

Economic Development Agreement

THIS AGREEMENT dated for reference this 16th day of February, 2010.

BETWEEN:

McLeod Lake Indian Band
As represented by Chief Derek Orr

("The McLeod Lake Indian Band")

AND

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH
COLUMBIA**

As represented by the Minister of Forests and Range

("The Government of British Columbia")

Both of whom are sometimes referred to as the "Parties", and each of whom is a "Party" to this Agreement.

Whereas:

- The Government of British Columbia (BC) wishes to support economic development opportunities for the Mackenzie region that encourage the participation and involvement of First Nations in keeping with the principles of the Transformative Change Accord.
- The McLeod Lake Indian Band (MLIB) community is located near the Town and District of Mackenzie and much of the Mackenzie Timber Supply Area (Appendix B) is within its traditional territory (Appendix A).
- MLIB has treaty rights within the area of the Mackenzie Forest District (DMK).
- The Mackenzie region has been adversely affected by the severe downturn in the forest industry, that has resulted in the closure of the regional pulp mill, newsprint paper mill and two sawmills and the dramatic curtailing of harvesting and related activities in the forest sector in the region.
- The lack of long-term and affordable access to fibre has been identified by the region¹ as a major factor that must be dealt with to support the potential of the pulp mill resuming production.

¹ The Mackenzie Transitional Action Plan.

- The MLIB, its enterprises and members are affected along with the other communities, companies and individuals in the region and wishes to play a role to rejuvenate the forest sector by encouraging the resumption of production of the Mackenzie pulp mill.
- The MLIB desires to work with other stakeholders and First Nations in the region to assist the forest sector to recover from the current downturn.

Therefore the Parties agree as follows:

Definitions

- **Authorized Provincial Activities:** means those activities authorized by the Province under legislation, for example, the Forest Act, the Land Act, the Wildlife Act, or any other provincial enactments.
- **Band(s):** means a legally recognised "body of Indians declared to be a band for the purposes of the Indian Act".
- **Licence:** means the authorization from a Licensor to harvest timber as per the terms and conditions as identified in the licence.
- **Licensor:** means the entity granted the authority to issue a forest licence, for example, a District Manager or the Regional Executive Director.
- **Mackenzie Pulp Mill:** means the kraft pulp plant located at 1000 Coquiwaldi Road in the District of Mackenzie, British Columbia; Legal description: PGP 42628, Lot B, DL 12478; Property Id: 024 184 489.
- **Minister:** means the Minister of Forests and Range having the responsibility, from time to time, for the exercise of powers in respect of forests and range matters.
- **Non-Contributing Stands:** means stands eliminated from the timber harvesting land base as: marginal stands, problem forest types, low volume and low productivity, in the April 2001, Mackenzie Timber Supply Analysis Report. (~612,000 ha, p. 13 of the report)
- **Operational:** for the purposes of the Mackenzie Pulp Mill, means interruptions in production and employment are not to exceed 140 days in any calendar year and production must be a minimum of 150,000 air-dried metric tonnes of northern bleached softwood kraft pulp annually, unless otherwise approved by the District Manager.

Purpose:

1. The purposes of this Economic Development Agreement (EDA) are to:
 - a. foster discussion and communication between the Parties who commit to continually work in good faith to improve communication and to have a positive working relationship in respect of authorized provincial activities;
 - b. encourage economic development within the Mackenzie region to the benefit of all communities and individuals in the region, including the Town and District of Mackenzie and the MLIB and its members;
 - c. encourage the MLIB to work with other regional stakeholders to make long-term fibre available within the Mackenzie TSA in order to ensure the Mackenzie pulp mill resumes production;
 - d. support the efforts of the MLIB who desire to work with others in the region to create a wood merchandizing and processing entity capable of managing forest resources and entering into long-term agreements to supply fibre to the Mackenzie pulp mill;
 - e. increase the participation of MLIB in the forest sector in the recovery of mountain pine beetle killed timber and to facilitate the operation of the Mackenzie Pulp Mill in partnership with the Mackenzie Pulp Mill Development Corporation (MPMDC);
 - f. provide for an economic development opportunity for MLIB to apply for a Forest Licence to Cut (FLtC) to assist the Province in the utilization of mountain pine beetle killed stands of timber;
 - g. this agreement, and the benefits flowing from it, will assist the MLIB in achieving progress towards the goals it shares with the provincial government of closing socio economic gaps between members of the MLIB and non-Aboriginal peoples.
 - h. further the Provincial Forest Health Strategy for dealing with the mountain pine beetle infestation;
 - i. assist with the development of relations between MLIB and BC through discussion and negotiation versus litigation;
 - j. provide operational stability to forest and range resource development on Crown lands within the asserted traditional territory of the MLIB, as outlined in bold red on the attached Appendix "A" (the claimed territory of the MLIB), and
 - k. resolve the issues raised by MLIB related to the impact of the mountain pine beetle on the value of the pending Carp South Treaty Entitlement Land.

Invitation to apply for an initial Forestry Licence to Cut

2. After the execution of this Agreement by the Parties, the Minister of Forests and Range (the Minister) will invite the MLIB to apply for a forestry licence to cut (the licence) for

up to 4,000,000 cubic metres of mountain pine beetle damaged and non-contributing stands of timber over a 5 year term in the Mackenzie TSA under section 47.3 of the *Forest Act*. The licence area will exclude BC Timber Sales operating areas unless otherwise authorized by the Timber Sales Manager.

3. If the intended holder of the Licence is a legal entity other than MLIB, this Agreement must include supporting documentation as specified in Appendix B stating that the intended holder has been validly appointed by MLIB as their representative.
4. The volume opportunity offered within this agreement is intended to source some of the fibre requirements of the Mackenzie pulpmill.
5. The invitation to apply and any licence entered into as a result of the invitation to apply under this Agreement will be subject to the policies, regulations and statutes of BC as amended from time to time.
6. The invitation will be subject to a condition that the MLIB will make an application for the licence, the MLIB must contact and work together with the Ministry of Forests and Range (MFR) personnel to assist in identifying the location of an operation area for the licence, which to the extent that it is operationally feasible will be within the claimed territory.
7. Any licence entered into as a result of the invitation to apply under this Agreement will:
 - a. be for a term of no longer than five years, unless extended by the Minister as accorded by law;
 - b. contain other terms and conditions required by law, including the condition that the MLIB must comply with this Agreement;
 - c. not be guaranteed to be economically viable and does not carry any business endorsement; and,
 - d. include other terms and conditions as may be required by the Minister or by the Regional Executive Director, including a term that the MLIB may not divide, subdivide, transfer or otherwise dispose of the licence issued under this agreement or an interest in the licence except in accordance with the *Forest Act*.
8. The issuance of the FLtC will not occur until the Crown is satisfied that the Mackenzie Pulpmill will be operational during the term of the licence.

Consultation

9. In consideration of the Minister's invitation to apply under this Agreement:

- a. in the execution of this agreement, the Parties agree to work closely together to deal with any issues that arise and to ensure respect for the terms and intent of this agreement and full compliance by the designated holder of the license with the terms and conditions of the initial and any subsequent licences issued pursuant to this agreement.
- b. to the extent applicable to this agreement, the Parties will be mindful of the policies of the Ministry of Forests and Range with respect to consultation with First Nations, the policies of the Provincial government generally in dealing with First Nations, and with judicial decisions of the Courts.
- c. to the best of their ability MLIB will share information and consult on forest and range decisions and activities in a timely manner, within the claimed territory of the MLIB, with:
 - i. the Government of BC,
 - ii. every holder of an Agreement entered into under the Forest Act granting the holder the rights to harvest Crown timber, and
 - iii. every holder of an Agreement entered into under the Range Act granting the holder the rights to use or improve Crown range for grazing or cutting hay.
- d. the MLIB will not negligently or intentionally interfere with or slow the progress to the timber harvesting, timber harvesting related, grazing, hay cutting, or other economic activities within the claimed territory of the MLIB of:
 - i. the Government of BC,
 - ii. every holder of an Agreement entered into under the Forest Act granting the holder the rights to harvest Crown timber, and
 - iii. every holder of an Agreement entered into under the Range Act granting the holder the right to use or improve Crown range for grazing or cutting hay.
- e. The Ministry will consult with MLIB on all decisions affecting MLIB's s. 35 rights to ensure that unjustifiable infringement of those rights is avoided.
- f. MLIB acknowledge that BC is providing accommodation of their economic interests arising from forest and range decisions.

Dispute Resolution

- 10. If a dispute arises between BC and the MLIB regarding the interpretation of a provision of this Agreement, or the obligation of a Party under this Agreement, the Parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.

11. If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of the Government of BC and the MLIB.
12. The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

Amendments

13. Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.
14. Either Party may request the participation of the other Party to review the effectiveness of this Agreement annually and consider amendments to this Agreement.
15. Upon the written request of any Party, the Parties may agree in writing to amend this Agreement to include an additional Band or Bands as a Party to the Agreement.

Entire Agreement

16. This Agreement and any modification of it constitute the entire Agreement between the Parties with respect to the subject matter of the Agreement.

Term

17. This Agreement will take effect on the date on which the last Party has executed it.
18. Upon the written request of any Party, the Parties may agree in writing to amend this Agreement to include an additional Band or Bands as a Party to the Agreement.
19. This Agreement will terminate on the occurrence of any of the following events:
 - a. six months following signing of the Agreement if no licence has been entered into as a result of the invitation to apply under this Agreement by that date;
 - b. the suspension, cancellation, expiry or termination of a licence entered into as a result of the invitation to apply under this Agreement;
 - c. 20 years from the date this Agreement is executed;
 - d. the mutual agreement of the Parties; or,
 - e. 90 days written notice by either Party to the other.

20. This Agreement may be extended or renewed by mutual agreement of the Parties.

Suspension or Cancellation

21. Without limiting the actions that may be taken by the Minister or by the Government of BC, the Minister or a person authorized by the Minister may suspend the licence entered into as a result of the invitation to apply under this Agreement, or may cancel that licence if the Minister or a person authorized by the Minister determines that the MLIB is not in compliance with this Agreement or if the Mackenzie Pulp Mill fails to remain operational.

22. Prior to taking any action referred to in section 20, the Government of BC will provide notice to MLIB of any alleged contravention of this Agreement that may lead MLIB being determined to not be in compliance with this Agreement and will provide a reasonable period of time for MLIB to remedy the default.

Further Licence Opportunities

23. The Licensor will consider providing similar licence opportunities, up to the term of this Agreement, as provided for in the legislation, subject to the Mackenzie Pulp Mill remaining operational, acceptable performance on previous licences offered under this Agreement, and an available supply of timber with stand criteria suitable for pulp mill furnish.

Notice

- 24.
- a. any notice or other communication that is required to be given or that a Party wishes to give to the other Party with respect to this Agreement will be in writing and will be delivered, sent by registered mail, or transmitted by facsimile to the address of the other Party as set out in this section of the Agreement.
 - b. any notice or other communication will be deemed to have been given on the date it is actually received if it is received before 4:00 p.m. If the notice of other communication is received after 4:p.m., it will be deemed to have been received on the next business day.
 - c. the address of either Party may be changed by notice in the manner set out by this section of the Agreement.

Government of British Columbia

Deputy Minister
Ministry of Forests and Range
P.O. Box 9525 STN PROV GOVT
Victoria, B.C. V8W 9C3
Telephone 250-356-5012
Facsimile 250-953-3687

McLeod Lake Indian Band

Chief Derek Orr
General Delivery
McLeod Lake, B.C. V0J 2G0
Telephone 250-750-4415
Facsimile 25-750-4420

Counterpart

25. This agreement may be entered into by each party signing a separate copy of this agreement, including a photocopy or faxed copy, and delivering it to the other party by fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

Miscellaneous

26. Nothing in this Agreement shall be interpreted in a manner that requires the Government of BC to act in a manner inconsistent with provincial or federal law, or that fetters the statutory discretion of any government decision-maker.
27. This Agreement is not a treaty or lands claims Agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*, and does not define, abrogate or derogate from any treaty right.
28. This Agreement is to promote the economic development of MLIB within the Mackenzie Forest District and does not address or prejudice conflicting interests or competing claims between First Nations.
29. This Agreement does not address or prejudice conflicting interests or competing claims between First Nations.

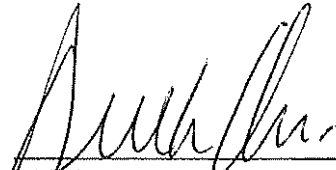
30. This Agreement will not limit the position that a Party may take in future negotiations or court actions.
31. This Agreement and any decisions and/or licences issued during the term of this Agreement do not change or affect the positions either Party has, or may have, regarding jurisdiction and authorities.
32. Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute and its regulations.
33. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
34. This Agreement shall be governed by the applicable laws of BC and Canada.
35. This Agreement does not exclude MLIB from accessing forestry economic opportunities and benefits, which may be available, other than those expressly, set out in this Agreement.
36. MLIB recognise forest resources are shared among neighbouring First Nations, and many management concerns are regional in nature and affect neighbouring First Nations as well as the MLIB.
37. MLIB acknowledge that BC must fulfill any constitutional obligations it may have to consult, and where appropriate, accommodate the other First Nations aboriginal or treaty rights.
38. The Province in its commitment to meeting goals of the Transformative Change Accord requires information from MLIB on what measurable benefits to MLIB were achieved as a result of this Agreement.
39. Upon the issuance of the first Forest Licence to Cut contemplated under this Agreement, McLeod Lake Indian Band will:
 - a. Discontinue *McLeod Lake Indian Band v. Her Majesty the Queen in Right of Canada and Her Majesty the Queen in Right of British Columbia*, Action No. S-083694, Vancouver Registry as against Her Majesty the Queen in right of British Columbia; and
 - b. Release Her Majesty the Queen in right of British Columbia from claims that:

- i. The delay in setting apart the Carp South Lands to the use and benefit of the McLeod Lake Indian Band caused a breach of the *McLeod Lake Indian Band Treaty No.8 Adhesion and Settlement Agreement* dated on or about March 27, 2000 (the "Adhesion Agreement") in that the those lands were no longer in a form fit for the purpose McLeod Lake Indian Band selected them for so that insufficient lands were set apart by British Columbia to satisfy McLeod Lake Indian Band's treaty land entitlement or, in the alternative, in that the Defendant Her Majesty the Queen in Right of British Columbia failed to transfer administration and control of certain lands described in the Adhesion Agreement as Carp South lands within a reasonable time; and
- ii. Her Majesty the Queen in right of the Province of British Columbia failed to act with ordinary diligence and failed to take prudent and reasonable or any steps to prevent the deterioration of forests on the Carp South lands from an infestation of the mountain pine beetle in or about 2004 pending the setting apart of the Carp South Lands.

40. Both parties will continue their good faith endeavours to secure funding from Canada for the restoration of Carp South from the Mountain Pine Beetle impact.

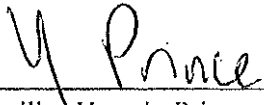
Signed on behalf of McLeod Lake Indian Band:

Date: March 18, 2010



Chief Derek Orr

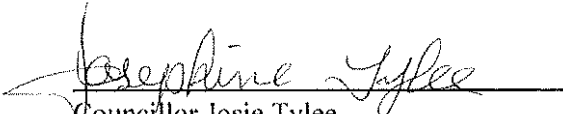

Councillor Destiny Bear


Councillor Fred Inyallie Jr.


Councillor Yasmin Prince


Councillor Elizabeth (Betty) Solonas



Councillor Jenine Solonas



Councillor Josie Tylee

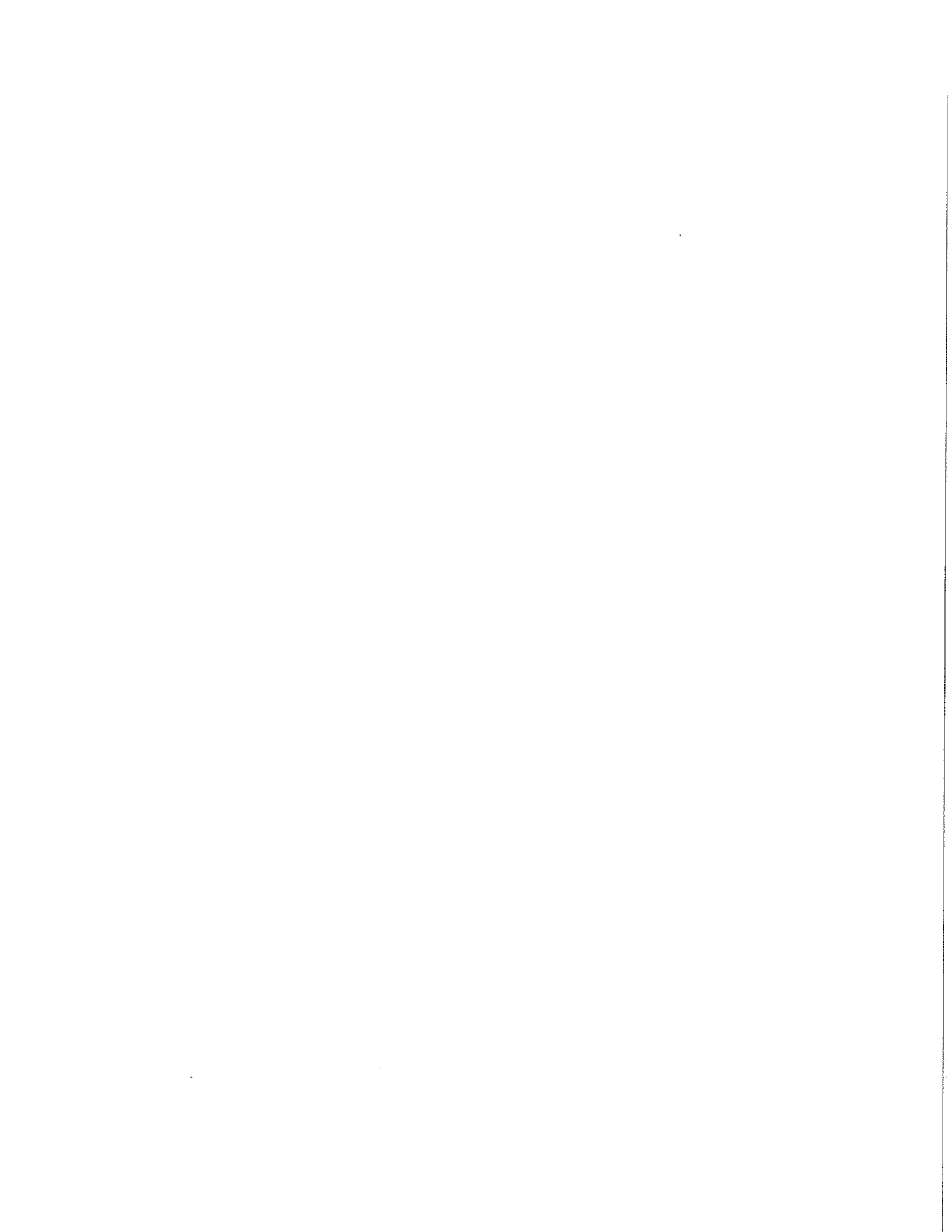
Witness of McLeod Lake Indian Band signatures

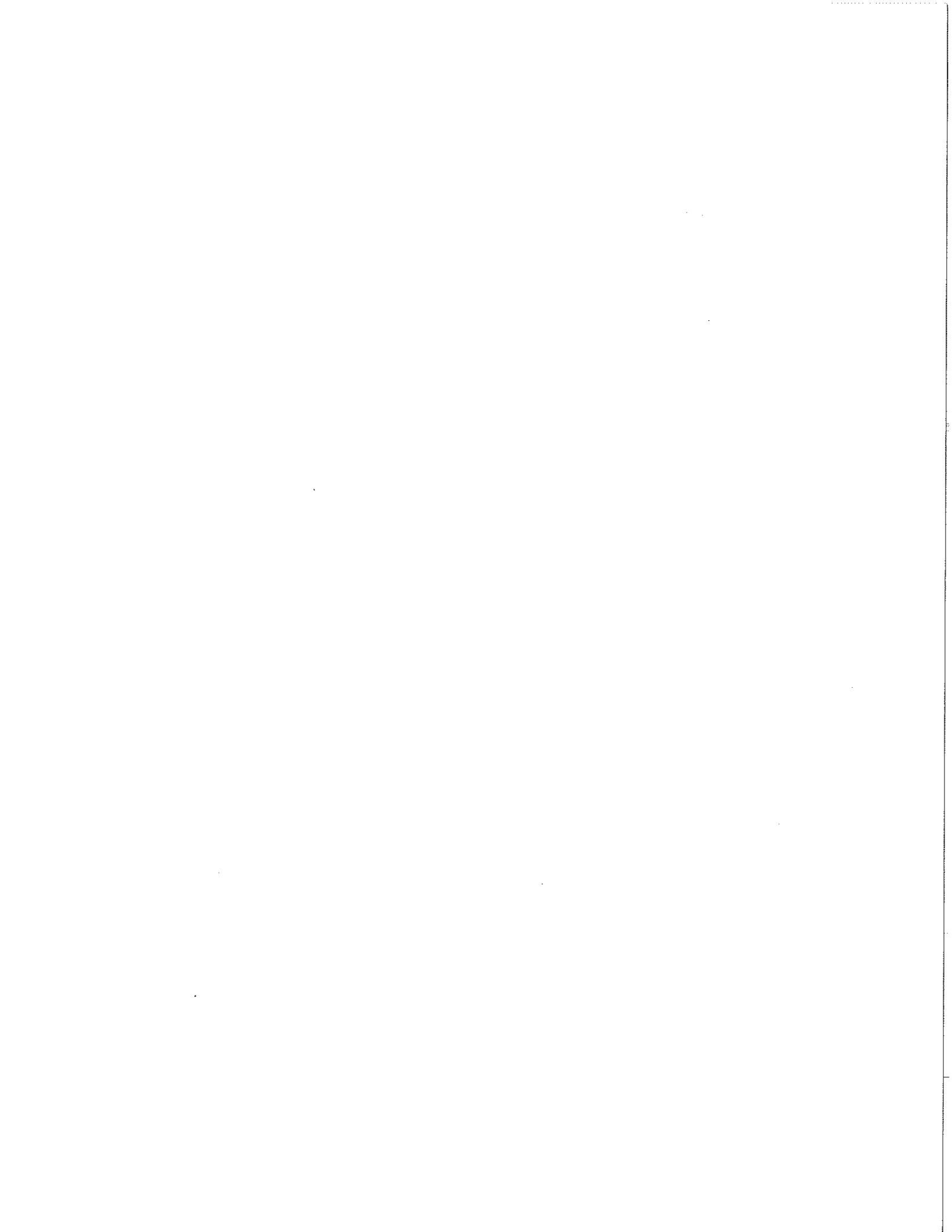
Signed on behalf of the Government of British Columbia:

Date: April 12, 2010

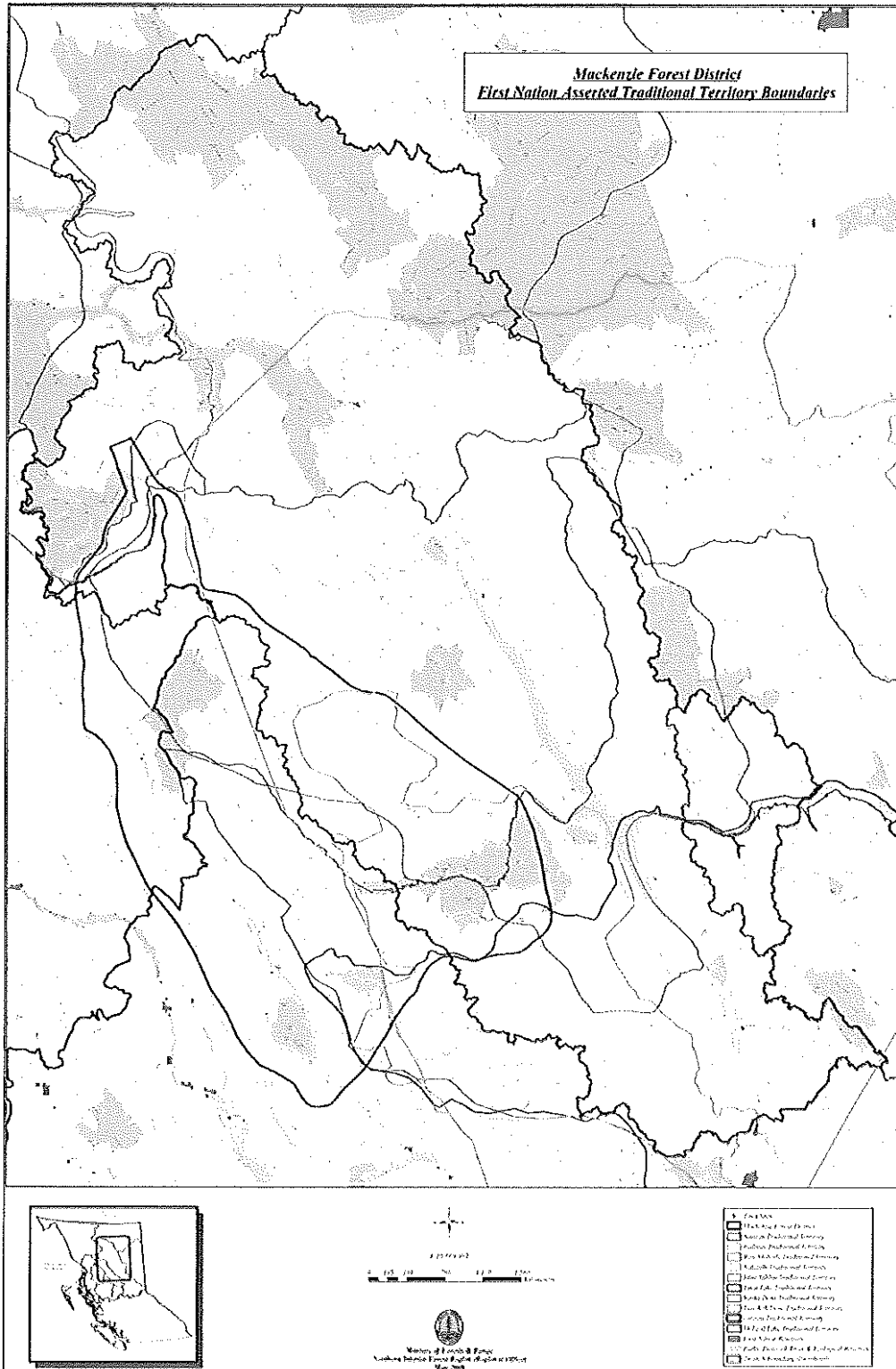

Pat Bell
Minister of Forests and Range

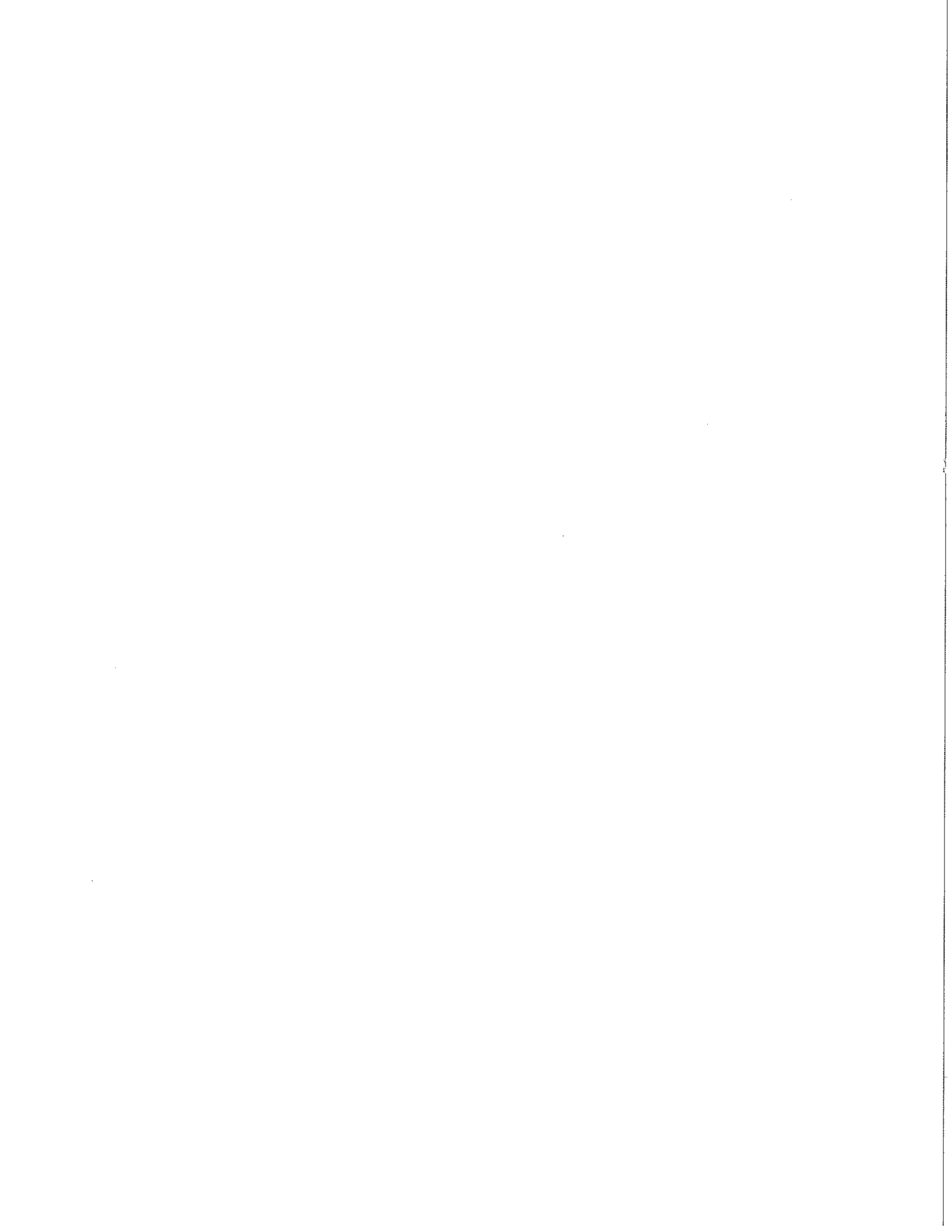

Witness of Minister signature





APPENDIX B:
MLIB Territory in relation to the Mackenzie Forest District





APPENDIX C

Description and Documentation pertaining to the Intended Holder of the licence.

Please complete part A or B, whichever is appropriate, and attach appropriate documentation:

A) Applicant for the licence: McLeod Lake Indian Band;

Or,

B) Full legal name, or corporate description of the legal entity, authorized to represent the applicant of the licence;

- a. Copy attached of legal instrument (Band Council Resolution) authorizing that legal entity to be their representative;
- b. Copy attached of the ownership structure of the legal entity (the intended holder of the licence).

