



**Tsq'escnem'c
The People of Broken Rock
The Canim Lake Band**

Snine Forest, Stewardship Plan

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Executive Summary

“Our forests are not just for fiber.” – Don Dixon, Natural Resources Co-Coordinator for the Canim Lake Band, December 2012.

Context

The LandUse Planning Process To Date

Version 1.0 of this plan, the SFSP was released in April of 2013. The current Version 2.0 has been released in April of 2016. The title of the plan has changed; it has become the Snine Forest, Stewardship Plan (SFSP). This recognizes the broadening scope of the plan. This landuse plan has no expiry date.

The original plan attempted to move the Canim Lake Band to a proactive, joint-planning, landscape level. Despite one minor attempt by local parties that approach was ultimately not successful. The status quo prevailed, for example the Crown has stated in a recent statutory decision maker's rational that "*...there are no legal constraints in place which would restrict the proposed development and I am not compelled to impose any constraints as suggested in the Canim Lake Indian Band FSRP.*" As a result the plan now has a stronger focus on strength of claim and Aboriginal Title and parts of this plan have gone back to utilizing block by block consultation.

LandUse planning is an ongoing and iterative community process. Many changes to this plan are anticipated through time. The Tsq'escnem'c are committed to this process and will continue their efforts.

Sustainability and Stewardship Rights

The Tsq'escnem'c are committed to the preservation and stewardship of the land. The Tsq'escnem'c concept of sustainability encompasses elements of inclusion, moderation, fairness, respect for all life, recognition of the interconnectedness of all life and the practice of long term stewardship. Sustainability is a defining principle within the construct of culture, values, time and way of life that defines us as Tsq'escnem'c.

The Canim Lake Band is also a forest licensee and holds approximately 23,000 m³ of annual allowable cut in the form of a First Nations Woodlands Licence and one woodlot. The Canim Lake Band has always committed to walking their talk. Therefore the Canim Lake band will incorporate the SFSP into the annual allowable cut calculation associated with its First Nations Woodlands Licence. See Appendix 5 AAC Considerations.

We, the Tsq'escnem'c, have stewardship rights and responsibilities over our Traditional Territory based upon our prior and continuing use of the land and resources for our sustenance and way of life. Our people, our language, our culture and our land are one. Our stewardship responsibilities are supported by our Aboriginal rights and title which are protected by section 35(1) of the *Constitution Act*, 1982. Section 35(1) requires the Crown to recognize and affirm existing Aboriginal rights and title, and substantially address our concerns on the potential impacts of industrial activities and resource alienation on our way of life.

Objectives and Principles

It is an objective of the Tsq'escnem'c to maintain and protect traditional and contemporary resources in a manner that supports the food, social, ceremonial and commercial use of the land by members of the Tsq'escnem'c and the Canim Lake Band.

The guiding principles for land and natural resources management include:

- 1) The application of Ecosystem Based Management and the Precautionary Approach to ensure conservation of natural resources, ecologically sensitive areas and cultural resources; and
- 2) Ensuring Tsq'escnem'c priority access to all resources for cultural, sustenance, community and commercial use.

The current land and natural resources management regime and strategic direction are not meeting our objectives and principles.

NStQ–Higher Level Direction for Third Parties

The Canim Lake Band is a member of the Northern Secwepemc te Qelmučw (NStQ). This Plan is consistent with the *Northern Shuswap Land Use Principles and Guidelines* and with the *NStQ Consultation Guidelines*. The NStQ has also recently developed a *Mining Policy for the NStQ*.

These documents are available from the NStQ in Williams Lake. It is the responsibility of the Crown and third parties to obtain and use these documents as part of any consultation process.

The United Nations Declaration on the Rights of Indigenous Peoples

The United Nations produced a Declaration on the Rights of Indigenous Peoples in 2007. The Declaration is the product of almost 25 years of work by UN members and Indigenous groups. Canada, the United States, New Zealand and Australia refused to sign. Canada eventually endorsed the Declaration in 2010. In 2015, the Province of British Columbia (as part of its commitment to implement the Truth and Reconciliation – *Calls To Action* Recommendations) and the newly elected Federal Liberals agreed to implement the Declaration.

Article 26 provides for recognition of land and resource rights:

“Indigenous Peoples have the **right to the lands, territories and resources** which they have traditionally owned, occupied or otherwise used or acquired. Indigenous Peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, and those which they have otherwise acquired. ...”

A central element of the Declaration is the concept of free, prior and informed consent, FPIC as set out in Article 32:

“... States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to **obtain their free and informed consent** prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. ...”

The Band must provide its free, prior and informed consent (“consent” under this SFSP) to any proposed natural resources development within its Traditional Territory.

The CCLUP

In support of Tsq'escnem'c Aboriginal rights, the Canim Lake Band will continue to participate fully and vigorously in all consultation regarding the CCLUP and any other emergent higher level planning processes or initiatives.

In 1996, the Crown created the Cariboo-Chilcotin Land Use Plan (CCLUP) without proper consideration of the existing Aboriginal rights and title of the Tsq'escnem'c. The Canim Lake Band had no significant participation in the CCLUP, and our values were not incorporated in a significant way. On this basis, the CCLUP is not binding on the Canim Lake Band. Put simply, it is not our plan.

The idea of a multi-stakeholder landscape level planning process on a grand scale is appealing, but has proven both unwieldy and unrealistic. CCLUP implementation lacked structure, monitoring funding and the will to make the CCLUP a living process. In terms of land stewardship, there are only three main interests at play now, the Crown, large industry and First Nations.

Rather than revitalization, it appears that the CCLUP is now being subjected to a process of systematic dismantling. Aside from a few trappers, this seems to be acceptable to the general public. Although disappointed and increasingly isolated, we must accept this change in public values and views. However, the Tsq'escnem'c are concerned with what appears to be the ongoing trend towards increased centralization and control out of Victoria, coupled with an increasingly detached public. The Tsq'escnem'c believe that a key ingredient to any viable landscape level solutions will be the full inclusion and participation of local and regional interests.

The Canim Lake Band is now beginning to look elsewhere for solutions to landscape level planning concerns. One goal is to maximize the direct ownership and control of forested lands (fee simple, treaty-lands, forest tenure, Aboriginal Title, etc.). On these lands the Canim Lake Band will seek to erase the CCLUP and all third party zoning, designations and targets. The Canim Lake Band will then create and apply its own unique plan to explore and demonstrate sustainability.

On Tsq'escnem'c lands that are not directly controlled by the Canim Lake Band, the Tsq'escnem'c look to support and participate in smaller scale processes such as LRUP (Local Resource Use Plans) and the Local Forest Trust concept.

The Tsilhqot'in Decision and Prima Facie Aboriginal Title

Aboriginal Title has always existed from time immemorial. The Band takes the position that it can demonstrate the *prima facie* regular use of the Snine Forest on the same basis used to establish Aboriginal Title in the *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44 ("*Tsilhqot'in*") decision which found:

[42]...Regular use of territories for hunting, fishing, trapping and foraging is "sufficient" use to ground Aboriginal Title, provided that such use, on the facts of a particular case, evinces an intention on the part of the Aboriginal group to hold or possess the land in a manner comparable to what would be required to establish title at common law.

The *Tsilhqot'in* decision has now provided a means for recognition and implementation. Title is based on occupation and regular use prior to contact. This must be sufficient, continuous and exclusive. Due to overlapping Traditional Territories settling Aboriginal Title between groups can be challenging, and these competing-claims might tend to hinder progress towards recognized Aboriginal Title.

However, there are tracts of land meeting the requirements for Aboriginal Title, over which only a single and distinct people have a Traditional Territory. On these areas, Aboriginal Title does not need to be proved, it is inherent and undisputed. The Canim Lake Band has such an area. It covers a significant part of Snine Forest and there is no other legitimate Aboriginal territorial claim on this land.

This area and all of Snine Forest is regularly used by the Band for hunting, fishing and other traditional activities, therefore the Canim Lake Band declares Aboriginal Title over this area. The Aboriginal Title gives the Canim Lake Band the right to use, enjoy and control the Canim Aboriginal Title Area and enjoy its benefits, including profit from any economic development (see Economics-Revenue Sharing in this plan).

This declared and non-overlapped area identified as the "Canim Aboriginal Title Area", or CATA, is shown in Appendix 1, MAP 1-Canim Traditional Territory Snine Forest Overview.

It is clear that for the Canim Lake Band there are two possible paths. One leads to a fair, respectful and equitable Treaty. The other path leads to court for a formalized recognition of Aboriginal Title.

Canim is a Treaty band and, as part of the NStQ, has recently signed onto an Agreement in Principle under the Treaty process. In addition the NStQ has done considerable work on a comprehensive Government to Government Agreement (G2G). An effective G2G coupled with a final Treaty agreement is possible and in the best interests of everyone. However there are still significant outstanding differences regarding what is fair, respectful and equitable. This SFSP is both interim, and an alternative to a final Treaty.

Snine Forest, Stewardship Plan

In direct response to concerns first raised by band-members in 2012, the Canim Lake Band has created a landuse plan to protect Aboriginal interests over the core of Canim's Traditional Territory. This area is known as Snine Forest (Sneenah, translates to Owl). See Appendix 1, Map 1-Canim Traditional Territory Snine Forest Overview.

Audience and Application

The SFSP has been written for provincial statutory decision makers and their supporting staff. It may also be utilized by industry, if the Crown wants them to undertake part of the consultation process on the Crown's behalf, and if the Canim Lake Band consents to participate in proponent lead consultation with that particular proponent.

By using the SFSP, decision makers will be participating in a consent model, minimizing the risk of an infringement on Canim's Aboriginal interests, including direct infringement on Aboriginal Title as a result of approving developments without consent.

Consultation and Consent

Consent is required to successfully complete consultation under this plan. After being processed through Canim's Fee for Service model, consultation is completed with a letter of consent from the Natural Resources Department of the Canim Lake Band, which confirms that the Band has been fully consulted and accommodated and that the SFSP has been applied. This will provide the statutory decision maker with the assurance that approval can proceed without infringement.

Duty of Consultation

Canadian courts have instructed that the Crown must consult with Aboriginal people before making decisions that could affect existing Aboriginal rights or title. Our Aboriginal rights and title may be severely impacted by the provincial Crown's contemplated conduct regarding land use planning and resource extraction in Tsq'escnem'c Traditional Territory. The Crown has an oversight duty to ensure operators do not infringe on the Aboriginal rights of the Canim Lake Indian Band and to accommodate the interests of the Band.

Test for duty to consult

In *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43 (CanLII) ("*Rio Tinto Alcan*"), the Court identified three conditions for the existence of a duty to consult:

[51]...The duty to consult arises when: (1) the Crown has knowledge, actual or constructive, of potential Aboriginal claims or rights; (2) the Crown proposes conduct or a decision; and (3) that conduct or decision may have an adverse effect on the Aboriginal claims or rights.

The test for the duty to consult is met in respect to any proposed resource development activities as the Crown is aware that the Band claims Aboriginal Title and rights to its Traditional Territory, which could be adversely impacted by any Crown decision-making.

Spectrum of Consultation and Accommodation

In *Haida*, the Court described the duty of consultation as ranging across a spectrum depending on the strength of the claim and the potential for infringement:

43 ...In this respect, the concept of a spectrum may be helpful, not to suggest watertight legal compartments but rather to indicate what the honour of the Crown may require in particular circumstances. At one end of the spectrum lie cases where the claim to title is weak, the Aboriginal right limited or the potential for infringement minor. In such cases, the only duty on the Crown may be to give notice, disclose information, and discuss any issues raised in response to the notice. "[C]onsultation' in its least technical definition is talking together for mutual understanding": T. Isaac and A. Knox, "The Crown's Duty to Consult Aboriginal People" (2003), 41 Alta. L. Rev. 49, at p. 61.

44 At the other end of the spectrum lie cases where a strong prima facie case for the claim is established, the right and potential infringement is of high significance to the Aboriginal peoples, and the risk of non-compensable damage is high. In such cases deep consultation, aimed at finding a satisfactory interim solution, may be required. While precise requirements will vary with the circumstances, the consultation required at this stage may entail the opportunity to make submissions for consideration, formal participation in the decision-making process, and provision of written reasons to show that Aboriginal concerns were

considered and to reveal the impact they had on the decision. This list is neither exhaustive, nor mandatory for every case. The government may wish to adopt dispute resolution procedures like mediation or administrative regimes with impartial decision-makers in complex or difficult cases. [Emphasis added].

The Band takes the position that **deep consultation** is always required on Snine Forest as it has a strong *prima facie* case for Aboriginal Title.

Significant Consultation Required

In *Tsilhqot'in* the Court stated that consultation will be at the high end requiring significant consultation if there is a strong claim to the land:

[93] Prior to the declaration of Aboriginal Title, the Province had a duty to consult and accommodate the claimed Tsilhqot'in interest in the land. As the Tsilhqot'in had a strong *prima facie* claim to the land at the time of the impugned government action and the intrusion was significant,

- * the duty to consult owed by the Crown fell at the high end of the spectrum described in *Haida* and
- * required significant consultation and accommodation in order to preserve the Tsilhqot'in interest.”

There are already agreements in place regarding Tsq'escnem'c Traditional Territory that are binding on the Crown, including the *Canim Lake Band Forestry Consultation and Revenue Sharing Agreement*, which is in effect until 2018. The purposes of the Agreement is “to facilitate the Parties in meeting their respective legal consultation obligations by establishing a consultation process which results in appropriate accommodation measures being implemented.” (Section 2.1).

Consultation standards are detailed in Appendix B of the Agreement. Point 1.10 indicates the range of potential consultation levels, from “information sharing” at the low end, to “deep consultation” at the high end. Deep consultation will occur where preliminary assessments may indicate a significant Aboriginal interest and a significant impact to that interest.

Deep consultation to achieve Reconciliation

The process of reconciliation between First Nations and the Crown is described in *Rio Tinto Alcan* at para. 38:

[38] The duty to consult embodies what Brian Slattery has described as a “generative” constitutional order which sees “section 35 as serving a dynamic and not simply static function” (“Aboriginal Rights and the Honour of the Crown” (2005), 29 *S.C.L.R.* (2d) 433, at p. 440). This dynamicism was articulated in *Haida Nation* as follows, at para. 32:

. . . the duty to consult and accommodate is part of a process of fair dealing and reconciliation that begins with the assertion of sovereignty and continues beyond formal claims resolution. Reconciliation is not a final legal remedy in the usual sense. Rather, it is a process flowing from rights guaranteed by s. 35(1) of the *Constitution Act, 1982*.

As the post-*Haida Nation* case law confirms, consultation is “[c]oncerned with an ethic of ongoing relationships” and seeks to further an ongoing process of reconciliation by articulating a preference for remedies “that promote ongoing negotiations”: D. G. Newman, *The Duty to Consult: New Relationships with Aboriginal Peoples* (2009), at p. 21.

The courts have also recognized that the duty to consult may be triggered by contemplated Crown conduct that involves “strategic, higher level decisions” that may have an impact on Aboriginal claims and rights, and conduct that sets the stage for further decisions that will have a direct adverse impact on the lands attract the duty to consult. Further, courts have found that adverse impacts triggering a duty to consult are not restricted to physical effects. Rather, the Crown must consider whether a decision may have any adverse impacts on the Bands’ ability to exercise their Aboriginal Title and rights.

The court in *Rio Tinto Alcan* observed that adverse impacts triggering a duty to consult are not restricted to physical effects. Rather, the Crown must consider whether a decision may have any adverse impacts on the Band’s ability to exercise its Aboriginal Title and rights:

[47] Adverse impacts extend to any effect that may prejudice a pending Aboriginal claim or right. Often the adverse effects are physical in nature. However, as discussed in connection with what constitutes Crown conduct, high-level management decisions or structural changes to the resource’s management may also adversely affect Aboriginal claims or rights even if these decisions have no “immediate impact on the lands and resources”: Woodward, at p. 5-41. This is because such structural changes to the resources management may set the stage for further decisions that will have a *direct* adverse impact on land and resources. [emphasis added]

In line with the Agreement, this SFSP confirms Tsq’escnem’c expectations regarding consultation and accommodation, and indicates minimum standards for land use planning and decision-making affecting Tsq’escnem’c Traditional Territory. This plan is without prejudice to Aboriginal rights and title and treaty negotiations.

Forest Stewardship Plans and Cultural Heritage Resource Objectives

This plan partially defines and clarifies cultural heritage resources and objectives of the Canim Lake Band. The resources and objectives presented in this plan are the focus of traditional uses and are of continuing importance to the Canim Lake Band.

Statutory decision makers and staff must ensure the cultural heritage resource objectives of the Canim Lake Band are adhered to based upon provincial forestry legislation. “Cultural heritage resources” are one of the eleven objectives included under the *Forest and Range Practices Act* (“*FRPA*”). Under the results-based *FRPA* framework, forestry operators must develop forest stewardship plans that consist primarily of management results and strategies for each *FRPA* resource value, including cultural heritage resources.

Forest Planning and Practices Regulation

In accordance with section 4.1 of the *Forest Planning and Practices Regulation*, the following cultural heritage objectives apply to forest stewardship plans:

Objectives set by government for cultural heritage resources

10 The objective set by government for cultural heritage resources is to conserve, or, if necessary, protect cultural heritage resources that are

- (a) the focus of a traditional use by an Aboriginal people that is of continuing importance to that people, ...

Forest Planning and Practices Regulation Schedule 1, Section 4

Factors relating to objective set by government for cultural heritage resources include those set out in section 4:

- 4. The following factors apply to a result or strategy for the objective set out in section 10 [objectives set by government for *cultural heritage resources*]:
 - a) the relative value or importance of a particular cultural heritage resource to a traditional use by an Aboriginal people;
 - b) the relative abundance or scarcity of a cultural heritage resource that is the focus of a traditional use by an Aboriginal people;
 - c) the historical extent of a traditional use by an Aboriginal people of a cultural heritage resource;
 - d) the impact on government granted timber harvesting rights of conserving or protecting a cultural heritage resource that is the focus of a traditional use by an Aboriginal people;
 - e) options for mitigating the impact that a forest practice might have on a cultural heritage resource that is the focus of a traditional use by an Aboriginal people.

Therefore, any Forest Stewardship Plan that overlaps with the area under this plan must include a direct reference to utilizing this SFSP during the consultation process.

Accommodation and Consent

Chief and Council or the Natural Resources Coordinator of the Canim Lake Band may grant exemptions from any and all SFSP content. Exemptions may be granted when a negotiated accommodation has been agreed to by all parties.

Accommodation is more than site specific mitigation. It also involves compensation and inclusion. Accommodations are negotiable, it is not for the Crown or any third party to determine what is suitable or sufficient. The level of accommodation must be consistent with the level of infringement.

Accommodation can occur on a case by case basis, or it could involve a more comprehensive approach, such as a negotiated Government to Government Agreement, or an Impact Benefit Agreement.

The Band asserts appropriate and meaningful may include the following measures:

- funding for studies regarding our traditional uses of the land;
- land use planning to identify our uses of the land involving the Band on a government-to-government basis
- identifying and developing an agreement on the management of traditional use areas
- additional timber tenures for the Band
- other tenure agreements for the Band
- other revenue sharing arrangements

Strength of Claim

The “strength of claim” concept emanates from the *Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 SCR 511 decision of the Supreme Court of Canada in which the Court set out the strength of claim assessment to address the circumstance of a First Nation having not proven Aboriginal rights or title, although they have claims and asserted such rights. The Crown is obligated to assess the strength of the claim of the Band based upon available evidence.

The scope of the duty is proportionate to the preliminary assessment of the strength of claim to Aboriginal rights and title and the potential of adverse effects:

(2) Scope of the Duty

[68] the scope of the consultation required will be proportionate to a preliminary assessment of the strength of the case supporting the existence of the right or title, and to the seriousness of the potentially adverse effect upon the right or title claimed.

...

[77] ... the strength of the case for both the Haida title and the Haida right to harvest red cedar, coupled with the serious impact of incremental strategic decisions on those interests, suggest that the honour of the Crown may well require significant accommodation to preserve the Haida interest pending resolution of their claims.

In *Tsilhqot'in*, the Court confirmed that government has a duty to consult in good faith prior to making a decision that may adversely affect a Band’s claim to land based upon the strength of claim of the Band:

[89] Prior to establishment of title by court declaration or agreement, the Crown is required to consult in good faith with any Aboriginal groups asserting title to the land about proposed uses of the land and, if appropriate, accommodate the interests of such claimant groups. The level of consultation and accommodation required varies with the strength of the Aboriginal group’s claim to the land and the seriousness of the potentially adverse effect upon the interest claimed. ...[emphasis added]

The Traditional Use Study (TUS) information under-pining this SFSP represents only a slice of the total potential TUS information. It was mainly collated via an FRBC project in 1998 and 1999.

Canim's digital TUS collection is structured using archival principals and consists of sound recordings, moving pictures, photographic materials, maps and transcripts. Much of the mappable data has been digitized, categorized and linked to its source material. Mappable data exists in eight main categories; archaeology, hunting, trapping, food gathering and agriculture, other gathering, placenames, food fishery and trails. This polygon data was used in creating a strength of claim map.

To show strength of claim the concept of Interview Intensity was employed. This simply applies a value of 1 to each polygon identified by an interview within Canim's collection. Multiple interviews that identify the same area as important for a specific purpose result in a higher Interview Intensity number. If one interview identifies a certain area as important for hunting, it will have an Interview Intensity of 1. If two other interviews identify the same area as important for trapping, the final Interview Intensity will be 3.

Interview intensity was used on a polygon overlay map to show a rough visual representation of Canim's strength of claim, and Inherent Aboriginal Title over Snine Forest. See Appendix 1, Map 2-Strength of Claim.

Qualified individuals, working on behalf of the Crown in support of deep consultation have been invited to gain limited and supervised access to Canim's TUS information during the course of their strength of claim assessments. Any assessment, that has not accessed and utilized this known and available information, will be incomplete, and must not be relied upon for decision making by the Crown.

To date no representative of the Crown has participated, and the Crown has knowingly made a significant number of decisions based on incomplete strength of claim assessments.

It must be noted that there is considerable data that supports Canim's strength of claim that is not directly represented in this plan. This includes a number of third party sources and a variety of materials at the Canim Lake Band that have simply not yet been processed into a digital format. It must also be noted that Tsq'escnem'c contemporary use is high on Snine Forest, and is also not shown on any map in this plan.

Higher Level Planning Initiatives

The Crown cannot unilaterally impose decisions that could interfere with Aboriginal rights and title. The Canim Lake Band does not consent to any and all future plans, amendments or analysis produced by the Crown without our full participation. A cursory review at the end of the planning process is not participation. We require full and meaningful consultation and proactive participation at all stages of decision making that could impact Tsq'escnem'c interests, including strategic level planning and legislation that changes the strategic landscape level planning framework.

LandUse Zones

The NStQ created three distinct land use zones that are used in this SFSP. These are Stewardship Areas, Sensitive Areas and Wilderness Areas. See Appendix 1, Map 3-LandUse Zones.

Under this SFSP, the Canim Lake Band has created five landuse zones. They are, in order of creation; Key Interest Area, Snine Forest, Food Fishery Buffers, Wild Unmanaged Forest Network and Canim Aboriginal Title Area. See Appendix 1, Map 3-LandUse Zones.

NStQ Wilderness Area

Wilderness Areas were identified to protect and conserve areas that are culturally and environmentally significant. The NStQ has called for no clearcut logging in wilderness areas. This SFSP defines and applies an alternative stewardship model for the Wilderness Area within Snine Forest, as described below:

- The forest rotation age will be set at 120 years.
- Adopt and support the amount and distribution of Parks and the WUFN's as no-harvest zones.
- The alternative model includes all other management practices as outlined in this SFSP, including the consent model.

NStQ Sensitive and Stewardship Areas

Full and meaningful consultation, with consent and the incorporation of NStQ values and interests are to be used to manage these lands. Apply this SFSP.

Canim Key Interest Area

For the Tsq'escnem'c the KIA area has always been the heart of their territory.

The Canim Lake Band attempted to secure a TFL on Canim Lake in the early 80's. They were not successful. In 2006 the Canim Lake Band signed a Forest and Range Agreement. Within that agreement it was stated "*3.1.6 The Parties acknowledge that the Canim Lake Indian Band wishes to pursue a Community Forest License in the immediate vicinity of Canim Lake.*"

In addition it was stated under "*12(f) on a priority basis, interim protection for landscapes, watersheds and/or sites identified by the Canim Lake Band to be reserved from resource development pending the outcome of negotiation of agreements referred to in a-e above.*"

In 2006-2007, at about the same time the Crown was self-allocating tracts of timber to its BCTS program, Natural Resources staff of the Canim Lake Band initiated a community consultation process and formalized the Key Interest Area, KIA. The purpose of the Natural Resources Department was to identify a KIA to serve as a forest tenure for the Canim Lake Band.

As the beetle epidemic unfolded, members of the Canim Lake Band were dismayed by the rate and intensity of forest harvesting. In order to ensure that there would be more than just plantations over which to take a viable forest tenure, the Canim Lake Band formally closed the KIA to third parties in 2009, citing 12(f) of the current FRO.

At this point the KIA remains closed and will be subject to either a final treaty negotiation or a formal claim for Aboriginal Title. It is a no harvest no development zone for all parties except the Canim Lake Band.

Canim Snine Forest

Snine Forest has always existed. It was delineated in 2013 as part of a short-term emergency response to Crown authorized accelerated timber harvest levels. Snine has been called the core of the Tsq'escnem'c Traditional Territory. It was and still is the area under this landuse plan (SFSP), and the area upon which Canim can demonstrate an irrefutable strength of claim in support of Aboriginal Title. Snine Forest is subject to deep consultation and consent for all resource uses and development.

It must also be noted that there are other important areas that are not within the bounds of Snine Forest. Some of these areas have always been shared territories, examples include Green Lake and Lac La Hache. In other cases, forced migration has distanced the Tsq'escnem'c from their ancestral lands, for example Tete Jaune in the Robson Valley.

Formally delineating Snine Forest in no way diminishes Canim's Aboriginal rights and title over the rest of the Tsq'escnem'c Traditional Territory. The Tsq'escnem'c continue to assert Aboriginal Title over their entire territory.

Food Fishery Buffers

See the Food Fishery section of this SFSP for a fuller discussion. The Food Fishery Buffers are no-harvest, no-development zones. For the most part the Food Fishery Buffers are contained in the Wild Unmanaged Forest Networks.

Canim Wild Unmanaged Forest Network

The WUFN is currently a no-harvest, no industrial development zone, created by the Canim Lake Band in 2013 in response to accelerated pine-beetle harvesting. The WUFN protects contemporary and historical culturally important Aboriginal resources and values. These include but are not limited to; biodiversity, fisheries, wild medicinal and food plants, game, other non-timber forest products, archaeological and spiritual sites.

Due to accelerated harvesting the WUFN is necessary to help meet FPPR Objectives 7, 8, 9 and 10.

(7-objectives set by government for wildlife, 8-objectives set by government for water, fish, wildlife and biodiversity within riparian areas, 9-objectives set by government for wildlife and biodiversity-landscape level, 10-objectives set by government for cultural heritage resources)

Canim Aboriginal Title Area

This area was formally identified in April of 2016, with the publication of SFSP Version 2.0. It is the area that meets the requirements for *prima facie* Aboriginal Title. See Appendix 1, Map 1-Canim Traditional Territory Snine Forest Overview

The Canim Lake Band is a member of the Northern Secwepemc te Qelmucw (NStQ). The NStQ is in the BC Treaty process together. By combining the traditional territories of the four bands a single and larger *prima facie* Aboriginal Title area can be formally identified. A draft of this map has already been produced for the NStQ.

Cultural Heritage

Cultural heritage is core to the Tsq'escnem'c culture, values, way of life and future. It is an essential Aboriginal interest. The concept of “cultural heritage” extends well beyond specific historical sites, it covers the entire Tsq'escnem'c Traditional Territory and all past present and future uses of the land by the Tsq'escnem'c.

Archaeology Concern and TUS

The Canim Lake Band has created a theme for high archaeology concern. Features such as burial sites, habitations etc. were buffered in order to generate areas of high concern, and to partially mask these sensitive features. See Appendix 1, Map 4-Archaeology Concern.

The Canim archaeology concern theme has only one purpose, to inform the Crown when a proposal overlaps or is close to a sensitive archaeology feature.

Professional archaeologists, working on behalf of the Crown or other proponents, are able to gain limited and supervised access to this sensitive information during the course of their assessments. Any archaeology assessment, study or report, that has not accessed and utilized this known information, will be incomplete, and must not be relied upon for decision making by the Crown. To date no third party archaeologist has accessed this data.

Both for archaeology concern and for general TUS studies, fee for service on the ground fieldwork is required, unless Canim's Natural Resources staff specifically indicates otherwise. Despite any artificial timelines, fieldwork must be scheduled for snow-free conditions. The Crown and proponents must also realistically consider Canim's capacity to schedule and complete field studies.

Non-timber Forest Products

The number and diversity of non-timber forest products (NTFP) utilized by the Tsq'escnem'c is significant. See Appendix 2-Non Timber Forest Products, for a partial listing.

Certain ecosystems and terrains at specific seral stages produce unique and important products. These elements make it extremely difficult to map, quantify or otherwise manage these products in detail.

However, many of these values are strongly associated with old forest attributes, with deciduous types, riparian features and with non-forest vegetation complexes on rich sites (rich site NSR). A number of these values are also associated with fire-maintained forest ecosystems.

Other components of this SFSP have been specifically tailored to support the non-timber forest products component of our Aboriginal interests. Case-by-case consultation will be utilized to manage non-timber forest products.

At this time, the Canim Lake Band does not support the granting of tenures, licences or permits for Non-Timber Forest Products within Snine Forest to any third party.

Sacred, Spiritual and Supernatural Areas

The Tsq'escnem'c regard the earth and their entire Traditional Territory as a sacred and spiritual area. Elders refuse to map certain areas as being either more sacred or more spiritual than adjacent areas.

However, there are key places and tracts of land that have heightened sacred and or spiritual or supernatural significance. Examples include; burial sites, places where important people died, places associated with prayer or rites of passage, battlefields, places occupied by spirits or little people, places that are important for animals (such as the place where moose go to calf).

These places and tracts of land are confidential and will be consulted on a project by project basis.

Watersheds, Riparian Areas and Fish

Fish and fish habitat, healthy watersheds, and clean water are core to the Tsq'escnem'c culture, values, way of life and future. They are therefore an essential Aboriginal interest.

The Tsq'escnem'c believe that all fish streams are sensitive and should be treated accordingly. Specific concerns include sedimentation, diverted drainage, unnatural drainage patterns, disturbed stream temperature regimes and habitat loss or degradation due to high or low peak flows.

In terms of our Aboriginal right to fish, the management of cumulative impacts associated with beetle harvesting has been identified by the Tsq'escnem'c as the single most important issue.

Cumulative Impacts

Band-members believe that cumulative impacts have significantly damaged and compromised Aboriginal rights and interests, particularly those associated with moose and fisheries.

Unfortunately there is and will be no effective system to manage cumulative impacts on the land. Such a tool, if it existed, might actually say STOP, which would be unacceptable. To support more timber harvesting, economic values are given more weight than other values, and higher risk tolerances regarding other values are applied. Harvesting has and will continue. The pine beetle epidemic is essentially over. At this point, only time and the re-growth of the forest will mitigate cumulative impacts in heavily harvested watersheds, see Appendix 3-Watershed EDAs for modelled hydrologic recovery.

Watershed EDA

Equivalent Disturbed Area (EDA) management can provide a basic stewardship safety net by limiting the gross amount of harvesting that can occur in a watershed over a given time period. This SFSP uses EDA to stop excessive cumulative impacts from further developing over Snine Forest.

There is only one watershed study/tool in which the Canim Lake Band participated. That study, titled *Peak Flow Risk Assessment for the 71 Watersheds in the 100 Mile House Forest District*, is part of the 2008 100 Mile House Forest District Enhanced Retention Strategy.

The *Peak Flow Risk Assessment* study calculates peak flow risk ratings based off hazard and sensitivity as shown below where;

- Sensitivity-is defined by variables inherent to the watershed such as topography, morphology and stability, and
- Hazard-is defined by forest harvesting and pine beetle infestation-EDA.

Table 1. Risk assessment matrix for watershed planning for 100 Mile House Forest District

Watershed Peak Flow Risk Ratings		Hydrologically Equivalent Disturbed Areas in the Watershed (% of Watershed)						
		<15% (None)	15 to 25% (Very Low)	25 to 35% (Low)	35 to 45% (Moderate)	45 to 55% (High)	55 to 65% (Very High)	>65% (Extreme)
Sensitivity of watershed and stream channel to peak flow increases	None	None	None	None	None	None	None	None
	Very Low	None	Very Low	Very Low	Very Low	Low	Moderate	High
	Low	None	Very Low	Very Low	Low	Moderate	High	Very High
	Moderate	None	Low	Low	Moderate	High	Very High	Very High
	High	None	Low	Moderate	High	Very High	Very High	Extreme
	Very High	None	Moderate	High	Very High	Very High	Extreme	Extreme
	Extreme	None	Moderate	High	Extreme	Extreme	Extreme	Extreme

Key hydrological implications of different risk levels, as presented within the 100 Mile House Retention Strategy are summarized as follows:

Low Risk:

The combination of the extent of disturbances and the sensitivity of this particular watershed is very unlikely to generate any kind of fish habitat degradation caused by the increases in peak flows.

Moderate Risk:

The combination of the extent of disturbances (i.e. the hazard) and the sensitivity of this particular watershed is likely to generate localized, but not extensive, fish habitat degradation caused by the increases in peak flows.

High Risk:

The combination of the extent of disturbances (i.e. the hazard) and the sensitivity of this particular watershed is likely to generate extensive fish habitat degradation caused by the increases in peak flows

Very High Risk:

The combination of the extent of disturbances (i.e. the hazard) and the sensitivity of this particular watershed is very likely to generate extensive fish habitat degradation caused by the increases in peak flows.

Canim Lake Band Precautionary Watershed Management

For this SFSP, a select group of watersheds had their EDA's recalculated. This process simply updated the *Peak Flow Risk Assessment for the 71 Watersheds in the 100 Mile House Forest District* for harvesting that has occurred (up to Jan 2016) since the report's original publication.

See Map 5-Retention Strategy Watersheds and Appendix 3-Watershed EDAs.

Based on the risk tolerances expressed by Band-members the Canim Lake Band cannot accept any further harvesting in watersheds rated as **Very High** or **High**. These lands must be given time to recover. In watersheds with a risk rating of **Moderate**, deep consultation can be utilized for possible salvage logging. Industrial forestry operations should keep risk ratings at **Low**.

As calculated to Jan 2016, the following watersheds have reached Moderate or higher:

WATERSHED	EDA	RISK RATING	REGIME
Coffee Lake	43	HIGH	CLOSED
Eagle Murphy Lake	49	HIGH	CLOSED
Unnamed B	58	HIGH	CLOSED
Unnamed D	34	MODERATE	CLOSED/DEEP

Food Fisheries

Food fisheries are a key Aboriginal right and an essential Aboriginal interest. Unlike other interests, such as hunting or trapping, the food fishery does not and has not moved.

Canim's TUS data records specific fishing spots (the mouth of the Canim River) and more general fishing areas (for example Ruth Lake). Any and all riparian systems that connect to fishing spots or areas are part of Canim's food fishery.

A dataset to approximate Canim's food fishery has been created. The dataset started collecting TUS identified riparian systems at the level at which the Canim Lake Band will apply a no-harvest/no-development reserve zone. Buffer distances of 300 m, 200 m, 100 m and 50 m were applied based on the size and subjective value of the food fisheries features (buffers should be field measured using slope distance).

These zones partially protect the food fisheries features, their associated riparian habitats and a number of culturally and archaeologically significant sites and features. See Appendix 1, Map 6-Food Fishery.

The Canim Lake Band's food fishery is not to be used by any party or venture as a tailings pond, source of water in a manufacturing or extraction process, as a commercial commodity (i.e. selling water or generating power), or as a means to dispose of or dilute pollutants, waste or effluents from any industrial process. Placer mining is not permitted in Canim's food fishery.

The buffered foreshore of the Canim Lake Band's food fishery is part of the food fishery, and is not for sale for profit or development by the provincial Crown or any third party.

Biodiversity

Biodiversity, wildlife abundance, habitat and connectivity are essential Aboriginal interests. They are inseparable from each other, and from all other Aboriginal interests. They link directly to the Aboriginal right to hunt, fish, trap, gather foods and medicines and otherwise simply live on and with the land.

Habitat and the Annual Allowable Cut

“The forest does not need managing. The forest can look after itself. It is the managers that are the problem.” Mitch Theodore, Tsq’escnem’c elder.

The Tsq’escnem’c believe that wild and undisturbed habitat is the foundation of biodiversity. Beetle impacted forests are still wild, natural, valuable and diverse habitat. Attempting to harvest 100% of beetle impacted forests for monetary value is not a higher calling. Some of these forests need to be retained for other purposes.

The level at which the Annual Allowable Cut is set is a key driver in habitat change and biodiversity reduction. The Tsq’escnem’c value biodiversity. In the absence of knowledge regarding how much habitat, and what kinds of habitat are needed, the Canim Lake Band advocates for the application of the Precautionary Approach and Ecosystem Based Management.

The current timber supply methodology is viewed as being overly aggressive. It appears to be leading away from integrated resource management and towards short-rotation tree-farming. Low value fiber maximization is a poor substitute for sustainability.

See Appendix 5 AAC Considerations.

Green-up, Adjacency and Maximum Cutblock Size for Non-Salvage

Salvage is defined as any stand on which $\geq 50\%$ of its merchantable basal area is currently dead and or actively infested with a forest pest. For non-salvage stands standard green-up, adjacency and maximum 60 hectare cutblock sizes apply within Snine Forest.

Species at Risk

Species at Risk (SAR) are protected by legislation. They cannot be ignored. SAR will be managed by legislation, this SFSP and consultation on an individual cutting permit or project basis.

At this time the Canim Lake Band declares Moose within Snine Forest to be a SAR. Other SAR of particular concern at this time are Fisher and Caribou. Habitat loss is the main threat. Other factors include excessive road densities, harvest from licenced hunters and ongoing disturbance from quads and sleds.

Parks

Existing parks are major landscape features and biodiversity reservoirs that provide for a host of values, habitat and our Aboriginal interests. Under this SFSP, no industrial harvesting of natural resources is to occur within provincial parks.

Deciduous

Deciduous types are extremely important in terms of biodiversity. Due to recent accelerated cut levels, these types are even more critical and sensitive.

Deciduous types are also strongly linked to a variety of Aboriginal rights including wildlife habitat, hunting and gathering.

Under this SFSP, no harvest of deciduous types, as defined in the table below and shown in Appendix 1, Map 7-Reserved Deciduous.

Reserved Deciduous Types

Stand Age	Deciduous Component
0-80	>70%
80-120	>50%
>120	>25%

The wise use of deciduous in stocking standards and a formal plan for creating targets and managing the amount, distribution and recruitment of deciduous stems and types over Snine Forest is required.

Dash Distance, Access Management and Connectivity

Dash Distance

For forest harvesting Band-members have asked for more internal Wildlife Tree Patches (WTP's) and for dash distances < 400 meters.

The following methodology is to be used to determine if < 400 meter dash distances have been created. If dash distance is not met, this method will guide the placement of additional internal WTPs.

- Using a pencil and ruler, or a GIS, do an inside buffer of -200 meters on the net merch area of the block. The buffer would apply to the outside edge of the block, and to any internal WTP or other internal feature (≥ 1 ha) that provides for wildlife cover, for example NPBrush, but not an NCwetland.
- If the result of the buffer generates an internal polygon ≥ 1 ha (inside the block), add one or more WTP's (≥ 1 ha in size) inside of this new polygon, until such time as an inside buffer of -200 meters no longer generates an internal polygon ≥ 1 ha.
- At this point a < 400 meter SFSP dash distance has been established.

*note, using this method NPUNN is blended with the NMA

See Appendix 4 for an example dash distance analysis. Best management practices, as illustrated in Appendix 4, are mandatory in any watershed rated as MODERATE or more under this SFSP.

Access Management

For forestry, Band-members believe that increased access has had a negative impact on ungulate populations, especially moose. More deactivation is required. There is a significant backlog of newer roads that should be deactivated. The Canim Lake Band believes that >75% of all new forestry roads being created should be classified under a signed site plan document as temporary. In support of wildlife populations and the future timber supply these roads need to be deactivated, grass-seeded and planted. Deactivation needs to eliminate pickup access and limit quad access.

Access will be dealt with through consultation on a project by project basis.

Trail Management

Trails will be managed via the consultation process. Fee for service field work will be required to locate, mark and GPS trails. Trails will be managed based on their importance and use, as per the table below. Importance will be determined by the Canim Lake Band.

Trail Management

IMPORTANCE	MANAGEMENT
High	GPS and mark trail where it intersects CP. Apply a negotiated no-harvest zone to the trail. Minimum 100 meter buffer.
Medium	GPS and mark trail where it intersects CP. Apply a negotiated no-harvest zone to the trail. Minimum 50 meter buffer.
Low	GPS and mark trail where it intersects CP. Utilize Machine Free Zone, and stubs to preserve location. Ensure trail is clear post-harvest. Discuss reforestation or other options.

See Appendix 1, Map 8-Trails.

Connectivity

For forestry the Canim Lake Band believes that connectivity implies that there is adequate cover and retention to facilitate the unimpeded movement of all animals across and through the landscape in a manner that is natural, safe and comfortable to those animals. The Canim Lake Band suggested that connectivity should be managed at three linked levels, landscape, intermediate and cutting authority.

The Canim Lake Band addressed landscape level connectivity via the WUFN, Wild Unmanaged Forest Network. Going forward connectivity will be further managed by consultation on a cutting permit by cutting permit basis.

Economics

Inclusion is a core value for the people of Canim Lake. Resources are fairly shared and no-one is excluded.

The goal of the Tsq'escnem'c is to prosper by the sustainable use and stewardship of the land and resources within the Traditional Territory. Therefore a significant component of the Canim Lake Band's Aboriginal interest is present and future economic opportunities.

Revenue Sharing

The Canim Lake Band's Traditional Territory is priceless and cannot be valued. However, each year it generates jobs, resources and wealth for those who live on it. Each year Canim's Traditional Territory also generates revenue streams for both the provincial and federal Crown. As is consistent with our Aboriginal Rights and Title the Canim Lake Band is entitled to a share of these revenue streams. This share is annual and eternal. Revenue streams need to be identified and valued, and then followed up with revenue sharing negotiations.

The provincial Crown's Forest Consultation and Revenue Sharing Agreement (FCRSA) model is the first step in this process of sharing the wealth. However, more revenue sharing arrangements beyond part of 3% of the stumpage needs to be considered to accommodate the Aboriginal Title interest of the Band. For example, the *New Relationship* (2005) contemplated resource revenue sharing:

“III. Principles to Guide the New Relationship”

“mutually acceptable arrangements for sharing benefits, including resource revenue sharing;”

Transformative Change Accord: “considering the implementation of revenue sharing agreements” (page 5)

In addition, the *Revenue Sharing Policy*, BC, 2008, contemplates sharing in the benefits:

- “a) First Nations should share in benefits
 - B) Directly related to development
 - C) Benefits recognize impacts on rights & title”
- “Factor to Consider – Strength of Claim”

Forestry

For forestry the Canim Lake Band must be included. We require a large area based forest tenure on which we can apply our own landuse plan and values. Tenure size needs to be based on negotiations that include, among other things, the size and value of the timber resource on the Tsq'escnem'c Traditional Territory. The Canim Lake Band does not consent to any further allocation or reallocation of timber volume into area based tenures within Snine Forest, or within Canim's entire Traditional Territory until this issue has been resolved to our satisfaction.

Recreation and Tourism

Recreation and Tourism opportunities are of considerable economic interest to the Canim Lake Band. There are several initiatives underway within the community to develop opportunities.

In particular there are a number of key lakes that have been identified as critical for potential tourism opportunities, these are; Canim Lake, Bobb's Lake, Bridge Lake, Deception Lake, Green Lake, Horse Lake, Howard Lake, Lac la Hache, Lang Lake, Mahood Lake, Murphy Lake, Pendelton Lakes and Sheridan Lake.

Mining, Carbon Credits, Utilities and Other

Any other economic opportunities that come up will require deep consultation, consent and inclusion for the Canim Lake Band. For these type of activities Impact Benefit Agreements will be required.

Record of Versions

1.0	April 2013	Original
2.0	April 2016	Revised for Aboriginal Title
2.1	May 2016	Added Green-up, adjacency and max cutblock size for non-salvage.

Appendix 1 Maps

Map 1.....	Canim Traditional Territory Snine Forest Overview
Map 2.....	Strength of Claim
Map 3.....	LandUse Zones
Map 4.....	Archaeology Concern
Map 5.....	Retention Strategy Watersheds
Map 6.....	Food Fishery
Map 7.....	Reserved Deciduous
Map 8.....	Trails

Appendix 2 Non-Timber Forest Products

a-Plants and berries traditionally used by NStQ

b-Plants and Berries used by animals that the NStQ depended upon.

Appendix 3 Watershed EDAs

a -revised watershed EDAs

b -original watershed report for District of 100 Mile House

Appendix 4 Example Dash Distance

Appendix 5 AAC Considerations