

Letter of Understanding

Amongst:

Government of British Columbia

and

The Kaska Dena Council

September 24, 1997

This Understanding is:

BETWEEN: **THE KASKA DENA COUNCIL** (Inc. No S19141); a society incorporated under the Society Act, having its registered office at P.O. Box 8, Watson Lake, Yukon Territory, Y0A 1C0 as represented by its Chairman, Walter Carlick (the "Kaska Dena Council")

AND: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA as represented by the Premier of British Columbia ("British Columbia")

Whereas:

- A. The Kaska Dena Council and British Columbia, with Canada, are negotiating a Treaty under the British Columbia Treaty Commission Process;
- B. British Columbia wishes to approve the Fort Nelson LRMP and to establish an area known as the Muskwa Kechika Area, defined in this Understanding;
- C. A significant portion of the Fort Nelson LRMP area lies within the Kaska Dena Traditional Territory;
- D. The Kaska Dena assert that they have a special relationship with the land and its resources, including wildlife, and that they use and have traditionally used lands in the LOU Area for resource harvesting and for cultural and spiritual purposes;
- E. The lands and resources in the LOU area, including wildlife and wildlife habitat, are recognised and respected for their global significance;
- F. The Parties wish to ensure that the approval and implementation of the Fort Nelson LRMP and the establishment of the Muskwa Kechika Area and the Muskwa Kechika Plan does not undermine either the aboriginal rights of the Kaska Dena or the treaty process;
- G. British Columbia intends to establish a Muskwa Kechika Advisory Committee, involving the Kaska Dena, to offer public oversight of implementation of the Fort Nelson LRMP's objectives for the Muskwa Kechika Area;

- H. It is appropriate that the Kaska Dena and British Columbia have a mutually recognised understanding of their interests and relationships in the ongoing management of lands and resources within the LOU area;
- I. The Parties acknowledge the existence of a government-to-government relationship which will assist in the implementation of the Fort Nelson LRMP and the Muskwa Kechika Plan in a manner that does not prejudice either the aboriginal rights of the Kaska Dena or the treaty process which the parties are involved in;
- J. The Parties anticipate that British Columbia may, following Consultation with the Kaska Dena, pass an Order-in-Council under the *Environment and Land Use Act* or will otherwise establish the boundaries, objectives, and strategies for land and resource management in the Muskwa Kechika Area and a Muskwa Kechika Plan which will establish the management for the Muskwa Kechika Area;
- K. Both Parties welcome this opportunity to work together in a spirit of mutual respect and understanding to wisely manage and sustain the land and its resources for this and future generations.

Therefore the Parties agree as follows:

1.0 DEFINITIONS:

- 1.1 "Fort Nelson LRMP" means the land and resource management plan approved by government which is based on the recommendations from the Fort Nelson LRMP table.
- 1.2 "Kaska Dena" means the Kaska Dena people and communities located in the Kaska Dena Traditional Territory as represented, for the purpose of this LOU, by the Kaska Dena Council.
- 1.3 "Kaska Dena Traditional Territory" means that portion of British Columbia outlined on the map attached as Schedule A to this Understanding, asserted to be the Traditional Territory of the Kaska Dena, a copy of which is filed with the BC Treaty Commission.
- 1.4 "Letter of Understanding (LOU) Area" is that part of British Columbia defined as the Fort Nelson Land and Resource Management Plan area that lies within the Kaska Dena Traditional Territory, as identified in Schedule B to this Understanding.
- 1.5 "Muskwa Kechika Area" is the existing parks and the proposed protected areas and the special resource management zones (RMZs) recommended by the Fort Nelson and Fort St. John LRMPs to form the Muskwa Kechika Area.

- 1.6 "Muskwa Kechika Plan" is the combined objectives and strategies from the Fort Nelson and Fort St. John LRMPs for the parks, proposed protected areas and other RMZs that constitute the Muskwa Kechika Area.
- 1.7 "Consult" or "Consultation" between the Kaska Dena Council and British Columbia means that before a decision is made on a matter relating to this Understanding, the Party making the decision will provide the other Party with:
- (a) reasonable notice of the matter to be decided, including information sufficient in form and detail to ensure that the other Party understands the matter, in order to assess it and prepare a meaningful response;
 - (b) a reasonable period of time to consider the matter having regard to:
 - (i) the nature and complexity of the matter to be decided;
 - (ii) the need for the other Party to consult with their respective communities or constituencies, when necessary; and
 - (iii) timelines prescribed by applicable legislation.
 - (c) full and fair consideration by the Party obliged to consult, of any concerns or recommendations presented.

2.0 PURPOSE:

- 2.1 This Understanding sets out the relationship between the parties with respect to the planning and management of lands and resources in the LOU Area from the date of signing of this Understanding until such time as it is terminated according to the provisions of this Understanding.

3.0 GENERAL PROVISIONS:

- 3.1 Nothing in this Understanding affects the aboriginal claims, rights or interests of the Kaska Dena in British Columbia.
- 3.2 Each party represents and warrants to the other party as follows:
- (a) that the execution of this Understanding has been duly authorised and that it has the power and capacity to perform its covenants under this Understanding;

(b) that this Understanding is a valid and binding agreement enforceable against it in accordance with its terms.

3.3 While this Understanding is in effect, the Kaska Dena Council will not, except to enforce this Understanding, commence any legal proceedings or otherwise conduct itself to challenge the validity of the Muskwa Kechika OIC, or the approval and implementation of the Fort Nelson LRMP.

3.4 This Understanding will not be interpreted as an acknowledgement by either party that its legislative authority or jurisdiction is limited by the provisions of this Understanding.

3.5 This Understanding is without prejudice to:

(a) any position the parties may take in the Kaska Dena Treaty Negotiations;

(b) the aboriginal and treaty rights and interests of the Kaska Dena and any other First Nation which may have rights in the area; and

(c) land selections which the Kaska Dena may pursue in the treaty process within parks or protected areas recommended to be established under the Fort Nelson LRMP.

3.6 This Understanding will be interpreted in accordance with the laws of British Columbia.

3.7 The Parties will execute further documents and assurances as may be necessary to carry out the intent of this Understanding.

3.8 British Columbia will ensure that the spirit and intent of this Agreement are conveyed to government agencies, including enforcement agencies.

3.9 British Columbia will:

(a) Consult the Kaska Dena Council with respect to any OICs prepared for recommendation to the Lieutenant Governor in Council to establish the boundaries, objectives, plans, and strategies for land and resource management in the Muskwa Kechika Area; and

(b) recommend to the Lieutenant Governor in Council that any such OICs respect the spirit and intent of this Understanding.

4.0 OBJECTIVES:

4.1 The objectives of this Understanding are:

- (a) to address the rights, interests and opportunities of the parties set out in this Understanding in the planning and management of lands and resources in the LOU Area, in a spirit of mutual respect and understanding, and in accordance with mutually agreed upon principles;
- (b) to provide for the planning and management of lands and resources in the LOU Area in a manner which:
 - (i) provides the Kaska Dena with input, as agreed in this Understanding, consistent with a government-to-government relationship between the Kaska Dena and British Columbia, into the planning and management of lands and resources;
 - (ii) is consistent with the objectives and strategies of the Fort Nelson LRMP;
 - (iii) recognises, respects and accommodates the traditional uses of lands and resources, and contemporary expressions of those traditional uses by the Kaska Dena in the exercise of their aboriginal rights;
 - (iv) conserves the natural resources of parks for their intrinsic and scientific values and for compatible recreational opportunities;
 - (v) integrates traditional and scientific knowledge in the management of the natural and cultural resources;
 - (vi) recognises that oral history is a valid and relevant form of research for establishing the historical significance of heritage sites and objects; and
 - (vii) recognises the authority of the Kaska Dena in the interpretation of Kaska Dena place names and heritage resources;
- (c) to identify and provide economic opportunities for the Kaska Dena in the LOU Area.

5.0 RESOURCE MANAGEMENT OBJECTIVES AND KASKA DENA RIGHTS, CULTURE AND HISTORY:

5.1 The Parties intend:

- (a) that in the LOU area the globally significant wildlife and natural wilderness environment and the heritage values of parks, protected areas, and special resource management zones be protected, while allowing resource development in a manner which is consistent with this intent and the objectives of the Fort Nelson LRMP;

- (b) that one of the objectives of parks and protected areas in the LOU Area be the recognition of Kaska Dena rights, culture, and history;
 - (c) to protect and conserve parks and protected areas in the LOU Area for the benefit, education, and enjoyment of all people in accordance with their designation as parks and protected areas and the terms of this Understanding; and
 - (d) to manage the natural resources of the Resource Management Zones outside the parks and protected areas in a way which recognises Kaska Dena rights, culture, and history.
- 5.2 The Parties recognise that the Kaska Dena may harvest fish and wildlife in parks and protected areas and other unoccupied Crown lands in the LOU area, using traditional or contemporary harvesting methods; in accordance with their aboriginal rights to harvest for sustenance, social and ceremonial purposes.
- 5.3 The Parties mutually recognise and will adhere to the Muskwa Kechika Access Management Area regulation under the *Wildlife Act*.

6.0 CONSULTATION AND REPRESENTATION

- 6.1 British Columbia will ensure that there is Consultation with the Kaska Dena in respect of those matters addressed in this Understanding, and in particular on matters relating to the establishment of parks and protected areas in the LOU area, management plans for these parks and protected areas and other related matters.
- 6.2 The Kaska Dena will be represented on the Muskwa Kechika Advisory Committee. Kaska Dena representation will include, at a minimum, one representative from each of the communities of Lower Post, Good Hope Lake and Fort Ware, and one representative from the Kaska Dena Council.
- 6.3 The Kaska Dena will have the opportunity to be represented, if they so wish, on other committees or other similar bodies, such as ad hoc government land and resource planning groups, which may be established by British Columbia from time to time to advise on the implementation of the Fort Nelson LRMP and the Muskwa Kechika Plan and related matters. Kaska Dena representation will include, where agreed to, one representative from each of the communities of Lower Post, Good Hope Lake and Fort Ware, and one representative from the Kaska Dena Council.
- 6.4 British Columbia will ensure that if no other committee or other similar body is established the Kaska Dena will have opportunity to provide direct advisory input.
- 6.5 Where there is a significant dispute between the parties on any matters which arise under this Understanding:

- (a) the Parties will refer the dispute to the Kaska Dena Council staff and British Columbia staff for resolution; and
- (b) if staff can not resolve the dispute, the Kaska Dena may discuss the dispute directly with the Ministers of: Environment, Lands and Parks; Employment and Investment; and, Forests. Any decision of the Ministers will be final and will be implemented.

6.6 The parties agree that the attached Schedule C reflects the Kaska Dena and British Columbia relationship for the Muskwa Kechika Area and the Fort Nelson LRMP area.

7.0 PARKS AND PROTECTED AREAS

7.1 British Columbia will ensure that the Kaska Dena are given a formal role, consistent with Sec. 6.0 of this Understanding, in the planning and management of parks and protected areas in the LOU Area.

7.2 The parties will:

- (a) use both Kaska Dena and British Columbia names for parks and protected areas in the LOU Area;
- (b) recommend to the Lieutenant Governor in Council or the Government of British Columbia that any OIC or legislation which is tabled to establish the parks and protected areas in the LOU Area will include the Kaska Dena as well as British Columbia names; and
- (c) work together in a timely manner to establish names for parks and protected areas in the LOU Area.

7.3 The Parties recognise Kaska Dena authority to interpret and provide Kaska Dena names for parks and protected areas, place names, heritage sites, and other similar features within the parks and protected areas within the LOU Area, consistent with this Understanding.

7.4 Park and protected area management plans will respect the fact that the Kaska Dena are entitled to exercise their aboriginal rights within parks and protected areas within the LOU Area, consistent with this Understanding, and law on aboriginal rights.

8.0 ECONOMIC OPPORTUNITIES AND FUNDING:

8.1 Economic opportunities for the Kaska Dena will be identified and provided in the implementation of the Fort Nelson LRMP and the Muskwa Kechika Plan, including the parks and protected areas. The Parties will endeavour to negotiate in good faith an economic opportunities agreement which, once completed, will become part of this Understanding.

- 8.2 The Parties will work together to address funding issues as they arise. Financing for the implementation for any specific project or activities stemming from this Understanding may be negotiated by the Parties. Where appropriate, the Parties will endeavour to secure resources from other sources that may be available to each of them.
- 8.3 It is anticipated that there will be a Muskwa Kechika Fund which will be a central funding source for supporting research, inventory, planning, and management projects in the Muskwa Kechika Area. Recommendations on expenditures from this fund will be made by the Muskwa Kechika Advisory Committee. The Parties recognise that contributions to this fund may come from a number of sources. The Parties agree that this fund will be available to support Kaska Dena and British Columbia's interests and needs as determined by the Muskwa Kechika Advisory Committee. The use of this fund for Kaska Dena-led projects will constitute partial fulfilment of the intent of Section 8.1.
- 8.4 Kaska Dena travel and other related expenses incurred to attend meetings of the Muskwa Kechika Advisory Committee, and other committees or other similar bodies which may be established by British Columbia from time to time to advise on the implementation of the Fort Nelson LRMP, the Muskwa Kechika Plan and other related matters will be the responsibility of British Columbia. These travel and other related expenses will be determined by, and paid according to, policies established by British Columbia from time to time.
- 9.0 AMENDMENT AND TERMINATION:**
- 9.1 This Understanding may be amended by written agreement of the parties.
- 9.2 British Columbia will negotiate in good faith with the Kaska Dena any amendments to this Understanding which may be required as a result of amendments to legislation or regulations which affect the rights of the Kaska Dena under this Understanding.
- 9.3 The Parties anticipate that this Understanding may be amended to apply to the portion of the Kaska Dena Traditional Territory falling within the Mackenzie or other LRMP planning areas.
- 9.4 This Understanding shall remain in effect until:
- (a) terminated by either party on six (6) months written notice to the other party stating the reasons for termination; or
 - (b) unless otherwise agreed, until a Kaska Dena treaty is signed and ratified by the parties and the Government of Canada and is in effect.

9.5 The parties will review this Understanding annually, on or about the anniversary date of this Understanding, to ensure that its objectives continue to be met, and will consider amendments to this Understanding which may be required to further its objectives.

10.0 NOTICE:

10.1 For the purposes of this Understanding, notice shall be deemed received at being hand delivered or transmitted by facsimile and sent to the attention of the following persons at the respective address:

To the Kaska Dena:

Facsimile: 250-779-3371

Walter Carlick, Chairman
Kaska Dena Council
P.O. Box 8
Watson Lake, YT
Y0A 1C0

To British Columbia:

Facsimile: 250-387-1356

Minister of Environment, Lands and Parks
Chair
Environment and Land Use Committee
Parliament Buildings
Victoria, BC
V8W 1X4

or to any other persons or addresses which one party may, by notice in writing, advise the other of, from time to time.

11.0 COUNTERPART:

11.1 The parties may execute this Understanding in counterparts. All counterparts will, for all purposes constitute one Understanding, despite the fact that the parties may have executed different counterparts.

IN WITNESS THEREOF the parties have executed this Understanding on the 24 day of September, 1997.

SIGNED on behalf of Kaska Dena Council

Walter Carlick
Chairperson Walter Carlick

In the presence of:

[Signature]
Witness

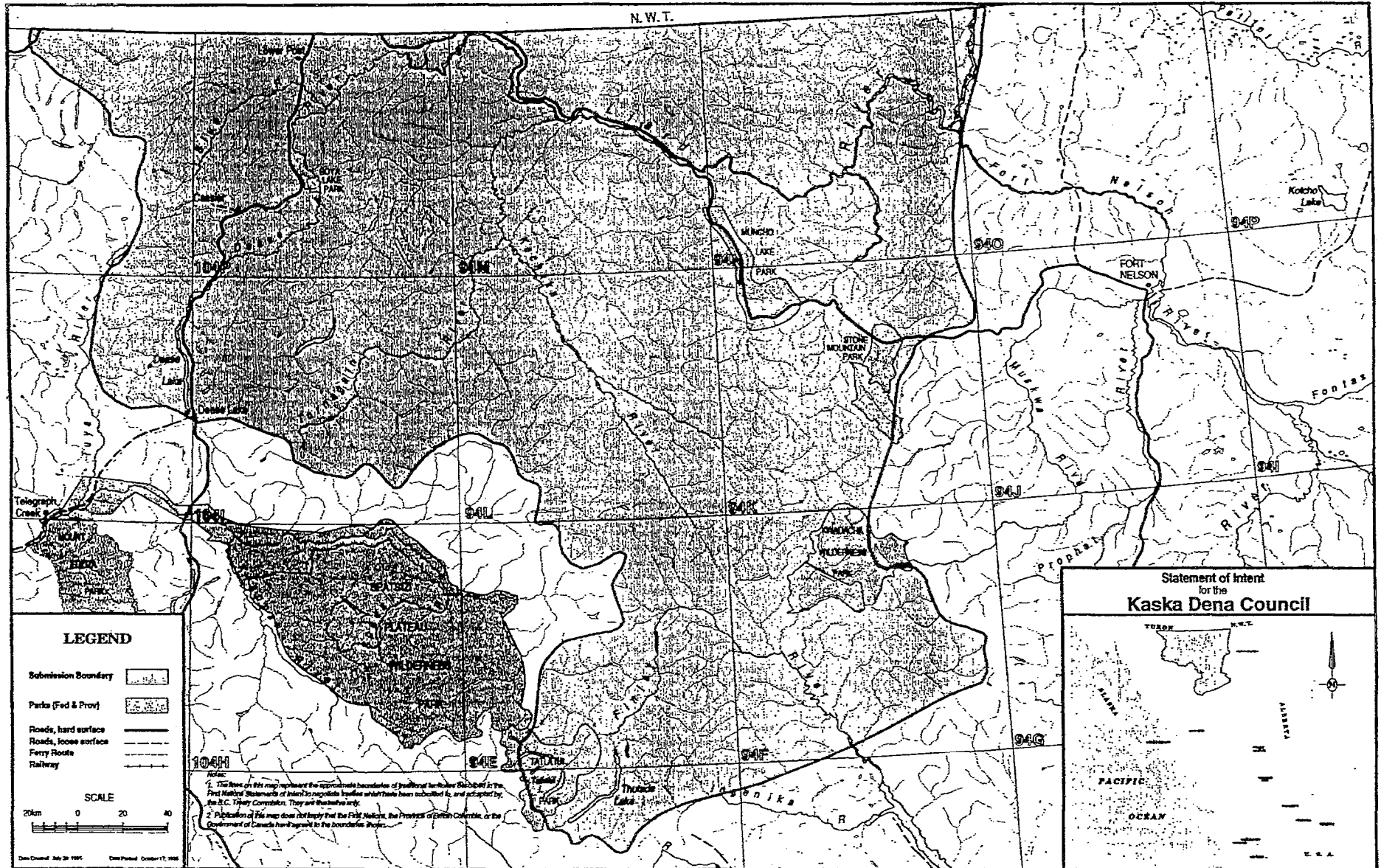
SIGNED on behalf of Her Majesty the Queen
in Right of the Province of British Columbia

Glen Clark
Glen Clark, Premier

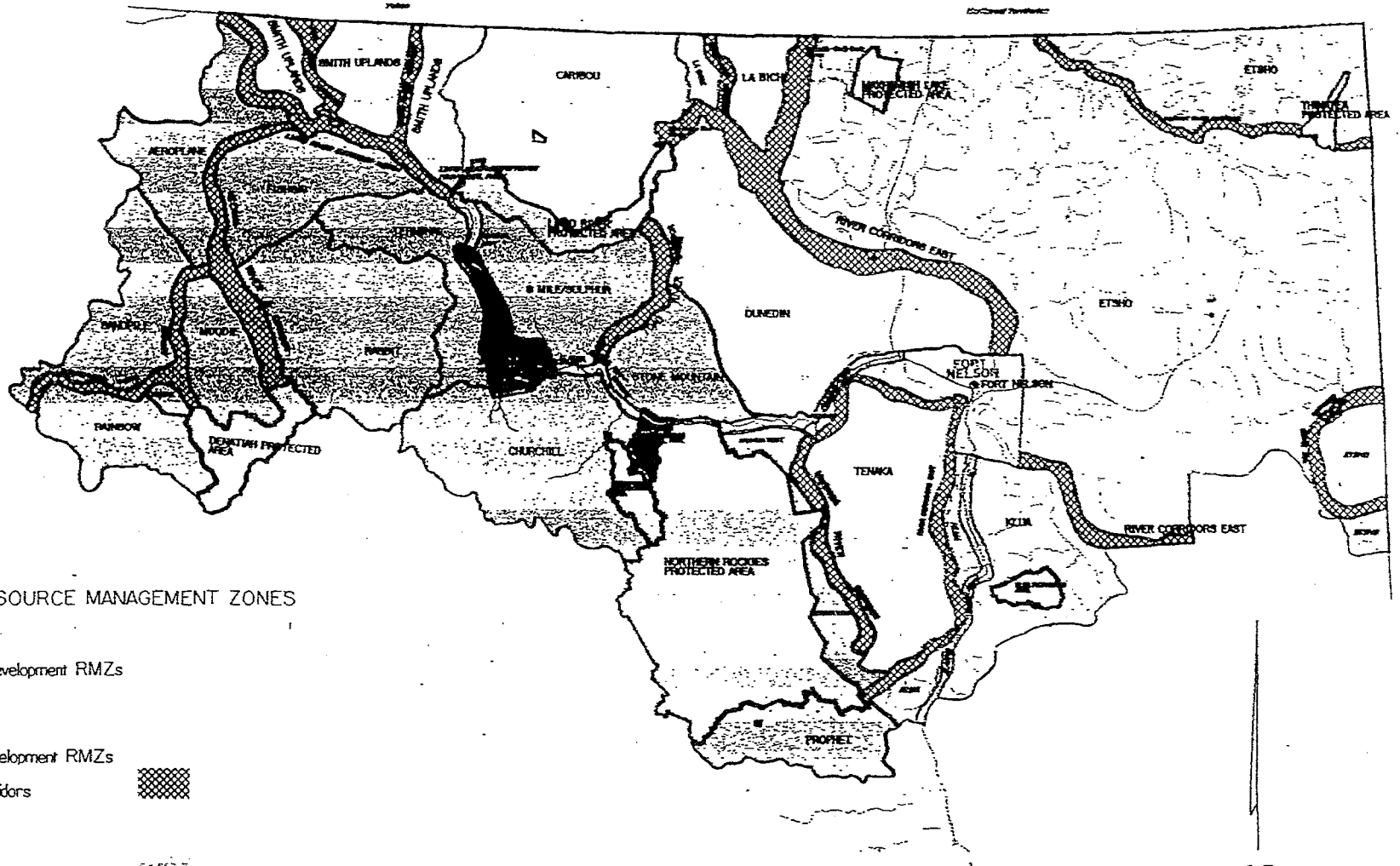
In the presence of:

Cathy McTegart
Witness

SCHEMATIC A



SCHEDULE B



CATEGORIES OF RESOURCE MANAGEMENT ZONES

Enhanced Resource Development RMZs

General Resource Development RMZs

Major River Corridors



Special Management RMZs

Major River Corridors



Proposed Protected RMZs

FORT NELSON LRMP

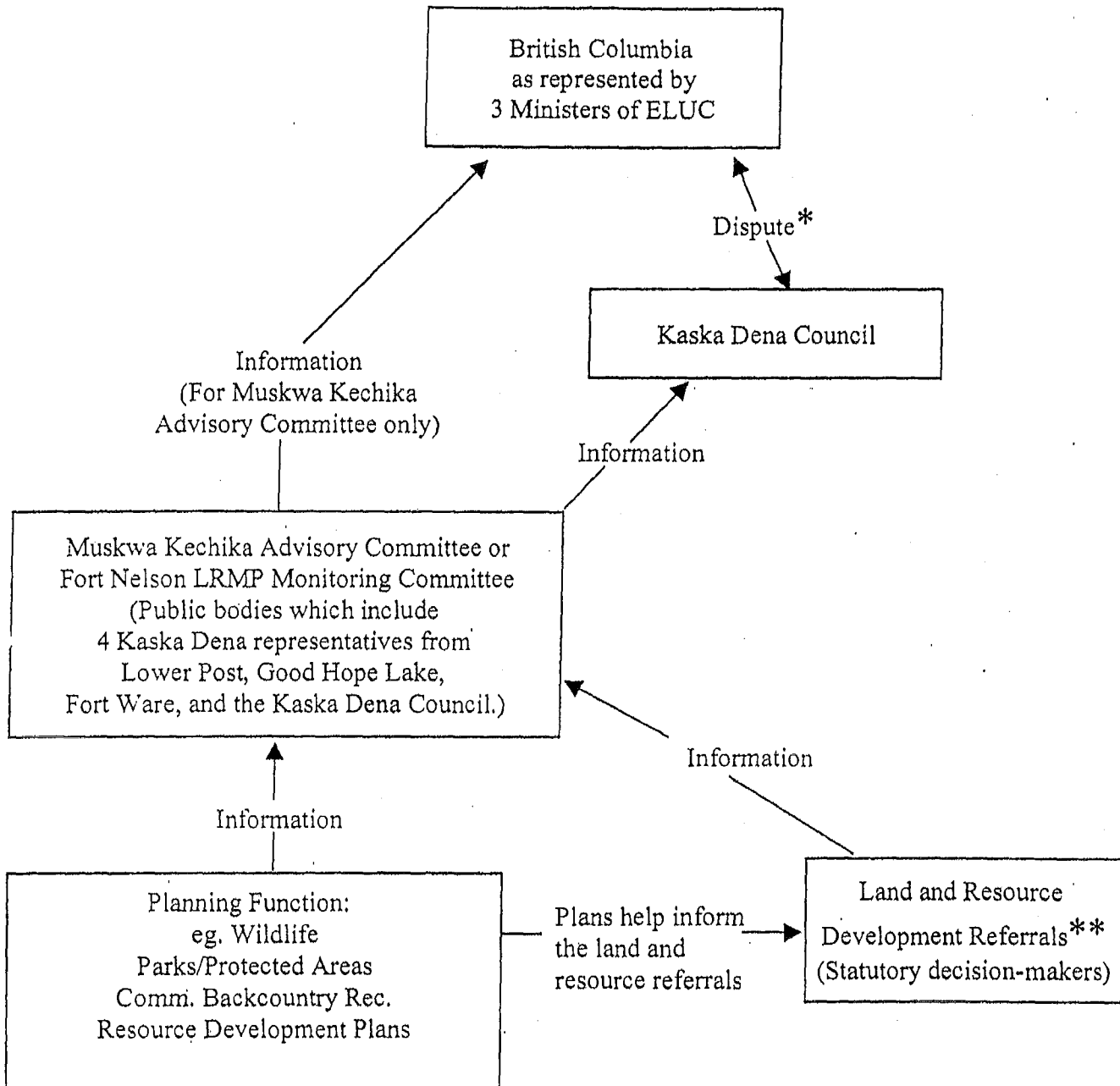
CATEGORIES OF RESOURCE MANAGEMENT ZONES



Scale 1:1,640,000
(Approximate)

Schedule C

Kaska Dena and British Columbia Relationship



* It is recognized that the first level of resolution of any disputes will be between Kaska Dena staff and British Columbia staff. If this is not successful in resolving the dispute then the Kaska Dena Council can discuss the dispute directly with the 3 Ministers of ELUC. Any decisions of the 3 Ministers will be implemented.

** Land and Resource Development Referrals are outside the scope of this Letter of Understanding.