

SCHEDULE 4

[Reference Section 4]

ESTABLISHMENT AND ADMINISTRATION OF THE NECHAKO ENVIRONMENTAL ENHANCEMENT FUND

1. **Establishment of the Nechako Environmental Enhancement Fund.**

The parties will establish and administer a Nechako environmental enhancement fund (the "Nechako Environmental Enhancement Fund") in accordance with this Schedule.

2. **Establishment of Environmental Fund Management Committee.**

The parties will establish a management committee (the "Management Committee") in accordance with this Schedule.

3. **Structure of Management Committee.**

Subject to sections 4 and 6, the Management Committee will be comprised of three persons: one appointed by Alcan, one appointed by the Minister of Environment, Lands and Parks (the "Environment Minister") and one appointed by the Federal Government.

4. **Participation of the Federal Government.**

The parties will jointly request the Federal Government to participate in the Management Committee. The request will remain open if the Federal Government does not elect to participate initially. If the Federal Government chooses to participate initially by so electing within 60 days of the joint request, it will be asked to select and appoint an appropriate Federal official to the Management Committee who will be invited to chair but may elect to sit only as a member. If the Federal Government elects to participate at a later date, it may then appoint such member and the number of members of the Management Committee will be increased from three to four persons.

5. **Appointment within 90 days.**

The parties will each appoint their representatives within 90 days of the execution of this Agreement. If a party fails to appoint its representative within this time period, that party will be deemed to have declined to appoint a representative, and the Management Committee will proceed with the remaining members.

6. **Selection of the Third Member if no Initial Federal Participation.**

If the Federal Government does not choose to participate in the Management Committee within 60 days of the joint request, then a third member will be appointed as follows:

- (a) the parties will first attempt to select the third member by consensus;

- (b) if the parties are unable to agree on a mutually acceptable third member within 60 days, then the parties will immediately thereafter request the Chair of the Fraser Basin Council to appoint an appropriate third member;
- (c) the Chair of the Fraser Basin Council will be requested to appoint, within 30 days, a neutral individual with no affiliation to either party, who has appropriate experience with environmental issues and with consensus-based decision-making, who will be asked to chair the Management Committee;
- (d) in order to assist the Chair of the Fraser Basin Council in making the selection, each party will provide to the Chair of the Fraser Basin Council a list of six potential members who meet the requirements of sub-section 6(c) and who are willing and able to sit as a member; and
- (e) if the selected person subsequently becomes unable to serve, then the parties will request the Chair of the Fraser Basin Council to select a replacement member using the process set out in this section 6.

7. **Appointment/Replacement of Chair.**

If no member accepts the Chair on appointment or if the Chair resigns that position, the initial or replacement Chair will be selected by majority vote of the members.

8. **Management Committee Working Procedures.**

The Management Committee will develop and implement its internal working procedures and the terms under which the Nechako Environmental Enhancement Fund will be established and administered, subject to the following basic requirements:

- (a) all meetings will be called by the Chair or any two members and all members must be given reasonable notice of all meetings;
- (b) a quorum of the Management Committee will be two members, unless the management Committee consists of only one member, in which case quorum will be one; and
- (c) the Management Committee will seek to reach decisions by consensus but if the majority concludes that, despite reasonable efforts, consensus cannot be reached, then decisions will be made by majority vote.

9. **Costs of the Management Committee.**

Each party will be responsible for the costs of the participation of its representative on the Management Committee and will share equally:

- (a) the costs of operation of the Management Committee; and
- (b) the costs of preparing the report referred to in section 12;

up to an aggregate amount of \$500,000, or such greater amount as may be agreed to in writing by the parties, provided that if any payment by the Province is delayed due to a need for statutory appropriation, Alcan's obligation to make a payment hereunder, and the Federal Government's obligation should it choose to participate, will be delayed for the corresponding period. If it chooses to participate, the Federal Government will also be responsible for the costs of the participation of its representative and a proportionate share of the costs under (a) and (b) above. However, if the third member must be selected under the provisions of section 6, then the parties will share equally the reasonable costs of the participation of the third member.

10. **Purposes of the Management Committee.**

The purpose of the Management Committee is to review, assess and report on options that may be available for the downstream enhancement of the Nechako watershed area. These options may include, but are not limited to, the development of a water release facility at or near the Kenney Dam, or the use of the Nechako Environmental Enhancement Fund for other downstream enhancement purposes.

11. **Consultation Process.**

The Management Committee will consult with the Nechako Watershed Council, if formed, and any other stakeholders that the Management Committee considers appropriate. The Management Committee may approve funding for consultation purposes up to an amount of \$100,000 a year. Alcan and the Province will share equally the cost of such approved funding unless the Federal Government chooses to participate in the Management Committee, in which case the Federal Government will be responsible for a proportionate share of the cost of approved funding.

12. **Management Committee Reports.**

As soon as practicable after carrying out the consultation pursuant to section 11, the Management Committee will complete and deliver a report to the Province, Alcan and such other parties as appropriate, which report will include:

- (a) its decision on the appropriate options for downstream enhancement of the Nechako watershed area;
- (b) a plan for the implementation of each of the selected options, including the identification of the appropriate party or parties to implement the options;
- (c) an independent report for each selected option providing a detailed estimate of the costs for implementation of the option, including any ongoing costs associated with the option;
- (d) a program for the use of the funding described in section 15 below to meet the costs of each of the selected options and to provide for financial and project reporting.

13. **Decisions Binding on the Parties.**

Subject to the financial arrangements described below in section 15, and the other terms of this Schedule, the decisions of the Management Committee will be binding on the parties.

14. **Formation of the Nechako Watershed Council.**

Immediately following the execution of this Agreement, the Province will help to facilitate the formation of the Nechako Watershed Council (the "Council"), in order to provide advice to the Management Committee on the uses and priorities of the Nechako Environmental Enhancement Fund.

15. **Alcan's Financial Contribution.**

Funding of each of the selected options will be drawn down as required to meet the cash flow needs of the expenditure program established by the Management Committee for that option as provided in the report. Within 7 days after each contribution has been made into the Nechako Environmental Enhancement Fund by another person of 50% of each draw down for an option, Alcan will make a matching contribution into the Nechako Environmental Enhancement Fund. The aggregate and cumulative maximum of Alcan's contributions will be CAD \$50,000,000 including any costs incurred by Alcan under section 9 (b) or under section 11. Alcan will receive a credit against its obligation to contribute to the Nechako Environmental Enhancement Fund in an amount not exceeding, in the aggregate, CAD\$10,000,000 for the total amount of the reduction or elimination of costs which would have been incurred in the development or implementation of any of the selected options to the extent that such reduction or elimination is shown to be achieved by the use of any design or engineering studies or reports prepared for Alcan prior to the date hereof on the Kenney Dam Release Facility as part of the Kemano Completion Project. These funds will be disbursed in accordance with the program for the use of funding developed by the Management Committee. The CAD\$50,000,000 contribution by Alcan represents its total contribution to downstream enhancement under the program described in this Schedule, including the capital costs of any water release facility which may be selected and, whether or not a water release facility is built, Alcan shall not be required to contribute any further amount to a water release facility or other downstream enhancement. For greater certainty, this provision does not affect any responsibility of Alcan that exists in respect of its ownership of the Works.

16. **Operation and Maintenance of a Release Facility.**

If a water release facility is built under the program described in this Schedule, then once completed, Alcan will operate, and manage the maintenance of, the facility at its sole cost and expense. Alcan will not be responsible for the costs of maintenance, other than as set forth above, except to the extent that those costs are in part paid for by Alcan through its contribution to the Nechako Environment Enhancement Fund under section 15 of this Schedule.