

**McLEOD LAKE INDIAN BAND
ENVIRONMENTAL ASSESSMENT
LAW**





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1. PREAMBLE

- 1.1 **WHEREAS**, the McLeod Lake Indian Band (“MLIB”), also known as the First Nation, has an inherent right to self-government which emanates from its people, culture, language, and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

The McLeod Lake Indian Band, as an aspect of our inherent right of self-government, has the jurisdiction to address real property issues such as environmental matters, and this inherent right has not been extinguished;

McLeod Lake Indian Band also chose to assume control of its Indian reserve lands pursuant to the *Framework Agreement on MLIB Land Management, MLIB Land Management Act, S.C. 1999, c. 24* by entering into the *Individual Agreement on MLIB Land Management between McLeod Lake Indian Band and Her Majesty the Queen in Right of Canada* and by adopting the *McLeod Lake Indian Band Land Code*.

Section 23 of the Framework Agreement requires McLeod Lake Indian Band to adopt this Environmental Assessment Law;

It is essential to the health and survival of McLeod Lake Indian Band that we maintain our community and Band Land; and

This Law will apply in conjunction with applicable federal and provincial laws concerning environmental issues.

NOW THEREFORE, the Chief and Council of the McLeod Lake Indian Band hereby enacts the following Law:

2. TITLE

- 2.1 This Law may be cited as the "*McLeod Lake Indian Band Environmental Assessment Law*".

3. DEFINITIONS

- 3.1 Unless the context otherwise requires, the definitions in the *McLeod Lake Indian Band Land Code* are applicable to this Law. In this Law:

"Band Land" means any portion of a McLeod Lake Indian Band reserve that is subject to the *McLeod Lake Indian Band Land Code*;

"CEAA" means the *Canadian Environmental Assessment Act, 2012* SC 2012, c. 19 as amended from time to time;

"Council" means the Chief and Council of McLeod Lake Indian Band, elected under the *McLeod Lake Indian Band Custom Election Code*;

"Cumulative effect" means the combined environmental, cultural or socio-economic impacts that accumulate from past, present and potential future actions, contaminants, or Projects;

"Environment" means the components of the Earth, and includes:

- (a) land, water and air, including all layers of the atmosphere;
- (b) all organic and inorganic matter and living organisms;
- (c) the interacting natural systems that include components referred to in paragraphs (a) and (b); and
- (d) human activities, structures and communities, including economic and cultural activities and heritage features and resources.

"Environmental assessment approval" means the certificate that is issued to the Proponent indicating that the environmental assessment has been accepted by McLeod Lake Indian Band;

Commented [TS1]: Will need to include certificate in appendices



"**Environmental effects**" means any change to the environment, including archaeological features, heritage resources, traditional use areas, economic activities, health and socio-economic conditions;

"**FNLMA**" means the *MLIB Land Management Act* S.C. 1999, c. 24 as amended from time to time;

"**Framework Agreement**" means the *Framework Agreement on MLIB Land Management* dated February 12, 1996 signed by the Minister of Indian and Northern Development and 13 First Nations, as amended from time to time;

"**Land Code**" means the *McLeod Lake Indian Band Land Code* dated for reference November 1st, 2002 and brought into force May 27th, 2003;

"**Land Management Committee**" means the McLeod Lake Indian Band committee and its members responsible for the administration of MLIB Land, as elected according to our *MLIB Land Code*;

Commented [TS2]: Need correct definition per Land Code

"**Land Management Officer**" means the McLeod Lake Indian Band employee responsible for the administration of MLIB Land or his or her authorized representative(s), employees or contractors, or a Person authorized by the Council to act as his or her delegate;

"**McLeod Lake Indian Band**" means the McLeod Lake Indian Band;

"**McLeod Lake Indian Band Land Code**" ("Land Code") means the *McLeod Lake Indian Band Land Code* dated for reference November 1st, 2002 and brought into force May 27th, 2003;

"**Mitigation measures**" means measures for avoiding, eliminating, reducing or controlling the adverse environmental effects of a Project, and includes restitution for any damage to the environment caused by those effects through replacement, restoration, compensation or any other means;

"**MLIB Land**" means any portion of a McLeod Lake Indian Band reserve that is subject to the *McLeod Lake Indian Band Land Code*;

"**Person**" means an individual, corporation, body corporate, partnership, joint venture, Proponent, association, syndicate, trust or other legal entity, including a First Nation or Indian band, or any trustee, executor, administrator or other legal representative of any such entity;

"**Project**" means any activity or project on MLIB Land that has the potential to affect the environment, including any activity or project that has taken place on MLIB Land which requires new authorizations or consent from McLeod Lake Indian Band or which the Council determines should be subject to an environmental assessment. Without limiting the foregoing, a Project includes a development, a subdivision or a grant or disposition of a licence or interest in MLIB Land;

"**Project description**" means the description of the Project pursuant to subsection 8.1(k);

"**Proponent**" means a person, organization, corporation or entity that proposes to undertake a Project, or has undertaken a Project on MLIB Land prior to the passing of this Law which requires new authorization or consent from McLeod Lake Indian Band, including, but not limited to, the government of Canada, British Columbia, a municipality or regional district, another province, or jurisdiction, a utility provider, a first nation, and a first nation member; and

"**Supreme Court**" means the Supreme Court of British Columbia.

Commented [TS3]: We will need to include the proper terms according to our Trespass and Enforcement & Prosecution laws. Also, our three ways of enforcement (RCMP, service agreement with

4. PURPOSE

4.1 The purposes of this Law are:

- (a) to protect Band Land from significant adverse environmental effects caused by a Project;
- (b) to identify potential environmental effects before decisions are made to proceed with a Project;
- (c) to promote cooperation and coordinated action between McLeod Lake Indian Band, the federal and provincial governments and municipal governments with respect to environmental assessments; and
- (d) to ensure that an environmental assessment is completed in a timely manner.



5. REQUIREMENT FOR ENVIRONMENTAL ASSESSMENT APPROVAL

- 5.1 A Proponent must not:
- (a) undertake or carry on any activity that is a Project, or
 - (b) construct, operate, modify, dismantle or abandon all or part of the facilities of a Project, unless
 - (c) the Proponent first obtains an environmental assessment approval for the Project, or
 - (d) the Land Management Officer has determined that an environmental assessment approval is not required for the Project, and the Land Management Committee has recommended that Council issue a written letter to the Proponent confirming this, and that letter has been received in writing.
- 5.2 Despite any other applicable law, if an environmental assessment approval has been issued for a Project, a Person must not:
- (a) undertake or carry on an activity that is authorized by the environmental assessment approval, or
 - (b) construct, operate, modify, dismantle or abandon all or part of the Project facilities that are authorized by the environmental assessment approval;
- except in accordance with the environmental assessment approval.

6. PROJECTS SUBJECT TO OR EXEMPT FROM THE ENVIRONMENTAL ASSESSMENT PROCESS

- 6.1 Without limiting the foregoing, the McLeod Lake Indian Band environmental assessment process applies to the following:
- (a) any grant or disposition of an interest or licence in MLIB Land; and
 - (b) any Project on MLIB Land.
- 6.2 Without limiting the foregoing, environmental assessments may not be required under the following circumstances, unless otherwise determined by the Council:
- (a) administrative actions that will not, or do not, affect land or resources;
 - (b) emergency repairs or actions needed on an urgent basis to avert or respond to emergencies; or
 - (c) responses to accidents or threats to public health.

7. HARMONIZING THE ENVIRONMENTAL ASSESSMENT PROCESS

- 7.1 McLeod Lake Indian Band recognizes that federal environmental legislation may apply under certain circumstances and components of Projects on lands adjacent to MLIB Land may be subject to provincial environmental legislation. In these instances, the Lands Manager will use best efforts to work cooperatively with the other parties to seek agreement on the following issues:
- (a) the agency and individual that will be the main contact and coordinator of the environmental assessment for each jurisdiction;
 - (b) the common requirements under the federal, provincial and McLeod Lake Indian Band's environmental assessment processes;
 - (c) the development of a specific work plan for each Project undergoing a multi-jurisdictional environmental assessment;
 - (d) how the parties will co-ordinate their environmental assessment decisions and associate regulatory decisions with respect to a Project; and
 - (e) for future Projects, how each party will notify the others when an environmental assessment process is initiated under that jurisdiction's law.
- 7.2 Pursuant to clause 25.6 of the Framework Agreement, McLeod Lake Indian Band and Canada will make best efforts to ensure that McLeod Lake Indian Band's environmental assessment process will be used where there is overlapping jurisdiction. This priority will be reflected in any environmental assessment harmonization plan developed between McLeod Lake Indian Band, Canada and British Columbia under clause 25.7 of the Framework Agreement.



8. ENVIRONMENTAL ASSESSMENT PROCESS

- 8.1 The McLeod Lake Indian Band environmental process is designed to meet the requirements of the Framework Agreement and FNLMA, including:
- (a) that an environmental assessment is triggered in cases where McLeod Lake Indian Band is approving, consenting to, regulating, funding or undertaking a Project on MLIB Land;
 - (b) the environmental assessment process must be consistent with the requirements of the CEAA; and
 - (c) environmental assessments must be conducted as early as possible in the planning stages of the project, before an irrevocable decision is made; and
 - (d) McLeod Lake Indian Band's environmental assessment obligations depend on adequate financial resources and expertise being available to McLeod Lake Indian Band.
- 8.2 Where required, the Proponent must ensure that an environmental assessment is completed before other approvals are considered by McLeod Lake Indian Band, including but not limited to: negotiating impact benefit agreements, obtaining permits, or other authorizations and completing lease, sub-lease or licence agreements.

9. ENVIRONMENTAL ASSESSMENT PROCEDURE

Screening - Submission of Project Description

- 9.1 The Proponent of a Project must provide the Lands Manager with a description of the Project, in a Form as attached as Appendix "B" or as amended by the Council from time to time, which will be called a Project Description, that includes, at a minimum, the following information:
- (a) the Project's name, nature and proposed location;
 - (b) the Proponent's name and contact information and the name and contact information of their primary representative for the purpose of the description of the Project;
 - (c) a description of and the results of any consultations undertaken with any jurisdictions and other parties;
 - (d) other relevant information, including the environmental assessment and regulatory requirements of other jurisdictions; and information concerning any environmental study that is being or has been conducted of the region where the Project is to be carried out;
 - (e) a description of the Project's context and objectives;
 - (f) a description of the physical works that are related to the Project including their purpose, size and capacity;
 - (g) the anticipated production capacity of the Project and a description of the production processes to be used, the associate infrastructure and any permanent or temporary structures;
 - (h) a description of all activities to be performed in relation to the Project, including site preparation, construction, operation or decommissioning;
 - (i) a description of any solid, liquid, gaseous or hazardous waste that is likely to be generated during any phase of the Project and of plans to manage those wastes;
 - (j) a description of the anticipated phases of and the schedule for, the Project's construction, completion, operation, decommissioning and abandonment;
 - (k) a description of the Project's location, including:
 - (i) its geographic coordinates;
 - (ii) site maps produced at an appropriate scale in order to determine the Project's overall location and the relationships among the Project components;
 - (iii) the legal description of land to be used for the Project, including the reserve or parcel abstract report and any authorization relating to a water lot;
 - (iv) the Project's proximity to any permanent, seasonal or temporary residences;
 - (v) the Project's proximity to provincial, federal or municipal lands;
 - (l) a description of any financial support that federal authorities are, or may be, providing to the Project;



- (m) any federal or provincial legislative or regulatory requirements that may be applicable including a list of permits, licences or other authorizations that may be required in order to carry out the Project;
 - (n) a description of the physical and biological setting;
 - (o) a professional opinion regarding the likely presence or absence of the following species:
 - (i) fish as defined in section 2 of the *Fisheries Act*, R.S.C., 1985, c.F-14 and any amendments enacted from time to time, and fish habitat as defined in subsection 34(1) of that Act;
 - (ii) aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*, S.C. 2002, c. 29 and any amendments enacted from time to time; and
 - (iii) migratory birds, as defined in subsection 2(1) of the *Migratory Birds Convention Act*, 1994, S.C. 1994, c. 22 and any amendments enacted from time to time.
 - (p) any information that the Proponent may have in its possession regarding any changes to the environment that may occur as a result of carrying out the Project, or the continued operation of the Project, on MLIB Land;
 - (q) information, that the Proponent may have in its possession regarding the effects on McLeod Lake Indian Band or other people of any changes to the environment that may be caused as a result of carrying out the Project, or continued operation of the Project, including effects on health and socio-economic conditions, physical and cultural heritage, the current use of MLIB Lands and resources for traditional purposes or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance; and
 - (r) a summary of the above information.
- 9.2 If the Lands Manager is of the opinion, after receiving the Project Description that it is incomplete or does not contain sufficient details, the Lands Manager may within 10 business days after receiving it, require the Proponent to provide an amended Project Description that includes the information and details that the Lands Manager specifies.
- 9.3 The Lands Manager may forward the Project Description, or direct the Proponent to forward, to Aboriginal Affairs and Northern Development Canada, the Lands Advisory Board, Fisheries and Oceans Canada, the Canadian Wildlife Service, the District of Abbotsford, Langley Township, or other government departments or authorities. The involvement of other government departments may be based on whether those departments or other entities have decisions to make or can contribute expert or specialist advice.
- 9.4 When the Lands Manager is satisfied that the Project Description contains all of the required information, a notice will be posted in the McLeod Lake Indian Band Lands Office that indicates that the Project Description is available for McLeod Lake Indian Band members to provide comments respecting the Project within fifteen (15) business days after the posting of the notice.

Determining the Need for an Environmental Assessment

- 9.5 Within thirty-five (35) days after the posting of the notice, the Lands Manager may determine whether an environmental assessment is required based on, but not limited to, the following considerations:
- (a) the Project Description;
 - (b) the possibility that the carrying out of the Project may cause adverse environmental effects;
 - (c) any comments received from the McLeod Lake Indian Band members within fifteen (15) days after the posting of the notice subject to section 8.10;
 - (d) comments received from other government bodies; and
 - (e) the results of any relevant study.
- 9.6 The Lands Manager:
- (a) may determine that a Project requires an environmental assessment;
 - (b) if the Lands Manager considers that a Project will not have a significant adverse environmental economic, social, heritage or health effect, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the Project, the Lands Manager, may determine that an environmental assessment is not required for the Project.



- (c) The Council may, at its discretion, review the Lands Manager's decision made pursuant to either subsection 8.6(a) or (b). If the Council either does not review the decision of the Lands Manager made in accordance with subsection 8.6(b) or, upon its review of a decision made by the Lands Manager pursuant to either subsection 8.6(a) or (b), it concludes that an environmental assessment is not required the Proponent may proceed with the Project without an environmental assessment approval, or
 - (d) subject to subsection 8.6(c), if the Lands Manager or the Council considers that a Project may have a significant adverse environmental, economic, social, heritage or health effect, taking into account practical means of preventing or reducing to an acceptable level any potential adverse effects of the Project, the Lands Manager or the Council, as the case may be, may determine that:
 - (i) an environmental assessment approval is required for the Project, and
 - (ii) the Proponent may not proceed with the Project without undertaking an environmental assessment pursuant to an environmental assessment approval.
- 9.7 The Lands Manager or the Council, or both, may attach conditions considered necessary pursuant to a decision under subsection 8.6(b).
- 9.8 The Lands Manager will advise the Proponent in writing of the determination as to whether or not an environmental assessment is required. A notice of the decision will be posted in the McLeod Lake Indian Band Lands Office.
- 9.9 A determination under subsection 8.6 does not relieve the Proponent from compliance with the requirements pertaining to the Project under other applicable laws, policies and enactments.
- 9.10 Notwithstanding section 8.5, the Lands Manager may determine that a further 20 working days is required to obtain input from other governmental departments or authorities or McLeod Lake Indian Band members.

10. ENVIRONMENTAL ASSESSMENT

Terms of Reference

- 10.1 If a Project requires the preparation of an environmental assessment, the Proponent shall prepare the terms of reference of the environmental assessment in consultation with the Lands Manager to ensure that the environmental assessment will include the information considered necessary by McLeod Lake Indian Band. A form of generic terms of reference that can be used as a reference guide will be provided by the Lands Manager.
- 10.2 Generally, a typical environmental assessment report will include information on the following topics:
- (a) Project setting: Physical, ecological, social, cultural and economic setting of the First Nation Land potentially affected by a Project;
 - (b) Project description: Including design, construction, operation and decommissioning;
 - (c) Project effects and Mitigation Measures: Identification of potential environmental effects, assessment of the impacts and description of Mitigation Measures;
 - (d) Cumulative Effects assessment: Combined environmental, cultural or socioeconomic impacts that accumulate from past, present and potential future actions, contaminants or Projects.
 - (e) Commitments: Clear statement of commitments by the Proponent to implement the Mitigation Measures described in the environmental assessment.
 - (f) Process: for preparation of the environmental assessment including a list of agencies or individuals to be contacted, a description of reports or other deliverables to be prepared including special studies and a schedule for the conduct of the work.
 - (g) Professional Expertise: the qualifications of the professionals that will be preparing the environmental assessment.
 - (h) Liability Insurance: identification of any liability concerns and the professional expertise that will be retained to address those concerns, as well as the obtaining of any insurance or bonding that is required.



- (i) Conclusion: A summary and conclusion of the significance of identified adverse environmental effects.
- 10.3 The Lands Manager may require that an environmental assessment include some or all of the topics listed in Appendix "A".
- 10.4 The Lands Manager may retain, at the expense of the Proponent, professional expertise to review the terms of reference submitted by the Proponent.
- 10.5 The Lands Manager may circulate the draft terms of reference to other governments for review and comments. The Lands Manager may:
 - (a) refer the draft terms of reference to the Council; and
 - (b) engage the McLeod Lake Indian Band membership in a review of the terms of reference.
- 10.6 The Lands Manager will determine whether the terms of reference include the issues necessary for the environmental assessment and notify the Proponent in writing of the decision.
- 10.7 The Proponent, at its own cost, will retain the appropriate professionals to conduct the environmental assessment in accordance with the approved terms of reference.

Analysis of Environmental Assessment Report

- 10.8 The Proponent will submit the draft environmental assessment report to the Lands Manager for review. The Lands Manager will determine the process for reviewing the draft and any costs incurred in the review, including the costs to retain an independent professional and review with the McLeod Lake Indian Band membership, will be paid by the Proponent.
- 10.9 The Lands Manager may require the draft environmental assessment report to be made available for review by the McLeod Lake Indian Band membership through open houses, workshops, or other means.
- 10.10 The Lands Manager will submit comments on the draft environmental assessment report to the Proponent for the preparation of a final environmental assessment report. The Proponent will amend the draft as necessary and prepare a final environmental assessment report.

Environmental Assessment Decision

- 10.11 The Proponent will submit the final environmental assessment report to the Lands Manager. The Lands Manager and the Lands Committee will review the report. The Lands Manager may also:
 - (a) retain a specialist, the cost of which is to be paid by the Proponent, to review the final environmental assessment report;
 - (b) circulate the final environmental assessment report to staff of other government agencies; and
 - (c) make the final environmental assessment report available for review by the McLeod Lake Indian Band membership.
- 10.12 The Lands Manager, on behalf of the Lands Committee, will prepare an environmental assessment completion report that:
 - (a) summarizes comments from the Lands Committee, specialists, the McLeod Lake Indian Band membership or others on the quality and findings of the environmental assessment report;
 - (b) presents conclusions about the nature and significance of potential environmental effects and the effectiveness of Mitigation Measures identified; and
 - (c) provides the comments of the Lands Manager and the Land Committee on:
 - (i) the implications of permitting the Project to proceed to other approval processes; and
 - (ii) what conditions may be attached to future approvals or permits that would likely mitigate identified environmental impacts or enhance identified benefits.
 - (d) The environmental assessment completion report will be presented to the Council for a decision on Project approval, approval with conditions and issuance of an environmental assessment approval, referral back to the Lands Manager in order to obtain additional information or rejection.



Implementation of Mitigation Measures and Follow-Up Program

- 10.13 The Mitigation Measures identified in the environmental assessment report will be incorporated into any design plans, site plans, timber-harvesting permits, and construction tenders and will be implemented with the Project. If so, instructed by the Lands Manager, a Proponent may be required to prepare an environmental protection plan that specifies how impacts will be avoided or mitigated, how MLIB Land will be restored following construction. Mitigation Measures will also form part of the conditions of any development permit issued.
- 10.14 Where deemed appropriate by the Lands Manager, the Proponent will prepare and conduct a monitoring program to verify the findings of the environmental assessment and to assess the effectiveness of the Mitigation Measures. Alternatively, the Proponent may fund monitoring to be conducted by McLeod Lake Indian Band, subject to mutual agreement of the Proponent and the Lands Manager.
- 10.15 The Lands Manager will advise the Proponent of McLeod Lake Indian Band's decision and requirements associated with the Project.

11. ADMINISTRATION AND ENFORCEMENT

Inspection Power

- 11.1 For any purpose related to the administration or enforcement of this Law or to verify compliance or prevent non-compliance with this Law, the Lands Manager may:
 - (a) enter at any reasonable time on property that is the site of a Project, and
 - (b) inspect any works or activity connected with the Project.
- 11.2 A Person who enters on property under section 10.1, must provide proof of identity to a Person present on the property who has been authorized to be on the property by the Proponent, unless there is no authorized representative of the Proponent present on the property.
- 11.3 The owner or the Person in charge of the Project and every Person on site of the Project must give all assistance that is reasonably required to enable the Lands Manager to perform his or her duty and must provide any documents, data or information that are reasonably required for that purpose.
- 11.4 No Person shall prevent or obstruct or attempt to prevent or obstruct the entry of the Lands Manager upon the Project property.

Stop Order or Remedial Order

- 11.5 If the Lands Manager considers that a Project is not being carried out, constructed, completed, operated, modified, dismantled or abandoned in accordance with an environmental assessment approval, a decision made pursuant to subsection 8.6(b) or an environmental assessment approval has not been issued, the Lands Manager:
 - (a) may, if an environmental assessment approval for the Project has not been issued or has been issued but does not remain in effect, order that construction, completion, operation, modification, dismantling or abandonment of the Project cease, or that the activity cease, either altogether or to the extent specified by the Lands Manager until the Proponent obtains an environmental assessment approval, or
 - (b) may, if an environmental assessment certificate for the Project has been issued and remains in effect,
 - (i) order that construction, completion, operation, modification, dismantling or abandonment of the Project cease, or that the activity cease, either altogether or to the extent specified by the Lands Manager, until the holder of the environmental assessment approval complies with the terms of the approval, or
 - (ii) order that the holder of the environmental assessment approval carry out, within the time to be specified in the order, measures specified by the Lands Manager in order to mitigate the effects of non-compliance.



- 11.6 All orders made by the Lands Manager pursuant to section 10.5 must be provided as a written notice to the Proponent and include the following:
 - (a) a statement of the reasons for the order; and
 - (b) the time and manner in which the order must be carried out.
- 11.7 Any Person to whom an order is given under section 10.5 must comply with the order given within the time set forth in the order.
- 11.8 If the Person does not comply with an order within the time specified, or if it is an emergency situation, the Lands Manager may, on his or her own initiative and at that Person's expense, carry out the measure required.

Supreme Court Order for Compliance

- 11.9 If McLeod Lake Indian Band considers that any Person is not complying or has not complied with the order made under this Law, McLeod Lake Indian Band may apply to the Supreme Court for either or both of the following:
 - (a) an order directing the Person to comply with the order or restraining the Person from violating the order; and/or
 - (b) an order directing the directors and officers of the Person to cause the Person to comply with or to cease violating the order.
- 11.10 On application by McLeod Lake Indian Band under this section, the Supreme Court may make an order it considers appropriate.

Penalties

- 11.11 A Person who contravenes this Law, the terms or conditions of any authorization or environmental assessment approval issued under this Law, or an order made by the Supreme Court pursuant to this Law, is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for a term of not more than three months, or to both.
- 11.12 A fine payable under subsection 10.11 shall be remitted to McLeod Lake Indian Band by the Supreme Court, after reasonable Supreme Court costs have been deducted.

12. AMENDMENTS

- 11.0 Amendments to this *McLeod Lake Indian Band Environmental Assessment Law* shall be approved by the Council of the McLeod Lake Indian Band, pursuant to the *McLeod Lake Indian Band Land Code*.

13. IMMUNITY

- 12.0 No action for damages lies or may be instituted against present or past Council or Council members or members, employees, servants or agents of McLeod Lake Indian Band;
 - (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's authority; or
 - (b) for any alleged neglect or default in the performance or intended performance of the person's duty or exercise of the person's authority.
- 12.1 Section 12.1 does not provide a defense if:
 - (a) members of Council or the Council members or members, employees, servants or agents of McLeod Lake Indian Band have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or willful misconduct; or
 - (b) the cause of action is libel or slander.
- 12.2 McLeod Lake Indian Band, present or past Council or Council members, or members, employees, servants or agents of McLeod Lake Indian Band are not liable for any damages or other loss, including economic



loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other McLeod Lake Indian Band Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other McLeod Lake Indian Band Law.

14. COSTS

14.1 Without limiting any of the foregoing provisions wherein fees are payable, the Proponent will also be responsible for the payment of all administrative, legal and consultation fees incurred by McLeod Lake Indian Band in relation to the administration, application and enforcement of this McLeod Lake Indian Band Environmental Law.

15. COMING INTO FORCE

15.1 This Law shall come into force and effect on the date it is enacted by pursuant to section 7.10 of the *McLeod Lake Indian Band Land Code*.

Date of approval by a quorum of Council, at a duly convened meeting on _____.

	_____ Chief Harley Chingee	
_____ Councillor Fay Masear	_____	_____ Councillor Margie Chingee
	_____ Councillor Yasmin Prince	
_____ Councillor Jayde Duranleau	_____	_____ Councillor Sundance Inyallie
	_____ Councillor Jenine Solonas	



APPENDIX "A"

Potential Topics for Inclusion in Environmental Assessment

Soils and Geology

- (a) Stability and earth conditions
- (b) Major changes in topography or modification of significant geological features
- (c) Soil erosion, compaction, degradation, or contamination
- (d) Changes in erosion or deposition rates that affect aquatic process, form and function
- (e) Import and deposit of soil or fill

Air Quality

- (a) Substantial air emissions or deterioration of ambient air quality
- (b) The creation of objectionable odours

Aquatic Ecosystems

- (a) Physical alterations to natural stream channels or riparian zones
- (b) Changes in flow regime, drainage patterns, infiltration rates, or surface water runoff(including increases in effective impervious cover)
- (c) Alterations to the level or frequency of flooding
- (d) Discharges into surface waters that affect surface water quality (e.g., sediment load,temperature, dissolved oxygen, turbidity)
- (e) Changes in aquatic biota (e.g., invertebrate biodiversity, or plant or algae growth)
- (f) Changes in the quality or quantity of groundwater

Vegetation

- (a) Destruction or degradation of native plant habitat (including terrestrial, riparian, or aquatic vegetation communities)
- (b) Destruction or damage to any valued, sensitive, or culturally important trees or other plants (e.g., cedar, fir, arbutus, dogwood), including plants of community, landscape, or heritage importance
- (c) Reduction of the numbers or distribution of rare, threatened, or endangered plant species or plant communities

Animal life

- (a) Significant changes to the population numbers or distribution of native animalspecies (including birds, mammals, reptiles, fish, benthic organisms, or insects)
- (b) Any change to the numbers or distribution of rare, threatened or endangered animalspecies
- (c) Degradation of existing or potential fish habitat, or wildlife habitat or corridors(including the effects of light, noise, or human activity)
- (d) Interference in the life cycle of fish or birds (including nests or breeding behaviours)



Land use and population

- (a) Change to the present or planned land use in an area
- (b) Alteration of the supply of commercial or industrial space
- (c) Changes to population demographics, distribution, and density

Mobility, transportation, and circulation

- (a) Effects on transportation systems or potential increases in vehicular volumes or movements
- (b) Impacts on parking facilities, or creation of demand for new parking
- (c) Increases in traffic hazards to motor vehicles, bicyclists, or pedestrians
- (d) Alteration of access to or change in pedestrian, bicycle, and transit mobility including provision and continuity of service
- (e) Potential to increase need for, or provision of, special needs transportation

Public Services and utilities

- (a) Increased demand on fire, police, or other emergency services
- (b) Increased school enrolment, or demand for parks or other recreational facilities for all age groups
- (c) Need for new or expanded public utilities including sanitary sewers, water mains, storm drains or garbage collection
- (d) Potential to increase maintenance demands for existing facilities that are required to accommodate the proposed land use, including social services

Aesthetics and built environment

- (a) Obstructs a scenic vista or view open to the public
- (b) Potential to create an aesthetically offensive site open to public view
- (c) Destruction or modification of a significant landscape feature or viewpoint
- (d) Suitability and quality of urban design and impact on surrounding built environment
- (e) Consistency with "smart growth" principles of complete, compact, livable, and efficient communities

Employment and economy

- (a) Potential to affect existing employment or creation of new employment (permanent or temporary, full-time or part-time)
- (b) Effect on existing commercial or industrial business
- (c) Potential effect on planned economic development Projects or activities
- (d) Cost or benefit to community (i.e., change tax base and service level)

Nuisance (noise, light, glare, odour) and hazards

- (a) Increase in existing noise levels (other than normal residential noise)
- (b) Creation of new, different or unusual noise or noise production at inappropriate times (e.g., late at night)
- (c) Production of new light or glare
- (d) Creation of shading or reduced access to sunlight

- (e) Production of offensive odours and airborne particles
- (f) Production of potentially dangerous transmission waves (i.e., magnetic or microwave)
- (g) Creation of potential human health hazards

Navigable waters

- (a) Obstruction or reduction of navigability of marine or fresh water courses
- (b) Requirement for federal navigable waters approvals

Cultural resources

- (a) Potential to alter or destroy an archaeological site
- (b) Effects on areas of cultural importance (for spiritual, traditional use, ceremonial, resource, or other purposes)
- (c) Effects on historic buildings, structures, objects, or landscapes

Cumulative Effects

- (a) Other past or potential future Projects or human activities in the study area
- (b) Identification of potential Cumulative Effects of the proposed Project with other past or potential future Projects or human activities in the study area
- (c) Potential actions to mitigate identified Cumulative Effects
- (d) Assessment of residual Cumulative Effects

APPENDIX "B"

Project Description - Environmental Assessment Process

Proponents are to complete this Project Description and submit to the McLeod Lake Indian Band Lands Manager. Submission of this form initiates the McLeod Lake Indian Band environmental assessment process.

1.0 GENERAL INFORMATION

1.1 Contact Information

Project Title: _____

Proponent Contact (Job title): _____

Address: _____

Telephone Number: _____

Fax Number: _____

Email: _____

If Applicable:

Co-Proponent Name: _____

Contact and Title: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Email: _____

If Applicable:

Environmental Consultant: _____

Contact and Title: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Email: _____

Reserve Name and Number:

-
-

1.2 Potential Regulatory Requirements

- (a) Is there Federal financial support for this Project? Yes No
If yes, then from which department? _____
- (b) Is there McLeod Lake Indian Band financial support for this Project? Yes No
- (c) Please list other environmental assessment regimes or potential permits, approvals, or authorizations from Canada, the Province, Municipal, or International governments to which the Project may be subject or require (e.g., *Fisheries Act, SARA, Canadian Environmental Protection Act*, Provincial water licence, municipal rezoning, etc.)?

2.0 PROJECT INFORMATION

2.1 Project Title

2.2 Project Description

- (a) Project rationale (need for Project, goals, purpose)

(b) Briefly describe the Project (its market, permanent or temporary structures, affected land area, etc.)

(c) Are there subsequent phases or expansion, or other facilities or activities associated with the Project that are not included in this Project Description? Yes No

If "yes", please describe:

(d) Does this Project involve cutting of trees on McLeod Lake Indian Band land? If so, how many, species, size, health?

e) Estimated Capital Cost _____

2.3 Detailed Project Location

Geographical Location and/or GPS Coordinates:

Legal Land Description:

Attach a detailed map of the Project footprint and affected area, conceptual plans, and other facility designs or plans if available.

2.4 Resource and Material Requirements

- (a) Does this Project involve gravel, sand, or any other non-metallic minerals from the McLeod Lake Indian Band land? If yes, which reserve? What raw materials will be processed (including gravel, metals, or others)?
- (b) What are the energy sources for the operation of this development (propane, natural gas, electrical, diesel, etc.)? How much energy will be required for its operation?

- (c) How much water will be used, for what purpose, and from what source

2.5 Waste Disposal

- (a) What types of wastes will be generated during construction and operation of this Project?

- (b) How and where will wastes be disposed?

2.6 Associated Infrastructure

- (a) Describe infrastructure required by this Project (roads, transit, water supply, power, sewers, other).

2.7 Project activities

(a) Project construction:

Start and finish date:

List activities in sequence:

Number of workers

Total _____

Per Average Day _____

MLIB Members _____

Vehicles per day _____

(b) Project operation: Project activities

Number of workers

Total _____

Per Average Day _____

MLIB Members _____

Vehicles per day _____

Where will vehicles park: _____

Noise generation: _____

Air, water emissions: _____

(c) Decommissioning: Activities:

Materials generated and method of disposal:

3.0 ENVIRONMENTAL FEATURES

(a) Map and describe the environmental features in the area of development.

- (i) Site topography (for facilities and access)
- (ii) Soils (type and depth, productivity, erodibility)
- (iii) Surface water, such as lakes or streams, nearby
- (iv) Watercourse crossings or development near water
- (v) Wetlands or estuaries
- (vi) Aquifers
- (vii) Vegetation
- (viii) Wildlife habitat
- (ix) Fish habitat
- (x) Other areas of special concern or environmentally sensitive areas
- (xi) Known species as identified in the SARA in or adjacent to the proposed Project area
- (xii) Registered or unregistered archaeological sites or features
- (xiii) Areas of moderate to high archaeological potential
- (xiv) Areas used for traditional aboriginal purpose
- (xv) Visual aesthetic character

(b) Other additional information you may want to provide (e.g., community or cultural issues, consultation):

4.0 REGULATORY REQUIREMENTS

- (a) Describe permits or approvals needed, and whether applications have been submitted to:

McLeod Lake Indian Band

Local or regional government

Federal government

Provincial government

DRAFT