

Simpcw First Nation Heritage Policy

Me7 Xyemstéc Xwexwéyt Re Stem Ne7élye Ne Tmicw

Éll Xwexwéyt Stem Ne7élye Ne Tmicw Te W7éc

Have Reverence for the Earth and All Life

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PREAMBLE

The Simpcw are a Culturally Proud Community, valuing Healthy, Holistic Lifestyles based upon Respect, Responsibility and Continuous Participation in Growth and Education.

Simpcw First Nation Mission Statement

Simpcwemc are first and foremost the sole proprietors of the territory “Simpcwul’ecw”, [simpk-ol-okw], consisting of Simpcwemc places and landscapes, histories and heritage, much as described within *The Memorial to Sir Wilfrid Laurier* (Chiefs of the Shuswap, Okanagan and Couteau Tribes 1910). Simpcw First Nation (“Simpcw”) is a Nation of people who have lived exclusively in our homelands as depicted in the Simpcwul’ecw map attached hereto as Appendix A, since time immemorial, where we continue to maintain traditions, familial ties and rights to country, expertise and intimate landscape knowledge specific to Simpcwul’ecw.

Simpcw, or the North Thompson “Division” was originally one of 32 distinct Secwepemc or “Shuswap” bands (today there are 17 contemporary member bands of the larger Secwepemc Nation), which occupied much of the Interior Plateau of what is now much of British Columbia.

Simpcwul’ecw constitutes the largest tract of territory of all Secwepemc divisions. The primary reason for this is that Simpcwemc were the most highly mobile of all Secwepemc; their hunting, fishing and particularly trading networks required much travel.

As one of these 17 contemporary member bands of the larger Secwepemc Nation, Simpcwemc speak *Secwepemctsin*, which is in turn linguistically derived from the widespread Interior Salishan language family (Boelscher 1985-1986). As such we share a number of cultural similarities with other Interior Salishan groups in addition to language, as reflected in the seasonal use of kekulis (semi-subterranean houses), specialized large-catch fish and game harvesting technologies (fish weirs, dip-nets), tool technologies and materials, belief system, and territorial maintenance through familial networks. These ancient networks necessarily include inherited hunting and trapping territories, fishing places, trading partners, and connections through marriage between, for instance, Chu Chua Simpcwemc and clans Tqéqeltkemc and Kenpesq’t, or to those living at what are now known as Raus River (formerly known as Shuswap River) and McBride (Teit 1909).

However, each of the larger Secwepemc groups maintain distinct regional differences, as documented in the oral historical, archaeological, linguistic, and post-contact history and ethnographic records. These differences are further specialized between the sub-groups of the Secwepemc as each is inextricably charged with the independent and autonomous stewardship of its homelands, which necessarily includes the protection of and respect for each other’s territorial boundaries.

Simpcw asserts sole proprietorship and stewardship over all Cultural Heritage Resources within Simpcwul’ecw. The Cultural Heritage Resources represents the footprint of our ancestors and makes up the essence of our culture. It is our

responsibility to care for and manage Simpcwúl'ecw, and all our Cultural Heritage Resources therein.

AUTHORITY

Simpcw Yecwemínte tmicw – we are taking care of the land

Simpcw is implementing its authority to care for and manage its Cultural Heritage Resources within Simpcwul'ecw by enacting this Simpcw Heritage Policy (herein after, Policy). The authority to do so is derived from section 35 of the *Constitution Act, 1982*, jurisprudence defining section 35 Aboriginal Rights, and the United Nations Declaration on the Rights of Indigenous Peoples.

Section 35 (1) of the *Constitution Act, 1982* recognizes and affirms Aboriginal Rights, including Title:

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Simpcw holds exclusive Aboriginal Title to Simpcwul'ecw. As stewards of the Territory, Simpcw has an inherent right and obligation to maintain, protect and preserve a distinct cultural identity and way of life for both present and future generations.

In 2014, the Supreme Court of Canada in *Tsilhqot'in Nation v. British Columbia*¹ further defined what Aboriginal Title entails:

Aboriginal title confers ownership rights similar to those associated with fee simple, including: the right to decide how the land will be used; the right of enjoyment and occupancy of the land; the right to possess the land; the right to the economic benefits of the land; and the right to pro-actively use and manage the land. [para 73]

The right to control the land conferred by Aboriginal title means that governments and others seeking to use the land must obtain the consent of the Aboriginal title holders. [para 76]

In 2010 Canada endorsed the United Nations Declaration on the Rights of Indigenous Peoples, which further promotes and protects the rights of Simpcw to our Territory and cultural heritage:

Article 31.1:

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing

¹ 2014 SCC 44

arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

Article 32:

1. *Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.*
2. *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.*
3. *States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.*

CONTEXT

Throughout our Territory there are places where historical events occurred, where people lived and were buried, and where spiritual activities took place. These places are of paramount importance to Simpcw, not only because they represent our cultural blueprint, but also because many of these places are still used today, enabling us to pass our culture down from generation to generation. These places are under increasing pressure from population expansion, tourism, cultural commoditization, resource extraction and related activities. It is our responsibility to protect and manage our Cultural Heritage Resources, just as our ancestors have done since time immemorial.

The *Heritage Conservation Act*² (HCA) is the primary provincial legislation with the stated purpose of encouraging and facilitating the protection and conservation of heritage property in British Columbia. However, the provincial standards therein are not sufficient to protect Simpcw Cultural Heritage Resources. Firstly, the HCA's definition of a heritage site is land "that has heritage value to British Columbians, a community or an aboriginal people". First Nations spiritual and sacred sites that lack an archaeological feature are not protected under the legislation. Secondly, the HCA only deals with heritage sites that predate 1846. It is Simpcw's position that heritage sites dated to or after 1846 have cultural heritage value (such as culturally modified trees) and must be protected.

The cultural value of a heritage site or object cannot be measured by any non-Simpcw person, entity or government, and must be determined by, and from within, Simpcw, according to Simpcw traditional values, history and knowledge of the land. Simpcw will determine the appropriate action in accordance with this Policy. Depending on this value determined by Simpcw, the steps may range from total avoidance to removal of items to avoid further disturbance or destruction. While Simpcw will work with the

² [RSBC 1996] CHAPTER 187

Province and strive to ensure the HCA and this Policy works in harmony, there may be instances where the course of action required differs between the Province and Simpcw. In such event, this Policy will prevail as the ultimate authority on 'Simpchwúl'ecw.

PURPOSE

The purpose of this Policy is to facilitate the conservation, protection and management of identified and unidentified Simpcw Cultural Heritage Resources within Simpcwul'ecw.

To that end, this Policy aims to:

- ensure sustainability and continuity of our language and cultural practices for future generations;
- practice and implement our inherent right and responsibility to protect, preserve and manage Simpcw Cultural Heritage Resources in a manner that respects and promotes our traditional laws, values and beliefs;
- prevent unauthorized and inappropriate use of Simpcw Cultural Heritage Resources;
- provide a system of communication and joint management between Simpcw, Applicants, and government in terms of protecting Simpcw Cultural Heritage Resources; and
- set out the process all professional archaeologists and researchers must follow when conducting Cultural Heritage Resource related work within Simpcwul'ecw.

APPLICATION

This Policy applies to any and all archaeological or other cultural heritage related work conducted within Simpcwul'ecw. Specifically, this Policy applies to:

- a. all projects, works, land development and resource management or resource extraction (including those proposed for rivers, lakes and waterways) that may impact Simpcw Cultural Heritage Resources ("Project");
- b. Any and all cultural heritage related research that may be proposed by anthropologists, archaeologists, ethnographers, ethnohistorians, historians or any other disciplinary research where access to Simpcwul'ecw is required (Research); and
- c. Any work in preparation for a permit under the HCA or work associated with a permit granted under the HCA, Project or Research related or otherwise

(collectively herein after referred to as "Heritage Work").

This Policy is intended to be a public document, and to provide for transparency and accountability. It is also intended to be widely distributed amongst Simpcw staff, Simpcw elected officials, Simpcw Members, and the non Simpcw public, including government and industry proponents, to inform of Simpcw's policies regarding the use, collection or distribution of Simpcw Cultural Heritage Resources.

This Policy replaces the previous policy that was effective in 2006 as schedule A of the Simpcw Consultation and Accommodation Guidelines. ▬

The consent of Simpcw to proponents to do Heritage Work under this Policy does not constitute consultation on or participation in any Project for which such work is a part. To be clear, unless otherwise agreed to between Simpcw and the proponent, Heritage Work is separate and apart from the consultation and accommodation process associated with any development proposal to which the Project is linked, and in no way contributes to or in any way relieves the proponent or the Crown of its consultative duties to Simpcw.

Nothing in this Policy is intended to affect the exercise or scope of or justify any infringement of any Simpcw Aboriginal Rights, including Title.

GENERAL PRINCIPLES

The following outlines high-level principles that are intended to guide the implementation of this Policy, and the management of Simpcw Cultural Heritage Resources within Simpcwul'ecw.

Consent

- A. Express consent from Simpcw is required before any Heritage Work is conducted within Simpcwul'ecw, or any Simpcw Heritage Object is removed from a Simpcw Heritage Site or a Simpcw Heritage Site or Heritage Object is damaged, altered or destroyed.

Simpcw Management

- B. Management must reflect our traditional laws and values and must be conducted in consideration of our future generations.
- C. All Field Work will be conducted by archaeologists and crews authorized by Simpcw and with the involvement of Simpcw Field Crews.
- D. Simpcw will work collaboratively with proponents, researchers and archaeologists with open, transparent and regular dialogue.

Elders as Advisors

- E. This Policy will be administered by the Simpcw Natural Resource Department, under the direction of Council and the Simpcw Elders Council.
- F. Council will refer to the Simpcw Elders Council for guidance and advice on how to determine the value and management of any particular Heritage Site or Object.

1.0 DEFINITIONS

- 1.1 **“Cultural Heritage Resources”** means expression of culture (songs, dances, art, stories and legends), places of cultural practice (traditional use areas), locales of spiritual and ceremonial significance (including prominent landscape features); and

places on the landscape where our people lived and were buried, and includes Simpcw Heritage Objects, Simpcw Heritage Sites, and Traditional Knowledge.

- 1.2 **“Heritage Object”** means any feature, artifact or object that has past and ongoing importance to Simpcw cultural and spiritual practices.

Simpcw Heritage Objects include:

- Artifacts and objects removed from Simpcw Heritage Sites;
- Cultural and intellectual property including songs, stories, photographic material, movie image material, and culturally important images and designs;
- Plants or plant parts that are important for traditional medicine; and
- Any other feature, artifact or object, whether previously identified or not, that has heritage value to Simpcw, as determined by Simpcw.

- 1.3 **“Heritage Sites”** means a site of archaeological, historical or cultural significance to Simpcw.

Simpcw Heritage Site includes:

- Place name locations
- Battle areas
- Trails and trail markers
- Culturally Modified Plants / Trees
- Village and camping areas
- Traps and Weirs
- Burial or funerary site
- Sacred and spiritual sites
- Transformer and legend sites
- Food and medicine gathering and preparation sites
- Archaeological sites (including pictographs, petroglyphs, markers and cultural depressions)
- Traditional Activities (including resource gathering areas, hunting and trapping sites, and habitation sites); and
- Any other site, whether previously identified or not, that has heritage value to Simpcw, as determined by Simpcw.

- 1.4 **“Heritage Work”** has the meaning described on page 5.

- 1.5 **“Holding Institution”** means museums, universities, colleges or other institutions with the capability and authority to curate heritage objects and artifacts.

- 1.6 **“Traditional Knowledge”** means knowledge, the nature of use of which has been transmitted from generation to generation, which is regarded as belonging to Simpcw individuals, families, communities or the Nation as a whole. Simpcw Traditional Knowledge, though rooted in the past, is contemporary knowledge that changes with time.

Traditional Knowledge includes, but is not limited to:

- Place Names

- Oral History
- Family Names
- Songs
- Dances
- Stories
- Designs/Images/Crafts/Arts (Artistic Style)
- *Secwepemctsin* (Shuswap) Language

2.0 HERITAGE WORK ON SIMPCWUL'ECW

Information Package

- 2.1 Any person, corporation, or government agency wishing or intending to conduct Heritage Work within Simpcwúl'ecw must submit an information package (Information Package) to the Manager of the Natural Resource Department (NRD) of Simpcw. The Information Package should be submitted prior to the submission of any application to the BC Archaeology Branch.
- 2.2 If the Heritage Work is related to a Project, the Information Package must contain the following:
- a. Detailed maps of 1:10,000;
 - b. Shape files of the Project;
 - c. Detailed description of proposed activities;
 - d. Description of proposed staff and archaeologist to conduct the Heritage Work;
 - e. Information about environmental and/or archaeological permits anticipated or required (i.e. HCA requirements);
 - f. Timeframe for the proposed development;
 - g. Contact information of the point person, including email, phone and fax number (Project Applicant); and
 - h. Any additional information deemed relevant by Simpcw.
- 2.3 If the Heritage Work is related to Research, the Information Package must contain the following:
- a. Purpose of the Research and description of proposed activities;
 - b. Description of proposed staff and archaeologist to conduct the Heritage Work;
 - c. Timeframe for the Research;
 - d. Contact information of the point person, including email, phone and fax number (Research Applicant); and
 - e. Any additional information deemed relevant by Simpcw.

Pre-fieldwork Process

- 2.4 Simpcw will review the Information Package and provide its preliminary response to the Project Applicant or Research Applicant (collectively referred to as Applicant). In its review, Simpcw will consider:
- a. Known or potential Heritage Sites and Heritage Objects, including archaeological values;
 - b. Traditional Knowledge;

- c. Importance from a community perspective (cultural, land, historical or social value to the community);
 - d. Importance from an economic development perspective;
 - e. Possibility of impacting Simpcw's ability to utilize the site for traditional purposes; and
 - f. Likelihood of significance at the site (i.e., archaeological potential) and level of possible impact.
- 2.5 In its response to the Applicant, Simpcw will:
- a. Advise what type of Heritage Work is required;
 - b. Comment on the archaeological potential of the area;
 - c. Refer to the relevant provisions of this Policy;
 - d. Set out the terms and conditions to gain access to Simpcwúl'ecw, if such access is being considered; and
 - e. If necessary, forward a list of preferred archaeologists.
- 2.6 When reviewing a permit application or responding to an Information Package, Simpcw may require modifications to the scope or methodology of the Heritage Work, put forward an archaeologist from the Preferred List, establish a new repository, and bring any other concern to the attention of the Applicant for discussion and revision.
- 2.7 If the Heritage Work is Research related, Simpcw and the Research Applicant will meet to discuss the study design and implementation. If the Research goals coincide with Simpcw's traditional values and principles, and there is agreement between Simpcw and the Research Applicant around Simpcw's participation in the study design and implementation, Simpcw will strive to support the Research.
- 2.8 If necessary, Simpcw will forward any response to the BC Archaeology Branch. Simpcw will strive to maintain regular dialogue with the BC Archaeology Branch with respect to the review of permit applications, and provide its comments in a timely manner. However, where necessary, Simpcw will work with the BC Archaeology Branch to adjust timelines to ensure Simpcw's meaningful participation.

Field Work

- 2.9 Any Applicant conducting fieldwork associated with Heritage Work on Simpcwúl'ecw (Field Work) will do so in a manner that adheres to this Policy and respects Simpcwúl'ecw, Simpcw values, and the authority of Simpcw over Simpcwúl'ecw.
- 2.10 Simpcw and the Applicant will work collaboratively to conduct efficient and thorough Field Work.
- 2.11 Any Field Work conducted on Simpcwúl'ecw will be done:
- a. with Simpcw consent;
 - b. in accordance with this Policy and any terms or conditions provided by Simpcw; and

- c. with the involvement of a Simpcw Field Crew, unless otherwise agreed to by Simpcw.
- 2.12 The Simpcw Field Crew will consist of at least two members designated by the Natural Resource Department of Simpcw. Simpcw will ensure its Field Crew members maintain appropriate expertise and training to attend the Field Work.
- 2.13 The Simpcw Field Crew will accompany the Applicant into the field to participate in the Field Work.
- 2.14 The participation of the Simpcw Field Crew will be discussed between Simpcw and the Applicant and the details of which will depend on the nature of the Heritage Work being conducted. Unless otherwise mutually agreed between Simpcw and the Applicant, at least fourteen (14) days before an Applicant intends to conduct the Field Work on Simpcwúl'ecw, the Applicant will provide a field schedule to Simpcw that will include the days, times, and location of the Field Work. The Applicant and Simpcw will work together to ensure the meaningful involvement of the Simpcw Field Crew.
- 2.15 The Simpcw Field Crew will:
- a. ensure timely and adequate transfer of field information to Simpcw;
 - b. ensure that all Field Work is being conducted in accordance with this Policy; and
 - c. uphold standards of practice that respect Simpcw values, laws and traditions.
- 2.16 The Simpcw Field Crew is not authorized to consult on behalf of Simpcw and their presence must not be considered consultation or accommodation.

Post-Field Work

- 2.17 Once the Field Work is complete, the Applicant and Simpcw will debrief by sharing information and working collaboratively on any reports, conclusions or recommendations made as a result of the Field Work.
- 2.18 If Simpcw determines that the Field Work was inadequate, Simpcw will contact the Applicant to discuss the deficiencies with the Field Work and the Parties will work collaboratively to arrange further Field Work.
- 2.19 If Simpcw determines that the Field Work was adequate, Simpcw may provide recommendations to the Applicant and/or the BC Archaeology Branch, including management or mitigation measures required to mitigate any potential Heritage Site impacts.
- 2.20 Prior to the production of any final report, the Applicant will provide Simpcw an opportunity to review and comment on any proposed management recommendations relating to any Simpcw Heritage Site or Object identified within the report. If Simpcw does not agree with a management recommendation, the Parties will discuss the disagreement with a view to resolving the issue in good faith. If the issue cannot be resolved in a reasonable

time, Simpcw will provide its concerns to the BC Archaeology Branch and other regulatory approval agencies and may consider the Applicant to be in violation of this Policy.

- 2.21 The Applicant will provide Simpcw with one copy of the final report at the time it is completed.
- 2.22 With respect to Research related Field Work, before any information gathered during the Field Work is released to any third party, published or put in the public domain, the Applicant will provide Simpcw with an opportunity to review the information and to provide comments and recommendations. To be clear, any information pertaining to Simpcw Cultural Resources must be approved by Simpcw before being released to a third party, published or placed in the public domain. Simpcw reserves the right to limit the disclosure of any Sensitive Information.

3.0 ARCHAEOLOGIST ON SIMPCWUL'ECW

- 3.1 Only archaeologists approved by Simpcw will be authorized to conduct Heritage Work on Simpcwúl'ecw.
- 3.2 All archaeologists who conduct Heritage Work within Simpcwúl'ecw must adhere to this Policy.
- 3.3 Simpcw will compile a list of authorized archaeologists permitted to conduct approved Field Work on Simpcwúl'ecw (Preferred List). The Preferred List will be made accessible to the Province and any Applicant intending to do Heritage Work on Simpcwúl'ecw. The intent of the Preferred List is to ensure that any archaeologist/Applicant conducting Heritage Work on Simpcwúl'ecw does so in a manner that respects Simpcw aboriginal title, values and traditions, and has a respectful relationship with Simpcw.
- 3.4 If an Applicant requests an archaeologist who is not on the Preferred List to conduct Heritage Work on Simpcwúl'ecw, Simpcw may meet with the requested archaeologist to determine whether such archaeologist is permitted to conduct such work.
- 3.5 At any time, if there is evidence that an archaeologist conducting Heritage Work on Simpcwúl'ecw:
 - a. Does not follow the terms of this Policy or any applicable permit under the HCA;
 - b. Fails to properly identify and record a Simpcw Heritage Site or Object that is clearly present, or makes recommendations that have serious adverse impacts on Simpcw Heritage Sites or Objects; or
 - c. Exhibits disrespectful behavior towards Simpcw, the Simpcw Field Crew, or Simpcw Cultural Resources, including Ancestral Human Remains,

then Simpcw will provide written notice to the archaeologist and/or Applicant of its misconduct. The Parties will attempt to resolve the dispute, if the Parties are unable to do so in a reasonable time and to the satisfaction of Simpcw, Simpcw will order the archaeologist to stop all work and leave Simpcw Territory.

- 3.6 Any Simpcw Member or staff, including the Simpcw Field Crew, may lodge a complaint respecting an archaeologist or Applicant conducting Heritage Work on Simpcwúl'ecw by providing written notice to the Manager of the NRD, setting out the issue in reasonable detail.
- 3.7 Upon receiving the complaint, the Manager of NRD will approach the archaeologist with a view to investigating the complaint and resolving the issue. If the complaint constitutes an imminent threat or danger to a Simpcw Heritage Site or Object, the Manager of NRD will immediately provide the archaeologist with a stop work order.
- 3.8 The Manager of NRD will respond to the complainant within fourteen (14) days of having received the complaint with Simpcw's response and determination.
- 3.9 If the archaeologist does not promptly resolve the issue as directed by Simpcw, the archaeologist will be provided written notice that it must immediately stop all Heritage Work and leave Simpcwúl'ecw. To the extent necessary, Simpcw will keep the BC Archaeology Branch and any other relevant party notified of the situation.

4.0 ALTERING HERITAGE SITE OR OBJECT

- 4.1 Any Project-related disturbance of a Heritage Site or Heritage Object must be immediately reported to Simpcw. The Project Applicant and Simpcw will enter into negotiations towards mitigation and compensation measures.
- 4.2 If a Site Alteration Permit is applied for by an Applicant, Simpcw will consider the application in accordance with the factors set out in section 2.4. and in accordance with Part 7. Simpcw consent is required before any Heritage Site or Object is moved, modified, altered, or disturbed, and may be contingent on successful negotiations with the Applicant around management and mitigation measures, and compensation.
- 4.3 Negotiation and collaboration with Simpcw is required before Simpcw will consider consenting to a Simpcw Heritage Site or Object being damaged, altered or destroyed. Mitigation and or compensation will be required depending on the scale of the impact to the Heritage Site or Heritage Object.

5.0 UNEXPECTED ARCHAEOLOGICAL FINDS

- 5.1 If unrecorded archaeological sites are unexpectedly found during a Project, Research or other land altering activities (i.e., whether Heritage Work or not), all work must be stopped immediately and the Manager of the NRD must be notified.

- 5.2 Simpcw will determine a culturally appropriate response and when necessary, will contact the BC Archaeology Branch, and an archaeologist from the Preferred List.

6.0 DISCOVERY OF HUMAN REMAINS

- 6.1 Ancestral Human Remains are the skeletal or otherwise physical remains of a deceased person or persons. Any Ancestral Human Remains found in Simpcwúl'ecw will be presumed to be in all likelihood of Simpcw ancestry.
- 6.2 If Ancestral Human Remains are identified, or the possibility of such identification is present, during any Heritage Work, Project, Research or other land altering activities, all work must immediately stop and the Manager of the NRD must be notified.
- 6.3 Simpcw will work with the BC Archaeology Branch, the Applicant and the RCMP to determine the antiquity of the remains.
- 6.4 Simpcw may conduct an appropriate analyses (physical / spiritual) to determine, with as much certainty as possible, the ancestry, sex, age, and any other pertinent information about the individual(s).
- 6.5 Simpcw will determine the treatment of the Ancestral Human Remains. In making this determination, Simpcw may conduct a field visit, obtain guidance from Elders, hold Community meetings, and enter into negotiations around the plan for, protection of, or disposition of the Ancestral Human Remains. If after analyses, the remains are determined to be in all likelihood of Simpcw ancestry, Simpcw will work to ensure such remains are returned to Simpcw.

7.0 SIMPCW ELDERS COUNCIL

- 7.1 Chief and Council retain the ultimate authority to make decisions with respect to the management of Simpcw Cultural Resources under this Policy. However, Chief and Council will consult with and respectfully consider the advice and guidance of the Simpcw Elders Council in respect to any issue under this Policy.
- 7.2 Under this Policy, Chief and Council reserves the right to make any decision that may be in contravention to this Policy if such decision was a recommendation brought forward by the Simpcw Elders Council.

8.0 ACCESS AND USE OF SENSITIVE INFORMATION

- 8.1 As part of the engagement between Simpcw and an Applicant under this Policy, Simpcw may provide Traditional Knowledge or other sensitive Cultural Heritage Resource information to the Applicant (Sensitive Information). Such Sensitive Information will be provided on the following terms:
- a. Simpcw has the right to maintain, control, protect and develop their Sensitive Information and an Applicant will have due regard to the cultural protocols of Simpcw relevant to the protection of Sensitive Information;

- b. The Applicant agrees that Simpcw retains exclusive ownership to all Sensitive Information, regardless of its form, which may include but not be limited to, all collected information and reports, audio and video recordings, electronic records, photographic media, cartographic materials, published materials and unpublished materials (research notes, transcripts), and the Parties agree that any use of the Sensitive Information by an Applicant will be contingent on Simpcw consent, and any terms or conditions;
 - c. Simpcw will work collaboratively with Applicants and will share relevant Sensitive Information in accordance with this Policy;
 - d. No person, entity (including archaeologist or Applicant) or government may use Sensitive Information without Simpcw's prior and informed consent;
 - e. Where Simpcw provides such consent, all Sensitive Information must be properly acknowledged and credited in accordance with any instructions provided by Simpcw (such as when used, quoted or referred to);
 - f. Simpcw will have a reasonable opportunity to review and comment on any interpretations or conclusions drawn by an Applicant prior to the Applicant releasing any interpretations or conclusions that would expose Sensitive Information and if deemed necessary by Simpcw, the Applicant will revise the material to Simpcw's satisfaction, to limit the disclosure of any confidential Sensitive Information; and
 - g. The Applicant will ensure that its staff and contractors (including archaeologists) comply with the confidentiality requirements of this Policy.
- 8.2 Simpcw may require any person, Applicant or archaeologist to enter into a confidentiality agreement with Simpcw prior to any Heritage Work being conducted on Simpcwúl'ecw.

9.0 COSTS

- 9.1 For Projects, all costs associated with the review of the Information Package, Simpcw Field Crew, Post-field work and other work associated with Simpcw's involvement in the Heritage Work, will be borne by the proponent in accordance with Simpcw's standard billing costs, appended to this Policy as Schedule B.
- 9.2 For Research, costs associated with Simpcw's involvement in the Heritage Work will be discussed and mutually agreed to between the Research Applicant and Simpcw.

10.0 CURATION OF SIMPCW HERITAGE OBJECTS

- 10.1 Any and all artifacts taken or recovered historically, currently or in the future from or within Simpcwúl'ecw are the rightful property of Simpcw and as such,

Simpcw maintains the right to participate in the processing of all artifacts and archaeological finds and the curation of all Simpcw Heritage Objects.

- 10.2 Any Simpcw Heritage Object removed from a Simpcw Heritage Site must be handled and curated in accordance with Simpcw's instructions and at a location agreed to by Simpcw. All curation will be on an 'in-trust' basis until such time as Simpcw is prepared to take over care of the Simpcw Heritage Object, or in accordance with an agreement with an Holding Institution.
- 10.3 The sale and unauthorized collection of any artifact or Simpcw Heritage Object obtained from Simpcwú'ecw is strictly prohibited.
- 10.4 Simpcw will maintain a written inventory of all Simpcw Heritage Objects located in Holding Institutions. The terms and timing of the Simpcw Heritage Object repartition will be negotiated between Simpcw and the Holding institution.

11.0 SALE/TRADE OF SIMPCW HERITAGE OBJECTS

- 11.1 Simpcw prohibits the theft, sale and/or uncondoned trade of all Simpcw Heritage Objects, both historic and contemporary, excluding commonly marketable items such as fish and game meat.

12.0 OTHER FIRST NATIONS

- 12.1 While Simpcw holds exclusive Aboriginal Title to Simpcwú'ecw, where appropriate and necessary, Simpcw will work cooperatively with neighbouring First Nations with respect to the protection, conservation and management of Cultural Heritage Resources.
- 12.2 In the event another First Nation is asserting aboriginal rights or other interests to an area within Simpcwú'ecw that an Applicant is wishing to conduct Heritage Work, or to a Simpcw Heritage Site or Object, the terms of this Policy remains applicable, unless notified otherwise by Simpcw. Any issues of jurisdiction or participation of other First Nations will be discussed and resolved between the applicable First Nations, and the Applicant will be duly notified.

13.0 OTHER AGREEMENTS

- 13.1 In our effort to manage and protect our Cultural Heritage Resources, Simpcw may develop heritage related protocol agreements with Aboriginal governments, non-Aboriginal governments, universities or post-secondary institutions, museums and archives and resource management agencies. This includes community research protocols based on Simpcw's traditional values and principles regarding access and use of Sensitive Information.

14.0 VIOLATION OF THIS POLICY

- 14.1 Any and all persons conducting Heritage Work within Simpcwú'ecw must adhere to this Policy and the HCA. If there are situations where instructions or requirements differ from this Policy and the HCA, Simpcw will work with the

Applicant and the BC Archaeology Branch to attempt to reach consensus. If no consensus can be reached, so long as such instruction does not constitute a contravention of the HCA, the Applicant will be required to adhere to this Policy and any such instructions.

- 14.2 Failure to adhere to this Policy may result in a stop work order and/or expulsion from conducting Heritage Work within Simpcwúl'ecw for any period of time as determined by Simpcw.

Chief and Council, on behalf of Simpcw, retains the flexibility to make decisions not contemplated under this Policy. If a decision is made which is inconsistent with the Policy, that decision will be clearly communicated to the Membership, and if necessary, this Policy will be amended appropriately.

Any questions, inquiries, or Information Packages can be directed to the Manager of NRD at:

Box 220
Barriere, BC
V0E 1E0
Email: referrals@simpcw.com

Appendix 1 - *Simpwul'ecw* Territory

