and Timber Sales Manager	2	n/a	
Christmas Tree Management Plan approval	Operational	District Manager	1	0 days	
Christmas Tree Permit (CTP) to grow and/or harvest Christmas trees on Crown land, and CTP Re-issuance Often in association with compatible land use such as BC Hydro power line right of ways	Operational	District Manager	2	n/a	
Occupant Licence to Cut (OLTC)					
Licence to cut issuance (minor cutting, small scale salvage, recreation sites and trails), commercial CTP mature timber harvest, and OLTC Extensions	Operational	District Manager and Regional Executive Director	2	n/a	
Salvage permit (i.e. commercial operators seeking cedar), and FLTC Extensions	Operational	District Manager	3	30 days	
Community wildfire protection. (FLTC) Non-emergency licence to cut for wildfire prevention	Operational	Regional Executive Director	3	30 days	

FCRSA List of Decisions					
As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker?	Consultation Level	Consultation Period	Comments
OLTC Issuance. Tree removal required for new infrastructure/ facilities installations. Most are consulted on in association with Land Act tenures	Operational	District Manager	2	n/a	
Forestry licence to cut issuance by BC Timber Sales	Operational	Timber Sales Manager	2	n/a	
Old Growth Management Areas (OGMA)					
Establishment or amendment of OGMA. OGMA's serve to protect existing old growth stands from harvest or alternatively serve to recruit old growth from younger stands	Admin	District Manager	2-3	n/a	OGMA deletions or amendments to a smaller footprint will correspond to a Level 3, 30 day period.
Range					
New range tenure (re-issuance of relinquished tenure or no previous tenure)	Admin	District Manager	5	60 days	
Range tenure replacement	Admin	Minister FLNRO	3	60 days	
Range tenure major amendments, boundary change	Admin	District Manager	5	60 days	
Range tenure transfer	Admin	N/A	N/A		Advisory upon occurrence; tenure holder process
Grazing lease replacement	Admin	Minister	3	30 days	
1 Year grazing permit issuance	Admin	District Manager	5	60 days	

FCRSA List of Decisions					
As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ^a	Consultation Level	Consultation Period	Comments
Animal Unit Month (AUM) adjustment	Admin	District Manager	3	30 days	Major adjustment to AUM only
Range use plan (RUP) or stewardship plan issuance	Operational	District Manager	5	60 days	
Range use plan or range stewardship plan extensions	Operational	District Manager	3	30 days	
RUP amendments (major)	Operational	District Manager	3	30 days	
Range developments not in RUP (large scale)	Operational	District Manager	5	60 days	
Range developments not in RUP (small scale)	Operational	District Manager	3	30 days	
Pest Management Plan	Operational	Regional Executive Director	1,5	60 days	Plan prepared at Branch/regional level
Road Use Permit (RUP) Issuance					
RUP over existing Forest Service Roads for industrial use	Admin	District Manager	2-3	0-30 days	
Recreation Sites and Trails (RST)					
The establishment of new interpretive forest sites, recreation sites and recreation trails and their objectives. (Section 56 FRPA)	Admin	Sites and Trails BC Assistant Deputy Minister	3	30 days	
Dis-establish recreation sites and trails	Admin	Sites and Trails BC Assistant Deputy Minister	2	30 days	
Authorize trail construction (Section 57 FRPA)	Admin	Sites and Trails BC Regional Manager/ District Recreation Officer	3	30 days	

FCRSA List of Decisions As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ¹	Consultation Level	Consultation Period	Comments
Protection of recreation resources on Crown land (Section 58 FRPA) - Protect a recreation resource or to manage public recreation use.	Admin	Sites and Trails BC Regional Manager	1-2	30 days	
Special Use Permits (SUP)					
Issue new permit over previously un-impacted site. Examples may include logging camps, log sorts, and log dumps	Operational	District Manager	5	60 days	
SUP amendment/ replacement/ issuance over previously developed site. Examples may include logging camps, log sorts, and log dumps	Admin	District Manager	3	30 days	
SUP transfer	Admin	District Manager	2	0 days	
Tree Farm Licence (TFL)					
Timber supply reviews for AAC determination	Admin	Chief Forester	5	24 months total several 60 day consultation	Multiple 60 day processes at discreet intervals over 24 month period
Management plan approval AAC determination	Admin	Deputy Chief Forester	5	60 days	
Deletion of Private land or Crown Land from TFL	Admin	Minister FLNRO	5	60 days	
TFL consolidation, and subdivision	Admin	Minister FLNRO	3	30 days	
TFL replacement	Admin	Minister FLNRO	3-5	30-60 days	
Licence transfer	Admin	Minister FLNRO	3	30 days	

FCRSA List of Decisions As per Section 1.3 – We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ^a	Consultation Level	Consultation Period	Comments
Cutting permit (CP) issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee-led information sharing.
Road permit (RP) issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee led information sharing.
CP/RP minor amendments	Operational	District Manager	1-2	30 days	Generally no consultation obligations with these minor amendments. Licensee led information sharing may be suggested in exceptional situations according to the nature/significance of the amendment as per the consultation procedures.
Timber Licence (TL)					
Licence transfer	Admin	Minister	3	30 days	
TL consolidation	Admin	Minister	3	30 days	
Extension	Admin	Regional Executive Director	3	30 days	
Exemptions from cut control limits for forest health TL	Admin	Regional Executive Director	3	30 days	
Woodlot Licence (WL)					
Establishment and advertising of WL area.	Admin	District Manager	5	60 days	
Exemptions from cut control limits for forest health	Admin	Regional Executive Director	3	30 days	
Approve Management Plan and Issue WL	Admin	District Manager	5	60 days	
Timber supply reviews for AAC determination	Admin	District Manager	5	60 days	
WL Plan approvals	Admin	District Manager	5	60 days	
WL Plan amendments	Admin	District Manager	3	30 days	

FCRSA List of Decisions					
As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ¹	Consultation Level	Consultation Period	Comments
Deletion of and Removal of Private land or WL boundary amendments	Admin	Minister, Regional Executive Director or DM	5	60 days	
WL boundary minor amendments	Admin	District Manager	3	30 days	
Consolidation of 2 woodlot licenses	Admin	Regional Executive Director	2	30 days	
Replacement of a woodlot license	Admin	Regional Executive Director	2	30 days	
Licence transfer	Admin	Regional Executive Director	3	30 days	
Cutting permit (CP) issuance	Operational	District Manager	1-5	60 days	Consultation is typically done at Woodlot Licence Plan scale. Block/Road specific consultation is generally not undertaken unless supplemental consultation by FLNRO (above level 1) is required depending on results of licensee information sharing and/or MFLNRO Consultation.
Road permit (RP) issuance	Operational	District Manager	1-5	60 days	Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee lead information sharing.
CP/RP minor amendments	Operational	District Manager	1-2	30 days	Generally no consultation obligations with these minor amendments. Licensee led information sharing in exceptional situations according to the nature/significance of the amendment as per the consultation procedures.
BC Timber Sales TSL/RP					
BC Timber Sales (BCTS) Timber Sales Licence and Road Use Permit	Operational	Timber Sales Manager	5	60 days	Consultation is done at the Operational Plan Review stage prior to Timber Sale Licence and Road Permit Issuance. Supplementary consultation is done when required as per the consultation procedures.

FCRSA List of Decisions					
As per Section 1.3 - We Wai Kai First Nation					
Decision	Decision Type	Delegated Decision Maker ¹	Consultation Level	Consultation Period	Comments
TFL/FL/CFA/WL/FNWL					
Forest Stewardship Plan (FSP) /Woodlot Licence Plan (WLP) review and approval, including major amendments to FSP	Operational	District Manager	1-5	60 days	Forest Licensees typically information share at the standard level (corresponding to a 60 day response period) regarding their Plan. Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee-led information sharing.
FSP and WLP extensions	Operational	District Manager	1-3	30 days	Forest Licensees typically information share at an appropriate level (normally a 30 day response period) regarding their Plan. Supplemental consultation by FLNRO (above level 1) may occur depending on the outcome of licensee-led information sharing.

Notes to Matrix

1. This consultation matrix does not apply to Administrative or Operational Decisions associated with multi permitted, non-forestry related projects (i.e. mine, clean energy project, etc). In such cases, a coordinated, project-based approach to consultation will be undertaken.
2. For informational purposes only; decision maker level bound by legislation and delegation processes which may vary over time.