

Letter of Agreement

on the
Commitment to Collaborate on an Initiative relating to the
Objective of the Re-introduction of Anadromous Salmon into the
Canadian Portion of the Columbia River Basin



KTUNAXA
NATION



Okanagan Nation Alliance



Canada

Letter of Agreement

on the

Commitment to Collaborate on an Initiative relating to the Objective of the Re-introduction of Anadromous Salmon into the Canadian Portion of the Columbia River Basin

This Letter of Agreement (“LoA”) dated July 29, 2019 (the “Commencement Date”) is made BETWEEN the following Parties:

Syilx Okanagan Nation as represented by the Okanagan Nation Alliance

AND

Ktunaxa Nation as represented by the Ktunaxa Nation Council Society

AND

Secwepemc Nation as represented by the Shuswap Nation Tribal Council Society

AND

HER Majesty the Queen in right of Canada as represented by Minister of Fisheries and Oceans Canada

AND

HER Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Forests, Lands, Natural Resource Operations and Rural Development.

(Collectively, the “Parties” or “Governments”)

1.0 Purpose

- 1.1 The purpose of this LoA is to serve as a three year commitment from the Commencement Date subject to renewal or extension to work together through a formal working relationship in good faith and in a respectful and transparent manner to identify and focus on options*, explore their feasibility including risks and benefits and take appropriate actions outlined in Section 4.0 with respect to an initiative (the “Initiative”) relating to the objective of the re-introduction and passage of anadromous salmon into the Canadian portion of the Upper Columbia River Basin (the “Upper Columbia River Basin”).
- 1.2 This formal working relationship will be based on mutual respect and recognition, and will be guided by the *UN Declaration on the Rights of Indigenous Peoples* (the “U.N. Declaration”) and the reconciliation principles committed to by both the Government of Canada and Government of British Columbia.

* It is understood that a wide variety of factors will be taken into account, as appropriate, in the development of options for salmon re-introduction including, among others, those related to biological, ecological, social, cultural, operational, and economic considerations.

2.0 Background

The re-introduction of anadromous salmon into the Upper Columbia River Basin (the historical range of salmon populations) has been a central issue for the Syilx Okanagan, Ktunaxa and Secwepemc Indigenous Nations (collectively, the “Indigenous Nations”) since the blockage of anadromous salmon passage into Canada beginning in the 1930s due to the construction of the Grand Coulee Dam. This and other hydroelectric developments in Canada have impacted fish habitat and have had an effect on the Aboriginal rights and title and interests of the Indigenous Nations.

As such, the Parties have an interest in working together on an urgent basis to identify common interests, develop options, explore their feasibility, and take appropriate collective action as outlined in Section 4.0 with respect to anadromous salmon re-introduction and passage into the Upper Columbia River Basin.

3.0 Rationale for Collaboration

The commitments made in this LoA represent an opportunity for the Parties to:

- 3.1 Acknowledge that the re-introduction and passage of anadromous salmon into the Upper Columbia River Basin is of critical importance to the Indigenous Nations due to their connections to anadromous salmon for cultural, spiritual, and livelihood purposes since time immemorial;
- 3.2 Advance reconciliation between the Government of Canada, the Government of British Columbia, and the Indigenous Nations;
- 3.3 Acknowledge the goal of the Indigenous Nations to achieve self-sustaining anadromous salmon populations and their passage throughout their historic range in the Upper Columbia River Basin;
- 3.4 Accept that technical, scientific, and governance complexities and uncertainties dictate a need for collaboration amongst the five Parties;
- 3.5 Align, complement and share expertise from existing initiatives and priorities related to the restoration of anadromous salmon stocks and their habitats, where possible; and
- 3.6 Benefit from the distinct perspectives, authorities, attributes, and capacities that each of the Parties brings to the collaborative effort.

4.0 Implementation

The Parties will each designate a senior representative to serve on an Executive Working Group to manage their respective Government’s interests, financial commitments and involvement in this LoA. The Executive Working Group will be assigned the responsibility for overseeing implementation of the following tasks:

- 4.1 Develop the strategic direction for the initiative within the first year of the Commencement Date of the LoA;
- 4.2 Prepare a comprehensive five-year work plan within the first year of the LoA that will focus on an assessment of options and their feasibility for the re-introduction and passage of anadromous salmon

into the Upper Columbia River Basin. The work plan will delineate priority tasks with related responsibilities, timelines and budgets that will inform future work, and include a funding strategy for subsequent phases of the Initiative;

- 4.3 Implement the five-year work plan focusing on priority tasks with related responsibilities, timelines and budgets;
- 4.4 Develop an innovative organizational structure that is Indigenous led and guided by the U.N. Declaration, and which includes an Indigenous coordination mechanism and adopts principles of collaboration and engagement amongst the Parties to implement the five-year work plan;
- 4.5 Identify mechanisms, where appropriate, for the inclusion of Indigenous knowledge, Indigenous heritage, and cultural values;
- 4.6 Design and implement a communications plan to ensure that the Parties, members of the Indigenous Nations and the public are fully informed of this LoA and those initiatives undertaken pursuant to the LoA;
- 4.7 Develop a non-binding dispute resolution process that the Parties may use in situations where they are unable to reach agreement on a specific matter related to implementation of the LoA;
- 4.8 Develop the necessary relationships and partnerships in Canada and the United States, such as United States Tribes, dam operators, and other relevant interests; and
- 4.9 Provide regular reports on the progress towards the implementation of the work plan and ensure that these progress reports are available to the public.

5.0 Funding

The Parties recognize that financial resources will be required to enable implementation of the LoA including providing support to ensure that the Indigenous Nations' involvement is adequately resourced. As such, the Parties will seek to confirm sufficient financial support and human resources for the implementation of tasks listed in Section 4.0. Subsequently, the Parties will explore long term sustainable funding mechanisms for implementation of the five-year work plan.

6.0 Notices

All notices required or permitted to be given under this LoA shall be in writing and shall be properly given if given by hand, emailed, faxed, mailed by prepaid registered mail or recognized national courier, and addressed to:

In the case of Syilx Okanagan Nation to:

Executive Director
Okanagan Nation Alliance
3535 Old Okanagan Hwy Suite 101,
Westbank, BC
V4T 3L7

In the case of Ktunaxa Nation to:

Director, Lands and Resources
Ktunaxa Nation Council
7825 Mission Rd.,
Cranbrook, BC
V1C 7E5

In the case of Secwepemc Nation to:

Director of Fisheries
Shuswap Nation Tribal Council
680 Athabasca Street West
Kamloops, BC
V2H 1C4

In the case of Canada to:

Regional Director General
Fisheries and Oceans Canada
401 Burrard St #200,
Vancouver, BC
V6C 3S4

In the case of BC to:

Regional Manager
Ministry of Forests, Lands, Natural Resource Operations and Rural Development
205 Industrial Rd G
Cranbrook, BC
V1C 7G5

or such other addressees as the Parties hereto may from time to time designate in writing. Any notice made or given by hand, email, fax, mailed by prepaid registered mail, or courier to the party to whom it is addressed as provided above shall be deemed to have been given and received on the day it is so delivered at such address.

If such day is not a business day, or if the notice is received after 4:00 pm (addressee's local time), then the notice shall be deemed to have been given and received on the next business day. Any notice sent by prepaid registered mail shall be deemed to have been given and received on the fourth (4th) business day following the date of its mailing.

7.0 General Provisions

- 7.1 The Parties agree that decision-making and implementation relating to this LoA will be done collaboratively and guided by the basic principles of consensus.
- 7.2 This LoA is not legally binding and without limiting the generality of the foregoing, will not in any way:
- a) limit, restrict, constrain or affect the Parties' participation in other discussions, negotiations, actions or settlements in relation to the loss and/or re-introduction of anadromous salmon into the Upper Columbia River Basin;
 - b) limit positions the Parties may take in any proceedings or in any discussions or negotiations between the Parties, except as expressly contemplated in this Agreement;
 - c) affect any jurisdiction, right, power, privilege, prerogative or immunity of any Party;
 - d) alter the powers and duties established by any federal, provincial or Indigenous Nation legislation or interfere with or fetter the exercise of an authority of any Party;
 - e) affirm, recognize, abrogate or derogate from any asserted or established Aboriginal title and rights of the Indigenous Nations;
 - f) be construed as a commitment by either Canada or British Columbia to take any steps with respect to the reintroduction of anadromous salmon to the Upper Columbia River Basin other than as set out in this LoA; or
 - g) be construed as an admission of the validity of, or any fact or liability in relation to, any claims relating to alleged past or future infringements of the asserted or established Aboriginal rights and title of the three Indigenous Nations.
- 7.3 This LoA will not be construed as fulfilling or altering any Crown duty to consult in relation to, or Indigenous Nation consent for, any provincial or federal decision or action in relation to the Canadian portion of the Upper Columbia River Basin.
- 7.4 This LoA will respect the independent and separate roles and processes of the three Indigenous Nations and the provincial and federal governments in relation to anadromous salmon restoration activities.
- 7.5 This LOA will take effect on the Commencement Date of the LoA and be in effect for three years. The term of this LoA may be extended with the full agreement of all the Parties, in writing.
- 7.6 The Parties will review this LoA on an annual basis and make amendments as necessary. Any amendments must be with the full agreement of all the Parties and in writing to be effective.
- 7.7 Any one Party may withdraw from this LoA by providing notice in writing to the other Parties. Such notice will become effective 90 days after delivery to all other Parties, in order to allow the Party providing notice time to try to resolve any issue or concern with the other Parties.

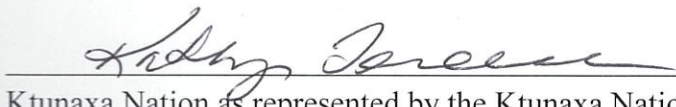
- 7.8 The headings have been inserted for convenience of reference only and are not intended to describe, enlarge or restrict the scope or meaning of this LOA or any provision of it.

Signatures:

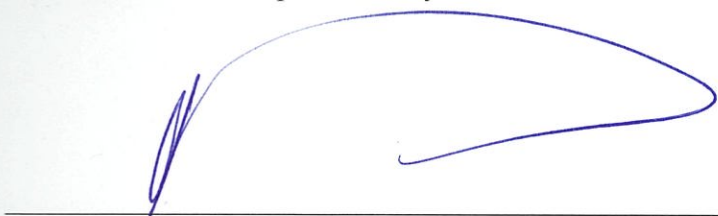
An appropriate representative of each of the Parties will be authorized to sign this LoA.



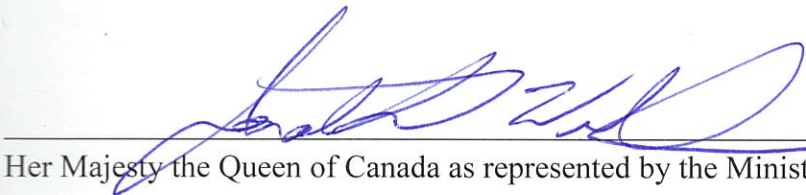
Syilx Okanagan Nation as represented by the Okanagan Nation Alliance



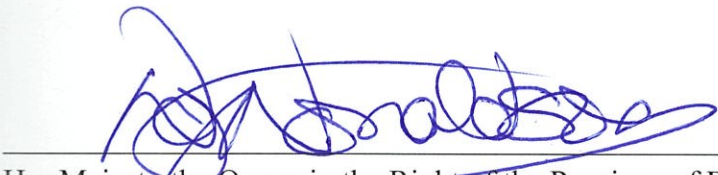
Ktunaxa Nation as represented by the Ktunaxa Nation Council



Secwepemc Nation as represented by the Shuswap Nation Tribal Council



Her Majesty the Queen of Canada as represented by the Minister of Fisheries and Oceans Canada



Her Majesty the Queen in the Right of the Province of British Columbia as represented by the Minister of Forests, Lands, Natural Resource Operations and Rural Development.