

OIL AND GAS CONSULTATION AGREEMENT

THIS AGREEMENT is made as of the 1 day of May, 2014.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of Natural Gas Development and the Commissioner of
the Oil and Gas Commission (the "Province")

AND:

THE MCLEOD LAKE INDIAN BAND, as represented by its Chief and Council
("MLIB").

WHEREAS

- A. In accordance with article 2 of the McLeod Lake Indian Band Treaty No. 8 Adhesion and Settlement Agreement concluded March 27, 2000 (the "MLIB Adhesion Agreement").
 - a) McLeod Lake Indian Band joined in the cession made by Treaty No. 8 and agreed to adhere to the terms thereof in consideration of the undertakings made therein and may exercise rights throughout the Treaty No. 8 Area.
 - b) Her Majesty the Queen in Right of Canada has accepted and Her Majesty in Right of British Columbia ("British Columbia") has agreed to MLIB's adhesion to Treaty No. 8.
- B. The Parties acknowledge that all prior agreements between them respecting consultation on oil and gas activities and related matters have expired.
- C. The Parties wish to enter into a new agreement respecting consultation in relation to Proposed Parcels and Oil and Gas Activities that may affect MLIB Section 35 Rights, as well as other matters.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1.0 DEFINITIONS

"Agreement" means this Oil and Gas Consultation Agreement;

"Applicant" means an entity that submits an Application;

"Application" means an application submitted to the OGC or a designated employee of the OGC for approval of an Oil and Gas Activity proposed to be carried out within the Claimed Traditional Territory and which may potentially adversely affect MLIB Section 35(1) Rights;

"Claimed Traditional Territory" means the area depicted in Appendix 1, as defined in the MLIB Adhesion Agreement;

"Commissioner" means the Commissioner of the OGC;

"Deputy Commissioner" means the Deputy Commissioner of the OGC;

"Implementation Procedures" means those procedures set out in Appendix 3;

"IT System" means any Internet-based database system used by the OGC, which will enable the OGC, First Nations, industry proponents, and external stakeholders to participate with respect to Applications and compliance activities;

"MNGD" means the Ministry of Natural Gas Development as established under the *Constitution Act*, R.S.B.C. 1996, c. 66;

"MLIB Section 35 Rights" means the rights of MLIB that are recognized and affirmed by Section 35(1) of the *Constitution Act, 1982*;

"Oil and Gas Activity" means an activity for oil and gas exploration and development on Crown land within the Claimed Traditional Territory, including any related activity (for example, construction of camps) and related geophysical exploration, well sites, access roads, pipelines, facilities, and water use, for which authorization is given by the OGC or a designated employee of the OGC for the activity, or in relation to the proposed activity or activities, under

- (a) the *Oil and Gas Activity Act*, SBC 2008, c. 36,
- (b) a specified enactment that is currently, or may from time to time during the term of this Agreement, be specified under the *Oil and Gas Activity Act*,
- (c) the *Water Act*, RSBC 1996, c.483, in the case of water licenses for the diversion, use or storage of water,
- (d) a delegation of authority under other provincial legislation, or

- (e) such other provincial legislation as may be brought into effect from time to time during the term of this Agreement in substitution for or to replace, whether in whole or in part, any of the enactments listed in paragraphs (a) to (d);

“OGC” means the Oil and Gas Commission continued under the *Oil and Gas Commission Activities Act*, [SBC 2008] c. 36;

“Parties” means the parties to this Agreement, and “Party” means any one of them, as appropriate to the context;

“Proposed Parcel” means an area, as described by MNGD based on the Petroleum and Natural Gas Grid under the *Petroleum and Natural Gas Act*, RSBC 1996, c. 361, for which underlying Crown petroleum and natural gas rights are being considered for inclusion in a Notice of Public Tender for the purpose of a potential tenure disposition under the *Petroleum and Natural Gas Act*, RSBC 1996, c. 361;

“Response Period” means the period of time as set out in section 5.7 that MLIB has to provide response to an Application as set out in the Implementation Procedures;

“Working Days” means any day other than a Saturday or Sunday, National Aboriginal Day or a statutory holiday in British Columbia and does not include any of the days between December 26 to January 1, on which the MLIB Land Office is closed.

2.0 PURPOSE

- 2.1 This Agreement sets out processes to facilitate meaningful consultation with MLIB in relation to Proposed Parcels and Oil and Gas Activities that may affect MLIB Section 35 Rights, and if the Province adheres to these processes, the Province fulfils any obligation that it has to consult and, if appropriate, accommodate MLIB in relation to Proposed Parcels and proposed Oil and Gas Activities.

3.0 ROLES AND RESPONSIBILITIES – CONSULTATION AND INFORMATION SHARING

- 3.1 As provided by Article 3.3 of the MLIB Adhesion Agreement, the Parties confirm that for the purposes of this Agreement any consultation in respect of MLIB Section 35 Rights will only be required within the Claimed Traditional Territory.
- 3.2 The Parties agree to establish and maintain a positive and productive working relationship and open communications based on respect and trust.

4.0 TENURE REFERRAL CONSULTATION PROCESS

- 4.1 MNGD will refer to MLIB a Proposed Parcel, including information, descriptions and maps of the Proposed Parcel within the Claimed Traditional Territory (the "Information Package"). If MNGD proposes to convey the Information Package to MLIB electronically, MNGD and MLIB will meet to discuss how this could be achieved.
- 4.2 If MLIB determines that it has a concern in respect of a Proposed Parcel, it will provide a written response to MNGD, within 20 Working Days following MLIB's receipt of the Information Package or the deadline identified in the Information Package, whichever is later, or by a later date agreed to by the Parties in accordance with section 4.3. MLIB's response will be sent by email where possible and will indicate whether and the extent to which MLIB considers the potential issuance of a tenure for the Proposed Parcel to have a potential adverse impact upon MLIB Section 35 Rights as well as options to avoid or minimize any such impact.
- 4.3 MLIB may, at any time prior to the expiration of the response period, request an extension, on a parcel by parcel basis, to the response period referred to in section 4.2 and MNGD will consent to such a request for an extension, provided that MLIB agrees to provide a response by an agreed upon date.
- 4.4 For greater certainty, the Parties may agree, in advance, on a case by case basis for MNGD to refer a Proposed Parcel requesting a response in less than 20 Working Days and, if so, MLIB will respond by the deadline agreed upon.
- 4.5 MNGD will seriously consider MLIB's written response with respect to the Proposed Parcel, including the options for avoiding or minimizing potential adverse impacts upon MLIB Section 35 Rights.
- 4.6 MNGD and MLIB will endeavour to resolve the concerns identified in MLIB's written response with respect to the Proposed Parcel in a timely manner, after which, even if those concerns are not resolved, MNGD may make a decision with respect to the Proposed Parcel.
- 4.7 MNGD will, regarding a decision to issue a tenure with respect to a Proposed Parcel, and upon request from MLIB, provide MLIB with a summary of how it took into consideration MLIB concerns about avoiding or minimizing potential adverse impacts on MLIB Section 35 Rights.

- 4.8 If MNGD does not receive a response from MLIB as contemplated by section 4.2, MNGD will make its decision on the Proposed Parcel based upon available knowledge in MNGD's possession. If MNGD decides to proceed with the disposition of that parcel, the disposition notice will include the following:

"Parcel located within McLeod Lake Indian Band Claimed Traditional Territory as defined in the McLeod Lake Indian Band Adhesion and Settlement Agreement concluded on March 27, 2000."

- 4.9 The Parties acknowledge that, during the term of this Agreement, MNGD will continue its existing practice of not consulting with MLIB on time extensions of tenures, tenure conversions (such as with respect to permits or drilling licenses to a lease), changes of tenure ownership, or any related administrative amendments to tenures.
- 4.10 As a goal, MNGD and MLIB will work toward the electronic exchange of information. Once MLIB and MNGD have agreed that information may be conveyed by MNGD electronically to MLIB, MNGD will no longer provide to MLIB paper copies of any Information Packages or other communications in relation to consultation with respect to a Proposed Parcel.

5.0 OIL AND GAS ACTIVITY APPLICATIONS OPERATIONAL DECISIONS

- 5.1 The Parties will encourage industry to engage MLIB prior to submitting an Application to the OGC.
- 5.2 During the term of this Agreement, the Parties will use the designations "Notification," "Standard," or "Complex" pursuant to the Application criteria set out in the Implementation Procedures in processing Applications.
- 5.3 The OGC will forward to MLIB the Application, including its designation as "Notification," "Standard" or "Complex," along with supporting documentation.
- 5.4 The Application will include the following information:
- (a) the name and contact information of the Applicant;
 - (b) the location of the proposed Oil and Gas Activity;
 - (c) the scope of the proposed Oil and Gas Activity, including any infrastructure or equipment required to carry out the activity and any geospatial data on anticipated total land disturbance from the activity proposed;

- (d) any roads proposed to be constructed to carry out the proposed Oil and Gas Activity;
 - (e) to the extent known to the Applicant, the order in which any proposed Oil and Gas Activity will be carried out and the approximate timeframe; and
 - (f) where the Oil and Gas Activity is planned in phases, a description of each phase of the activity, including:
 - i. any estimated increases to dust, noise and odours from the proposed activity;
 - ii. any mitigation activities that will be undertaken; and
 - iii. the nature and extent of vehicle traffic required to conduct the proposed activity.
- 5.5 Those Applications designated as "Notification" will be forwarded to MLIB for information purposes only. After such Applications are forwarded to MLIB, the OGC may make a decision on them.
- 5.6 MLIB may provide comments to the OGC on the appropriateness of a designation of an Application as Standard or Complex within five Working Days of receipt of the Application. The five Working Days period forms part of the Response Period for that Application.
- 5.7 If MLIB determines that it has a concern in respect of the Application, it will respond within the applicable Response Period as follows.
- (a) Standard Applications will have a 10 Working Day (generally 14 calendar days) Response Period; and
 - (b) Complex Applications will have a 20 Working Day (generally 28 calendar days) Response Period.
- 5.8 OGC and MLIB will seek to achieve the goal of exchanging information related to referrals of Applications for Oil and Gas Activities electronically within six months of both Parties' electronic communication being operational. The intent of this goal is to create efficiencies for both parties without sacrificing meaningful consultation.
- 5.9 MLIB may access relevant non-confidential reports, studies and databases stored on the OGC's IT System during the Response Period for an Application.

- 5.10 If MLIB decides to defer an Application to another First Nation, it will make efforts to advise the OGC of its decision to do so within five Working Days of MLIB's receipt of the Application.
- 5.11 MLIB may request extensions to the Response Period for the reasons set out in the Implementation Procedures, and the OGC will not unreasonably withhold its consent to such an extension request.
- 5.12 MLIB's response will be in writing, and will:
 - (a) outline their concerns, if any, including any interests related to those concerns; and
 - (b) specify the concerns, including any interests related to those concerns, and whether and the extent to which MLIB considers the Application to have a potential adverse impact upon MLIB Section 35 Rights as well as options to avoid or minimize any such impact.
- 5.13 The OGC will seriously consider MLIB's written response with respect to the Application, including options for avoiding or minimizing potential adverse impacts upon MLIB Section 35 Rights.
- 5.14 MLIB and the OGC will attempt to resolve the concerns identified in MLIB's response in a timely manner. The Parties may request the Applicant to assist them to attempt to resolve the outstanding concerns.
- 5.15 OGC staff will work with MLIB, and will establish, as mutually agreeable, or failing agreement, as OGC determines reasonable in the circumstances, a plan of action for the consultation that identifies concerns raised by MLIB under section 5.14 and the timelines for the completion of the consultation; including what, if any, additional information or consultation steps are required.
- 5.16 If MLIB's concerns are resolved, the OGC will make its decision on the Application.
- 5.17 If the Parties are unable to resolve MLIB's concerns in respect of an Application, the OGC will give notice of its intent to make a decision on the Application after which the OGC will make its decision.
- 5.18 If the OGC does not receive MLIB's response in respect of an Application within the Response Period, the OGC may make a decision on the Application after the expiration of the Response Period.
- 5.19 The OGC will make available to MLIB decisions made in relation to Applications, either electronically or by means of a copy, including conditions placed on any approval.

- 5.20 The Parties acknowledge that, during the term of this Agreement, the OGC will continue its existing practice of not consulting with MLIB on extensions of tenures, tenure conversions (such as a license of occupation to a statutory right of way), changes of tenure ownership, any related administrative amendments to tenures, or any applications concerning the engineering, reservoir, geological and other technical aspects of the drilling, production or transportation of petroleum or natural gas.

6.0 COMPLIANCE AND ENFORCEMENT

- 6.1 In situations where MLIB considers there is an immediate threat to persons or the environment, MLIB may report the concern to the OGC by calling the emergency number, (250) 794-5200 or another number as directed by the OGC, and the matter will be dealt with in accordance with established emergency response procedures. The OGC will provide MLIB with a copy of those procedures.
- 6.2 Where MLIB wishes to report non-emergency complaints or express concerns to the OGC, MLIB will do so in accordance with procedures developed by the OGC from time to time. The OGC will review and discuss these procedures with MLIB beforehand and the Parties subsequently will confirm that MLIB will use those procedures. The OGC will discuss with MLIB proposed major changes to those procedures that may significantly impact MLIB prior to making changes to those procedures.
- 6.3 The OGC will provide an annual summary to the Chief and Council of how complaints and concerns received by the OGC from MLIB or from MLIB members who have identified themselves as such, have been acted upon, including possible investigations and enforcement measures (except in cases where disclosure would jeopardize or compromise ongoing investigations).

7.0 RESTORATION AND RECLAMATION

- 7.1 The OGC and MLIB will organize an initial meeting by no later than six months from the date of this Agreement to discuss restoration and reclamation standards and procedures, including the process for issuance of Certificates of Restoration by the OGC.

8.0 POLICY AND REGULATORY DEVELOPMENT

- 8.1 MNGD may notify and provide MLIB with the opportunity to comment on major oil and gas policy and major regulatory changes proposed by MNGD that may significantly affect MLIB, before any such changes are implemented. MNGD will determine the scope and manner of engagement with MLIB and that engagement may be subject to requirements of confidentiality. For greater certainty, minor legislative or regulatory changes contemplated from time to time will not be included in such engagement.
- 8.2 The OGC may notify MLIB and provide MLIB with the opportunity to comment on major changes to regulations or procedures proposed by OGC that may significantly affect MLIB, before any such procedure changes are implemented. The OGC will determine the scope and manner of engagement with MLIB, and that engagement may be subject to requirements of confidentiality. Items for engagement may include:
 - (a) procedure manuals in respect of Oil and Gas Activity applications;
 - (b) First Nations consultation;
 - (c) archaeology;
 - (d) methods to consider combined Oil and Gas Activities in a single Application;
 - (e) the OGC's Area Based Analysis initiative; and
 - (f) other matters.
- 8.3 For greater certainty, minor procedure changes as well as safety or technical changes contemplated from time to time will not be included in engagement under section 8.2. However, if requested by MLIB the OGC will provide MLIB with summaries of these changes provided that they have been previously prepared and are otherwise publicly available.

9.0 IMPLEMENTATION

- 9.1 The Parties will establish an implementation committee to oversee the implementation of this Agreement with participation by the appointed representatives of MLIB, OGC, and MNGD and other government agencies as required.
- 9.2 The Implementation committee will meet periodically, as agreed upon by the Parties.

- 9.3 The implementation committee will conduct, but not more frequently than annually, a periodic review of the effectiveness and efficiency of the consultation processes under this Agreement.
- 9.4 The implementation committee will assist the Parties in their efforts to implement the electronic exchange of information as contemplated under section 4.10 and section 5.8.
- 9.5 The Parties will meet within 60 days of signing of this Agreement for the purpose of staff training to review the agreed to consultation processes (including classifications) with relevant OGC/MNGD and MLIB land office staff.
- 9.6 If, after the initial training meeting referred to in section 9.5, MLIB requests additional training, the Parties will meet to discuss that request and determine the appropriate means for delivering any agreed upon additional training.
- 9.7 Wherever possible and practical, training will be provided in conjunction with training provided to other First Nations or Industry.
- 9.8 The Implementation Committee may discuss topics of mutual interest to the Parties relating to the implementation of this Agreement.
- 9.9 The topics for discussion by the Implementation Committee may include any training that may be required for transition to, or maintenance of this agreement.
- 9.10 Upon request from MLIB, the Province will provide information to MLIB with respect to the disposal or retention of documents contemplated by this Agreement.

10.0 FUNDING

- 10.1 Funding under this Agreement will constitute the funding to MLIB to participate in the implementation of this Agreement, including reviewing and responding to Applications and Proposed Parcel tenure dispositions or postings and to assist in supporting community initiatives as defined by Chief and Council.
- 10.2 The OGC will provide funding to MLIB in accordance with Appendix 2.

- 10.3 During the term of this Agreement, MLIB will not request from any person engaged in an Oil and Gas Activity any fees, levies, compensation or other charges for the review of Applications or Proposed Parcels, other than:
- (a) charitable donations and gifts unconditionally and voluntarily made by a company to the First Nations that are permitted under the *Income Tax Act* (Canada);
 - (b) those costs that may be incurred due to meeting legislative requirements or safety issues; and
 - (c) costs associated with the participation by MLIB or its members in the preparation of studies, to the extent that charging for such costs is agreed upon by MLIB and the OGC (and such agreement is not to be unreasonably withheld by either Party).
- 10.4 The Parties acknowledge that, in addition to this Agreement, separate agreements and other arrangements may be entered into by MLIB and entities engaged in Oil and Gas Activities. It is recognized that such agreements are a valuable tool to define protocols for working relationships, for encouraging the employment of MLIB contractors (including monitors), for fostering training and employment opportunities, and for facilitating long-term, mutually beneficial business relationships. The Province will continue its efforts to encourage companies to buy services locally to the extent practicable and will encourage companies to meet regularly with First Nation communities, including MLIB.
- 10.5 MLIB will submit a letter from its auditor advising the OGC, within 180 Days of the close of each fiscal year, that the funds received under the Agreement were accounted for and expended in accordance with this Agreement, including advising that at least \$420,000 was spent on the consultation contemplated in this Agreement. The letter will specify the allocation of costs for staff, travel, equipment, etc. to provide a reasonable accounting of the use of funds.
- 10.6 Failure to satisfactorily meet the requirements of 10.5 will be the basis for the Chief and Commissioner or Deputy Commissioner to meet. In the event that the matter is not settled, the OGC may withhold payments until the matter is satisfactorily resolved.
- 10.7 Nothing in this Agreement will restrict or limit the eligibility of MLIB to funding generally available through provincial programs of general application that may exist from time to time.

11.0 DISPUTE RESOLUTION

- 11.1 For the purposes of this section, a "Dispute" is defined solely as any disagreement arising out of the interpretation of this Agreement of which written notice is provided by a Party; for greater certainty a Dispute does not include any aspect of the making or content of a decision on an Application or of a decision with respect to a Proposed Parcel.
- 11.2 A Party that raises a Dispute must give written notice of the Dispute to the other Party setting out a summary of the particulars of the Dispute.
- 11.3 The Parties will make best efforts to meet within 10 Working Days of the written notice being given of the Dispute and will attempt to resolve the Dispute through collaborative negotiations.
- 11.4 If the meeting referred to in section 11.3 fails to resolve the Dispute then the Parties may agree to refer the Dispute to mediation by delivering a notice to commence mediation to the other Party and the Parties will, unless otherwise agreed, proceed with mediation. The intention of mediation is for the mediator to make a non-binding recommendation to the Parties.
- 11.5 The mediator will be jointly appointed by the Parties. If the Parties cannot agree on the appointment of a mediator within 30 Working Days, the Parties will request the appointment to be made from a roster made up of mediators from the BC International Commercial Arbitration Centre.
- 11.6 The fact that a Dispute Resolution process is taking or has taken place (including the date, location and participants) will be part of the public record. However, factual information, specific conversations, canvassing of options and other creative exchanges will be without prejudice to positions the Parties may subsequently take in any litigation associated with the Dispute, and will not be admitted into evidence in any litigation associated with the Dispute or be deemed to constitute an admission of liability.

12.0 TERM, TERMINATION, AND AMENDMENT

- 12.1 This Agreement commences on May 1, 2014, and it expires on March 31, 2024, unless the Parties agree to extend the term of this Agreement.

12.2 Either Party to the Agreement may terminate this Agreement by providing at least 90 days notice in writing to the other Party, stating the date on which that Party intends termination to take effect. Upon termination, all elements of the Parties' participation in this Agreement terminate, including the obligation of the Province to provide funding as described herein (but not including the obligation to make any payments that are due and payable at the time of termination).

12.3 Amendments to this Agreement require the written consent of the Parties.

13.0 GENERAL PROVISIONS

13.1 Nothing in this Agreement obliges the Minister of Natural Gas Development or Commissioner to act in a manner inconsistent with provincial, federal law or constitutional law, and nothing in this Agreement fetters, or is to be interpreted as fettering, the discretion of a statutory decision-maker.

13.2 This Agreement does not create, expand, limit, amend, deny, derogate, abrogate, extinguish or replace any MLIB Section 35 Rights.

13.3 Nothing in this Agreement is to be construed as an acceptance of or admission by a Party of the position of the other Party or as an admission of fact or liability.

13.4 This Agreement does not limit the positions that a Party may take in any other ongoing or future discussions, negotiations, settlements, court actions or proceedings between the Parties concerning MLIB Section 35 Rights.

13.5 This Agreement does not constitute a treaty or a land claim agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

13.6 There will not be any presumption that doubtful expressions in this Agreement will be interpreted or resolved in favour of any Party.

13.7 This Agreement and any amendment to it constitute the entire agreement between the Parties with respect to the subject matter of this Agreement, unless otherwise agreed by the Parties.

13.8 MLIB represents that this Agreement is binding on MLIB and that all necessary actions have been taken to authorize the execution of this Agreement by MLIB, and that its Chief and Council have been duly authorized to carry out its provisions on behalf of MLIB and all members of MLIB.

- 13.9 The Province represents that this Agreement is binding on it and that all necessary actions have been taken to authorize the execution of this Agreement.
- 13.10 If any part of this Agreement is declared or held invalid for any reason by a court of competent jurisdiction, the Parties agree that, subject to law, the invalidity of that part will not affect the validity of the remainder, which will continue in full force and effect and be construed as if this Agreement had been executed without the invalid part.
- 13.11 If any part of this Agreement is declared or held invalid for any reason by a court of competent jurisdiction, the Parties agree to negotiate and attempt to reach agreement, to the extent reasonably possible and as their respective interests may require, on a replacement for the part declared or held invalid with a view to achieving the intent of the Parties as expressed in this Agreement. The Parties may agree to refer the matter to an agreed-to dispute resolution process, which may include facilitated negotiation, mediation, neutral fact finding or any other mechanism to which the Parties may agree.
- 13.12 All headings in this Agreement are inserted as a matter of convenience only and do not define, limit, enlarge, modify or explain the scope or meaning of this Agreement or any of its provisions.
- 13.13 This Agreement will be governed by the applicable laws of Canada and British Columbia, including constitutional law.
- 13.14 Whenever a singular expression is used in this Agreement, that expression is deemed to include the plural or body corporate wherever required by the context.
- 13.15 Each Appendix to this Agreement forms part of this Agreement.
- 13.16 Where this Agreement contains a reference to a number of days between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included.
- 13.17 Subject to the *Freedom of Information and Protection of Privacy Act*, R.S.B.C 1996, c. 165, the Province will not seek to share the information in Appendix 2 of this Agreement with third parties, except as otherwise provided for in this Agreement.

13.18 The Province will treat as confidential and will not, without the prior consent of the MLIB, publish, release or disclose or permit to be published, released or disclosed any records or information that are culturally sensitive provided by MLIB to the Province pursuant to the Agreement, except:

- (a) insofar as such publication, release or disclosure is
 - (i) necessary to enable the Province to carry out the terms of this Agreement;
 - (ii) necessary to enable the Province to carry out any other consultations with MLIB;
 - (iii) necessary to enable the Province to fulfill its statutory or legal obligations;
 - (iv) required by law including, without limitation, *the Freedom of Information and Protection of Privacy Act* (British Columbia);
 - (v) necessary to enable other Ministries or Agencies of Her Majesty the Queen in Right of British Columbia to fulfil their statutory or legal obligations;
 - (vi) general public knowledge; or
 - (vii) to the Province's auditors or legal advisors.

13.19 Any notice or other communication required or permitted to be given to another Party under this Agreement must be given by a Party in writing and will be deemed to have been well and sufficiently given to the other Party if:

- (a) sent by courier or personally delivered to the representative of the other Party at the address set out below or to such other representative or address as the other Party may from time to time direct in writing; or
- (b) sent by facsimile to the other Party to the number set out below or to such other number or address as the other Party may from time to time direct in writing.

- 13.20 The representatives of the Parties and the addresses and facsimile numbers to which demands and notices may be given are:

McLeod Lake Indian Band Chief and Council
General Delivery
McLeod Lake, BC V0J 2G0
Fax: (250) 750-4420

And, for OGC related matters:

Deputy Commissioner
Oil and Gas Commission
6534 Airport Rd
Fort St John, BC V1J 4M6
Fax: (250) 261-5744

Or, for MNGD matters:

Executive Director, Tenure and Geoscience Branch
Upstream Development Division
Ministry of Natural Gas Development
PO Box 9326 Stn Prov Govt
Victoria, BC V8W 9N3
Fax: (250) 952-0291

- 13.21 The address, facsimile number or contact person set out above may be changed by notice in the manner set out in this provision.
- 13.22 Any notice or other communication given in the manner described in subsection 13.19(a) will be deemed to have been given on the date of delivery.
- 13.23 Any notice or other communication given in the manner described in subsection 13.19(b) will be deemed to have been given on the date the facsimile or electronic mail is sent.

14.0 RATIFICATION

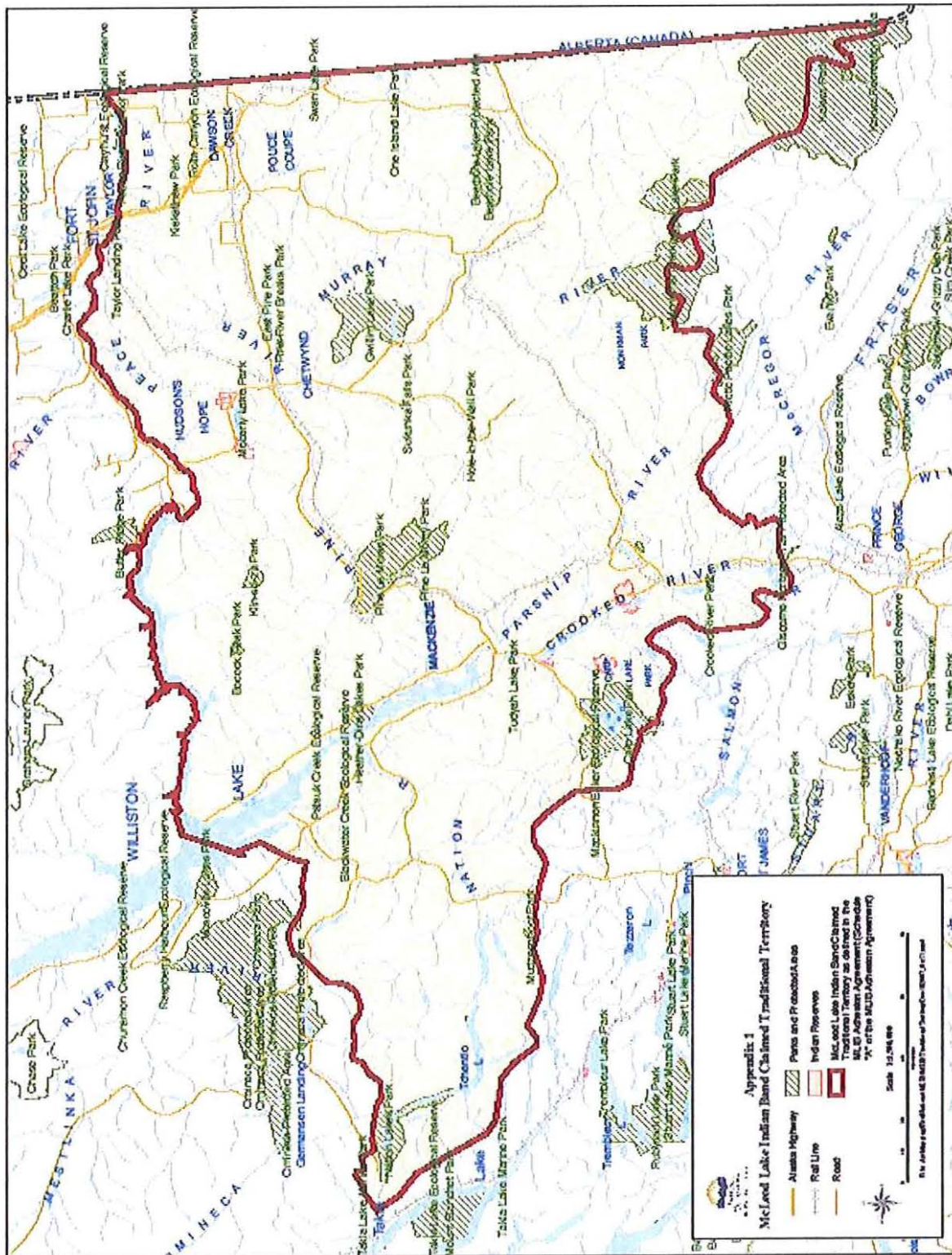
- 14.1 MLIB ratifies this Agreement when the Chief and Council of MLIB has executed the Agreement and has delivered the execution page to the Province in accordance with the notice provisions set out in section 13.19.
- 14.2 The Province ratifies this Agreement when the Commissioner and the Minister of Natural Gas Development, or his/her authorized representative, have executed the Agreement and have delivered the execution page to MLIB in accordance with the notice provisions set out in section 13.19.

15.0 EXECUTION

- 15.1 This Agreement may be executed and delivered by facsimile and in counterparts, and such counterparts, when executed and delivered, will be deemed to constitute original documents and all such counterparts together will constitute one and the same agreement.

16.0 REPRESENTATION AND WARRANTIES

- 16.1 MLIB represents and warrants that its Chief and Council have the authority to sign and McLeod Lake Indian Band has the authority and legal capacity to enter into this Agreement and to carry out its provisions.
- 16.2 MLIB Chief and Council represent and warrant that they have the authority for all purposes of this Agreement.
- 16.3 The Minister of Natural Gas Development and the Commissioner are authorized to sign this Agreement on behalf of the Province.



APPENDIX 3 - "IMPLEMENTATION PROCEDURES"

The following procedures will apply with respect to the implementation of certain parts of the Agreement.

PART I: APPLICATION CRITERIA

1. The OGC will confirm the designations of Applications as "Notification", "Standard", or "Complex", based on the following criteria:
2. Complex Application Criteria - New Applications will be categorized as "Complex" if any of the following criteria (the "Complex Criteria") are met:
 - C1. The Application is located in a Special Management Zone, a Major River Corridor or a Protected Area identified and mapped in approved Land and Resource Management Plans;
 - C2. An Application for geophysical activity that requires a new cut of greater than 200 ha. or covers an area of greater than 70 sq. km;
 - C3. The Application requires an environmental assessment under the *Environmental Assessment Act*, S.B.C 2002, c.43 or the *Environmental Assessment Act* (Canada);
 - C4. An Application for a pipeline that has an overall length greater than 15 km long or has a segment greater than 10.0 km. long;
 - C5. The Application is for a low-grade or high-grade access road (not a winter access road) greater than 5 km long;
 - C6. The Application is for a plant site greater than 2.0 ha; or
 - C7. An Application for a new well site pad for multiple wells.
3. Standard Application Criteria - New Applications, revisions and amendments will be categorized as "Standard" if the following criteria (the "Standard Criteria") are met:
 - S1. Does not meet the Notification Criteria; and
 - S2. Does not meet the Complex Criteria; or
 - S3. A revision or an amendment to a Complex Application which is outside a Complex Consultation Zone and does not meet any of the Notification Application Criteria.
4. Notification Application Criteria - New Applications, revisions and amendments may be categorized as "Notification" if they are any of the following:
 - N1. A revision or amendment to an Application which is for improved health and safety or provides an overall environmental benefit at the site;
 - N2. A revision or amendment to an Application which accommodates a MLIB interest identified during consultation;
 - N3. A Application that is entirely within a Review Corridor and which was submitted with an approved Application that has been consulted on in the past two years, with no outstanding concerns; or

- N4. An Application, revision or an amendment (including field change amendments) to an Application which:
- Is immediately off an established access route,
 - Requires less than (one) ha. of clearing,
 - Is in an area of low archaeological potential, or an assessment indicates that no further work is required and
 - Is in an area that has been through the consultation process within the last 2 years on a related project with MLIB where no site specific concerns were identified;
- N5. An Application, an amendment to an approved Oil and Gas Activity or a revision to an Application, for:
- a subsequent well on an existing pad for which no new land is required where information included with the primary well application, or otherwise communicated during the consultation period on the primary well application indicated that subsequent wells were anticipated or
 - an additional pipeline within an existing right of way for which no new land is required;
- N6. An Application, an amendment to an approved Oil and Gas Activity or a revision to an Application for water use, if:
- the point of diversion is not within an area established through an order under section 34 or 35 of the *Environmental Protection and Management Regulation*, BC Reg. 200/2010,
 - the total withdrawal per point of diversion identified in the Application, or amendment, is less than or equal to 10,000 m³, or
 - the point of diversion is not located within, as agreed to by OGC and mapped in the OGC's data base, either a sensitive waterbody, or an area of known cultural significance to MLIB.
5. Examples of Applications, Revisions and Amendments that may meet the N4 Notification Criterion:
- a) Well site extensions for a flare area/blackened area or second and subsequent drills at site;
 - b) Activities within the project review corridors of an approved Application where consultation has already taken place;
 - c) Pipelines utilizing existing right-of-way;
 - d) Use of previously disturbed areas or natural clearings with re-growth less than 1.5 metres tall;
 - e) Inclusion of corner cut-offs for well site access or expansion loops for pipelines;
 - f) Expansion of an approved borrow pit, campsite, decking site, or remote sump;
 - g) Field condition require a campsite, decking site, remote sump or borrow pit which does not exceed the Planning & Construction Guide only;
 - h) Geophysical project revisions or amendments for access, detours, helipads, staging areas, push outs, or turnarounds; or

- i) Temporary use sites such as temporary workspaces required for crossing existing access roads and/or pipeline Right-of-Ways.
6. If an Application falls within an area mapped and agreed to by the Parties as being either a 'Notification', 'Standard' or 'Complex' area, then consultation will proceed according to that agreement.

PART II: APPLICATION, PROCESS AND TIMELINES

Weekly Status Reports and Meetings

- 1.1 On a weekly basis the OGC will provide MLIB with a status report, describing the status of Applications which have not been decided upon and identifying those Applications for which no written response has been received from MLIB.
- 1.2 OGC staff and MLIB will meet at least once a week and other times as agreed to discuss agreed upon agenda items, including outstanding Applications and any concerns of MLIB regarding Applications.

Issue Resolution

2. As part of the Parties' attempts to resolve outstanding concerns (for greater certainty, concerns in this Part refer to concerns about the Application at issue, within the mandate of the OGC, that relate to potential adverse impacts on MLIB Section 35 Rights) in a timely manner, the OGC Senior Aboriginal Program Specialist and MLIB Lands Office staff will discuss outstanding concerns.
3. If there still are outstanding concerns after the discussions referred to in section 2, and if MLIB wishes to meet with the OGC Area Director, MLIB will provide written notice within two Working Days of the discussions referred to in section 2 and the Parties may produce a joint summary, or summary from each of the Parties if there is no agreement of the outstanding issues within those two Working Days.
4. The MLIB representative and the OGC Area Director or other OGC representative will make all reasonable efforts to meet within five Working Days of the issuance of the notice referred to in section 3. At the meeting, the Parties will attempt to resolve the concerns. If this meeting does not take place within 10 Working Days of the notice being given in section 3, then unless the Parties agree to another date, the OGC may make a decision on the Application.
5. If there are still outstanding concerns after there has been a meeting as referred to in section 4, and if MLIB (Chief or his or her delegate) wishes to meet with the Commissioner, MLIB will provide written notice within two Working Days of the meeting referred to in section 4 above. The Parties will make all reasonable efforts to meet within five Working Days of the notice being given pursuant to this section. At the meeting, the Parties will attempt to resolve the concerns.

6. If the meeting between MLIB (Chief or his or her delegate) and the Commissioner does not take place within 10 Working Days of the notice being given in section 5, then unless the Parties agree to another date, the OGC may make a decision on the Application.
7. If the Parties agree, they may jointly select a facilitator to assist them at the meeting of the Commissioner and MLIB (Chief or his or her delegate) as outlined in section 5.
8. The Parties may agree to develop a standing list of facilitators for the purposes of section 7.
9. The Parties will provide copies of their file materials on the Application including documents used by the Parties in discussions and meetings leading up to the facilitation and any further written materials outlining the issue to the facilitator and the other Party, within two Working Days of the Parties agreeing to use a facilitator.
10. The facilitator will convene the facilitation within two Working Days after receiving the materials pursuant to section 9.
11. If the facilitator is unable to conduct a facilitation within the two Working Days referred to in section 10, unless the Parties agree to another date, the facilitation will not take place. In any event, there will be no facilitation if it cannot be held within 10 Working Days from the date of the meeting referred to in section 4.
12. The Parties may agree to invite the Applicant to participate in the facilitation to assist the Parties and the facilitator in resolving any outstanding issues. The extent of the Applicant's participation will be determined by the facilitator.
13. The facilitator will facilitate and document the meeting between the MLIB Chief and his or her delegate and the Commissioner of the OGC and will assist them in identifying and evaluating possible solutions. The facilitator will provide the Parties with a concise report of the facilitated meeting within three Working Days of the meeting.
14. The facilitation will not be open to the public.
15. Subject to any legislative requirements or orders of a court of competent jurisdiction, the Parties will keep confidential all oral and written information disclosed in the facilitation, as well as the fact that the information has been disclosed.
16. Neither Party will make a recording of the facilitation.
17. Each Party and any Applicant will bear its own costs of the facilitation and the Parties will share the cost of the facilitation equally.

18. The fact that facilitation has taken place (including the date, location and participants) will be part of the public record. Factual information, specific conversations, canvassing options and other creative exchanges will be without prejudice to positions the Parties may subsequently take in any litigation associated with the issue giving rise to the facilitation, and will not be admitted into evidence in any litigation associated with the issue giving rise to the facilitation or be deemed to constitute an admission of liability.
19. If OGC concludes that MLIB has not made all reasonable efforts to comply with any of its obligations as set out in sections 2 through 18 of this part, the OGC may send a notice advising MLIB that the OGC intends to terminate the process contemplated in this Part and to make a decision with respect to the Application.
20. The Deputy Commissioner may take the place of the Commissioner at any meeting contemplated in this Part.

PART III: RESPONSE PERIOD EXTENSION CRITERIA

The Parties acknowledge that the OGC has discretion to grant an extension of up to five Working Days, depending on the situation. The following list and general extension times are provided for general guidance, and there may be other unique circumstances that warrant exercise of this discretion. Extension requests for the Response Period may be made to the OGC for the following reasons:

- Funerals – for any community member funeral (generally three Working Days);
- Ceremonial Days – which may include Treaty Days, (and other agreed upon days) (generally one Working Day);
- Emergency Situation – including weather conditions – length of the extension will be specific to the incident, may include fires, community emergency etc;
- Unable to obtain Council signatures or quorum – (generally two Working Days);
- Unable to contact community member who has specific knowledge of the area – (generally two Working Days);
- Opportunity for MLIB to schedule and attend a meeting with the OGC and the Applicant to discuss mitigation measures for issues identified in the Response Period; or
- Opportunity for a scheduled on site visit with MLIB, the OGC and the Applicant.

There may be unusual circumstances that require additional discussion with the Parties or may not be included in this Part.