

CA-126

Contribution AgreementThis Agreement made the 25th day of May, 1994.

CA94-126

BETWEEN: Her Majesty the Queen in Right of Canada as represented by the Minister of Fisheries and Oceans (hereinafter called "DFO")

OF THE FIRST PART

AND: Carrier Sekani Tribal Council for and on behalf of the Bands, identified in paragraph 1.1(n), which it represents (hereinafter called the "Recipient")

OF THE SECOND PART

WHEREAS the Recipient has requested financial assistance from DFO towards the costs associated with carrying out the Project defined in paragraph 1.1(d) of this Agreement;

AND WHEREAS DFO agrees to contribute financial assistance to the Recipient to be used in accordance with this Agreement towards costs associated with carrying out the Project;

NOW THEREFORE the Parties agree as follows:

Definitions**1.1 In this Agreement:**

- (a) "Agreement" means this agreement and the attached Schedules "A", "B", "C", and "D";
- (b) "Contribution" means the amount referred to in subsection 2.1 of this Agreement;
- (c) "Allowable Costs" means any reasonable and proper costs and expenses approved by DFO, paid or payable by the Recipient in relation to the Project between April 1, 1994 and the completion of the Project inclusive and identified in Schedule "C" hereto, but does not include any Goods and Services Tax (GST) paid in relation to such costs and expenses for which the Recipient may claim reimbursement or exemption;
- (d) "Project" means the activities approved by DFO and described in Schedule "A" hereto as may be described in more detail in accordance with subsection 3.14;
- (e) "Role" means all of the responsibilities and obligations of the Recipient as set out in this Agreement including but not limited to those described in Schedule "B" hereto;
- (f) "Detailed Report" means a detailed report on activities undertaken to further the Project and on results obtained towards the furtherance of the Project itemized with respect to each of the activities identified in Schedule "A" of this Agreement;
- (g) "Statement of Expenses" means:
 - (i) a report setting out the total amount paid or payable by the Recipient for Allowable Costs with respect to each of the activities identified in Schedule "A" of this Agreement; and

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- (ii) a report on Allowable Costs itemized in accordance with Schedule "C" of this Agreement;
- (h) "Balance" means an amount equal to the total amount received by the Recipient from DFO pursuant to this Agreement less the total amount paid or payable by the Recipient towards Allowable Costs at the relevant date;
- (i) "Interim Report" means a report consisting of:
 - (i) a Detailed Report;
 - (ii) a Statement of Expenses;
 - (iii) a statement of the Balance; and
 - (iv) a cash flow projection setting out Allowable Costs projected to be incurred during each month remaining until the projected completion of the Project with subtotals for each month;
- (j) "Final Report" means a report as of the date of the said report consisting of:
 - (i) a Detailed Report covering the period from April 1, 1994 until completion of the Project;
 - (ii) a Statement of Expenses including all Allowable Costs paid or payable in furtherance of the Project;
 - (iii) a statement of the Balance; and
 - (iv) a summary of the results related to this Agreement in the format set out in Schedule "D";
- (k) "Supplementary Report" means a report that consists of:
 - (i) a Detailed Report, a Statement of Expenses and a statement of the Balance, all as of the date of the Supplementary Report; and
 - (ii) a revised cash flow projection for the period between the date of the Supplementary Report and the next Interim Report or the Final Report, whichever is applicable;
- (l) "month" means a calendar month, including any part calendar month;
- (m) "Band" means one of the Bands; and
- (n) "Bands" means the following bands which are represented by the Recipient through their respective band councils:
 - (i) Broman Lake Indian Band,
 - (ii) Burns Lake Indian Band,
 - (iii) Cheslatta Indian
 - (iv) Nadleh Whut'en Indian Band
 - (v) Nak'azdli Indian Band,
 - (vi) Stellaquo Indian Band,
 - (vii) Stoney Creek Indian Band,
 - (viii) Takla Indian Band,
 - (ix) Tl'azt'en Nation Indian Band.

1.2 The Project shall be deemed to be completed:

- (a) when the Recipient has incurred Allowable Costs in an amount equal to or exceeding the Contribution;

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- (b) when the activities described in Schedule "A" of this Agreement are completed;
- (c) on termination of this Agreement; or
- (d) on March 31, 1995;

whichever first occurs.

1.3 This Agreement shall be deemed to have expired

- (a) upon receipt by DFO of the Final Report and receipt by the Recipient of the payment referred to in subsection 3.7, if any; or
- (b) May 31, 1995;

whichever first occurs.

Contribution and Purpose

- 2.1 Subject to the terms of this Agreement, DFO will contribute funds to the Recipient, as administrator of the funds, in an amount not to exceed a maximum of NINETY THOUSAND DOLLARS (\$ 90,000.00) to be used exclusively towards the payment of Allowable Costs.
- 2.2 The Recipient shall ensure that the Contribution, including interest earned thereon, is used exclusively for the payment of Allowable Costs.
- 2.3 This Agreement is not intended to be, and shall not be interpreted to be, an agreement or a treaty within the meaning of section 35 of the Constitution Act, 1982 and is made without prejudice to the positions taken by either Party with respect to aboriginal or treaty rights or the settlement of comprehensive claims.
- 2.4 The Parties agree that this Agreement shall not serve to define or to limit aboriginal or treaty rights. The Parties also acknowledge that, in any future treaty negotiations between the Federal Crown and the Band, benefits of any kind which may flow pursuant to this Agreement will be considered in such negotiations, and may or may not be determined as partial fulfilment of the Federal Crown's responsibilities pursuant to any agreement reached as a result of such treaty negotiations.

Payments and Disbursements

- 3.1 The Recipient will provide to DFO a cash flow projection setting out Allowable Costs projected to be incurred during the term of this Agreement with subtotals for each month and each three (3) months period.
- 3.2 Following entry into force of this Agreement, DFO shall pay to the Recipient an initial payment in an amount not exceeding SIXTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$ 67,500.00) to be use exclusively towards the payment of allowable costs.
- 3.3 (a) Subject to subsection 3.5 of this Agreement, following receipt by DFO from the Recipient of the cash flow projection referred to in subsection 3.1, a detailed description of the Project if required by DFO pursuant to subsection 3.14 of this Agreement, and the statement of Balance if required by DFO pursuant to subsection 3.13 of this Agreement, DFO shall pay to the Recipient, at the beginning of each three month period of the term of this Agreement beginning with the month of the date of this Agreement, an amount not exceeding the projected Allowable Costs to be incurred during the respective three month period as set out in the most recent cash flow projection for that three month period.

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- (b) Notwithstanding anything in this Agreement, DFO will, following receipt of an Interim Report required pursuant to subsection 3.4 of this Agreement or a statement of Balance required pursuant to subsection 3.13 of this Agreement, deduct from a payment or payments to be made by DFO to the Recipient pursuant to paragraph 3.3(a) or subsection 3.7 of this Agreement any Balance greater than zero as of the last day of the previous month as reported in the said Interim Report or statement of Balance.
- 3.4 Within fifteen (15) days following the last day of each consecutive three (3) month period of this Agreement commencing with the month of the date of this Agreement, unless during such period the Project is completed, the Recipient shall provide DFO with an Interim Report for that three (3) month period as of the last day of that three (3) month period.
- 3.5 If the Recipient fails to provide any document or information referred to in subsection 4.1 of this Agreement or the description of the Project referred to in subsection 3.14 of this Agreement in a form acceptable to DFO, DFO may, in its discretion, withhold any payment to be made by DFO to the Recipient pursuant to this Agreement pending receipt by DFO from the Recipient of the relevant document or information in a form acceptable to DFO.
- 3.6 Within fifteen (15) days following the completion of the Project, the Recipient shall provide DFO with a Final Report.
- 3.7 Following receipt of the Final Report, DFO shall pay to the Recipient a final payment, if any, equal to the amount by which Allowable Costs paid or payable by the Recipient exceed all previous payments made by DFO pursuant to this Agreement.
- 3.8 Notwithstanding anything in this Agreement, the Recipient may, at any time prior to submission of the Final Report, submit a Supplementary Report.
- 3.9 Following receipt of a Supplementary Report, DFO may, at its discretion, increase the amount to be paid during the period covered by the revised cash flow projections contained in the Supplementary Report by:
- (a) adjusting the amounts of any payments due during such period; or
 - (b) paying to the Recipient an additional payment;
- provided that the total amount paid during such period does not exceed the difference between the Allowable Costs projected to be incurred over such period and the Balance as reported in the Supplementary Report.
- 3.10 Notwithstanding anything in this Agreement, the maximum aggregate amount which may be paid to the Recipient pursuant to subsections 3.2, 3.3 and 3.9 of this Agreement shall not exceed EIGHTY ONE THOUSAND DOLLARS (\$ 81,000.00).
- 3.11 Notwithstanding anything in this Agreement, the maximum aggregate amount which may be paid to the Recipient pursuant to subsections 3.2, 3.3, 3.7 and 3.9 of this Agreement shall not exceed NINETY THOUSAND DOLLARS (\$ 90,000.00).
- 3.12 Notwithstanding anything in this Agreement, no payments will be made by DFO to the Recipient following receipt by DFO of the Final Report except the final payment referred to in subsection 3.7 of this Agreement, if any.
- 3.13 DFO may, in its discretion, require the Recipient to provide a statement of Balance at any time.

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- 3.14 DFO may, in its discretion, require the Recipient to provide to DFO a detailed description of the Project which is consistent with the description set out in Schedules "A" and is in a form acceptable to DFO which detailed description will serve to define the Project to be undertaken by the Recipient and the Recipient's obligations in carrying out the Project in more detail than is set out in Schedule "A".

Reports

- 4.1 The Recipient will furnish to DFO the Detailed Reports, the Statements of Expenses, the statements of Balance, the cash flow projections, the Final Report, the Interim Reports and the Supplementary Reports in a form acceptable to DFO.

Books and Records

- 5.1 The Recipient shall,

- (a) keep books, accounts, records and supporting documentation with respect to all financial transactions related to the Contribution in accordance with Canadian generally accepted accounting principles;
- (b) preserve the books, accounts, records and supporting documentation mentioned in paragraph 5.1(a) of this Agreement together with reports and any other documents related to the Project for a period of two years following termination of this Agreement;
- (c) on demand, provide to DFO any of the documentation mentioned in paragraph 5.1(b) of this Agreement for examination and audit by any person that DFO may from time to time designate; and
- (d) at all reasonable times permit DFO, or any person that DFO may from time to time designate, to audit, take copies and extracts from and examine such books, accounts, records, supporting documentation, reports and any other documents referred to in paragraph 5.1(b) of this Agreement as it deems fit and shall provide all necessary assistance for such audits and examinations.

Duration and Termination

- 6.1 Upon execution of this Agreement by both Parties, this Agreement shall be effective as of April 1, 1994 and, subject to subsection 6.2 of this Agreement, shall continue in effect until it expires in accordance with subsection 1.3.
- 6.2 Either Party may terminate this Agreement by giving thirty (30) days notice in writing to that effect to the other Party.
- 6.3 Within fifteen (15) days following the completion of the Project, the Recipient shall repay to DFO any amount of the Contribution not disbursed for Allowable Costs.
- 6.4 The Recipient shall refund to DFO, forthwith upon written request by DFO, any monies advanced to the Recipient for which unsatisfactory evidence has been furnished by the Recipient that the monies have been expended in accordance with this Agreement.
- 6.5 Any amount that the Recipient is under an obligation to refund under subsection 6.3 or 6.4 of this Agreement shall be a debt owing to Her Majesty the Queen in Right of Canada.

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Notices and Addresses and Representatives

- 7.1 Subject to subsection 7.2 of this Agreement, in this Agreement where any notice, request, direction, claim for payment, payment, information or other communication is required to be given, it shall be in writing and delivered personally, by courier or registered mail, or by telecopier and, unless notice to the contrary is given, shall be addressed to the Party as follows:

To DFO:

Native Affairs
Department of Fisheries and Oceans
200 Kent Street
11th Floor
Ottawa, Ontario K1A 0E6

Attention: M. Lefebvre
Director General

Telephone: (613) 991-0181
Facsimile: (613) 993-7651

To the Recipient:

Carrier Sekani Tribal Council
2nd Floor, 1460 6th Avenue
Prince George, B.C. V2L 3N2

Attention: Justa Monk
Tribal Chief

Telephone: (604) 562-6279
Facsimile: (604) 562-8206

- 7.2 In this Agreement where any claims for payment, payment, payment information or other communication or report related to payment is required to be given by the Recipient to DFO, it shall be in writing and delivered personally, by courier or registered mail, or by telecopier and, unless notice to the contrary is given, shall be addressed to DFO as follows:

Aboriginal Fisheries Division
Department of Fisheries and Oceans
555 West Hastings Street
3rd Floor
Vancouver, British Columbia
V6B 5G3

Attention: Paul Kariya
Director

Telephone: (604) 666-7885
Facsimile: (604) 666-2336

- 7.3 Such notices, requests, directions, claims for payment, payments, reports, information or other communications shall be deemed to have been received when the postal receipt is acknowledged by the other Party if sent by registered mail and the following business day if sent by telecopier or courier or delivered in person.

- 7.4 A Party may change its representative or its address by giving a notice of change to the other Party in accordance with subsection 7.1 of this Agreement.

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General

- 8.1 The Recipient shall carry out the Project and its Role therein in accordance with this Agreement.
- 8.2 The Recipient shall not assign or subcontract this Agreement or any part thereof.
- 8.3 No Member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.
- 8.4 No former Public Office Holder who is not in compliance with the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders shall derive any direct benefit from this Agreement.
- 8.5 The Recipient will disclose to DFO any individual it intends to hire or remunerate who was formerly or is presently a federal public servant. The Recipient will make such disclosure prior to hiring or remunerating, directly or indirectly, any such individual.
- 8.6 This Agreement sets forth the entire agreement and understanding between the Parties.
- 8.7 No amendment to this Agreement shall have any force or effect unless made in writing and signed by both Parties.
- 8.8 Nothing contained in this Agreement nor any acts of the Recipient or DFO shall constitute or be deemed to constitute either of the said Parties as agent or agents of the other for any purpose.
- 8.9 Neither Party shall at any time hold itself out as acting as an agent of the other in any dealings with third parties.
- 8.10 The Recipient shall indemnify and save harmless Her Majesty the Queen in Right of Canada, and Her ministers, officers, employees and agents from and against all claims, demands, costs (including legal costs), losses, damages, actions, suits and proceedings, by whomsoever brought or prosecuted, caused by or related to any act or omission of the Recipient, its officers, members, employees, agents, contractors or anyone for whom the Recipient is responsible in law or any or all of them, in carrying out this Agreement or the Project or any part thereof.
- 8.11 DFO and the Recipient shall consult from time to time at the request of each other on all matters arising out of this Agreement and shall co-operate to attempt to find a mutually acceptable solution to any issue that may arise out of this Agreement.
- 8.12 In accordance with section 40 of the Financial Administration Act, R.S.C. 1985, c. F-11, payment hereunder is subject to there being an appropriation for the fiscal year in which any commitment hereunder would come due for payment.
- 8.13 It is understood and agreed that this Agreement is not intended to be, and shall not be interpreted to be, a promise or commitment by DFO to contribute any additional funds to the Recipient with respect to the Project or any part thereof.
- 8.14 Subsections 5.1, 6.3, 6.4, 6.5 and 8.10 of this Agreement survive expiration and termination of this Agreement.

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Warranty

9.1 The Recipient warrants that the representative who executes this Agreement on behalf of the Recipient has authority to bind the Recipient.

IN WITNESS WHEREOF the Parties have executed this Agreement by their proper officers duly authorized in that behalf.

Her Majesty the Queen in Right of Canada as represented by the Minister of Fisheries and Oceans by Assistant Deputy Minister, Policy, Strategic Planning and Consultation

M. Flumian

M. Flumian, Assistant Deputy Minister
Policy, Strategic Planning and Consultation,
Department of Fisheries and Oceans

Witness

Carrier Sekani Tribal Council for and on behalf of the Bands it represents by its duly authorized representative

Justa Monk

Justa Monk
Tribal Chief

Marene Doosli
Witness

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SCHEDULE "A"**Description of the Project**

1. The Project shall consist of activities carried out by the Recipient in accordance with section 3 of this Schedule "A", approved by DFO and described in section 2 of this Schedule "A".
- 2.(a) The Project includes the continuation of activities conducted under agreements reached between the Parties in 1993.
- (b) Without limiting the generality of paragraph 2. (a) the following activities will be included in the Project:
 - (i) participation in Fraser Watershed Agreement planning processes, including consultation with member bands;
 - (ii) harvest and project planning, including discussions with member Bands and with DFO;
 - (iii) the preparation of reports, logs and documentation;
 - (iv) clerical and administration support for Aboriginal Fisheries projects associated with this agreement;
 - (v) hiring and maintaining technical support staff;
 - (vi) provision of project coordinating staff;
 - (vii) monitoring downstream fry migration at Nadina spawning channel and Middle River tributaries; and
 - (viii) liaising with DFO with respect to the Project on behalf of the Bands.
3. The Recipient will not start any of the activities referred to in this Schedule "A" until after it has obtained any authorization required by subsection 35(2) of the Fisheries Act or by any other law and the Recipient will conduct the activities in accordance with those authorizations.

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SCHEDULE "B"**Role of the Recipient**

- I. In addition to all other responsibilities and obligations of the Recipient as set out in this Agreement, the Recipient covenants and agrees to:
 - (a) act as recipient and administrator of the Contribution; and
 - (b) carry out all its obligations and to comply with all the terms and conditions set out in this Agreement.

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SCHEDULE "C"**Description of Allowable Costs**

1. Allowable Costs associated with the execution of the Project and eligible for reimbursement shall include costs and expenses related to the following:
 - (a) travel, accommodation and related expenses;
 - (b) consultant fees;
 - (c) meeting expenses;
 - (d) reasonable and properly itemized administrative costs, labour and overhead;
 - (e) fees for professional and other services;
 - (f) printing and copying charges;
 - (g) the costs of purchasing stock assessment materials, equipment and supplies;
 - (h) boat rental and fuel expenses;
 - (i) cost of equipment and personal gear purchase, lease, repair and maintenance;
 - (j) crew safety gear purchase;
 - (k) the costs of supplies and materials needed to carry out the Project;
 - (l) vehicle rental and related transportation costs; and
 - (m) other reasonable and proper costs incurred and paid in relation to the Project.

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SCHEDULE "D"

Summary of Results

_____ Initial Estimate _____ Final Report

A. THE ABORIGINAL FISHERY
(report total catch, including any fish sold)

Species	Allocation	Catch to date	No. of Participants

B. COOPERATIVE MANAGEMENT

1. Description of environmental improvements such as stream clearing or river bank revegetation.
2. Summary of results of scientific research projects (attach final reports).
3. Description of fish enhancement other than hatchery activities.

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4. Salmon hatchery activities:

SPECIES	SOCKEYE (number)	CHINOOK (number)	CHUM (number)	COHO (number)	PINK (number)
ACTIVITY					
BROODSTOCK					
RELEASES					
1 Unfed Fry					
2 Fed Fry					
3 Smolt					

C. EMPLOYMENT SUMMARY

1. Employment in fishery management and cooperative management activities, excluding employment in harvesting and processing resulting from pilot sales arrangements and operation of vessels under communal commercial licences:

EMPLOYMENT	NO. OF PEOPLE	TOTAL NO. OF MONTHS OF FULL TIME EMPLOYMENT	TOTAL WAGES & BENEFITS
ABORIGINAL: Aboriginal Fisheries Officers			
Other			
NON-ABORIGINAL: Aboriginal Fisheries Officers			
Other			

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D. TRAINING SUMMARY

TYPE OF TRAINING	NO. OF PEOPLE	TOTAL COST (\$)	TOTAL DURATION (DAYS,WKS,MTHS)
ABORIGINAL FISHERIES OFFICERS			
OBSERVER			
SCUBA DIVER			
TECHNICAL or TRADE SCHOOL			
OTHER			
TOTAL			

E. CAPITAL ACQUISITIONS (durable goods with an initial value of \$500 or more):

	DESCRIPTION	COST (\$)
1		
2		
3		
4		
TOTAL		

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F. OTHER REVENUES GENERATED/LEVERAGED (e.g. funding from other economic development)

Source	Amount	Purpose	Projected Jobs Created	Projected Annual Revenues Generated

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BETWEEN:

**Her Majesty the Queen in Right of Canada
as represented by the Minister of Fisheries
and Oceans**

AND:

**Carrier Sekani Tribal Council for and on behalf of the Bands,
identified in paragraph 1.1(n), which it represents (Recipient)**

Contribution Agreement

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