

**MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING** is dated as of November 18, 2024.

**B E T W E E N :**

**NADLEH WHUTEN**, as represented by its Chief and Council

(“**Nadleh**”)

- and -

**SAIK’UZ FIRST NATION**, as represented by its Chief and Council

(“**Saik’uz**”)

- and –

**STELLAT’EN FIRST NATION**, as represented by its Chief and Council

(“**Stellat’en**”, and together with Nadleh and Saik’uz are hereinafter referred to as the “**Nechako First Nations**”)

- and –

**CHESLATTA CARRIER NATION**, as represented by its Chief and Council

(“**Cheslatta**”)

- and –

**THE DISTRICT OF VANDERHOOF**, as represented by its Mayor and Council

(“**Vanderhoof**”)

- and –

**THE REGIONAL DISTRICT OF BULKLEY-NECHAKO**, as represented by the Board of Directors

(the “**Regional District**”, and collectively with the Nechako First Nations, Cheslatta, and Vanderhoof are hereinafter referred to as, the “**Parties**” and each, a “**Party**”)

**CONTEXT:**

- A. The purpose of this Memorandum of Understanding (“**MOU**”) is to renew, with certain amendments and additions, the original MOU dated September 29, 2021 between the Nechako First Nations and the Regional District of Bulkley-Nechako.
- B. In 1949, the Legislative Assembly of British Columbia enacted the *Industrial Development Act* (the “**IDA**”) which provided the Province with authority to grant a water licence to any person who proposed to establish an aluminum industry in British Columbia. The Province granted a conditional water licence to the Aluminum Company of Canada (“**Alcan**”) in 1950, authorizing Alcan to store, divert, and use water from the Nechako and Nanika River watersheds which led to the construction and operation of the Kenney Dam, the Nechako Reservoir, and the Skins Lake Spillway. Alcan is the corporate predecessor of Rio Tinto Alcan Inc. (“**RTA**”).
- C. Due to the construction and operation of the Kenney Dam and related infrastructure, the Nechako River has experienced unnatural and non-seasonal water flows and temperatures, causing major and ongoing damage to the health of the River, and the River’s ecosystem functioning and processes.
- D. First Nations communities along the Nechako Watershed are particularly affected by the declining health of the Nechako River. Sockeye and Chinook Salmon populations in the River are so low that First Nations communities have not been able to harvest them in any meaningful way for the past six to seven years. The Nechako White Sturgeon is on the precipice of extinction. Unnatural water flows and temperatures in the Nechako River are also negatively affecting other fish, aquatic, and land species that are dependent on the Watershed. The urgency of addressing the declining state of the Nechako River is compounded by the negative effects climate change is visiting upon the River.
- E. The parties recognize and affirm relevant legislation, including but not limited to Section 35 of the *Constitution Act*, the *Declaration on the Rights of Indigenous Peoples Act*, and the *Water Sustainability Act*.
- F. The Parties have a mutual interest in developing and implementing new flow and temperature regimes and undertaking a collaborative approach to stewarding the Nechako River and its tributaries to restore the health of the Nechako River for the mutual benefit of the First Nations communities and other non-Indigenous residents of the Nechako Watershed.
- G. Other ecological functions in the Nechako Watershed have been, and continue to be, adversely affected by decisions made by provincial statutory decision-makers. The Parties have a mutual interest in exploring and implementing measures to avoid, and where that is not reasonably possible, to mitigate and offset such impacts.
- H. The board of the Regional District adopted a resolution dated February 25, 2021, pursuant to which the Regional District:

- i. recognized the need for a balance between the economic benefits and the environmental and ecosystem impacts as a result of the Nechako Reservoir;
  - ii. considered it desirable to explore a new governance mechanism involving the Nechako First Nations, other impacted First Nations, and local governments within the Nechako Watershed, to collectively represent the Nechako Watershed Region in a new adaptive co-management regime to ensure the achievement of functional flows, and to respect the constitutionally protected rights of the Nechako First Nations and other impacted First Nations within the Nechako Watershed; and
  - iii. resolved to urge Canada, the Province of British Columbia (the "**Province**"), and RTA to do all things necessary to support the efforts of the Nechako First Nations to restore the ecosystem functioning of the Nechako River and its affected tributaries.
- I. The Parties believe that working together to restore the health of the Nechako River will strengthen the relationship between them, and will benefit the communities and residents within the Nechako Watershed.
  - J. The Parties wish to set out the basic terms upon which they will work together to restore the health of the Nechako River in this memorandum of understanding (the "**MOU**").

**NOW THEREFORE, the Parties agree as follows:**

1. The Parties will work together to improve the health of the Nechako River, its affected tributaries, and the fish populations that live in or use the River, with a particular focus on sturgeon and salmon populations that are critically imperiled, of conservation status or declining in abundance.
2. The Parties agree that in order to achieve the objectives set out in Section 1, the 1987 Settlement Agreement needs to be replaced with a new, multi-lateral agreement that will:
  - a) establish a new government-to-government governance regime, including an adaptive co-management framework, for the Nechako River and Reservoir. This new regime will include a robust engagement process with, and be co-developed by, local stakeholders;
  - b) develop a water sustainability plan to identify environmental flow needs and risks to aquatic ecosystem health, and further to determine restoration measures for the damaged ecosystems of the Nechako Watershed. Specifically, to deliver a new flow to the Nechako River, which mimics the shape of the natural hydrograph and seeks to address other critical seasonal deficiencies in the Summer Temperature Management Program.
  - c) require the parties to the new, multi-lateral agreement to carry out stewardship projects to:
    - i. enhance the health of the Nechako River and its affected tributaries;

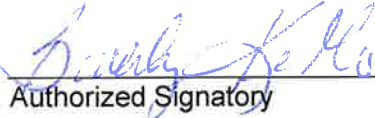
- ii. help restore robust fish populations, with a particular focus on the sturgeon and salmon populations that are on the precipice of extinction;
  - iii. restore the health of the River, including biodiversity and fish populations, to enable the Nechako First Nations' River-based traditional livelihoods and ceremonies; and
  - iv. increase opportunities for non-Indigenous peoples to enjoy the benefits of a healthy Nechako River and robust fish populations within the Nechako River and downstream.
3. The Parties will take the following steps to carry out and discharge their reciprocal commitments as set in out Sections 1 and 2:
  - a) exchange all necessary information that may be relevant to their efforts to restore the health of the Nechako River;
  - b) work together to seek out and develop solutions to problems arising from time-to-time that may present barriers to the Parties' efforts to restore the health of the Nechako River;
  - c) use reasonable efforts to convene discussions with stakeholder groups and other levels of government to share information and expand the support for restoring the health of the Nechako River;
  - d) collaboratively develop a work plan to outline how the Parties will seek to implement the objectives set forth in this MOU, which, once finalized by the Parties in writing, will be appended to and will form a part of this MOU; and
  - e) the Parties will meet biannually, or at such other interval as they may decide, to discuss, refine, and carry out their commitments as set out in this MOU.
4. The Parties agree that all information provided by one Party to another Party relating to the matters contemplated by this MOU, and that is marked or otherwise identified in writing as being confidential, will be considered "confidential information" (the "**Confidential Information**"). The Parties will maintain all such Confidential Information in confidence and will not disclose the Confidential Information received from another Party to any third party without the prior written consent of the Party who provided the Confidential Information, except that a Party may disclose Confidential Information to those within its organization who need to know such information.
5. The Parties agree that all documents created pursuant to this MOU, including drawings, plans, field data, notes, test data, reports, photographs, surveys, calculations, and other documents (the "**Joint Documents**") are the joint property of the Parties. A Party may not use, rely on, disclose, or share the Joint Documents for a purpose other than the matters contemplated by this MOU, without the express written consent of the other Parties.

6. The provisions of Sections 4 and 5 will survive the expiration or termination of this MOU.
7. The term of this MOU will commence upon execution and continue in force until December 31, 2026 (the "**Term**") unless otherwise terminated by a Party upon providing written notice to the other Parties. The Parties may extend the Term by agreement in writing.
8. The provisions of Sections 4 and 5 are legally binding on the Parties and will survive the expiration of the Term. The remaining provisions of this MOU are intended to outline the broad terms and next steps upon which the Parties agree to proceed in relation to the subject matter herein, and do not constitute any binding obligations between the Parties, nor impose liability on any one or more of them.
9. This MOU will be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable in that Province.
10. This MOU may be executed and delivered in any number of counterparts, and may be delivered by facsimile or electronic mail, each of which when executed and delivered is an original but all of which taken together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date noted on the first page.

**NADLEH WHUTEN on its own behalf and on behalf of its members**

Per:  \_\_\_\_\_  
Authorized Signatory

Name: Chief Beverly Ketlo

**CHESLATTA CARRIER NATION on its own behalf and on behalf of its members**

Per:  \_\_\_\_\_  
Authorized Signatory

Name: Chief Corrina Leween

**SAIK'UZ FIRST NATION on its own behalf and on behalf of its members**

Per:  \_\_\_\_\_  
Authorized Signatory

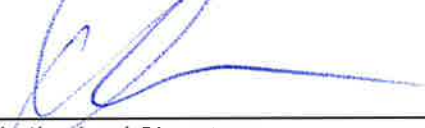
Name: Chief Priscilla Mueller

**THE DISTRICT OF VANDERHOOF, as represented by the Mayor**

Per:  \_\_\_\_\_  
Authorized Signatory


Name: Mayor Kevin Moutray

**STELLAT'EN FIRST NATION on its own behalf and on behalf of its members**

Per:  \_\_\_\_\_  
Authorized Signatory

Name: Chief Robert Michell

**THE REGIONAL DISTRICT OF BULKLEY-NECHAKO, as represented by the Chair**

Per:  \_\_\_\_\_  
Authorized Signatory

Name: Chair Mark Parker