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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT dated for reference the 16th day of July, 2002

AMONG:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the Minister of Indian Affairs and Northern Development
("Canada")

- and -

THE PIKANI NATION,
as represented by its duly elected Chief and Council
(the "Pikani")

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA
as represented by the Minister of Environment and the Minister of Aboriginal Affairs and
Northern Development
("Alberta")

THIS IS EXHIBIT "A"
Referred to in the Affidavit of
Kerry Scott
Sworn before me this 22
Day of April A.D. 2008
Joyce Starosziik
A Commissioner for Oaths in and for the Province of Alberta

JOYCE STAROSZIK
My Commission Expires May 21, 2011

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TABLE OF CONTENTS

Recitals 5

Section A - Definitions and Schedules ~~63~~

Section B - Settlement Funds, Annual Payments, and
Negotiation Costs 1512

Section C - Environmental Matters ~~21~~ 18

Section D - Water 24 21

Section E - Additions to Reserve ~~29~~ 27

Section F - Transfer and Access Permits ~~32~~ 29

Section G - 1981 Agreement and 1981 Permit ~~36~~ 33

Section H - Committee 37 34

Section I - Dispute Resolution 38 36

Section J - The Actions ~~40~~ 38

Section K - Treaty and Aboriginal Rights 42 40

Section L - Releases ~~43~~ 40

Section M - Indemnity by the Piikani ~~46~~ 44

Section N - Term of this Agreement ~~47~~ 45

Section O - Ratification ~~48~~ 45

Section P - Representations and Warranties of the Piikani ~~49~~ 46

Section Q - Execution ~~50~~ 48

Section R - Further Assurances 49. 51 *10*

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Section S - Amendments 52 50

Section T - Notice 53 50

Section U - General Provisions 54 52

Schedules

Schedule A - Ratification Ballot Question 59 57

Schedule B - Ratification Appeal Process 61 59

Schedule C - Map which shows the Headworks Lands, the
Access Lands, and the Occasional Access
Lands 88 62

Schedule D - Forms of Band Council Resolutions
consenting to the Transfer and the issuance
of the Access Permit and the Occasional
Access Permit 90 65

Schedule E - Forms of Discontinuances of the Oldman
River/LNID Action and the CPR Action 97 70

Schedule F - Form of Canada's transfer document
regarding the Transfer to Alberta by Canada
under s.35(3) of the *Indian Act* of the
Headworks Lands 100 73

Schedule G - Forms of Access Permit and Occasional
Access Permit for access through the Access
Lands and the Occasional Access Lands to
the Headworks Lands 105 74

Schedule H - Forms of Band Council Resolutions
approving the Provisional Plans and the Official Plans 120 92

Schedule I - Form of licence to be issued by the
Department of Alberta Environment to
Alberta on behalf of the Piikani in
accordance with clause 12.2(a) 125 97

TK
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Schedule J - Certificate of Independent Legal Advice	131 103
Schedule K - Certificate of Independent Financial Advice	137 709
Schedule L - Piikani Trust Agreement	140 112

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1
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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT dated for reference the ____ day of _____, 2002

AMONG:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the Minister of Indian Affairs and Northern Development
(“Canada”)

- and -

THE PIKANI NATION,
as represented by its duly elected Chief and Council
(the “Piikani”)

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA
as represented by the Minister of Environment and the Minister of Aboriginal Affairs and
Northern Development
(“Alberta”)

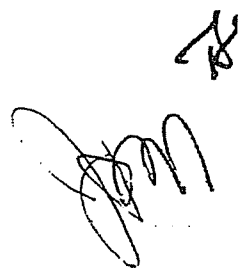
WHEREAS:

- A. The Piikani is composed of the descendants of the Aapatohsipiikani or North Peigan, and members of the Blackfoot Confederacy, for whom Peigan Reserves 147 and 147B were set apart pursuant to Treaty #7.
- B. The Parties desire to enable and assist the Piikani to pursue economic development and employment initiatives. Alberta and Canada recognize the Piikani's interest in sharing in the benefits, derived from the water stored in the Oldman River Dam Reservoir, on the Piikani's existing and future Reserve land.
- C. It is the purpose of the Parties to discontinue litigation as to their respective rights (including ownership), entitlements or jurisdiction in relation to water from, and the bed and shore of, the Oldman River as it passes through the Piikani Reserve in order to achieve agreement with regard to the current and future water needs of the Piikani and how these may be most practically and expeditiously secured.

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- D. The Parties recognize that it is in their best interests to resolve issues dealt with in this Agreement through negotiation or mediation. This Agreement is entered into to resolve certain issues raised in the Actions and for a full and final settlement of all the issues raised in the Specific Claims set out herein.
- E. The Parties intend that nothing in this Agreement prejudices any position which any Party may adopt with regard to jurisdiction or authority over water, water usage, water rights or entitlement as these relate to the Oldman River as it passes through the Piikani Reserve, or proprietary interest or rights in the bed and shores of the Oldman River as it passes through the Piikani Reserve in any Proceeding which might be commenced after this Agreement is no longer in effect, pursuant to Section N.
- F. The Parties intend that the Piikani's existing treaty or aboriginal rights as recognized and affirmed in section 35 of the *Constitution Act, 1982*, are not limited, diminished, extinguished or affected, except to the extent necessary to allow the implementation and continuation of this Agreement.
- G. The Parties have agreed that after completion of the Ratification Vote on this Agreement and regardless of the outcome of the Ratification Vote, the following will occur:
1. Upon the execution of the Peigan/ATCO Hydro Joint Venture Agreement, Alberta will amend its agreement with ATCO to implement the cumulative revenue clause. This will allow the Joint Venture to proceed.
 2. The Parties will proceed immediately to implement Sections C, H and relevant portions of Section of I of this Agreement in order to address the environmental impacts and remediation of the Oldman River Valley on the Peigan Indian Reserve.
 3. Alberta will pay \$2.44 Million (Two Million Four Hundred and Forty Thousand dollars) to fund the work contemplated in the FEIA and Dam Safety Work Plans, as set out in Section C. This payment will be made to a trustee acceptable to Alberta and the Piikani, and will be administered by the Committee as set out in clause 22.7. Alberta will pay 20% (twenty percent) of this amount within sixty (60) days after the following have occurred:



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- (a) completion of the Ratification Vote; and
- (b) commencement and continuation of the Repairs, the Parties having made mutually acceptable arrangements regarding access, labour, equipment and borrow materials and any other matters reasonably related to the Repairs.

The balance will be paid as soon as possible upon completion of the Repairs.

- 4. Alberta and the Piikani Nation will establish a Piikani Nation/Alberta Committee, in a manner consistent with the Alberta/Peigan Protocol Agreement of October 1998, to explore further areas of joint cooperation related to infrastructure and economic development initiatives.
- H. Upon the consent of Chief and Council by Band Council Resolution, and the issuance of a Temporary Access Permit by the Minister of Indian Affairs and Northern Development to Alberta pursuant to s.28 of the *Indian Act* for the purpose of undertaking the Repairs, Alberta will commence the Repairs. When available and practical to do so, Alberta will hire Piikani corporations, equipment and Members to undertake the work, providing wage and equipment rates are competitive with prevailing prices in the area for similar work. This work is intended to be completed by November 30, 2002.

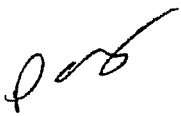
SECTION A
DEFINITIONS and SCHEDULES

1. Definitions

1.1 In this Agreement:

- (a) "Actions" collectively, and "Alberta Action", "Oldman River/LNID Action" and "CPR Action" individually, mean any and all of the facts, matters and issues arising or resulting, directly or indirectly, from or set forth in:

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- (i) the "Alberta Action" by the Statement of Claim in Alberta Court of Queen's Bench Action No. 8601-06578 and by each subsequent amendment; and in the Amended Counterclaim filed on January 3, 1997 which incorporated by reference those pleadings contained in the Amended Amended Amended Statement of Defence filed on the same date;
- (ii) the "Oldman River/LNID Action" by the Statement of Claim (as amended) filed in the Federal Court of Canada as Action No. T-1486-86;
- (iii) the "CPR Action" by the Statement of Claim (as amended) filed in the Federal Court of Canada as Action No. T-535-88.
- (b) "1981 Agreement" means an Agreement made on April 30, 1981 between the Peigan Band Council and Her Majesty the Queen in Right of Alberta as represented by the Minister of the Environment;
- (c) "1981 Permit" means a Permit issued under s. 28(2) of the *Indian Act* on June 11, 1981 by the Minister of Indian Affairs and Northern Development to the Government of the Province of Alberta as represented by the Minister of Environment;
- (d) "Access Lands" means those lands, including the roadway, required by Alberta for access to the Headworks from Highway #3, as described in a Provisional Plan executed by Brown, Okamura & Associates Ltd. (File No. 01-6274B) and describing Access Road Right of Way through parts of W1/2 Sec 15, E1/2 Sec 16, E1/2 Sec 21, SW1/4 Sec 22, N1/2 Sec 27, Sec 28, SE1/4 Sec 33 & SE1/4 Sec 34, Tp 8, R 27, W4M and intervening road allowances, which Provisional Plan will be superceded by an Official Plan pursuant to clause 17.3;
- (e) "Access Permit" means the Permit issued under s. 28(2) of the *Indian Act*, substantially in the form attached as Schedule G-1 for the Access Lands;
- (f) "Agreement" means this Agreement including the attached Schedules A through K only and does not include the Trust Agreement;

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- (g) "Annual Payments" means those payments to be made by Alberta in accordance with the Annual Payments subsection;
 - (h) "Band Council Resolution" means a duly executed written resolution of the Council adopted at a duly convened meeting;
 - (i) "Committee" means the Committee established pursuant to clause 22.1;
 - (j) "Council" means the elected Chief and Council of the Piikani;
 - (k) "Effective Date" means the later of the dates on which this Agreement is executed respectively by the Piikani, by Alberta and by Canada;
 - (l) "Headworks" means the Lethbridge Northern Headworks System, consisting of all water management works located within the Headworks Lands including but not limited to a main canal, flow control gates, weir, dyke and flume and any future improvements, changes, enlargement, or rehabilitation;
 - (m) "Headworks Lands" means those lands, including a portion of Riverbed, underlying the Headworks and the associated rights of way, as described in a Provisional Plan executed between March 14th, 1984 and July 26th, 2001, and describing the Lethbridge Northern Irrigation District Main Canal Right-of-Way through parts of NW1/4 Sec 16, NE1/4 Sec 17, W1/2 and NE1/4 Sec 21, W1/2 and SE1/4 Sec 28, NE1/4 Sec 29, SE1/4 Sec 32, S1/2 Sec 33, S1/2 and NE1/4 Sec 34 and NW1/4 Sec 35, Tp 8, R 27, W4M and intervening road allowances, which Provisional Plan will be superceded by an Official Plan pursuant to clause 17.3;
 - (n) "*Indian Act*" means the *Indian Act*, R.S.C. 1985, c. I-5 and the regulations made under that act as amended or replaced from time to time, and any reference to a section of the *Indian Act* includes that section as amended or replaced, unless otherwise stated;
 - (o) "Information Meeting" means a meeting at which the Council and the Piikani's negotiators, legal counsel and financial advisor(s) explain the Specific Claims and Actions giving rise to, and the terms of, this Agreement, including all of the Schedules, and the Trust Agreement;

- p. 10
- (p) "Member" means an individual whose name appears on the membership list of the Piikani as at the applicable Voting Day; and for the purposes of Sections L and M also includes the past, present and future members of the Piikani, as defined in the Piikani membership code and in accordance with the *Indian Act*, and any of their respective heirs, descendants, legal representatives, successors and assigns;
- (q) "Occasional Access Lands" means those lands, including the roadway(s) or trail(s) required by Alberta for occasional access to the Headworks from Spring Point Road, as described in a Provisional Plan executed by Brown, Okamura & Associates between July 27th and August 2nd, 2001, and describing Access Road Right of Way through parts of NE1/4 Sec 17, N1/2 Sec 19, N1/2 and SE 1/4 Sec 20 Tp 8, R 27, W4th M and through parts of NE1/4 Sec 24, E1/2 Sec 25 and E1/2 Sec 36 Tp 8, R 28, W4th M and intervening road allowances, which Provisional Plan will be superceded by an Official Plan pursuant to clause 17.3;
- (r) "Occasional Access Permit" means the Permit issued under s. 28(2) of the *Indian Act*, substantially in the form attached as Schedule G-2 for the Occasional Access Lands;
- (s) "Official Plan(s)" means those Provisional Plans confirmed by the Surveyor General under s. 29 of the *Canada Lands Surveys Act*;
- (t) "Person" means any proprietor, corporation, partnership, trust, joint venture, unincorporated organization, Indian Band, union, government, governmental body, irrigation district or individual, including, without limitation, any band or First Nation whether or not it is a band for the purposes of the *Indian Act*, any Aboriginal group or organization, and any Indian person, any band member or person purporting to be a band member and any member of the Piikani, past, present, or future, or any person purporting to be a member of the Piikani, and each of their respective heirs, descendants, legal representatives, successors and assigns;
- (u) "Piikani" means the Piikani Nation, also known as the "Peigan Nation", "Peigan Indian Band", "Peigan Band," and "Peigan Band of Indians" which is a "band" composed collectively of its members listed from time to time on its membership list;

- Page 6*
- (v) "Piikani Trust" means the trust established for the benefit of the Piikani pursuant to the Trust Agreement;
 - (w) "Piikani Waters" has the meaning set out in clause 10.2;
 - (x) "Proceeding" means any action, cause of action, suit, claim or demand, damages, costs, expenses or liability whatsoever, and for greater certainty, includes a hearing before any board, commission, tribunal or court;
 - (y) "Provisional Plan(s)" means the Provisional Plans described in the respective definitions of Headworks Lands, Access Lands and Occasional Access Lands;
 - (z) "Ratification Ballot Question" means the question asked of the Voters in the Ratification Vote as set out in Schedule A;
 - (aa) "Ratification Vote" means a vote by the Voters on the Ratification Ballot Question conducted according to the Ratification Voting Guidelines;
 - (bb) "Repairs" means the repair of all flood damages to the Headworks to the As Built, or better, condition, and will include a water delivery to Bull Lake;
 - (cc) "Reserve" or "Piikani Reserve" for the purposes of this Agreement means the Peigan Reserve No. 147; "Reserve" also includes any additional lands designated by Canada in the future as reserve land for the use and benefit of the Piikani that
 - (i) the Oldman River passes through; or
 - (ii) for the purposes of the Water Section that are located within the Oldman River Basin and able to be served by waters stored in the Reservoir;
 - (dd) "Reservoir" means the Oldman River Dam and Reservoir;
 - (ee) "Returned Lands" means those lands to which Certificate of Title is currently held by Alberta, described in Plan IRR 908 (CLSR IRR 1925A) and Plan IRR 1349EW (CLSR IRR 2854);

- p 40
- (ff) "Riverbed" means the bed and shores of the Oldman River as it passes through the Reserve;
- (gg) "Settlement Funds" means the monies to be paid to the Piikani by Canada and Alberta in accordance with the Settlement Funds subsection;
- (hh) "Specific Claims" means any and all of the facts, matters and issues arising or resulting, directly or indirectly, from or set forth in the Piikani's nine Specific Claims submitted to Canada:
- (i) on May 29, 1995, including all supplemental submissions, relating to, amongst other issues, allegations that Canada breached a fiduciary obligation to prevent the unlawful alienation of six acres of land to the Lethbridge Northern Irrigation District (the "Borrow Pits" claim); and
 - (ii) on July 7, 1995, including all supplemental submissions, relating to, amongst other issues, allegations that Canada breached a lawful obligation to prevent the unlawful alienation of a 6.09 acre right of way to the Lethbridge Northern Irrigation District (the "Telephone Line" claim); and
 - (iii) on May 2, 1995, including all supplemental submissions, relating to, amongst other issues, allegations that Canada acted fraudulently and breached its fiduciary obligations in the operation and maintenance of a grain elevator constructed for the Piikani (the "Grain Elevator" claim); and
 - (iv) on May 12, 1998, including all supplemental submissions, relating to, amongst other issues, allegations that Canada unlawfully transferred road allowances to Alberta without consent or compensation, contrary to the *Indian Act* (the "Highway Three" claim); and
 - (v) on December 1, 1993, including all supplemental submissions, relating to, amongst other issues, allegations that Canada breached its fiduciary obligations through failure to:
 - 1. obtain consent for a 1922 Order-in-Council and a 1944 permit

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and the 1944 Grant of Letters Patent; to prevent trespass by the province of Alberta and the Lethbridge Northern Irrigation District;

- 2. prevent unlawful expropriation of mineral title;
- 3. protect Reserve lands from environmental damage; and
- 4. supervise the taking and ensure that the lands taken did not exceed the area authorized by legal instruments (the "LNID 1922" claim); and

(vi) on April 11, 1994, including all supplemental submissions, relating to, amongst other issues, allegations that Canada breached its fiduciary duty in relation to the 1981 Agreement and its attendant subsection 28(2) Permit through failure to:

- 1. ensure that the Piikani had benefit of legal counsel in negotiation of the agreement;
- 2. challenge Alberta's desire to obtain fee simple interest in the lands; and
- 3. disclose the existence of a 1978 Department of Justice legal opinion regarding the validity of the 1922 Order-in-Council (the "LNID 1981 Agreement" claim); and

(vii) on October 10, 1990, including all supplemental submissions, relating to, amongst other issues, allegations that

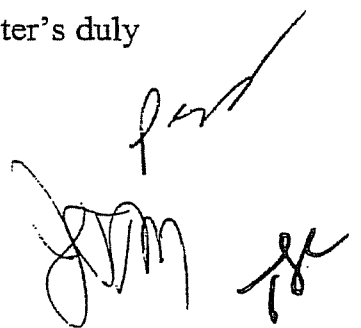
- 1. Canada transferred the Canadian Pacific Railway line contrary to the provisions of the *Indian Act* and the *Railway Act*, and in breach of Canada's fiduciary obligations ("CPR Claim #1");
- 2. mineral rights underlying the railway were not lawfully transferred to the Canadian Pacific Railway or to Pan Canadian, who is the current title holder ("CPR Claim #2"); and
- 3. management of reacquired railway lands was negligent, in contravention of the *Indian Act* and in breach of fiduciary obligations ("CPR Claim #3").

(ii) "Surveys" means the three surveys, performed by Brown Okamura and Associated Ltd. in 2001, of the Headworks Lands, the Access Lands, and

the Occasional Access Lands;

- (jj) "Transfer" means the transfer to Alberta by Canada of administration and control of the full interest in the Headworks Lands pursuant to s. 35(3) of the *Indian Act*, in the form of the Transfer of Administration and Control attached as Schedule F;
- (kk) "Trust Agreement" means the Piikani Trust Agreement, attached as Schedule L, between the Piikani and the Trustee which established the Piikani Trust and was voted upon, agreed upon, and approved in a Ratification Vote pursuant to Section O;
- (ll) "Voter" means a Member of the Piikani who is eighteen (18) years of age or older on the applicable Voting Day; and
- (mm) "Voting Days" means the three consecutive days set by the Ratification Officer in consultation with the Council for holding the Ratification Vote.

- 1.2 Any words identified as defined terms in Schedules A through K and the Trust Agreement have the same meaning as in this Agreement, except as otherwise indicated.
- 1.3 Except as otherwise defined in this Agreement, any words used in this Agreement which are defined in the *Indian Act* have the same meaning as they have in the *Indian Act*.
- 1.4 The headings, recitals, and table of contents are inserted solely for convenience and shall not control or affect the meaning or construction of any part of this Agreement.
- 1.5 There shall be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.
- 1.6 Any reference in this Agreement to a clause or a Schedule will mean the respective clause or schedule of this Agreement unless otherwise stated.
- 1.7 Any reference in this Agreement to a Minister shall include that Minister's duly authorized representative.



2. Schedules

2.1 The following Schedules are attached to this Agreement. Except for the Trust Agreement which is Schedule L, the following Schedules are incorporated by reference into this Agreement and form part of it:

- (a) Schedule A - Ratification Ballot Question;
- (b) Schedule B - Ratification Appeal Process;
- (c) Schedule C - Map which shows the Headworks Lands, the Access Lands, and the Occasional Access Lands;
- (d) Schedule D - form of Band Council Resolutions consenting to the Transfer and the issuance of the Access Permit and the Occasional Access Permit;
- (e) Schedule E - forms of discontinuances of the Oldman River/LNID Action and the CPR Action;
- (f) Schedule F - form of Canada's transfer document regarding the Transfer to Alberta by Canada under s. 35(3) of the *Indian Act* of the Headworks Lands;
- (g) Schedule G - forms of Access Permit and Occasional Access Permit for access through the Access Lands and Occasional Access Lands to the Headworks Lands;
- (h) Schedule H - forms of Band Council Resolutions approving the Provisional Plans and Official Plans;
- (i) Schedule I - form of licence to be issued by the Department of Alberta Environment to Alberta on behalf of the Piikani in accordance with clause 12.2(a);
- (j) Schedule J - Certificate of Independent Legal Advice;
- (k) Schedule K - Certificate of Independent Financial Advice;
- (l) Schedule L - Piikani Trust Agreement.



12/2

SECTION B
SETTLEMENT FUNDS, ANNUAL PAYMENTS,
and NEGOTIATION COSTS

3. Settlement Funds

- 3.1 Without acknowledging any obligation to do so, Canada and Alberta shall pay Settlement Funds totaling \$64.3 Million (Sixty-four Million Three Hundred Thousand dollars) to the Piikani in accordance with this Section. The Piikani have irrevocably directed that Canada and Alberta pay all Settlement Funds into the Piikani Trust which shall be administered in accordance with the Trust Agreement.
- 3.2 Subject to clauses 7.1 and 7.2 and subject to the fulfilment of the conditions precedent in clauses 6.1 to 6.3 inclusive, the Settlement Funds shall be paid in installments, as follows:
- (a) the first installment totaling \$25.5 Million (Twenty-five Million Five Hundred Thousand dollars), being \$8.5 Million (Eight Million Five Hundred Thousand dollars) from Canada and \$17 Million (Seventeen Million dollars) from Alberta, to be made within sixty (60) days of the fulfilment of the conditions precedent specified in clauses 6.1 to 6.3 inclusive;
 - (b) the second installment totaling \$10.8 Million (Ten Million Eight Hundred Thousand dollars), being \$8.15 Million (Eight Million One Hundred and Fifty Thousand dollars) from Canada and \$2.65 Million (Two Million Six Hundred and Fifty Thousand dollars) from Alberta on May 1, 2003;
 - (c) the third installment totaling \$10.5 Million (Ten Million Five Hundred Thousand dollars), being \$8 Million (Eight Million dollars) from Canada and \$2.5 Million (Two Million Five Hundred Thousand dollars) from Alberta on May 1, 2004;
 - (d) the fourth installment totaling \$10 Million (Ten Million dollars), being \$7.5 Million (Seven Million Five Hundred Thousand dollars) from Canada and \$2.5 Million (Two Million Five Hundred Thousand dollars) from Alberta on May 1, 2005;

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- (e) the fifth installment from Alberta of \$2.5 Million (Two Million Five Hundred Thousand dollars) on May 1, 2006;
- (f) the sixth installment from Alberta of \$2.5 Million (Two Million Five Hundred Thousand dollars) on May 1, 2007; and
- (g) the seventh installment from Alberta of \$2.5 Million (Two Million Five Hundred Thousand dollars) on May 1, 2008.

3.3 At the sole discretion of Canada or Alberta, as the case may be, any payment may be made earlier than the times set out in clause 3.2.

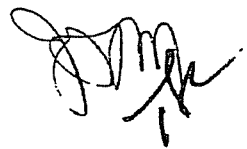
3.4 If the Piikani vote in favour of the Agreement and Trust Agreement as set out in Section O, the Parties agree that it is their intent that the Settlement Funds are not "Indian monies" within the meaning of the *Indian Act* and, for greater certainty, for the purposes of paragraph 90(1)(b) of the *Indian Act*, the monies deposited in the Piikani Trust pursuant to the Trust Agreement are personal property situate on Reserve.

4. **Expenditures of the Settlement Funds**

4.1 Within two (2) years of the Effective Date, the Piikani shall use up to \$10 Million (Ten Million dollars), being \$5 Million (Five Million dollars) of the Settlement Funds from each of Canada and Alberta, in accordance with the procedures set out in the Trust Agreement, to fund the acquisition, by a Piikani business entity as defined in the Trust Agreement, of a 25% (Twenty-five per cent) interest in the Atco Power Limited hydro electric project which Alberta has approved for construction downstream from the Reservoir.

4.2 Within eight (8) years of the Effective Date, the Piikani shall use up to a total of \$10 Million (Ten Million dollars), being \$5 Million, (Five Million dollars) of the Settlement Funds from each of Canada and Alberta, in accordance with the procedures set out in the Trust Agreement, to develop irrigation of approximately 4,125 acres on the Reserve.

4.3 Within five (5) years of the Effective Date, the Piikani shall use not less than \$1 Million (One Million dollars) of the Settlement Funds from Canada in accordance with the procedures set out in the Trust Agreement, for the development of a wind power project by a Piikani business entity as defined in the Trust Agreement.



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- 4.4 Within one (1) year of the Effective Date, the Piikani shall submit business plans to Canada for the investment in the hydro, the irrigation and the wind power projects referred to above.
- 4.5 (a) A total of \$2.44 Million (Two Million Four Hundred and Forty Thousand dollars) of the first installment of the Settlement Funds from Alberta shall be transferred by the Trustee from the Settlement Account to the Environmental Remediation Account as set out in the Trust Agreement.
- (b) The amount referred to in (a) above shall be expended in accordance with the budget contained in the FEIA and Dam Safety Work Plans. Any revisions to the budget must be approved by the Committee and the Piikani.
- (c) Pursuant to subsection 5.4.2 of the Trust Agreement, the Piikani and the Committee shall each appoint one (1) person who shall both sign written directions from time to time to the Trustee stating the amount of payment and party to be paid from the Environmental Remediation Account.
- (d) The Trustee shall provide quarterly financial statements to the Committee as to the expenditures from the Environmental Remediation Account.
- 4.6 The Piikani shall ensure that each of the hydro project referred to in clause 4.1 and the irrigation project referred to in clause 4.2 are undertaken and completed unless Council and Alberta mutually agree in writing that such project ought to be abandoned. Alberta's consent to abandoning any such project shall not be unreasonably withheld, taking into consideration that one of the major purposes for Alberta's payment of the Settlement Funds is to enable the Piikani to benefit from the water stored in the Reservoir.
- 4.7 At no cost to the Piikani and at the request of the Piikani and as reasonably needed, Alberta will provide ongoing technical consultative assistance, for development of Piikani irrigation project(s).

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5. Annual Payments

5.1 In addition to the Settlement Funds to be paid by Alberta to the Piikani Trust, Alberta shall make Annual Payments to the Piikani, in accordance with this Section. The Piikani irrevocably direct that Alberta pay the first Annual Payment into the Piikani General Account, and all other Annual Payments into the Piikani Trust, which shall be administered in accordance with the Trust Agreement.

5.2 Subject to clauses 7.1 and 7.2, and subject to the fulfillment of the conditions precedent in clauses 6.1 and 6.2, the Annual Payments shall be made as follows:

- (a) \$567,000 (Five Hundred Sixty-seven Thousand dollars) on the latter of: May 1, 2003 or sixty (60) days following the fulfilment of the conditions precedent specified in clauses 6.1 and 6.2;
- (b) \$567,000 (Five Hundred Sixty-seven Thousand dollars) on May 1 of each of the years 2004 to 2009 inclusive;
- (c) \$800,000 (Eight Hundred Thousand dollars) on May 1, 2010; and
- (d) \$800,000 (Eight Hundred Thousand dollars) on May 1 of each year thereafter, which amounts shall be indexed to inflation by annual adjustments calculated with reference to the preceding year's rate of change of the Canada Implicit Price Index for Gross Domestic Product as published by Statistics Canada.

5.3 For greater certainty, commencing in 2003, the Annual Payments to be made under this Agreement replace the annual cash payments set out in the 1981 Agreement.

6. Conditions Precedent to Payment of Settlement Funds and Annual Payments

6.1 Prior to Alberta and Canada commencing any payment of the Settlement Funds or Alberta commencing the Annual Payments, the following must take place:

- (a) receipt of this Agreement, fully executed by all of the Parties;
- (b) receipt of irrevocable Band Council Resolutions, substantially in the form of Schedule D, consenting to the Transfer and the issuance of the Access Permit and Occasional Access Permit;



- (c) receipt of the Trust Agreement substantially in the form attached as Schedule L, fully executed by the parties to it and the opening of the Piikani Trust;
- (d) confirmation of the Provisional Plans by the Surveyor General under s. 29 of the *Canada Lands Surveys Act*; and
- (e) receipt of irrevocable Band Council Resolutions, substantially in the form of Schedule H, approving the Provisional Plans and Official Plans.

6.2 In addition to the conditions precedent in clause 6.1, prior to Alberta commencing any payment of the Settlement Funds or the Annual Payments, the following must take place:

- (a) issuance of the Access Permit and the Occasional Access Permit to Alberta by Canada, substantially in the form of Schedules G-1 and G-2; and
- (b) satisfactory and continuing progress of the Repairs, which shall be determined at Alberta's sole discretion.

6.3 In addition to the conditions precedent in clauses 6.1 and 6.2, prior to Alberta making the third or subsequent installments of the Settlement Funds, the Transfer must be completed.

7. Duration of the Settlement Funds and the Annual Payments of Alberta

7.1 Following the fulfillment of the conditions specified in clauses 6.1 to 6.3 inclusive, Alberta will pay the Settlement Funds and the Annual Payments, as the case may be, provided that:

- (a) the Headworks remain in operation;
- (b) Alberta requires the Headworks for a water diversion and conveyancing system; and
- (c) the Piikani provides Alberta with unhindered access to the Headworks, in accordance with this Agreement, the Access Permit and the Occasional Access Permit.

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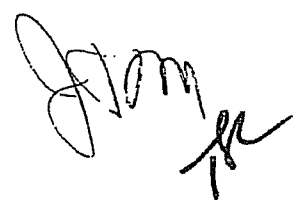
- 7.2 (a) The purpose of the Annual Payments is for security of tenure and access to the Headworks for a water diversion and conveyancing system. If access to the Headworks is denied to Alberta by the Piikani or any Members, directly or indirectly, the Annual Payment for that year will be withheld by Alberta or, if already paid in that fiscal year, the amount to be withheld may be set-off by Alberta against the following year's Annual Payment. The amount to be withheld will be proportionate to the length of time that the access is not available.
- (b) Neither the Piikani nor Canada will, contrary to this Agreement, allow any Person to interfere with Alberta's access to the Headworks.

8. Negotiating Costs

8.1 (a) Canada and the Piikani agree that, in addition to the Settlement Funds, Canada has paid \$800,000 to the Piikani for negotiation costs incurred by the Piikani for research, preparation, negotiation and settlement of the Specific Claims, for the settlement of the Oldman River/LNID Action and the CPR Action, and for the ratification of this Agreement, including the previous ratification vote held on November 28 and 29, 2001, including legal fees and any other costs related to the foregoing.

(b) In addition, Canada agrees to pay to the Piikani and the Piikani agrees to accept \$661,683 with respect to its negotiation costs with payment to be made within 45 (forty-five) days of the Effective Date. The Piikani assigns such amount to Canada who will accept and apply it to discharge the outstanding loan by Canada to the Piikani for the purposes described in (a) above.

8.2 Alberta and the Piikani agree that, in addition to the Settlement Funds and the Annual Payments, Alberta has paid \$1,200,000 to the Piikani for negotiation costs incurred by the Piikani for the negotiation, preparation and ratification of this Agreement (including the previous ratification vote held on November 28 and 29, 2001), including legal fees and other costs related to the Alberta Action.



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SECTION C
ENVIRONMENTAL MATTERS

- 9.1 (a) As the result of a co-operative effort among the Parties, a scope of study was identified for a Follow-up Environmental Impact Assessment (FEIA) on the effects of the Reservoir on the Reserve, in an FEIA Scoping Document entitled "Scoping Document: Monitoring Plan and Follow-Up Environmental Impact Assessment (FEIA) Program," as signed by the Parties.
- (b) The FEIA and Dam Safety Work Plans were developed by the Parties which outline the studies proposed to be undertaken to determine the effects of the Reservoir on the Reserve.
- (c) The FEIA Work Plan will lead to recommendations as to how the following six issues are to be addressed:
- (i) operational effects of the Reservoir;
 - (ii) social, cultural and spiritual impacts;
 - (iii) health impacts;
 - (iv) cottonwood forests, wildlife, and migratory birds;
 - (v) fish and fish habitat (includes invertebrates); and
 - (vi) transportation and water-centered activities.
- (d) The Dam Safety Work Plan will deal with safety issues as these relate to the Piikani and the Reservoir.

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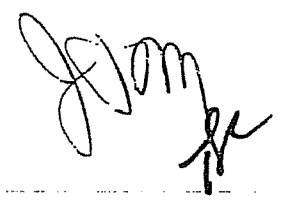
- 9.2 The Parties want to continue the co-operative effort, and to evaluate how the Piikani and the Oldman River valley, within the boundaries of the Reserve, are currently affected or may be affected in the future as a result of the construction and operation of the Reservoir. In order to do so, they will work together as necessary from time to time to: establish baseline conditions, establish current conditions, determine changes since 1992, and differentiate Dam related changes from non-Dam related changes all as set out in the FEIA and Dam Safety Work Plans. \$2.44 Million (Two Million Four Hundred and Forty Thousand dollars) of the Settlement Funds from Alberta shall be used to undertake the activities outlined in these Work Plans.

- 9.3 The Council confirms that the FEIA Scoping Document and the FEIA and Dam Safety Work Plans were available for review by Members throughout the posting period leading up to the Ratification Vote, at the Piikani Nation Administration office, at DIAND offices in Calgary and Edmonton and at Alberta Environment's office in Lethbridge.

- 9.4 (a) In addition to the Settlement Funds, and notwithstanding any mitigation or enhancement requirements which are or may be identified in the FEIA Scoping Document or FEIA and Dam Safety Work Plans referred to in this Section, Canada shall provide funds or perform the necessary work identified in those documents only if payment by Canada for such mitigation or enhancement requirements is mandated by federal statute and implemented in consultation with the Committee.

- (b) In addition to the Settlement Funds and Annual Payments, and notwithstanding any mitigation or enhancement requirements which are or may be identified in the FEIA Scoping Document or FEIA and Dam Safety Work Plans referred to in this Section, Alberta shall provide funds or perform the necessary work identified in those documents only if payment by Alberta for such mitigation or enhancement requirements is mandated by Alberta statute and implemented in consultation with the Committee.

- (c) Approval for and issuance of any permit(s) reasonably required to enable Alberta to perform the necessary work referred to in (b) above, in lieu of providing funds, shall not be unreasonably withheld.



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9.5 Subject to clauses 9.2 and 9.4, the Piikani shall determine what recommendations arising from the FEIA are to be implemented. Implementation of any remedial measures which are not mandated by statute shall be at the discretion of the Piikani and paid for by the Piikani.

9.6 The Parties commit to using their best efforts to ensure that:

- (a) the activities outlined in the FEIA and Dam Safety Work Plans; and
- (b) any recommended mitigation or enhancement requirements from the FEIA evaluation which are mandated by statute

will be completed, and all expenditures required for these will be made, within ten (10) years of the Effective Date.

9.7 Notwithstanding anything contained in Section L, the rights of the Piikani to apply for assistance in the nature of disaster relief under any Alberta program or to commence Proceedings in relation to the determination of mitigation or enhancement requirements mandated by federal or Alberta legislation, as referenced in this Section, are specifically preserved.

9.8 As part of its administrative practice and by working with the Parties on the FEIA Work Plan, Alberta shall endeavour to manage human activities such that the water quality of the Oldman River:

- (a) is not adversely impacted by effects which do not have natural causes;
- (b) meets provincial water quality guidelines as may be adopted from time to time; and
- (c) is consistent with the objectives as set out in the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 and the *Water Act*, R.S.A. 2000, c. W-3 and the Regulations made under these statutes, both as amended from time to time.

9.9 The Piikani and Alberta support maintenance of the environment of the Riverbed and the Oldman River valley, and will work together as necessary from time to time to ensure that appropriate measures are taken to sustain this environment.



9.10 Any issues as may arise pursuant to this Section will be addressed by the Committee.

9.11 Except with the consent of the other Parties to this Agreement, which consent shall not be unreasonably withheld, none of the Parties will place, erect or attach any additional structures of any kind on the Riverbed, nor will they permit, suffer or allow any other Person to do so, subject to the ability of Alberta, consistent with clause 1:1(1), to effect any future improvements, changes, enlargement or rehabilitation to the Headworks.

SECTION D
WATER

10. Piikani Water Quantity and Use

10.1 As set out in this Section, the Piikani shall have reasonable quantities of water reserved for their on-Reserve use from the Oldman River in order to meet the current and future needs of the Piikani for agricultural, irrigation, commercial, industrial or such other contemporary and traditional uses necessary for the health, economy, environment and well being of the Piikani people.

10.2 Such portions of the water reserved pursuant to clause 10.1 which have been diverted for on-Reserve use from the Oldman River pursuant to this Agreement will be referred to as the "Piikani Waters".

10.3 For the purposes of this Agreement, Alberta and the Piikani agree that the amount to be reserved pursuant to clause 10.1 will be 35,000 acre feet per year from the Oldman River, inclusive of the waters for up to 10,300 acres of off-Reserve land referred to in clause 12.6. This amount will be increased in accordance with clause 12.5 if the Piikani acquire land that already has an existing water licence in good standing issued in respect to it and such land is designated by Canada as a Reserve for the use and benefit of the Piikani.

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10.4 The quantities referred to in clause 10.1 and the amount set out in clause 10.3 were arrived at through negotiation culminating in this Agreement. It is not intended to define quantities that the Piikani may seek to obtain under any claim to Piikani aboriginal, treaty or common law water rights. However, the Piikani will not assert any such claim in any Proceeding for so long as this Agreement remains in effect pursuant to Section N.

10.5 The Piikani Waters are in addition to, and do not affect, any of the following Piikani water rights, obligations or entitlements:

- (a) the Piikani shall have a reasonable quantity of water from the natural flow of the Oldman River for:
 - (i) riparian household use; and
 - (ii) domestic livestock grazing on-Reserve, where such livestock are owned by the Piikani, any Member or a corporation controlled by the Piikani;
- (b) subject only to clause 12.6, all existing or future licences issued pursuant to the *Water Act* or its predecessor legislation issued to and in the name of the Piikani, a corporation controlled by the Piikani, or Member, are in addition to, and unaffected by, this Agreement;
- (c) subject only to clause 12.6, all future licences, or portions thereof, that a corporation controlled by the Piikani may acquire pursuant to the transfer provisions of the *Water Act*, and that do not relate to any land that will be designated as Reserve, are in addition to, and unaffected by, this Agreement; and
- (d) any required approval from Alberta regarding transfer of any license referred to in (b) or (c) above or application for additional water at an off-Reserve location shall not be unreasonably withheld.

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10.6 Subject to the availability of water in the Oldman River Basin, if in the future, the actual and reasonable on-Reserve water needs of the Piikani cannot be met by the then-existing water licenses, rights or entitlements of the Piikani, including the Piikani Waters, the Piikani may request that Alberta enter into negotiations for the purpose of amending this Section and such request shall not be unreasonably refused. Notwithstanding Section S, any amendment made pursuant to this clause may be made by written agreement between the Piikani and Alberta.

11. Piikani Waters Storage and Access

11.1 At no cost to the Piikani, and subject to the terms of this Agreement, including clause 15.1, Alberta shall ensure that the Piikani Waters are made available from stored water in the Reservoir and out of the natural flow of the Oldman River for the on-Reserve uses described in clause 10.1. Non-use of any or all of the Piikani Waters during any period shall not constitute a relinquishment, forfeiture or abandonment by the Piikani. However, the quantity of Piikani Waters shall not be cumulative from year to year.

12. Piikani Waters Implementation

12.1 Alberta and the Piikani shall take the necessary steps, including provision of appropriate documentation as set out in this Section, to ensure that the Piikani Waters are available in order to meet the Piikani's current and future on-Reserve needs.

12.2 In order that Alberta may lawfully fulfil its obligations to the Piikani under this Section:

- (a) within 1 (one) year of the Effective Date, Alberta shall amend the *South Saskatchewan Basin Water Allocation Regulation* (Alta. Reg. 307/91) to reserve a total of 35,000 acre feet of water from the Oldman River Basin for the on-Reserve uses referred to in clause 10.1 and the uses referred to in clause 12.6, and to authorize the Department of Alberta Environment to issue the necessary licence(s) as set out in this subsection; and
- (b) in accordance with (a) above, the Department of Alberta Environment shall issue the necessary licence(s) to Alberta on behalf of the Piikani substantially in the form attached as Schedule I.

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- 12.3 (a) The actual portion of the Piikani Waters to be withdrawn each year from the Oldman River shall be based upon active projects as determined by the Piikani and confirmed in writing to Alberta prior to March 1 of each year.
- (b) The confirmation in (a) shall include a summary of usage of the Piikani Waters for the previous year and will also declare any project(s) which have become inactive and are to be decommissioned.
- (c) When a new project that will utilize a portion of the Piikani Waters is to be developed, the Piikani shall provide Alberta with plans, amount and rate of water to be utilized and any other information which Alberta reasonably requires pertaining to the project.
- 12.4 Any licence issued to Alberta on behalf of the Piikani, pursuant to clause 12.2(b) or in respect to any lands which are designated by Canada in the future as a Reserve for the use and benefit of the Piikani shall be non-transferrable, for on-Reserve use only.
- 12.5 If the Piikani acquire any land that already has an existing water licence in good standing issued in respect to it, and if such lands become designated as Reserve, the Piikani and Alberta shall take all necessary steps to transfer such water licence to Alberta on behalf of the Piikani. Thereafter, the quantity of water stated in the licence shall be considered as Piikani Waters, and such quantity shall increase the amount of water referred to in clause 10.3.
- 12.6 (a) Notwithstanding any requirement set out in this Section that the Piikani Waters are for on-Reserve use, the Piikani may request that Alberta issue the necessary license(s) allowing for a portion of the Piikani Waters to be used for up to 10,300 acres of off-Reserve lands if all of the following criteria are met:
- (i) the lands are wholly owned in fee simple by a corporation or limited partnership wholly owned and controlled by the Piikani;
- (ii) the lands are located within the Oldman River Basin and able to be served by waters stored in the Reservoir; and
- (iii) the project(s) for which the Piikani Waters will be used are partially or wholly owned and operated by the Piikani.

23

- (b) Any licence issued in accordance with this clause shall be non-transferrable and shall expire immediately upon any of the above criteria no longer being met. However, any such expiry will not affect the total amount of the Piikani Waters.
- (c) The request referred to in (a) above shall not be unreasonably denied.
- (d) Any Piikani Waters for off-Reserve use in accordance with this clause will be regulated under the *Water Act*.

12.7 Subject to Alberta's acceptance of detailed engineering drawings and operating plans, Alberta shall allow the Piikani to have reasonable access, at no cost to the Piikani, to the Headworks canal for the installation and use of a diversion work(s) in order to divert water for on-Reserve uses. Such approval by Alberta shall not be unreasonably withheld. The cost of the installation of the diversion work(s) will be paid for by the Piikani. Due to the limited capacity of the Headworks canal, the portion of the Piikani Waters to be diverted from it is limited to a quantity sufficient to irrigate 10,000 acres of land not already being served with irrigation water from it.

13. Mutual Consultation

- 13.1 The Piikani and Alberta shall meet at least once every year to report usage of the Piikani Waters, discuss anticipated water requirements of the Piikani, and generally to further communications between them as to any aspect of this Section.
- 13.2 On the Effective Date the Piikani shall appoint a representative of the Piikani who shall sit on the public advisory committee in respect to the Water Management Review of the South Saskatchewan River Basin.

14. Jurisdiction and Authority of the Piikani

- 14.1 Alberta acknowledges the following, regarding the on-Reserve use of the Piikani Waters:
 - (a) the Piikani shall have the exclusive jurisdiction and authority over the Piikani Waters diverted to Reserve lands pursuant to subsection 12;
 - (b) such water shall be managed, allocated and administered solely by the



Piikani for on-Reserve use;

- (c) the method by which the Piikani manage, allocate and administer the on-Reserve use of the Piikani Waters may include one or more by-laws made by Council;
- (d) the Piikani has the final and exclusive jurisdiction to resolve all disputes between the on-Reserve users concerning the Piikani Waters; and
- (e) among other activities, the Piikani may develop by-laws, policies and procedures for monitoring use, diversions, and maintaining records of use and development of the Piikani Waters on-Reserve.

15. Allocation of Water Quantities During Times of Water Shortage

15.1 The Piikani acknowledge that Alberta operates the Reservoir to supply water throughout the Oldman River and the South Saskatchewan River basins. As a result, the river level downstream of the Reservoir will vary from the natural level. The Piikani and Alberta acknowledge that in times of water shortage, there may not be sufficient water in the natural flow of the Oldman River and in the Reservoir to satisfy all of the water needs. Notwithstanding anything contained in this Agreement, during such times Alberta shall, in consultation with all users in the Oldman River Basin including the Piikani, equitably distribute the stored water in the Reservoir to attempt to address the water needs of all such users along with the aquatic environment. The goal is to ensure that all impacted users are given a portion of the water stored in the Reservoir so as to share any shortages on an equitable basis and to protect the aquatic environment. The term "aquatic environment" means the components of the earth related to, living in or located in or on water or the beds or shores of a water body, including but not limited to:

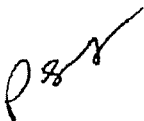
- (a) all organic and inorganic matter; and
- (b) living organisms and their habitat, including fish habitat and their interacting natural systems.



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SECTION E
ADDITIONS TO RESERVE

- 16.1 Pursuant to the 1987 Settlement Agreement of the 1909 Surrender between the Piikani and Canada (the "1909 Settlement Agreement") and BCR authorization, \$2,115,000 (the "Land Replacement Monies") was deposited into a separate account in the Piikani's Capital Account in the Consolidated Revenue Fund for the purposes of purchasing approximately 10,300 acres of land to become reserve land for the use and benefit of the Piikani (the "Replacement Lands").
- 16.2 (a) Canada, Alberta and the Piikani contemplate and understand that, in the implementation of the 1909 Settlement Agreement, the Piikani may acquire, at fair market value, Replacement Lands, which must include mines and minerals underlying such lands, prior to Approval in Principle as set out in the Additions to Reserve Policy and Procedures in effect at the time of land acquisition.
- (b) Canada and the Piikani agree that the time for acquisition of the Replacement Lands shall be extended for an additional 15 (fifteen) years beyond the period set out in the 1909 Settlement Agreement.
- 16.3 It is understood:
- (a) that the Land Replacement Monies and associated income may be insufficient to acquire the full outstanding land entitlement;
- (b) that within the spirit of the 1909 Settlement Agreement, the Piikani may use their own funds to purchase the proposed Replacement Lands, including mines and minerals, should they need to do so prior to the release of the Land Replacement Monies from the Piikani's Capital Account in the Consolidated Revenue Fund; and
- (c) that the Piikani may then be reimbursed from the Land Replacement Monies for such expenditures.
- 16.4 The Piikani shall, pursuant to the Trust Agreement, establish a Piikani business entity as defined in the Trust Agreement, which shall be owned solely by the Piikani and whose sole purpose shall be the purchase of the Replacement Lands.

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- 16.5 The Piikani shall purchase the Replacement Lands through the Piikani business entity referred to in clause 16.4, and with funds from the Investment Account of the Piikani Trust pursuant to the procedures set out in the Trust Agreement.
- 16.6 Upon acquisition of Replacement Lands, or in contemplation of such an acquisition, the Piikani shall submit a Band Council Resolution to Canada requesting that Canada initiate the process of adding the proposed Replacement Lands, including mines and minerals, to their reserve. Canada shall then initiate the additions to reserve process in accordance with the Additions to Reserve Policy and Procedures in effect at that time.
- 16.7 A transfer by Alberta, if any, of administration and control of any lands or mines and minerals acquired in relation to the Replacement Lands, shall be subject to the satisfaction of all third party interests and all requirements of Canada's Additions to Reserve Policy having been met and approval by the Alberta departments responsible for Alberta Crown lands and mines and minerals.
- 16.8 Alberta will cooperate, to the extent possible, in the provision of relevant information to any affected municipal authority, where appropriate, regarding the acquisition or transfer.
- 16.9 Provided that approval in principle pursuant to the Additions to Reserve Policy and Procedures has been given, and conditions, if any, to the approval have been satisfied in respect of the proposed Replacement Lands, the Piikani shall submit a Band Council Resolution to Canada requesting that the Minister of Indian Affairs and Northern Development authorize and direct the expenditures of the Land Replacement Monies and interest thereon in order to replace, in whole or in part, funds from the Investment Account of the Piikani Trust expended by the Piikani business entity referred to in clause 16.4 for the purchase of the Replacement Lands. Upon receipt of this Band Council Resolution so directing, the Minister of Indian Affairs and Northern Development may authorize and direct the transfer of the Land Replacement Monies and any interest thereon into the Investment Account of the Piikani Trust on behalf of the Piikani.
- 16.10 Land Replacement Monies, and any interest thereon, will be transferred only to reimburse the costs directly related to the acquisition of the Replacement Lands, not including any interest charges related to financing the acquisition.
- 16.11 Nothing in this Agreement shall be construed as consent or agreement by Alberta,

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for the purposes of any provincial policy, regarding the resolution of the specific claim referred to in the 1909 Settlement Agreement.

- 16.12 (a) Canada will assist the Piikani in facilitating discussions to recover mines and minerals from Canadian Natural Resources Limited which underlie the Canadian Pacific Railway lands, within the Reserve.
- (b) Upon the acquisition of the mines and minerals referred to in clause (a) above, and subject to the Additions to Reserve Policy, the Minister of Indian Affairs and Northern Development shall recommend to the Governor in Council that an Order-in-Council be made adding the mines and minerals to the Reserve.

SECTION F
TRANSFER and ACCESS PERMITS

17. Survey

- 17.1 The Parties agree on and consent to, the Provisional Plans, as the boundaries of the Headworks Lands, the Access Lands and the Occasional Access Lands respectively, pending confirmation of these Provisional Plans as Official Plans under s.29 of the *Canada Lands Surveys Act*.
- 17.2 The Council confirms that the Provisional Plans or, if available, the Official Plans, were available for review by Members throughout the posting period leading up to the Ratification Vote, at the Piikani Nation Administration Office, at DIAND offices in Calgary and Edmonton, and at Alberta Environment's office in Lethbridge.
- 17.3 Upon confirmation of the Provisional Plans as Official Plans, the Official Plans will supercede and replace the Provisional Plans as the boundaries of the Headworks Lands, the Access Lands and the Occasional Access Lands.
- 17.4 The Council has approved the Provisional Plans through the Band Council Resolution attached as Schedule H and shall consent to the superceding Official Plans through a Band Council Resolution in the form attached as Schedule H.
- 17.5 The Parties agree that the informal map, attached as Schedule C, showing the

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Headworks Lands, Access Lands, and Occasional Access Lands, is for information purposes only.

18. Headworks Lands

- 18.1 The Parties wish to proceed under this Agreement with as much clarity and certainty as possible regarding title to, and any interest in, the lands that have been used or are needed by Alberta for the Headworks. As set out below, to achieve this Alberta will transfer, or give up, its existing interests in those lands to Canada. Canada will then issue new interests to Alberta. The lands no longer needed for the Headworks will be added to Reserve.
- 18.2 Within a reasonable time of the Effective Date of this Agreement, Alberta shall initiate the transfer of administration and control of its full interest in the Returned Lands to Canada.
- 18.3 Subject to the fulfillment of the conditions precedent in clauses 6.1(a) to (e), and on receipt from Alberta of the executed transfer of the Returned Lands, the Minister of Indian Affairs and Northern Development shall recommend to the Governor in Council that an Order-in-Council be made accepting the transfer by Alberta of administration and control of the full interest in the Returned Lands, authorizing the addition to the Reserve of the Returned Lands and authorizing the Transfer of administration and control of the full interest in the Headworks Lands to Alberta, subject to its terms and conditions. The Council has consented to the Transfer through the Band Council Resolution attached as Schedule D.
- 18.4 Canada shall be responsible for issuing the Transfer.
- 18.5 The Returned Lands not forming part of the Headworks Lands shall be subject to the Additions to Reserve Policy. The Returned Lands not included in the Headworks Lands shall be returned to Canada in an environmentally sound condition.
- 18.6 Canada shall make best efforts to complete the Transfer of the Headworks Lands within one year of the Effective Date.

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- 18.7 The Piikani consents and agrees to the Transfer of the Headworks Lands to Alberta on the terms and conditions contained in the Transfer. The Piikani expressly waives the reservation by Canada for the benefit of the Piikani of a right of entry by Canada or any person acting under Her authority to enter upon the Headworks Lands or any part thereof to explore for, develop, raise and get out the mines or minerals or any of them.
- 18.8 The Piikani acknowledges that the amount of Ten Dollars (\$10.00), receipt of which is hereby acknowledged, together with the non-monetary consideration and covenants of Alberta under this Agreement, were negotiated by the Parties and the Piikani agrees that these amounts are fair and reasonable amounts to be paid by Alberta to the Piikani for the Transfer.
- 18.9 Once Alberta determines the Headworks Lands are no longer required by it for a water diversion and conveyancing system, Alberta shall, by Order-in-Council, transfer the administration and control of its full interest in such lands to Canada.
- 18.10 Alberta shall ensure that the Headworks Lands are returned in an environmentally sound condition as set out in the Transfer.
- 18.11 Canada and Alberta shall attempt to secure the return of the mines and minerals underlying the Headworks Lands currently held by Lethbridge Northern Irrigation District as described Certificates of Title # 761 156 394 and 761 156 395 to the Reserve subject to the Additions to Reserve Policy.
- 18.12 Alberta shall not be required by the Piikani or Canada to pay any rate, levy, toll, tax or other charges on the use of, or on the Headworks Lands.

19. Access Permit, Occasional Access Permit and Repairs

- 19.1 Subject to the fulfillment of the conditions precedent in clauses 6.1(a) and (b), the Minister of Indian Affairs and Northern Development shall, pursuant to s. 28(2) of the *Indian Act*, issue to Alberta the Access Permit and Occasional Access Permit in the forms attached as Schedules G-1 and G-2, respectively, for the purpose of ensuring Alberta access to the Headworks Lands for so long as the Headworks Lands are required by Alberta for a water diversion and conveyancing system.
- 19.2 The Piikani consents and agrees to the Access Permit and the Occasional Access Permit and authorizes the Council to pass a Band Council Resolution consenting to

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these Permits. The Council has consented to these Permits through the Band Council Resolutions attached as Schedule D.

- 19.3 Canada shall be responsible for issuing the Access Permit and Occasional Access Permit.
- 19.4 The Piikani acknowledges and agrees that the amount of \$10.00, receipt of which is hereby acknowledged, and other good consideration paid by Alberta under this Agreement are fair and reasonable sums to be paid by Alberta for each of the Access Permit and the Occasional Access Permit.
- 19.5 Upon the issuance of any necessary permits and upon the Parties making mutually acceptable arrangements regarding access, labour, equipment and borrow materials and any other matters reasonably related to the Repairs, Alberta shall, as expeditiously as reasonably possible in the circumstances, complete the Repairs.
- 19.6 When available and practical to do so, Alberta agrees to contract with the Piikani or any Member for labour and equipment to undertake the Repairs and any reclamation that Alberta is obliged to perform, providing that the wages or hire rates are competitive with prevailing prices in the area for the type of work undertaken.
- 19.7 If earth borrow material is reasonably required by Alberta, Canada shall take all necessary steps to issue permits pursuant to s. 58(4)(b) of the *Indian Act*, subject to:
 - (a) the standard policies and processes for the issuance of such permits including, but not limited to reclamation by Alberta of the borrow pit sites to the standards of the Province of Alberta, unless at the time of reclamation, the standards of Canada are more stringent, in which case, Canada's standards shall apply;
 - (b) the Piikani evidencing its consent to the issuance of the permit by a Band Council Resolution; and



P 20

(c) the borrow material purchased is at a mutually agreed location(s) in close proximity to the Headworks Lands and Alberta and the Piikani have agreed on a price for the borrow material. For the purposes of a permit for earth borrow material for the Repairs, the Piikani and Alberta agree that the price for the earth borrow material will be \$1.25 per cubic metre and that the borrow pit sites will be close to the areas of the Headworks Lands where the Repairs are being undertaken. The Piikani expressly waives any obligation Canada may owe to it over the setting of price for this earth borrow material.

19.8 Alberta shall not be required by the Piikani or Canada to pay any rate, levy, toll, tax, duty, or other charges on the use of the Access Lands and Occasional Access Lands or on any of these lands.

20. Continuance of Instruments

20.1 For greater certainty, the Parties intend that, if this Agreement or any portion of it comes to an end for any reason whatsoever, including termination, suspension or by operation of law, the Transfer, the Access Permit, the Occasional Access Permit and any permit for the purposes of securing to Alberta access to earth borrow materials will, so long as Alberta is complying with the terms of these instruments, continue to be in full force and effect.

SECTION G
1981 AGREEMENT AND 1981 PERMIT

21.1 The 1981 Agreement and 1981 Permit shall be terminated and superseded by this Agreement in accordance with the following timing:

- (a) upon the Effective Date, all payment obligations of Alberta under the 1981 Agreement and 1981 Permit shall be terminated and replaced by the Annual Payment obligations of Alberta under this Agreement;
- (b) between the time of the Effective Date and the completion of the Transfer, in addition to the Access Permit and the Occasional Access Permit, and subject to (a) above, Alberta, Canada and the Piikani shall continue to enjoy all the rights and privileges that they currently are entitled to under the 1981 Agreement and the 1981 Permit; and

(c) immediately upon the completion of the Transfer and subject to the issuance of the Access Permit and the Occasional Access Permit, the 1981 Agreement and the 1981 Permit shall be terminated in their entirety.

21.2 Subject to clause 21.1, the Parties will not initiate any Proceedings regarding any obligations pursuant to the 1981 Agreement or the 1981 Permit. This Agreement will replace the 1981 Agreement in its entirety.

21.3 Notwithstanding the termination of the 1981 Agreement and the 1981 Permit, the Piikani specifically affirms that the Release signed on June 22, 1981 by the Chief and Councillors of the Peigan Indian Band (as the Piikani was then called) in favour of Alberta is a valid and subsisting Release for all matters specified in it.

SECTION H
COMMITTEE

22. Establishment of a Committee

Composition and Quorum

22.1 On the Effective Date, there shall be established a Committee comprised of two members appointed by each of the Piikani, Alberta, and Canada. A quorum shall consist of four members including at least one representative from each of the Parties.

Appointment

22.2 Canada, the Piikani and Alberta shall give notice of their respective appointees and alternatives to the other Parties. Members shall hold office at the pleasure of the appointing Party. Alternate members may attend meetings in the absence of appointed members.

Functions

22.3 The Committee shall:

(a) establish such sub-committees as it considers necessary to advise and assist in its work. Sub-committees may include persons who are designated by

the individual members of the Committee;

- (b) oversee completion of the FEIA and Dam Safety Work Plans and may retain such Project Manager(s) as necessary to implement those Work Plans;
- (c) be a forum for ongoing communications among the Parties while endeavouring to resolve any disputes which may arise among the Parties; and
- (d) fulfill responsibilities identified for the Committee elsewhere in this Agreement; and
- (e) if necessary, administer the funding for the work contemplated in the FEIA and Dam Safety Work Plans in accordance with clause 22.7.

Organization

22.4 The Committee shall establish a rotation of the Chair of the Committee. The Committee may also appoint otherwise a Secretary. The signature of the Chairperson and Secretary shall be sufficient verification of any determination of the Committee.

Decisions

- 22.5 (a) The determinations of the Committee shall be made when a majority of the members present, including at least one member from each of Canada, the Piikani and Alberta, agree.
- (b) If there is no agreement on any issue or a matter set out in this Agreement, then the Committee shall refer the issue to be resolved pursuant to Section I.

Costs

22.6 All costs for attendance at meetings associated with Committee members shall be borne by the appointing Party.

Administration of Funding



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22.7 If the Piikani do not vote in favour of this Agreement and the Trust Agreement as set out in Section O, the Committee will administer the fund in the amount of \$2.44 Million (Two Million Four Hundred and Forty Thousand dollars) to be provided by Alberta for the FEIA and Dam Safety Work Plans, in accordance with the following procedures:

- (a) the fund shall be expended in accordance with the budget contained in the FEIA and Dam Safety Work Plans; and any revisions to the budget must be approved by the Committee and the Piikani;
- (b) the Piikani and the Committee shall each appoint one (1) person who shall both sign written directions from time to time to the trustee of the fund stating the amount of payment and party to be paid from the fund; and
- (c) the trustee of the fund shall provide quarterly financial statements to the Committee.

SECTION I
DISPUTE RESOLUTION

23.1 (a) If a dispute arises out of or in connection with any issue or matter set out in this Agreement with respect to the implementation or performance of this Agreement by any Party, and the Parties do not resolve some or all of the dispute through discussions the following alternate dispute resolution mechanisms must be undertaken prior to referring the issue to the court for determination.

- (b) Either Party may provide written notice to the other, containing a request to negotiate. This notice shall be given promptly in order to prevent further damages resulting from delay and shall specify the issues in dispute. The Party upon which such notice is served shall respond forthwith and all Parties shall use their best efforts to resolve the dispute.

23.2 If the Parties do not resolve some or all of the issues in dispute within 60 (sixty) days from the notice set out in clause 23.1, the Parties agree to attempt to resolve those issues through mediation. If the dispute arises out of Section D, there shall first be a technical review by the Committee or a qualified person appointed by the Committee.

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- 23.3 The Parties will jointly select a mediator. If they are unable to do so within 45 (forty-five) days of the notice set out in clause 23.1, then a mediator will be chosen, upon application by any one of the Parties, by the Alberta Arbitration and Mediation Society.
- 23.4 All information exchanged during the negotiation and mediation procedures shall be regarded as "without prejudice" communications for the purposes of settlement negotiations and shall be treated as confidential by the Parties and their representatives unless otherwise required by law or where the mediation results in a settlement agreement, and then such settlement agreement may be disclosed by any Party. However, evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during negotiation or mediation.
- 23.5 The Parties will use their best efforts to ensure that the representatives selected to participate in the dispute resolution process will have the authority required to resolve the dispute, or a timely and accessible means of obtaining that authority.
- 23.6 Each Party shall bear its own fees and costs of the mediation. Fees and expenses of the mediator and all administrative costs of the mediation, such as the cost of a meeting room, if any, will be borne equally by the Parties.
- 23.7 Unless otherwise agreed to by the Parties to the mediation, the following shall apply:
- (a) the Parties shall appoint one independent, impartial mediator;
 - (b) each Party shall cooperate in good faith with the mediator;
 - (c) the procedure to be followed at the mediation conference shall be set by the mediator after consultation with the Parties;
 - (d) all settlement agreements reached shall be reduced to writing and signed by the affected Parties;
 - (e) while the mediation is underway, no Party shall initiate or continue any arbitral or judicial proceedings in respect of the dispute that is the subject matter of the mediation unless it is necessary for a Party to preserve its rights, and then only to the extent required to do so;

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- 23.8 If the matter cannot be resolved to the satisfaction of each Party by the mediation of the dispute, any Party may bring action in the Court of Queen's Bench of Alberta.
- 23.9 Any court action or mediation in respect of any issue or matter set out in this Agreement, shall be solely restricted to an action in contract based on the terms and conditions of this Agreement. For greater certainty, none of the Parties have any entitlement, right or cause of action against any Person respecting the subject matters of this Agreement, except through the terms and conditions of this Agreement.

SECTION J
THE ACTIONS

- 24.1 The Piikani and Alberta shall discontinue, without costs, the claims made by each of them in the Alberta Action.
- 24.2 (a) The Piikani agrees to abandon and discontinue the CPR Action and undertakes to instruct its solicitors to file and serve Canada with a discontinuance of Federal Court Action No. T-535-88 on a without costs basis, and undertakes to execute any waivers of costs or consents to the discontinuance which may be required in the circumstances.
- (b) The Piikani agrees to abandon and discontinue the Oldman River/LNID Action and undertakes to instruct its solicitors to file and serve Canada with a discontinuance of Federal Court Action No. T-1486-88 on a without costs basis and to execute any waivers of costs or consents to the discontinuance which may be required in the circumstances.
- 24.3 Subject only to the Transfer of the Headworks Lands referred to in Section F, the Piikani's position is that the Riverbed constitutes part of the Reserve. Canada is prepared to adopt this position during the term, and only for the purposes, of this Agreement as set out in Section N. As this is not the position of Alberta, the Parties have agreed to resolve this issue, for so long as this Agreement is in effect pursuant to Section N, by using the provisions of this Section and of Section L.
- 24.4 For so long as this Agreement remains in effect pursuant to Section N, each of the Parties agree:

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- (a) to forego Proceedings, and to not bring any Proceeding, whether by Statement of Claim, third party notice or otherwise, against any Person which relate to:
 - (i) any and all issues as to proprietary interest or rights in the Riverbed; and
 - (ii) any and all issues as to the existence, nature or scope of rights, title or interest (if any) in the water of the Oldman River.
- (b) the provisions in this Agreement regarding the Riverbed and water are binding on the Parties regardless of any subsequent finding of fact or law on these issues by any court, commission, board, or tribunal in any existing or future Proceeding, whether brought by the Piikani or any other Person;
- (c) the Parties may plead and rely upon the provisions of this Agreement in defence of any Proceeding.

24.5 Notwithstanding clauses 24.3 and 24.4, Alberta may commence any Proceedings, including Proceedings to enjoin any Person engaged in unlawful activity, where such Proceedings are necessary to ensure the continued supply of water from the Oldman River to all users including supply of the Piikani Waters.

24.6 Each Party acknowledges to the other that:

- (a) nothing in this Agreement prejudices any position which any Party may adopt with regard to jurisdiction or authority over water, water usage, water rights or entitlement as these relate to the Oldman River as it passes through the Reserve, or proprietary interest or rights in the Riverbed in any Proceeding which might be commenced after this Agreement is no longer in effect pursuant to Section N;
- (b) in particular, the issuance of any licence by Alberta to Alberta on behalf of the Piikani pursuant to subsection 12 (Piikani Waters Implementation) will not in and of itself prevent the Piikani from asserting their water rights based on Treaty No. 7, aboriginal rights or common law after this Agreement is no longer in effect pursuant to Section N.

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24.7 Should this Agreement cease to be in effect pursuant to Section N, and should any Party commence a Proceeding to assert any rights referred to in clause 24.4(a), the Parties agree that any delay in the bringing of such Proceeding will not be raised as a defence by any Party based upon laches, acquiescence, or any statute of limitations, where such delay was occasioned solely by the passage of time during which this Agreement was in effect.

SECTION K
TREATY AND ABORIGINAL RIGHTS

25.1 The Piikani's existing treaty or aboriginal rights, as recognized and affirmed in section 35 of the *Constitution Act, 1982*, are not limited, diminished, extinguished or affected, except to the extent necessary to allow the implementation and continuation of this Agreement, subject to Section N.

25.2 This Agreement is not a treaty.

SECTION L
RELEASES

26.1 For the purposes of this Section, the words "Canada" and "Alberta" include any of their respective Ministers, officials, servants, employees, agents, licensees, successors and assigns.

26.2 (a) This release is given in consideration of the payments to be made by Canada or Alberta to the Piikani and the performance by Canada or Alberta of each of their covenants in this Agreement.

(b) This release shall become effective when the Settlement Funds have been paid on behalf of Canada or Alberta to the Piikani. For the purposes of this release, the Settlement Funds shall be deemed to have been paid in full upon the payment of the first installment of the Settlement Funds.



Page 2

- (c) The provisions in this release are severable from the rest of this Agreement and specifically survive the suspension, termination, breach or frustration of this Agreement and, for greater certainty, separate consideration in the amount of \$10.00, receipt of which is hereby acknowledged, is provided to support this clause.

26.3 The Piikani forever releases, remises and discharges each of Canada and Alberta from any and all actions, causes of action, suits, claims or demands, damages, costs, expenses or liability whatsoever, whether known or unknown, and whether in law, in equity or otherwise, which the Piikani or any Member ever had, now have or may have in the future, against Canada or Alberta or both of them, relating directly or indirectly to the following:

- (a) any of the facts or matters alleged in the Specific Claims;
- (b) any of the facts, matters, or causes of action alleged in the Actions;
- (c) the Reservoir including, but not limited to, all matters pertaining to the construction, operation or management of this facility, and any impacts, operational, environmental or otherwise, to the Reserve or the Oldman River as it passes through the Reserve as a result of the Reservoir;
- (d) the Headworks, the Headworks Lands or the Lethbridge Northern Irrigation District, including, but not limited to, all matters pertaining to the construction, operation or management of these;
- (e) the 1981 Agreement or 1981 Permit;
- (f) claims for loss of use of the waters of the Oldman River and loss of associated economic benefits;
- (g) all costs incurred by the Piikani for research, preparation, negotiation and settlement of the Specific Claims, and for preparation, negotiation and ratification of this Agreement, including legal fees and all costs and disbursements relating to the Actions;
- (h) all matters within Section E;
- (i) monetary consideration for the Transfer, the Access Permit and the

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Occasional Access Permit;

- (j) the payment of the Settlement Funds, Annual Payments, and Negotiation Costs pursuant to Section B, and, on the Piikani's authority and direction, the deposit of the Settlement Funds and Annual Payments into the Piikani Trust pursuant to the Trust Agreement, and any withdrawal, use, management, or any other dealings by the Trustee or Council with respect to the Settlement Funds, Annual Payments, and Negotiation Costs, including without limitation, the termination of the Trust Agreement;
- (k) the procedures involved in the ratification and the execution of this Agreement by the Piikani.
- (l) any errors or omissions in the List of Voters for the Ratification Vote;
- (m) the representations and warranties of the Piikani under Section P; and
- (n) the fact that Canada, with the express consent of the Piikani, did not reserve for the benefit of the Piikani a right of entry by Canada or any person acting under Her authority to enter upon the Headworks Lands or any part thereof to explore for, develop, raise or get out the mines and minerals or any of them.

26.4 The Piikani agrees to not assert any action, cause of action, suit, claim or demand, damages, costs, expense or liability whatsoever, whether known or unknown, and whether in law, in equity or otherwise, which the Piikani or any Member ever had, now have or may have in the future, in any Proceeding against Canada or Alberta or both of them relating directly or indirectly to any of the items released pursuant to clause 26.3.

26.5 (a) The Piikani agrees not to assert any action, cause of action, suit, claim or demand, damages, costs, expense or liability whatsoever, whether known or unknown, and whether in law, in equity or otherwise, which the Piikani or any Member ever had, now have or may have in the future, in any Proceedings against any Person which relates to the subject matter of this release, including any Proceedings against any Person who has or might claim contribution or indemnity from Alberta or Canada by statute or otherwise.

Page

(b) The Piikani covenants that no specific claim will be presented to Canada based on the matters covered in clause 26.3.

26.6 Nothing contained in Section J prevents the Piikani from bringing a Proceeding, after this Agreement is no longer in effect pursuant to Section N, against Canada or Alberta or both of them, with respect to the following:

- (a) a declaration regarding proprietary interest or rights in the Riverbed; and
- (b) a declaration, based on treaty, aboriginal or common law rights, which give rise to rights, title or interest, if any, in the waters of the Oldman River as it passes through the Reserve.

26.7 Nothing contained in Section J prevents the Piikani from bringing a Proceeding, after this Agreement is no longer in effect pursuant to Section N, against Canada, with respect to the following:

- (a) damages arising from a declaration referred to in clause 26.6 (a) or (b), but only in respect to damages which may be incurred after this Agreement is no longer in effect pursuant to Section N. For greater certainty, the Piikani acknowledge and agree that damages based on a breach of clause 26.6 (a) or (b), that have occurred before or during the term of this Agreement, if any, are fully quantified by the payments made under this Agreement.

26.8 It is understood and agreed by the Parties that the payments to be made, and the performances of each of their covenants under this Agreement, by Alberta or Canada are not an admission of facts or liability as to any subject matter dealt with in this Agreement, such liability being denied.

26.9 Nothing in this release affects the scope, meaning or continuing validity of the 1981 Release referred to in clause 21.3.

26.10 Payments of the Settlement Funds under this Agreement shall be made without prejudice to any future position which Canada or Alberta may adopt with regard to settlement of claims by any Indian Band or First Nation having the same or similar subject matter as this Agreement.

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SECTION M
INDEMNITY BY THE PIKANI

- 27.1 For the purposes of this Section, the words "Canada" and "Alberta" include any of their respective Ministers, officials, servants, employees, agents, licensees, successors and assigns.
- 27.2 The Piikani agrees to indemnify and forever save harmless Canada and Alberta or each of them from and against any and all obligation, liability, duty, loss or damage resulting directly or indirectly from any Proceeding brought against Canada or Alberta, by the Piikani or any Member with respect to any actions, cause of action, suit, claim or demand, damages, costs, expense or liability whatsoever, whether known or unknown, and whether in law, in equity or otherwise, which the Piikani or any Member ever had, now have or may have in the future with respect to any of the matters set out in clause 26.3 provided that such obligation, liability, duty, loss or damage has been awarded or determined by a decision or order of a court or other tribunal of competent jurisdiction, or by a settlement (whether or not Proceedings have been instituted) consented to by the Piikani, such consent not to be unreasonably withheld, and notice has been given to the Piikani pursuant to clause 27.3.
- 27.3 Canada and Alberta, or each of them, shall provide notice to the Piikani by registered mail of any Proceeding which may reasonably give rise to indemnification under this Section. Such notice shall be sufficient to enable the Piikani to identify the claims being made in such Proceeding and to protect its interests in any Proceeding or settlement.
- 27.4 (a) Canada shall assume and control the defence and any negotiations relating to any Proceeding against Canada referred to in 27.2;
- (b) Alberta shall assume and control the defence and any negotiations relating to any Proceeding against Alberta referred to in 27.2;
- (c) the Piikani shall assume and control the defence and any negotiations relating to any Proceeding against the Piikani referred to in 27.2;
- (d) Canada or Alberta agrees that it will not refuse to defend itself against any Proceeding based solely on the existence of this Section.

27.5 Any demand by Canada or Alberta for indemnification shall be made in writing, and if the amount so claimed is not paid by the Piikani within sixty (60) days of receipt of such notice, Canada or Alberta shall be entitled to invoke all rights and remedies provided by law, to recover any amounts owed by the Piikani. *part*

27.6 In the event the Piikani are not named in any Proceeding, Canada and Alberta will not oppose the Piikani intervening, at its own expense, against any Claim which may give rise to a right of indemnity under this Section, and may make such investigation, negotiation and settlement of any claim as it deems expedient.

SECTION N
TERM OF THIS AGREEMENT

28.1 This Agreement shall be in effect for so long as the later of either: Alberta requires the Headworks for a water diversion and conveyancing system or the Piikani receive any of the Piikani Waters, pursuant to the terms of this Agreement.

SECTION O
RATIFICATION

29.1 This Agreement and the Trust Agreement has been approved by the Voters pursuant to the Ratification Voting Guidelines dated July 11, 2002 which were approved by Band Council Resolution dated July 11, 2002. The Council confirms that the Ratification Voting Guidelines were available for review by Members throughout the posting period leading up to the Ratification Vote, at the Piikani Nation Administration office and at DIAND offices in Calgary and Edmonton; and at all polling stations throughout the Voting Days.

29.2 By approving this Agreement and the Trust Agreement pursuant to the Ratification Voting Guidelines, the Piikani authorizes, empowers and directs the present Council and succeeding Councils to act for and on behalf of the Piikani in signing all documents and taking measures to execute and implement the terms and intent and meaning of this Agreement and the Trust Agreement.

29.3 The Piikani agrees to and approves the terms and conditions of this Agreement and Trust Agreement and authorizes at least a quorum of the Council to execute this

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Agreement and Trust Agreement if, at the Ratification Vote, a majority (over 50%) of the Voters vote and a majority (over 50%) of the votes cast by the Voters are in favour of this Agreement and the Trust Agreement.

29.4 If, at the Ratification Vote, a majority (over 50%) of the Voters do not vote, but a majority (over 50%) of the votes cast by the Voters are in favour of this Agreement and Trust Agreement, then a second Ratification Vote may be called by Canada, at the request of Council, within six (6) months of the first Ratification Vote.

29.5 Where a second Ratification Vote is held pursuant to clause 29.4, the Piikani agrees to and approves the terms and conditions of this Agreement and Trust Agreement, and authorizes at least a quorum of the Council to execute this Agreement and Trust Agreement if, at the second Ratification Vote, a majority (over 50%) of the Voters vote and a majority (over 50%) of the votes cast by the Voters are in favour of this Agreement and the Trust Agreement.

29.6 If the required approval and assent pursuant to clause 29.3 (or, in the case of a second vote, clause 29.4) is not obtained:

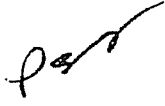
- (a) this Agreement shall not be executed on behalf of the Peigan and shall have no effect;
- (b) the Trust Agreement shall not be executed on behalf of the Peigan and shall have no effect.

SECTION P
REPRESENTATIONS AND WARRANTIES OF THE Piikani

30.1 The Piikani represents and warrants that:

- (a) the Piikani has retained independent legal counsel, namely the firm of Ackroyd, Piasta, Roth & Day LLP, qualified to practice law in Alberta to provide independent legal advice to the Piikani, as set out in the Certificate of Independent Legal Advice, with regard to the Actions, the Specific Claims, and the negotiation, preparation, execution and implementation of this Agreement and the Trust Agreement;

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- (b) the Piikani's legal counsel has fully explained to the Council the legal nature and effect and implementation of this Agreement and the Trust Agreement, including, without limitation, the treatment and placement of the Settlement Funds into the Piikani Trust rather than into the Consolidated Revenue Fund and was available to answer questions regarding the same;
- (c) the Piikani's legal counsel fully explained to the Council and was present at Information Meetings where a presentation, the legal aspects of which were reviewed by legal counsel, was made to the Members. The presentation consisted of an overview of the terms and conditions of this Agreement and the Trust Agreement including the deposit of the Settlement Funds and the Annual Payments payable pursuant to this Agreement into the Piikani Trust pursuant to the Trust Agreement, and an explanation of the contents, legal nature, effect and consequences of this Agreement settling the Actions and the Specific Claims, and the Trust Agreement, and answered any relevant legal questions regarding the same;
- (d) the Piikani has retained an independent financial advisor, namely Meyers, North and Penny, Chartered Accountants, to advise the Piikani with regard to the financial nature and effect of the Trust Agreement and the treatment and placement of the Settlement Funds into the Piikani Trust;
- (e) the Piikani's financial advisor has fully explained the financial nature and effect of the Trust Agreement and the treatment and placement of the Settlement Funds into the Piikani Trust and including, without limitation, advice on the rates of returns, investment risks and tax implications to the Council and was present at the Information Meetings to answer any questions regarding the same;
- (f) an interpreter fluent in the native language of the Members was present and available to any of those Members in need of an interpreter (if any) at all times during all Information Meetings and at all polling stations during the Ratification Vote;
- (g) the information provided to the Members at, or in connection with, all Information Meetings was sufficiently accurate and complete so as to allow Members to cast an informed vote;
- (h) the Council is duly elected in accordance with Piikani custom and is

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comprised of thirteen (13) members;

- (i) none of the Voters are disqualified from voting at the Ratification Vote because they are resident off Reserve; and
- (j) a quorum of the Council is comprised of seven (7) members.

30.2 These representations and warranties shall survive the execution of this Agreement and shall continue in full force and effect for the benefit of Canada or Alberta.

SECTION O
EXECUTION

31.1 This Agreement will be executed by at least a quorum of the Council on behalf of the Piikani following ratification of this Agreement in accordance with Section O.

31.2 This Agreement will be executed by Canada and Alberta after the conditions precedent set out in clause 32.1 have been fulfilled.

32. Conditions Precedent to the Signing of this Agreement

32.1 Canada, Alberta and the Piikani agree that the following are conditions precedent to any obligation by Canada and Alberta to execute this Agreement:

- (a) agreement to and approval of the terms and conditions of this Agreement and the Trust Agreement by the Piikani in accordance with Section O and the Ratification Voting Guidelines by the Ratification Vote held on September 16, 17 and 18, 2002;
- (b) the execution of this Agreement by the Piikani in accordance with Section Q;
- (c) receipt by Canada and Alberta of filed discontinuances, on a without costs basis, for the Actions;
- (d) delivery to Canada and Alberta by the Piikani's legal counsel of a Certificate of Independent Legal Advice substantially in the form attached as Schedule J, dated as of the execution of this Agreement by the Piikani;

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- (e) the issuance and delivery to Canada and Alberta by the Piikani's financial advisor, who is at arm's length to any Party to this Agreement or the Trust Agreement, of a Certificate of Independent Financial Advice substantially in the same form attached as Schedule K, dated as of the execution of this Agreement by the Piikani;
- (f) funds for the payment of the Settlement Funds have been approved and appropriated for that purpose by Canada; and
- (g) Alberta has confirmed that it has received a Band Council Resolution and s.28 Temporary Access Permit from the Minister of Indian Affairs and Northern Development which authorizes it to proceed with Repairs and that the Repairs have been commenced and are continuing.

SECTION R
FURTHER ASSURANCES

- 33.1 The Parties shall in good faith do such things, execute such further documents and take such further measures as may be necessary to carry out and implement the terms, conditions, intent and meaning of this Agreement.
- 33.2 The Piikani confirms that, by the Ratification Vote held on September 16, 17 and 18, 2002, it has authorized at least a quorum of the present Council and at least a quorum of succeeding Councils to act for and on behalf of the Piikani and the Members and any of their respective heirs, descendants, legal representatives, successors and assigns to do such things, execute such further documents and take such further measures as may be necessary to carry out and implement the terms, conditions, intent and meaning of this Agreement.

34. Programs and Services

- 34.1 Regardless of the outcome of the Ratification Vote, this Agreement does not affect the eligibility of the Piikani or any Members to apply for government programs and other forms of assistance available to the First Nations, in accordance with criteria established by Canada and Alberta (if any) from time to time. Specifically, Canada and Alberta will continue to provide government programs and other forms of assistance to the Piikani as if this Agreement had not been concluded.



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34.2 The one-time per capita distribution payment to Members of \$3,000 to be made pursuant to clause 5.3.1 of the Trust Agreement will not affect benefits paid to any Member under Alberta's Supports for Independence ("SFI") or Assured Income for the Severely Handicapped ("AISH") financial support programs, and Canada is agreeable to taking action that is consistent with Alberta's approach.

SECTION S
AMENDMENTS

- 35.1 (a) This Agreement may only be amended by written agreement among the Parties, approved through the same procedures as this Agreement was approved.
- (b) Notwithstanding (a) above, the Piikani, Alberta, and Canada may agree in writing from time to time to amend this Agreement, but only if for any the following purposes:
- (i) to remove any conflicts or inconsistencies which may exist between any of the terms of this Agreement and any provision of any applicable law or regulation, so long as the Council, Alberta and Canada agree that such amendments will not be prejudicial to the interests of the Piikani, Alberta or Canada;
 - (ii) to correct clerical errors;
 - (iii) to clarify and resolve any ambiguity arising from defective or inconsistent provisions contained in this Agreement; or
 - (iv) to change non-substantive administrative or procedural aspects.

SECTION T
NOTICE

- 36.1 Any notice or other written communication required or permitted to be given under this Agreement will be given as follows:
- (a) to Canada:
Regional Director General

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Alberta Region
Indian Affairs and Northern Development
630 Canada Place
9700 Jasper Avenue
Edmonton, AB T5J 4G2
fax: (780) 495-4354

- (b) to Alberta:
- (i) Regional Director Southern Region
Alberta Environment
3rd Floor, Deerfoot Square
2938 - 11th St. NE
Calgary, AB T2E 7L7
fax -(403) 297-6069
 - (ii) Deputy Minister Responsible for
Aboriginal Affairs
13th Floor, Commerce Place
10155 - 102 Street
Edmonton, Alberta T5J 4L4
fax - (780) 427-1760
- (c) to the Piikani:
- (i) Piikani Nation
Attention: Chief
P.O. Box 70
Brocket, AB T0K 0H0
fax - (403) 965-2030
 - (ii) Ackroyd & Company
1500, 10665 Jasper Ave.
Edmonton, AB T5J 3S9
Attention: Jerome Slavik
fax - (780) 423-8946

or at such other address or facsimile number as may from time to time be communicated in writing by any Party as its address for service.

36.2 Any notice may be delivered personally or sent by facsimile or registered mail to

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any Party at the address or facsimile number set out in clause 36.1. The notice will be presumed to have been received by the Party:

- (a) if delivered personally, on the day that it was delivered;
- (b) if sent by facsimile, on the next business day after it was transmitted; and
- (c) if sent by registered mail, on the earlier of the day it was received and the fifth day after it was mailed.

During an actual or anticipated postal disruption or stoppage, the mail will not be used by any Party and if used such notice will be of no effect.

SECTION U
GENERAL PROVISIONS

- 37.1 For the purpose of this Agreement and its execution, where the Council is to act for and on behalf of the Piikani, a quorum of the Council is sufficient to do so.
- 37.2 No member of the House of Commons or Senate shall be admitted to any share or part of this Agreement or to any benefit arising from this Agreement.
- 37.3 A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver will be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-compliance or by anything done or omitted to be done by any other Party. The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).
- 37.4 Any covenant or provision of this Agreement and any Access Permit or Occasional Access Permit issued pursuant to this Agreement which is prohibited or unenforceable in whole or in part shall be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement, and the covenants or provisions of this Agreement are declared to be separate and distinct.

part

37.5 This Agreement, together with the release signed on June 22, 1981 by the Chief and Councillors of the Peigan Indian Band (as the Piikani was then called) in favour of Alberta, shall be the entire agreement among the Parties relating to the subject matter of this Agreement. Subject only to clause 21.1 upon coming into effect, this Agreement supersedes all other agreements between the Parties; and without restricting the generality of the foregoing, including the 1981 Agreement and 1981 Permit. There is no representation, warranty, collateral agreement, undertaking or condition affecting this Agreement or the subject matter of it, whether oral or in writing, except as expressed herein and in the aforementioned June 22, 1981 release.

37.6 This Agreement shall be governed by the applicable laws of Alberta and Canada.

37.7 This Agreement is entered into by Canada, Alberta and the Piikani without any admission of facts or liability.

37.8 This Agreement is for the benefit of, and is binding upon, Canada and Alberta and any of their Ministers, officials, servants, employees, agents, successors and assigns and upon the Piikani and its past, present and future members and any of their respective heirs, descendants, legal representative, successors and assigns.

IN WITNESS WHEREOF Her Majesty the Queen in Right of Canada, represented by the Minister of Indian Affairs and Northern Development, has executed this Agreement on the ____ day of _____, 2002; and Her Majesty the Queen in Right of Alberta, represented by the Minister of Environment and the Minister of Aboriginal Affairs and Northern Development, has executed this Agreement on the ____ day of _____, 2002; and the duly elected Chief and Council of the Piikani Nation, have hereunto set their respective hands on the ____ day of _____, 2002.

SIGNED on behalf of Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development, in the presence of:

Name of Witness:

Minister of Indian Affairs and Northern Development

Address:
Occupation:

JK

PS

SIGNED on behalf of Her Majesty the Queen in Right of Alberta, as represented by the Ministers, in the presence of:

Name of Witness:
Address:
Occupation:

Minister of Environment

Name of Witness:
Address:
Occupation:

Minister of Aboriginal Affairs and Northern Development

APPROVED pursuant to the *Alberta Government Organization Act*, S.A., 1994 chapter G 8.5.

Minister of International and Intergovernmental Relations


SIGNED on behalf of the Piikani Nation, by the Chief and Council of the Piikani, in the presence of:

Name of Witness:
Address:
Occupation:

Chief

Name of Witness:
Address:
Occupation:

Councillor

TR


part

Name of Witness:
Address:
Occupation:

Councillor

Name of Witness:
Address:
Occupation:

Councillor

Name of Witness:
Address:
Occupation:

Councillor

Name of Witness:
Address:
Occupation:

Councillor

Name of Witness:
Address:
Occupation:

Councillor

Name of Witness:
Address:
Occupation:

Councillor

Name of Witness:
Address:
Occupation:

Councillor

Name of Witness:
Address:

Councillor

JK
[Signature]

para

Occupation:

Name of Witness:

Address:

Occupation:

Councillor

Name of Witness:

Address:

Occupation:

Councillor

Name of Witness:

Address:

Occupation:

Councillor

TR
[Signature]

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Schedule A

Ratification Ballot Question

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RATIFICATION BALLOT QUESTION

As a Voter of the Piikani Nation, do you:

- A. agree to and approve the terms and conditions of the Agreement between Her Majesty the Queen in right of Canada, the Piikani Nation, and Her Majesty the Queen in right of Alberta, dated for reference _____;
- B. agree to and approve the terms and conditions of the Piikani Trust Agreement, dated for reference _____; and
- C. agree to authorize, empower, and direct present and succeeding Councils (which includes the Chief) of the Piikani Nation, to act for and on behalf of the Piikani Nation, and its members, to sign all documents and take all measures to execute and implement the terms and intent and meaning of the above Agreement and Piikani Trust Agreement?

YES

NO

Mark this Ballot by placing an "X" under the word "YES" or "NO" within the appropriate box.

Jim TR

page

Schedule B

Ratification Appeal Process

Atom
1/4

Part

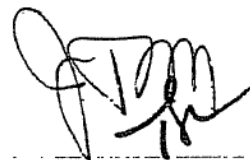
RATIFICATION APPEAL PROCESS

1. A Voter who voted and has reasonable grounds for believing that:
 - 1.1 there was a violation of the Ratification Voting Guidelines that may affect the results of the Ratification Vote; or
 - 1.2 there was corrupt practice that may affect the results of the Ratification Vote;may, within seven days from the Voting Day, file an objection by forwarding by registered mail, courier or electronic mail to the Regional Director General:
 - 1.3 notice of his or her objection; and
 - 1.4 a statutory declaration setting out the grounds for the objection.
2. Where an objection is filed under clause 1, the Regional Director General will, within seven days of receiving it, forward a copy to the Ratification Officer.
3. The Ratification Officer will, within ten (10) days of receiving the objections, forward to the Regional Director General, a statutory declaration containing answers to the particulars stated in the Voter's declaration.
4. The Regional Director General will forward all of the material received pursuant to this Section to the Deputy Minister.
5. The Deputy Minister may, if the material sent pursuant to this Schedule is not sufficient to decide the validity of the grounds of the objection, conduct such further investigations as he or she deems necessary.
6. Subject to clause 7, the Deputy Minister may dispose of an objection by allowing it and calling another vote.
7. Where the Deputy Minister is of the opinion that the grounds of the objection:
 - 7.1 are not established; or
 - 7.2 do not affect the results of the Ratification Vote;

*Adam
The*

he or she will dismiss the objection.

P4

A handwritten signature or set of initials, possibly reading "A. J. M.", located in the bottom right corner of the page.

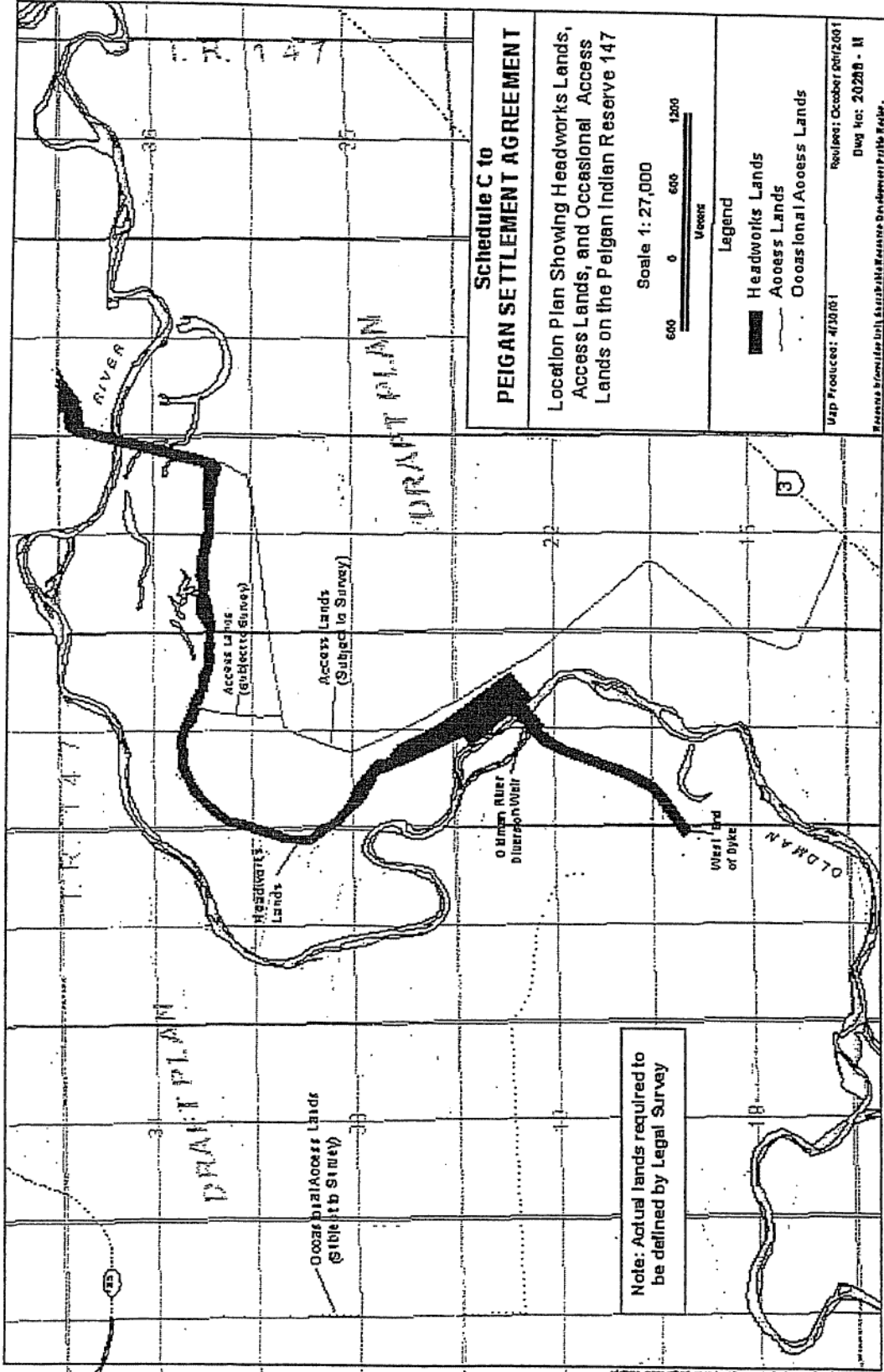
Part

Schedule C

Map which shows
the Headworks Lands,
the Access Lands,
and the Occasional Access
Lands

[Handwritten signature]

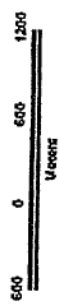
per



**Schedule C to
PEIGAN SETTLEMENT AGREEMENT**

Location Plan Showing Headworks Lands,
Access Lands, and Occasional Access
Lands on the Peigan Indian Reserve 147

Scale 1: 27,000



- Legend**
- ▬ Headworks Lands
 - ▬ Access Lands
 - ▬ Occasional Access Lands

Map Produced: 4/30/01
 Revised: October 20/2001
 Drawn by: 20220 - M
 Prepared by: 4/30/01
 Prepared by: 4/30/01

Note: Actual lands required to
be defined by Legal Survey

03



057

Schedule D

Forms of Band Council
Resolutions consenting to
the Transfer and the
issuance of the Access
Permit and the Occasional
Access Permit

P-2

**Forms of Band Council Resolutions consenting to the Transfer
and the issuance of the Access Permit and the Occasional Access Permit**

Schedule D-1: Section 35 BCR

WHEREAS the Chief and Council of the Piikani Nation, in the Province of Alberta acts for and on behalf of the Piikani Nation members, and is empowered to exercise such powers as provided for as set out in the *Indian Act* and other applicable legislation;

AND WHEREAS a quorum of Council has met at a duly convened meeting on the above date;

AND WHEREAS pursuant to the Ratification Vote as defined in the Settlement Agreement, the Voters of the Piikani Nation agreed to authorize, empower, and direct present and succeeding Councils (which includes the Chief) of the Piikani Nation to act for and on behalf of the Piikani Nation and its members, to sign all documents and take all measures to execute and implement the terms and intent and meaning of the Agreement and Piikani Trust Agreement;

NOW THEREFORE IT IS HEREBY IRREVOCABLY RESOLVED that the Council of the Piikani Nation request that the Minister of Indian Affairs and Northern Development transfer administration and control of the full interest in the Headworks Lands, as defined in the Settlement Agreement, within the Peigan Reserve No. 147 to the Province of Alberta pursuant to the provisions of Section 35 of the *Indian Act* and in accordance with the terms and conditions of the Settlement Agreement between the Piikani Nation, Alberta and Canada dated _____, and take such steps to facilitate the transfer including:

1. The lands transferred are solely for the following purposes:
 - (a) to operate, maintain, inspect, repair, replace, rehabilitate, construct or enlarge the Headworks as that term is defined in the Settlement Agreement;
 - (b) the right of Alberta to do the work described in (a) (with all necessary excavations of sand and gravel); and

par

- (c) the uninterrupted right of Alberta of access to and passage over the Headworks Lands for the purposes set out in (a) and (b).

- 2. The lands transferred will be transferred back to Canada for the use and benefit of the Piikani Nation when no longer required by Alberta for these purposes.

- 3. Canada retains all rights to minerals, and the Piikani Nation waive any requirement for access to these lands for the purpose of the extraction of these minerals while the lands are held by Alberta.

- 4. The lands required are as described in CLSR no(s) _____.

- 5. Compensation for this transfer to be the amount of Ten (\$10.00) Dollars, receipt of which is hereby acknowledged, together with the non-monetary consideration and covenants of Alberta pursuant to the Settlement Agreement.

- 6. The Council acknowledges that the Province of Alberta agrees under the Settlement Agreement to transfer administration and control of CLSRs IRR 1925A and 2854 (LTOs IRR 908 and 1349EW) to Canada.

- 7. The Council requests that the Minister of Indian Affairs and Northern Development return CLSRs IRR 1925A and 2854 (LTOs IRR 908 and 1349EW) to reserve status for the purpose of facilitating this transfer in accordance with the terms of the Settlement Agreement.

[Handwritten signature]

per

Schedule D-2: Occasional Access BCR

WHEREAS the Chief and Council of the Piikani Nation, in the Province of Alberta acts for and on behalf of the Piikani Nation members, and is empowered to exercise such powers as provided for as set out in the *Indian Act* and other applicable legislation;

AND WHEREAS a quorum Council has met at a duly convened meeting on the above date;

AND WHEREAS the Province of Alberta has requested a permit for occasional access to the Headworks Lands as these are defined in the Settlement Agreement between the Piikani Nation, Alberta and Canada dated _____, (the "Settlement Agreement");

AND WHEREAS pursuant to the Ratification Vote as defined in the Settlement Agreement, the Voters of the Piikani Nation agreed to authorize, empower, and direct present and succeeding Councils (which includes the Chief) of the Piikani Nation to act for and on behalf of the Piikani Nation and its members, to sign all documents and take all measures to execute and implement the terms and intent and meaning of the Agreement and Piikani Trust Agreement;

THEREFORE BE IT IRREVOCABLY RESOLVED that the Council of the Piikani Nation requests that the Minister of Indian Affairs and Northern Development issue an Occasional Access Permit to the Province of Alberta under the authority of Section 28(2) of the *Indian Act*, and in accordance with the terms and conditions of the Settlement Agreement, including that:

1. The term shall be for as long as required for access to the Headworks Lands.
2. Compensation for this permit shall be \$10.00, receipt of which is hereby acknowledged, and other valuable consideration as set out in the Settlement Agreement.
3. The lands are described by a provisional plan executed between July 27th and August 2nd, 2001, and describing Access Road Right of Way through parts of NE 1/4 Sec. 17, N 1/2 Sec 19, N1/2 and SE 1/4 Sec 20 Tp 8, R 27, W4th M and through parts of NE1/4 Sec 24, E1/2 Sec 25 and E 1/2 Sec 36 Tp 8, R 28, W4th M and intervening road allowances; this plan to be superceded by the corresponding plan registered in Canada Lands Survey Records and given the registration number _____.
4. Any other terms and conditions deemed necessary by Her Majesty the Queen in right



of Canada.

per

Schedule D-3: Access BCR

WHEREAS the Chief and Council of the Piikani Nation, in the Province of Alberta acts for and on behalf of the Piikani Nation members, and is empowered to exercise such powers as provided for as set out in the *Indian Act* and other applicable legislation;

AND WHEREAS a quorum of Council has met at a duly convened meeting on the above date;

AND WHEREAS the Province of Alberta has requested a permit for access to the Headworks Lands as defined in the Settlement Agreement between the Piikani Nation, Alberta and Canada dated _____, (the "Settlement Agreement");

AND WHEREAS pursuant to the Ratification Vote as defined in the Settlement Agreement, the Voters of the Piikani Nation agreed to authorize, empower, and direct present and succeeding Councils (which includes the Chief) of the Piikani Nation to act for and on behalf of the Piikani Nation and its members, to sign all documents and take all measures to execute and implement the terms and intent and meaning of the Agreement and Piikani Trust Agreement;

THEREFORE BE IT IRREVOCABLY RESOLVED that the Council of the Piikani Nation requests that the Minister of Indian Affairs and Northern Development issues an Access Permit to the Province of Alberta under the authority of Section 28(2) of the *Indian Act*, and in accordance with the terms and conditions of the Settlement Agreement, including that:

1. The term shall be for as long as required for access to the Headworks Lands.
2. Compensation for this permit shall be \$10.00, receipt of which is hereby acknowledged, and other valuable consideration as set out in the Piikani Settlement Agreement.
3. The lands are described by a provisional plan executed by Brown, Okamura & Associates Ltd. (File No. 01-6274B), and describing Access Road Right of Way through parts of W1/2 Sec 15, E1/2 Sec 16, E1/2 Sec 21, SW1/4 Sec 22, N1/2 Sec 27, Sec 28, SE 1/4 Sec 33 & SE 1/4 Sec 34, Tp 8, R 27, W4M and intervening road

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per

allowances; this plan to be superceded by the corresponding plan registered in Canada Lands Survey Records and given the registration number _____.

4. Any other terms and conditions deemed necessary by Her Majesty the Queen in right of Canada.

Schedule E

Forms of Discontinuances of the Oldman River/ LNID Action and the CPR Action



pet

DISCONTINUANCES

Court file No. T-1486-86

FEDERAL COURT - TRIAL DIVISION

BETWEEN:

Peter Yellowhorn, Chief of the Peigan Indian Band
On behalf of himself and all other Members of the Peigan Indian Band

and

The Peigan Indian Band, a body of Indians recognized
under the *Indian Act*
Of the Peigan Indian Reserve

Plaintiffs

and

Her Majesty the Queen in Right of Canada,
Parliament Buildings, Ottawa, Ontario

and

The Honourable David Crombie, Minister of Indian
Affairs and Northern Development, Parliament Buildings, Ottawa, Ontario

Defendants

NOTICE OF DISCONTINUANCE

The plaintiffs wholly discontinue this action without costs.

Jerome Slavik
Ackroyd, Piasta, Roth & Day, LLP
First Edmonton Place, 1500 – 10665 Jasper Avenue
Edmonton, Alberta T5J 3S9
Tel: (780) 423-8905, Fax: (780) 423-8946
Solicitor for the Plaintiffs



per

FEDERAL COURT - TRIAL DIVISION

BETWEEN:

Chief Peter Yellowhorn, Chief of the Peigan Indian Band
And Albert Yellowhorn, sr., Jerry Potts, sr., Roderick North Peigan,
Lionel Crow Show, Nelbert Little Mustache, George Little Mustache,
Bruce Potts, Stanley Knowlton, Julianna North Peigan, Louise English,
Leander Strikes-With a Gun, Floyd Smith, Members of the band council of
The Peigan Indian Band suing on their own behalf and on behalf of all other
Members of the Peigan Indian Band, all of whom reside on the Peigan
Reserve in the Province of Alberta

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

NOTICE OF DISCONTINUANCE

The plaintiffs wholly discontinue this action without costs.

Jerome Slavik
Ackroyd, Piasta, Roth & Day, LLP
First Edmonton Place, 1500 – 10665 Jasper
Avenue
Edmonton, Alberta T5J 3S9
Tel: (780) 423-8905
Fax: (780) 423-8946
Solicitor for the Plaintiffs

JS
TS

per

Schedule F

**Form of Canada's
transfer document
regarding the Transfer
to Alberta by Canada
under s.35(3) of the *Indian
Act* of the Headworks
Lands**



per

**TRANSFER OF ADMINISTRATION AND CONTROL
OF FEDERAL REAL PROPERTY TO A PROVINCE**

WHEREAS:

- A. The Piikani Nation, Her Majesty the Queen in right of Canada ("Canada"), Her Majesty the Queen in right of Alberta ("Alberta") have entered into an Agreement dated _____, 2002 (the "Settlement Agreement"). The Piikani Nation, Canada and Alberta agreed, for greater certainty, as part of the Settlement Agreement, to the transfer of certain property defined as the Returned Lands in the Agreement from Alberta to Canada for the purpose of Canada transferring certain property defined in the Settlement Agreement as the Headworks Lands and described below, to Alberta pursuant to subsection 35(3) of the *Indian Act*;
- B. The Piikani Nation has acknowledged by the provisions of the Settlement Agreement that the amount paid under clause (e) herein, together with the non-monetary consideration and covenants of Alberta under the Settlement Agreement, were negotiated by the Piikani Nation, Alberta and Canada and the Piikani Nation agrees that these amounts are fair and reasonable amounts to be paid by Alberta to the Piikani Nation for this transfer;
- C. The Headworks Lands were temporarily and for the purposes of this Transfer made part of Peigan Indian Reserve No. 147, by Order-in-Council PC _____ of _____, 200__.
- D. By Order in Council P.C. 200_____ of _____, 200 __, the Governor in Council, pursuant to subsection 35(3) of the *Indian Act*, authorized a transfer of the Headworks Lands to Alberta;
- E. The Headworks Lands are federal real property under the administration of the Minister of Indian Affairs and Northern Development; and
- F. The within transfer of administration and control is satisfactory to the Minister of Justice.

THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT, pursuant to subsection 5(1) of the *Federal Real Property Regulations*, hereby transfers to Alberta administration and control of the full interest in the federal real property described



as:

[insert appropriate legal description]

[the "Headworks Lands"]

SUBJECT TO THE FOLLOWING TERMS:

1. (a) that there is excepted out of the said transfer any mines or minerals, precious or base, and whether solid, liquid or gaseous, including any coal, petroleum, and any gas or gases, which may be found in, under or upon the Headworks Lands;
- (b) that the Headworks Lands be used for the following purposes and for no other purpose:
 - (i) to operate, maintain, inspect, repair, replace, rehabilitate, construct or enlarge the Headworks as that term is defined in the Settlement Agreement;
 - (ii) the right of Alberta to do the work described in (i) (with all necessary excavations of sand and gravel); and
 - (iii) the uninterrupted right of Alberta of access to and passage over the Headworks Lands for the purposes set out in (i) and (ii);
- (c) that, if the Headworks Lands or any part thereof cease to be used for the purposes set out in paragraph (b) above,
 - (i) Alberta shall, by Order in Council, transfer to Canada, at no cost, the administration and control of the full interest in the Headworks Lands or part, as the case may be, as if the Headworks Lands or part had not passed to Alberta under the provisions hereof; and

per
John
the

pend

- (ii) Canada shall have the right, hereby reserved to Her, in case of any failure or default of Alberta to transfer in accordance with subparagraph (c)(i), to resume, on notice to Alberta pursuant to the Agreement, by Order of the Governor in Council, the administration and control or ownership of the Headworks Lands or part, as the case may be, as if the Headworks Lands or part had not passed to Alberta under the provisions hereof;
- (d) that the Headworks Lands or any part thereof, administration and control of which is transferred by Alberta in accordance with subparagraph (c)(i) or resumed by Canada in accordance with subparagraph (c)(ii), shall be in an environmentally sound condition, and the Headworks Lands shall be remediated to the standards of the Province of Alberta, unless, at the time of decommissioning, the standards of Canada are more stringent, in which case, Canada's shall apply, and, in this regard:
- (i) Canada shall confirm its determination regarding the environmental condition of the Headworks Lands or any part thereof, in writing, to Alberta prior to that transfer or resumption; and
 - (ii) any and all costs of any process or processes reasonably deemed necessary by Canada to determine the environmental condition of the Headworks Lands or any part thereof, or, unless otherwise waived by Canada and the Piikani Nation, to restore the Headworks Lands or any part thereof to an environmentally sound condition, shall be paid by Alberta; and
 - (iii) in the event Alberta fails to or refuses to pay any or all of the costs it is obliged to pay to Canada under (ii), then any and all costs of any process or processes reasonably deemed necessary by Canada under (ii) may be paid by Canada and Alberta shall be liable for those costs and those costs may be collected in the same manner as other debts due to the Crown; and
 - (iv) if there is any dispute as to what the appropriate standards are or whether such have been met by Alberta's restoration of the Headworks Lands, the Dispute Resolution Section of the Settlement Agreement shall apply; and

[Handwritten signature]

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(e) that Alberta has paid the Receiver General for Canada, as full compensation for the taking by Alberta, the sum of TEN DOLLARS (\$10.00), the receipt of which is hereby acknowledged, for the use and benefit of the Piikani Nation.

IN WITNESS WHEREOF this transfer of administration and control has been signed and countersigned pursuant to the *Federal Real Property and Federal Immovables Act*.

DATED as of the date of countersignature this ____ day of _____, 200_.

SIGNED on behalf of the)
Minister of Indian Affairs and)
Northern Development by:)

_____)

_____ Name

_____)
Title)

COUNTERSIGNED on behalf of the)
Minister of Justice by:)

_____)

_____ Name

_____)
Title)

Page

Schedule G

**Forms of Access Permit
and Occasional Access
Permit for access through
the Access Lands and the
Occasional Access Lands
to the Headworks Lands**

*STAM
1/8*

POD

**SCHEDULE G-1
CANADA
ACCESS PERMIT**

THIS PERMIT made as of the ____ day of _____, 2002.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented by the Minister of Indian Affairs and Northern Development, hereinafter called "Canada",

OF THE FIRST PART,

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA, as represented by the Minister of the Environment, hereinafter called "Alberta",

OF THE SECOND PART.

WHEREAS:

Alberta has applied for permission to use and exercise rights on portions of the Peigan Nation Reserve No.147, in the Province of Alberta, which is an Indian Reserve within the meaning of the *Indian Act*, Chapter I-5, Revised Statutes of Canada, 1985, set apart for the use and benefit of the Peigan Nation, now called the Piikani Nation, for the purpose of exercising the rights hereinafter described;

AND WHEREAS by consent expressed hereafter pursuant to Section 28(2) of the *Indian Act*, the Band Council of the Piikani Nation, for whose use and benefit the said reserve has been set apart, by Band Council Resolution dated _____, has recommended approval of the said Application;

per

NOW THEREFORE the Minister of Indian Affairs and Northern Development ("the Minister") on behalf of Canada, under authority of subsection 28(2) of the *Indian Act*, Chapter I-5, R.S.C. 1985, hereby authorizes Alberta to use and occupy for the purpose of non-exclusive access to the "Headworks Lands", as defined in the Settlement Agreement between Canada, the Piikani, and Alberta dated _____ (the "Agreement"), those parcels or tracts of land situated in the Indian Reserve No. 147 in the Province of Alberta, as described on a Provisional Plan executed by Brown, Okamura & Associates Ltd. (File No. 01-6274B) and describing Access Road Right of Way through parts of W1/2 Sec 15, E1/2 Sec 16, E1/2 Sec 21, SW1/4 Sec 22, N1/2 Sec 27, Sec 28, SE1/4 Sec 33 and SE1/4 Sec 34, Tp 8, R 27, W4M and intervening road allowances, which Provisional Plan will be superceded by an Official plan pursuant to clause 17.3 of the Agreement (the "Access Lands") for the period commencing on the ____ day of _____, 2002 and ending when Alberta no longer needs the Access Lands.

IT IS UNDERSTOOD AND AGREED by and between the parties that this Permit is granted on the following terms and conditions:

1. (a) For use of the said Access Lands Alberta shall pay a fee payable to the Minister on execution hereof, in the amount of TEN (\$10.00) DOLLARS, receipt of which is hereby acknowledged, and other good consideration paid by Alberta to the Piikani Nation pursuant to the Agreement. Alberta shall not be required by Canada or the Piikani Nation to pay any rate, levy, toll, tax, duty or other charge, on the use of the Access Lands by Alberta or the Access Lands.
2. (a) Alberta agrees to maintain the Road on the Access Lands (the "Road") in the same fit and proper condition as Alberta found the Road to be in when Alberta commenced its use of the Road. In addition, Alberta may at its discretion, repair, rebuild, upgrade or reconstruct portions of the Road if necessary. Alberta shall not be responsible for any cost of repair for damage or normal wear and tear to the Road caused by other Piikani Nation authorized commercial users or Piikani Nation Members, as defined in the Agreement.

(b) Use of the Road by Alberta shall mean use of the Road, as needed by Alberta, as a vehicle access, including construction equipment as needed, to the Headworks Lands. For greater certainty, Members of the Piikani Nation and the officers, agents, servants and employees of the Minister may continue to use the Road.
3. This Permit is given solely for the aforesaid purpose for the use of the Access Lands by Alberta, its officers, agents, servants and employees.

PM

4. (a) Canada shall not be liable or responsible in any way for any loss, theft, damage or injury to any improvements including any and all vehicles owned and operated by Alberta upon the Road, howsoever caused.
- (b) Alberta hereby releases the Piikani Nation, Canada, Her Heirs and Successors according to law, from any and all liability for loss or damage suffered by Alberta or its servants, successors, employees, contractors or agents in the use and occupation of the Access Lands and against and from all manner of actions, causes of actions, suits, damages, loss, costs, claims and demands of any nature whatsoever relating to such loss or damage, unless the loss or damage arose out of the negligence of Piikani Nation Members, or the Piikani Nation's or Canada's servants or agents.
5. Where as a result of acts or omissions of Alberta a nuisance exists, the Minister may by written notice, order Alberta to abate the nuisance; if Alberta fails to do so, the Minister may take whatever steps may be necessary to abate the nuisance and Alberta shall be liable for the cost thereof and the same may be collected in the same manner as other debts due the Crown.
6. That no waiver on behalf of Canada of any breach shall take place or be binding upon Canada, unless the same be expressed in writing by the Minister, and any waiver so expressed shall extend only to that particular breach to which such waiver specifically relates and shall not be deemed to be a general waiver or to limit or affect the rights of Canada, Her Successors according to law, with respect to any other or future breach.
7. That Alberta shall observe, fulfil, and comply with all relevant and applicable laws, by-laws, requirements, directions, orders, ordinances, rules and regulations of every federal or provincial authority, including any and all environmental protection statutes and any regulations thereto, and shall not commit or suffer any breach thereof to be committed on the Access Lands, PROVIDED, however, that Alberta shall not be obliged to observe, fulfill or comply with any by-law made by the Piikani Nation, in whole or in part, if such by-law unreasonably interferes with Alberta's use of the Access Lands for the purpose set out in this Permit.
8. Whenever it is required or permitted that notice or demand be given or served by either party to or on the other such notice or demand shall be sufficiently communicated if forwarded by courier or by facsimile, addressed as follows:

To Canada at: Indian Affairs & Northern Development

pl

Director, First Nations Relations, Treaty 7
630 Canada Place
9700 Jasper Avenue
Edmonton, Alberta
T5J 4G2
Fax: (780) 495-4354

To Alberta at: Regional Director, Southern Region
Alberta Environment
3rd Floor, Deerfoot Square
2938 - 11 St. NE
Calgary, Alberta
T2E 7L7
Fax: (403) 297-6069

Deputy Minister Responsible for
Aboriginal Affairs
13th Floor, Commerce Place
10155 - 102 Street
Edmonton, Alberta T5J 4L4
fax - (780) 427-1760

To Piikani at: Piikani Nation
Attention: Chief
P.O. Box 70
Brocket, Alberta T0K 0H0
Fax: (403) 965-2030

which may be changed from time to time by either party serving notice as above provided. If any question arises as to whether any such notice was communicated to either party, it shall be deemed communicated on the day received. A copy of any such notice or demand shall be provided to the Piikani Nation for information purposes.

9. Alberta and Canada mutually covenant and agree that this Permit is given under Sub-section 28(2) of the *Indian Act*, R. S. C., 1985, Chapter I-5, and the rights hereby given shall be construed as a licence only and shall not be deemed to grant, convey or confer on Alberta any right in *rem* or any estate or interest in the title to that portion of the Peigan Nation Indian Reserve No.147, covering the Access Lands.

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10. Notwithstanding anything in this Permit, Alberta on behalf of itself, its officers, servants, agents, licensees and invitees acknowledges and agrees that this Permit does not confer or give rise to any greater right or rights upon Alberta, its officers, servants, agents, licensees and invitees than the Minister is authorized to confer by Sub-section 28(2) of the *Indian Act*.
11. That this Permit may be terminated by the Minister if Alberta is in default in the performance of any of the terms, covenants or conditions herein contained and such default is not cured by Alberta within one hundred and twenty (120) days of written notice thereof given to Alberta by the Minister, or longer if required by Alberta, which consent by Canada to such longer period shall not be unreasonably withheld, PROVIDED, that Canada shall nevertheless be entitled to recover from Alberta any fees or charges then accrued or accruing, and moreover, that any right of action by Canada against Alberta in respect of any antecedent breach of any of the terms, covenants and conditions shall not thereby be prejudiced.
12. That Canada may grant to any individual or company the right to enter upon the Access Lands or parts thereof to explore, search for and remove petroleum, natural gas or minerals and this right shall include the right to take on to the Road such equipment as may be required for such operations provided that the exercise of these rights will not interfere with the use of the Access Lands for the purpose set out in this Permit.
13. Alberta shall save harmless and indemnify Canada and the Minister from and against all manner of actions, causes of action, claims, demands, losses, costs, expenses and actions that may arise, be sustained, or prosecuted, against Canada or the Minister whatsoever, and including any claim for damages suffered by Canada or the Minister or Members of the Piikani Nation using the said Road, by reason of any act or acts, or thing or things done, alleged or ought to have been done, by Alberta or by any of its officers, servants, workmen, agents or contractors.
14. On the termination or expiry of the Permit, Alberta shall repair the Road at its own expense, if responsible for damages to the Road, to a condition as nearly as existed before this Permit, if instructed to do so by the Minister. If Alberta fails to repair the Road as instructed to do so by the Minister, then the Minister may repair the Road and Alberta shall be liable for the cost thereof and the same may be collected in the same manner as debts due to the Crown.
15. That no Member of the House of Commons or Senate will be admitted to any share of the part of the Permit or to any benefit to arise hereunder.

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- 16. Alberta shall not assign or otherwise dispose of any of the rights herein given by the Minister; however, upon application, the Minister may issue a new permit to any other person or persons meeting standards set by the Minister.
- 17. That Alberta acknowledges that the rights or privileges hereby given may be, in part or parts, subject to prior rights or easements or rights-of-way and any encumbrances heretofore granted or made by the Minister. In each and every case Alberta agrees to accept its rights and privileges subject to this Permit and subject to such other interests as may now exist, and to save harmless and indemnify Canada from any claim or claims that may be made to respect thereof.
- 18. Time shall be of the essence of this Permit.

AND IT IS FURTHER AGREED that this Permit shall be subject to the provisions of the *Indian Act* and Regulations established thereunder which may be in force or which may hereafter be made and established from time to time in that behalf by the Governor-in-Council including all prior grants made thereunder.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective signatures the day and year first above written.

SIGNED, SEALED and DELIVERED
in the presence of:

Signed by
In the presence of:

HER MAJESTY THE QUEEN
IN RIGHT OF CANADA

Signed by
In the presence of:

HER MAJESTY THE QUEEN
IN RIGHT OF ALBERTA

Handwritten initials and signature in the bottom right corner.

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**SCHEDULE G2
C A N A D A
OCCASIONAL ACCESS PERMIT**

THIS PERMIT made as of the ____ day of _____, 2002.

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as
represented by the Minister of Indian Affairs and Northern
Development, hereinafter called "Canada",**

OF THE FIRST PART,

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA, as
represented by the Minister of the Environment, hereinafter called
"Alberta",**

OF THE SECOND PART.

WHEREAS:

Alberta has applied for permission to use and exercise rights on portions of the Peigan Nation Reserve No.147, in the Province of Alberta, which is an Indian Reserve within the meaning of the *Indian Act*, Chapter I-5, Revised Statutes of Canada, 1985, set apart for the use and benefit of the Peigan Nation, now called the Piikani Nation, for the purpose of exercising the rights hereinafter described;

AND WHEREAS by consent expressed hereafter pursuant to Section 28(2) of the *Indian Act*, the Band Council of the Piikani Nation, for whose use and benefit the said reserve has been set apart, by Band Council Resolution dated _____, has recommended approval of the said Application;

per

NOW THEREFORE the Minister of Indian Affairs and Northern Development ("the Minister") on behalf of Canada, under authority of subsection 28(2) of the *Indian Act*, Chapter I-5, R.S.C. 1985, hereby authorizes Alberta to use and occupy for the purpose of non-exclusive occasional access to the "Headworks Lands", as defined in the Settlement Agreement between Canada, the Piikani, and Alberta dated _____ (the "Agreement"), those parcels or tracts of land situated in the Indian Reserve No. 147 in the Province of Alberta, as described on a Provisional Plan executed between July 27th and August 2nd, 2001, and describing Access Road Right of Way through parts of NE1/4 Sec 17, N1/2 Sec 19, N1/2 and SE1/4 Sec 20 Tp 8, R 27, W4th M and through parts of NE1/4 Sec 24, E1/2 Sec 25 and E1/2 Sec 36 Tp 8 R 28, W 4th M and intervening road allowances, which Provisional Plan will be superceded by an Official Plan pursuant to clause 17.3 of the Agreement (the "Occasional Access Lands"), for the period commencing on the ____ day of _____, 2002 and ending when Alberta no longer needs the Occasional Access Lands.

IT IS UNDERSTOOD AND AGREED by and between the parties that this Permit is granted on the following terms and conditions:

1. (a) For use of the said Occasional Access Lands Alberta shall pay a fee payable to the Minister on execution hereof, in the amount of TEN (\$10.00) DOLLARS, receipt of which is hereby acknowledged, and other good consideration paid by Alberta to the Piikani Nation pursuant to the Agreement. Alberta shall not be required by Canada or the Piikani Nation to pay any rate, levy, toll, tax, duty, or other charge on the use of the Occasional Access Lands by Alberta or the Occasional Access Lands.
2. (a) Alberta agrees to maintain the Road on the Occasional Access Lands (the "Road") in the same fit and proper condition as Alberta found the Road to be in when Alberta commenced its use of the Road. In addition, Alberta may at its discretion, repair, rebuild, upgrade or reconstruct portions of the Road if necessary. Alberta shall not be responsible for any cost of repair for damage or normal wear and tear to the Road caused by other Piikani Nation authorized commercial users or Piikani Nation Members, as defined in the Agreement.
- (b) Use of the Road by Alberta shall mean any use, as reasonably required by Alberta four (4) times a year for inspections and repairs unless more frequent access is reasonably required for repairs. Such use is for occasional vehicle access, including construction equipment as needed, to the Headworks Lands for the purpose of inspecting or repairing the Headworks. For greater certainty, Members of the Piikani Nation and the officers, agents, servants and employees

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of the Minister may continue to use the Road.

3. This Permit is given solely for the aforesaid purpose for the use of the Occasional Access Lands by Alberta, its officers, agents, servants and employees. Whenever Alberta intends to use the Road, Alberta shall give 2 days notice in accordance with the form of notice provided for in the Agreement to the Piikani Nation. Such notice is solely for the purpose of informing the Piikani Nation of an impending use of the Road and Alberta's use of the Road is not contingent on any consent by the Piikani Nation once the notice is given.

4. (a) Canada shall not be liable or responsible in any way for any loss, theft, damage or injury to any improvements including any and all vehicles owned and operated by Alberta upon the Road, howsoever caused.

- (b) Alberta hereby releases the Piikani Nation, Canada, Her Heirs and Successors according to law, from any and all liability for loss or damage suffered by Alberta or its servants, successors, employees, contractors or agents in the use and occupation of the Occasional Access Lands and against and from all manner of actions, causes of actions, suits, damages, loss, costs, claims and demands of any nature whatsoever relating to such loss or damage, unless the loss or damage arose out of the negligence of Piikani Nation Members or the Piikani Nation's or Canada's servants or agents.

5. Where as a result of acts or omissions of Alberta a nuisance exists, the Minister may by written notice, order Alberta to abate the nuisance; if Alberta fails to do so, the Minister may take whatever steps may be necessary to abate the nuisance and Alberta shall be liable for the cost thereof and the same may be collected in the same manner as other debts due the Crown.

6. That no waiver on behalf of Canada of any breach shall take place or be binding upon Canada, unless the same be expressed in writing by the Minister, and any waiver so expressed shall extend only to that particular breach to which such waiver specifically relates and shall not be deemed to be a general waiver or to limit or affect the rights of Canada, Her Successors according to law, with respect to any other or future breach.

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- 7. That Alberta shall observe, fulfil, and comply with all relevant and applicable laws, by-laws, requirements, directions, orders, ordinances, rules and regulations of every federal or provincial authority, including any and all environmental protection statutes and any regulations thereto, and shall not commit or suffer any breach thereof to be committed on the Occasional Access Lands, PROVIDED, however, that Alberta shall not be obliged to observe, fulfill or comply with any by-law made by the Piikani Nation, in whole or in part, if such by-law unreasonably interferes with Alberta's use of the Occasional Access Lands for the purpose set out in this Permit.
- 8. Whenever it is required or permitted that notice or demand be given or served by either party to or on the other such notice or demand shall be sufficiently communicated if forwarded by courier or by facsimile, addressed as follows:

To Canada at: Indian Affairs & Northern Development
 Director, First Nations Relations, Treaty 7
 630 Canada Place
 9700 Jasper Avenue
 Edmonton, Alberta
 T5J 4G2
 Fax: (780) 495-4354

To Alberta at: Regional Director, Southern Region
 Alberta Environment
 3rd Floor, Deerfoot Square
 2938 - 11 St. NE
 Calgary, Alberta
 T2E 7L7
 Fax: (403) 297-6069

Deputy Minister Responsible for
 Aboriginal Affairs
 13th Floor, Commerce Place
 10155 - 102 Street
 Edmonton, Alberta T5J 4L4
 fax - (780) 427-1760

PSM

To Piikani at: Piikani Nation
Attention: Chief
P.O. Box 70
Brocket, Alberta T0K 0H0
Fax: (403) 965-2030

which may be changed from time to time by either party serving notice as above provided. If any question arises as to whether any such notice was communicated to either party, it shall be deemed communicated on the day received. A copy of any such notice or demand shall be provided to the Piikani Nation for information purposes.

9. Alberta and Canada mutually covenant and agree that this Permit is given under Sub-section 28(2) of the *Indian Act*, R. S. C., 1985, Chapter I-5, and the rights hereby given shall be construed as a licence only and shall not be deemed to grant, convey or confer on Alberta any right in *rem* or any estate or interest in the title to that portion of the Peigan Nation Indian Reserve No.147, covering the Occasional Access Lands.
10. Notwithstanding anything in this Permit, Alberta on behalf of itself, its officers, servants, agents, licensees and invitees acknowledges and agrees that this Permit does not confer or give rise to any greater right or rights upon Alberta, its officers, servants, agents, licensees and invitees than the Minister is authorized to confer by Sub-section 28(2) of the *Indian Act*.
11. That this Permit may be terminated by the Minister if Alberta is in default in the performance of any of the terms, covenants or conditions herein contained and such default is not cured by Alberta within one hundred and twenty (120) days of written notice thereof given to Alberta by the Minister, or longer if required by Alberta, which consent by Canada to such longer period shall not be unreasonably withheld, PROVIDED, that Canada shall nevertheless be entitled to recover from Alberta any fees or charges then accrued or accruing, and moreover, that any right of action by Canada against Alberta in respect of any antecedent breach of any of the terms, covenants and conditions shall not thereby be prejudiced.
12. That Canada may grant to any individual or company the right to enter upon the Occasional Access Lands or parts thereof to explore, search for and remove petroleum, natural gas or minerals and this right shall include the right to take on to the Road such equipment as may be required for such operations provided that the exercise of these rights will not interfere with the use of the Occasional Access Lands for the purpose set out in this Permit.

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[Signature]

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13. Alberta shall save harmless and indemnify Canada and the Minister from and against all manner of actions, causes of action, claims, demands, losses, costs, expenses and actions that may arise, be sustained, or prosecuted, against Canada or the Minister whatsoever, and including any claim for damages, suffered by Canada or the Minister or Members of the Piikani Nation using the said Road, by reason of any act or acts, or thing or things done, alleged or ought to have been done, by Alberta or by any of its officers, servants, workmen, agents or contractors.
 14. On the termination or expiry of the Permit, Alberta shall repair the Road at its own expense, if responsible for damages to the Road, to a condition as nearly as existed before this Permit, if instructed to do so by the Minister. If Alberta fails to repair the Road as instructed to do so by the Minister, then the Minister may repair the Road and Alberta shall be liable for the cost thereof and the same may be collected in the same manner as debts due to the Crown.
 15. That no Member of the House of Commons or Senate will be admitted to any share of the part of the Permit or to any benefit to arise hereunder.
 16. Alberta shall not assign or otherwise dispose of any of the rights herein given by the Minister, however, upon application, the Minister may issue a new permit to any other person or persons meeting standards set by the Minister.
 17. That Alberta acknowledges that the rights or privileges hereby given may be, in part or parts, subject to prior rights or easements or rights-of-way and any encumbrances heretofore granted or made by the Minister. In each and every case Alberta agrees to accept its rights and privileges subject to this Permit and subject to such other interests as may now exist, and to save harmless and indemnify Canada from any claim or claims that may be made to respect thereof.
 18. Time shall be of the essence of this Permit.

AND IT IS FURTHER AGREED that this Permit shall be subject to the provisions of the *Indian Act* and Regulations established thereunder which may be in force or which may hereafter be made and established from time to time in that behalf by the Governor-in-Council including all prior grants made thereunder.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective signatures the day and year first above written.

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SIGNED, SEALED and DELIVERED
in the presence of:

Signed by
In the presence of:

HER MAJESTY THE QUEEN
IN RIGHT OF CANADA

Signed by
In the presence of:

HER MAJESTY THE QUEEN
IN RIGHT OF ALBERTA

TC
ATM

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Schedule H

Forms of Band Council Resolutions approving the Provisional Plans and Official Plans

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SCHEDULE H

**Forms of Band Council Resolutions
approving the Provisional Plans and Official Plans**

Schedule H-1: BCR Wording for Acceptance of Provisional Plan for Road Access

WHEREAS Chief and Council of the Peigan Nation, now called the Piikani Nation, have met at a duly convened council meeting on the above date;

AND WHEREAS the Piikani Nation, Alberta and Canada have entered into negotiations toward a Settlement Agreement;

AND WHEREAS the Province of Alberta has performed survey work on the lands required for the Access Road;

AND WHEREAS the lands required for this purpose has been described by way of a provisional plan executed by Brown, Okamura & Associates Ltd. (File No. 01-6274B), and describing Access Road Right of Way through parts of W1/2 Sec 15, E1/2 Sec 16, E1/2 Sec 21, SW1/4 Sec 22, N1/2 Sec 27, Sec 28, SE 1/4 Sec 33 & SE 1/4 Sec 34, Tp 8, R 27, W4M and intervening road allowances;

AND WHEREAS the Council of the Piikani Nation have had a chance to examine the provisional plan;

THEREFORE BE IT IRREVOCABLY RESOLVED that the Council of the Piikani Nation agree that the plan represents the Access Lands, as defined in the Settlement Agreement, and hereby approve the plan.

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Schedule H-2: BCR Wording for Acceptance of Provisional Plan for Occasional Road Access

WHEREAS Chief and Council of the Peigan Nation, now called the Piikani Nation, have met at a duly convened council meeting on the above date;

AND WHEREAS the Piikani Nation, Alberta and Canada have entered into negotiations toward a Settlement Agreement;

AND WHEREAS the Province of Alberta has performed survey work on the lands required for the Occasional Access Road;

AND WHEREAS the lands required for this purpose has been described by way of a provisional plan executed between July 27th and August 2nd, 2001, and describing Access Road Right of Way through parts of NE 1/4 Sec. 17, N 1/2 Sec 19, N1/2 and SE 1/4 Sec 20 Tp 8, R 27, W4th M and through parts of NE1/4 Sec 24, E1/2 Sec 25 and E 1/2 Sec 36 Tp 8, R 28, W4th M and intervening road allowances;

AND WHEREAS the Council of the Piikani Nation have had a chance to examine the provisional plan;

THEREFORE BE IT IRREVOCABLY RESOLVED that the Council of the Piikani Nation agree that the plan represents the Occasional Access Lands, as defined in the Settlement Agreement, and hereby approve the plan.

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Schedule H-3: BCR Wording for Acceptance of Provisional Plan for Headworks Lands

WHEREAS Chief and Council of the Peigan Nation, now called the Piikani Nation, have met at a duly convened council meeting on the above date;

AND WHEREAS the Piikani Nation, Alberta and Canada have entered into negotiations toward a Settlement Agreement;

AND WHEREAS the Province of Alberta has performed survey work on the lands required for the Headworks, as defined in the Settlement Agreement;

AND WHEREAS the lands required for this purpose has been described by way of a provisional plan executed between March 14th, 1984 and July 26th, 2001, and describing the Lethbridge Northern Irrigation District Main Canal Right-of-Way through parts of NW1/4 Sec 16, NE1/4 Sec 17, W1/2 and NE1/4 Sec 21, W1/2 and SE1/4 Sec 28, NE1/4 Sec 29, SE1/4 Sec 32, S1/2 Sec 33, S1/2 and NE1/4 Sec 34 and NW1/4 Sec 35, Tp 8, R 27, W4M and intervening road allowances;

AND WHEREAS the Council of the Piikani Nation have had a chance to examine the provisional plan;

THEREFORE BE IT IRREVOCABLY RESOLVED that the Council of the Piikani Nation agree that the plan represents the Headworks Lands, as defined in the Settlement Agreement, and hereby approve the provisional plan, including all previous plans from which the provisional plan was compiled.

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Schedule H-4: BCR Wording for Acceptance of Registered Plans for all 3 Plans

WHEREAS Chief and Council of the Peigan Nation, now called the Piikani Nation, have met at a duly convened council meeting on the above date;

AND WHEREAS the Piikani Nation, Alberta and Canada have entered into a Settlement Agreement dated _____;

AND WHEREAS the Province of Alberta has performed survey work on the lands required for Headworks Lands, the Occasional Access Road and the Access Road; all as defined in the Settlement Agreement,

AND WHEREAS the lands required for these purposes have been described by way of the registered plans known as

- CLSR _____ (LTO _____) being the Headworks,
- CLSR _____ (LTO _____) being the Access Road and
- CLSR _____ (LTO _____) being the Occasional Access Road;

AND WHEREAS the Council of the Piikani Nation have had a chance to examine the registered plans;

THEREFORE BE IT IRREVOCABLY RESOLVED that the Council of the Piikani Nation agree that the plans represent the Headworks Lands, Access Lands and Occasional Access Lands, as these three terms are defined in the Settlement Agreement, and hereby approve these plans.

TS

Jim

para

Schedule I

**Form of licence to be
issued by the Department
of Alberta Environment
to Alberta on behalf of
the Piikani in accordance
with clause 12.2(a)**

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ATM



part

L I C E N C E

PROVISIONS

PURSUANT TO THE
OF THE WATER ACT

LICENCE No.

FILE No.

PRIORITY No. 2002-XX-XX-XXX

Her Majesty in Right of Alberta
as represented by the Minister
of *(to be determined)*
Edmonton, Alberta
(hereinafter called the "licencee")

is authorized to divert 43,200,000 cubic metres (35,000 acre feet) of water annually from the Oldman River, for use within the Reserve that can be served by water released from the Oldman River Dam and Reservoir, subject to the attached conditions.

The licence will expire on the date that the Settlement Agreement ends.

TR
[Signature]



part

L I C E N C E

Head, Licensing and Permitting Standards Branch

2002

Dated (Y/M/D)

TR

CONDITIONS

DEFINITIONS

- a) "Settlement Agreement" means the Settlement Agreement dated the ____ Day of _____ 2002 between Her Majesty the Queen in Right of Canada and the Piikani Nation and Her Majesty the Queen in Right of Alberta.

- b) "Reserve" for the purposes of this Licence means the Peigan Reserve No. 147; and also includes any additional lands located within the Oldman River Basin and able to be served by waters stored in the Oldman River Dam and Reservoir when designated by Canada in the future as Reserve land for the use and benefit of the Piikani; and also includes any non-Reserve lands that meet all of the criteria in clause 12.6 of the Settlement Agreement.

- c) "Aquatic Environment" means the components of the earth related to, living in or located in or on water or the beds or shores of a water body, including but not limited to:
 - all organic and inorganic matter; and
 - living organisms and their habitat, including fish habitat and their interacting natural systems

- d) "Director" means the Director responsible for this licence unless otherwise specified.

DIVERSION OF WATER

Licence No.
File No.

CONDITIONS

This licence is appurtenant to land within the Reserve that can be served by water released from the Oldman River Dam and Reservoir.

- a) The actual portion of the water diverted under this licence to be diverted each year shall be based upon active projects as determined by the Piikani and confirmed in writing to Alberta, who must inform the Director, prior to March 1 of each year.

The confirmation in (a) shall include a summary of usage of the water diverted under this licence for the previous year and will also declare any project(s) which have become inactive and are to be decommissioned.

When a new project that will utilize a portion of the water diverted under this licence is to be developed, Alberta shall submit to the Director with plans, amount and rate of water to be utilized and any other information provided by the Piikani which the Director reasonably requires pertaining to the project.

2. The licensee shall meet with the Piikani at least once every year to report usage of the water diverted under this licence, discuss anticipated water requirements of the Piikani, and generally to further communications between them as to any aspect of this licence.
3. The licensee must pass sufficient water by the Piikani water diversions to meet the instream flow requirements intended to protect the aquatic environment as set out in the Oldman Dam Operating Plan.

GENERAL

part

This licence is issued pursuant to the provisions of the South Saskatchewan Basin Water Allocation Regulation (AR 307/91) and amendments.

This licence is not transferable.

Head, Licensing and Permitting Standards Branch

Dated (Y/M/D)

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JMM

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Schedule J

Certificate of

Independent Legal

Advice

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per

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

I, **JEROME N. SLAVIK**, on behalf of Ackroyd, Piasta, Roth & Day LLP, Barristers and Solicitors, of the Province of Alberta, state that:

1. I am a member in good standing of the Law Society of Alberta.
2. ACKROYD, PIASTA, ROTH & DAY LLP has been retained by the Chief and Council of the Piikani Nation since May 1999 to act as independent legal counsel to the Piikani Nation to advise the Piikani Nation with regard to the preparation, execution, and delivery of the Piikani Nation Settlement Agreement dated for reference _____ (the "Agreement") settling the Actions and the Specific Claims, and the preparation and execution of the Trust Agreement, dated for reference _____.
3. ACKROYD, PIASTA, ROTH & DAY LLP has provided the Piikani Nation, as represented by their duly elected Chief and Council, independent legal advice with respect to the preparation, execution, and delivery of the Agreement settling the Actions and the Specific Claims, and the preparation and execution of the Trust Agreement, including the deposit of the Settlement Funds and Annual Payments payable pursuant to the Agreement into the Piikani Trust established pursuant to the Trust Agreement, rather than into an account for the Piikani Nation managed by the Department of Indian Affairs and Northern Development.
4. Subject to the attached Schedule, ACKROYD, PIASTA, ROTH & DAY LLP, has been retained by the Chief and Council of the Piikani Nation since May 1999, to act as independent legal counsel to the Piikani Nation to advise the Piikani Nation with regard to the negotiation, and has provided the Piikani Nation independent legal advice with respect to the negotiation of the Agreement and the Trust Agreement.
5. I, or another lawyer from ACKROYD, PIASTA, ROTH & DAY LLP familiar with the Agreement and Trust Agreement, was present at the following three (3) Information Meetings which were called by the Piikani Nation for the purpose of explaining to its Members the Agreement and Trust Agreement:

pc

Location of Meeting(s):

Date(s) and Time(s):


6. I, or another lawyer from ACKROYD, PIASTA, ROTH & DAY LLP familiar with the Agreement and Trust Agreement, was present at the Information Meeting(s) where a presentation, the legal aspects of which were reviewed by legal counsel, was made to the Members of the Piikani Nation then present. The presentation consisted of an overview of the terms and conditions of the Agreement and Trust Agreement, including the deposit of the Settlement Funds and Annual Payments payable pursuant to the Agreement into the Piikani Trust, established pursuant to the Trust Agreement, an explanation of the contents, legal nature, effect, and consequences of the Agreement settling the Actions and Specific Claims, and the Trust Agreement. We answered any relevant legal questions raised at the Information Meetings to the best of our professional ability.

7. ACKROYD, PIASTA, ROTH & DAY LLP has been advised by the Council of the Piikani Nation that an interpreter fluent in the native language of the Piikani Nation was present and available to those Members in need of an interpreter (if there were such Members) at all times during the Information Meetings and Ratification Vote.

DATED at Edmonton, Alberta this ____ day of ____, 2002.

Witness to the signature of

Jerome Slavik
Barrister & Solicitor

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**SCHEDULE TO THE CERTIFICATE OF
INDEPENDENT LEGAL ADVICE**

The purpose of this schedule is to describe certain aspects of the negotiation process related to the financial components and legal aspects of the Agreement.

The process of validation of any particular specific claim and negotiation of a settlement in the Department of Indian Affairs and Northern Development ("DIAND") is usually a lengthy one that can take a number of years to resolve. By January of 2000, only some of the nine (9) Specific Claims filed by the Piikani had been validated by DIAND.

In the interests of expediting a final settlement resolution of the nine (9) outstanding Specific Claims of the Piikani and resolution of the three (3) Actions, two of which overlapped with Specific Claims, Canada and the Piikani agreed to a simplified, 3 stage expedited approach to settlement.

The first stage was completed in early June 2000 when the Piikani, through their legal counsel, Ackroyd and Company, presented a summary of the known facts and law regarding the Specific Claims and related federal Actions and an outline of their legal position to the federal negotiating team in Edmonton. There was also a discussion of an approach to settling the lawsuits. In the second stage, Canada presented its legal position to legal counsel to the Piikani via videoconferencing on June 14, 2000.

As part of the expedited approach, the negotiators for Canada, the Piikani and Alberta agreed to unique approaches to valuing the global amount of the settlement, including financial compensation for the settlement of the nine (9) Specific Claims and discontinuance of the three (3) Actions related thereto.

While each of the parties had their own negotiators and access to their own legal counsel, the development of settlement proposals, amount of settlement and structuring of payment was the subject of negotiations directly between the negotiators for Piikani, Canada and Alberta, each of whom had access to their own legal counsel throughout.

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[Signature]

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As a result of the parties' representations of their respective legal positions, and the ensuing discussions between the negotiators of the Piikani, Alberta and Canada, the parties agreed to settle all nine (9) Specific Claims and discontinuance of all three (3) Actions as part of a global settlement which included a payment to the Piikani in the amount of approximately \$64.3 million. This global settlement amount was agreed to in a "handshake deal" on June 27, 2000 in Calgary.

The process for determining financial compensation value for settlement of validated specific claims may involve in certain cases, commissioning studies for the loss of use and other compensable damage or losses. Legal counsel for the Piikani advised, and the federal negotiator and legal counsel for Canada informed, the Piikani of the option of obtaining appraisals. The Piikani were provided information on the terms of reference, costs, and time frame for such studies. Federal funds were made available for such studies and were offered to the Piikani in this case.

However, the negotiators for the Piikani and Canada agreed that no such studies need to be undertaken for the purpose of valuing the nine (9) Specific Claims in order to reach a global amount of the financial component of the settlement. Instead, the negotiators agreed to the global amount of financial compensation settlement without reference to any appraisal or studies as to the amount of financial compensation that may be paid specifically for the settlement of the Specific Claims and resolution of the Actions.

Canada and Alberta agreed to the global amount of the settlement in exchange for the other terms of the Agreement, including releases and discontinuances with respect to the nine (9) outstanding Specific Claims and the three (3) Actions, as well as a certificate of independent legal advice from counsel to the Piikani.

As the nine (9) Specific Claims and the three (3) Actions were being settled, Ackroyd & Company was not requested by the Piikani and did not provide advice or a legal opinion on merits or likelihood of success of the Specific Claims or related lawsuits. However, Ackroyd & Company were available throughout the negotiations and did provide advice to the Piikani as requested.

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Later, an agreement on water was negotiated with Alberta, and Canada and Alberta agreed to explore the possibility of preserving the Piikani's right of action to seek certain declarations pertaining to any and all issues as to the proprietary interests and rights in the Riverbed and any and all issues as to existence, nature or scope of rights, title or interest (if any) in the water of the Oldman River as it passes through the Piikani Reserve as set out in the Agreement. Declarations on these matters had been sought in Federal Court Action #T-1486-88 (Oldman River/LNID Action) and Court of Queen's Bench Action #8601-06578.

Since these matters were dealt with satisfactorily through the Agreement, including releases, by discontinuing these Actions for so long as the Agreement is in effect without prejudicing the legal positions of any Parties on the issues of the ownership of the bed and shores and water rights of the Piikani in regard to the Oldman River of the Peigan Reserve, Ackroyd & Company did not provide advice to the Piikani specifically as to the merits or likelihood of success of these issues within the two (2) Actions if pursued in the courts.

However, the purpose of the Actions, the relief sought, and estimates of costs and time frame for litigation were reviewed with the Council by the legal counsel.

Subject to the exception set out above, negotiators for the Piikani acknowledge that they received independent legal advice from legal counsel in respect of all matters referred to in the Agreement and that independent legal advice was available to them throughout the negotiations.

Negotiators for the Piikani Nation

Negotiator for Canada

the
JPM

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Schedule K

Certificate of Independent Financial Advice

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CERTIFICATE OF INDEPENDENT FINANCIAL ADVICE

I, _____, on behalf of Meyers Norris Penny, of the Province of Alberta, Chartered Accountant, state as follows:

1. THAT I am qualified to practice as a Chartered Accountant in Alberta and I am a member in good standing of the Institute of Chartered Accountants of Alberta.
2. THAT I am a partner in the firm of Meyers Norris Penny, and that said firm is duly registered with the Institute of Chartered Accountants of Alberta as engaging in public practice in Alberta as a firm of Chartered Accountants.
3. THAT MEYERS NORRIS PENNY has been retained by the Council of the Piikani Nation (the "First Nation") to act as independent financial advisor to the First Nation to provide financial advice to the First Nation with regard to the Piikani Trust Agreement (the "Trust Agreement"), dated for reference _____.
4. THAT MEYERS NORRIS PENNY has provided the First Nation, via the Negotiating Team and Council independent financial advice of the kind included in the practice of public accounting (which does not include investment counselling) with respect to the Trust Agreement, the management and administration of the trust property, and financial advice about the potential rates of return, potential investment risks, and tax implications associated with placing the trust property into the Piikani Trust, rather than into an account for the First Nation managed by DIAND.
5. THAT I was present at the following three information meetings which were called by the First Nation for the purpose of explaining to the Members of the First Nation the Piikani Nation Settlement Agreement, dated for reference _____ (the "Agreement) and Trust Agreement.

Location of Meeting(s)

Date(s) and Time(s)

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6. THAT I, or another chartered accountant from Meyers Norris Penny familiar with the Trust Agreement was present at the information meetings where a presentation, the financial aspects of which were reviewed by us, was made to the Members then present, consisting of an overview of the terms and conditions of the Trust Agreement, including the payment of the Settlement Funds and Annual Payments payable pursuant to the Agreement into the Piikani Trust established pursuant to the Trust Agreement and provided an explanation of the contents of the Trust Agreement to the Members of the First Nation then present. We answered any relevant financial questions raised at the information meeting(s) to the best of my professional ability.

DATED at _____, this _____ day of _____, 2002.

Witness to the signature of:

per
[Signature]

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Schedule L

Piikani Trust Agreement

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PIIKANI TRUST AGREEMENT
(Schedule "L" to the Settlement Agreement)

THIS TRUST AGREEMENT is dated for reference and is effective as of ____ day
of _____, 2002

BETWEEN:

PIIKANI NATION,
as represented by its Council
(referred to as the "PIIKANI Nation"),

*Dated for reference
July 16, 2002*

- and -

* TRUSTEE
being a corporate trustee registered in the
Province of Alberta

WHEREAS:

- A. The PIIKANI Nation, Her Majesty the Queen in right of Canada ("Canada") and Her Majesty the Queen in right of Alberta ("Alberta") have entered into a Settlement Agreement dated for reference the * day of *, 2002 (referred to as the "Settlement Agreement") in which Canada and Alberta have agreed to pay Settlement Funds and Annual Payments to the PIIKANI Nation;
- B. The Settlement Agreement contemplates that Settlement Funds and Annual Payments to which the PIIKANI Nation have become entitled shall be held in trust on provisions which, inter alia, establish the obligations of the Trustee and Council regarding the management, expenditure, investment of the Trust Property and the reporting requirements which govern the Trustee;
- C. As set out in the Settlement Agreement, the PIIKANI Nation has irrevocably authorized and directed Canada and Alberta to pay the Settlement Funds and

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

Annual Payments belonging to the PIIKANI Nation to the Piikani Trust established pursuant to this Trust Agreement;

- D. The PIIKANI Nation and Trustee acknowledge that the PIIKANI Nation, acting through its Chief and Councillors, is intended to be the beneficiary of the Piikani Trust, with all of the rights and powers to compel enforcement of the Trustee's duties hereunder normally vested in a beneficiary.
- E. The PIIKANI Nation and the Trustee further acknowledge that the purposes of the Piikani Trust are to facilitate the attainment of specific PIIKANI Nation objects and purposes more particularly set forth in this Trust Agreement;
- F. The PIIKANI Nation shall have limited power of appointment over the Trust Property, as more particularly provided for in this Trust Agreement;
- G. By Ratification Vote held on the 17 and 18 days of September, 2002, the Electors of the PIIKANI Nation have approved this Trust Agreement and have authorized and directed the Council to sign and implement this Trust Agreement and all related documentation.

THEREFORE THE PIIKANI NATION AND THE TRUSTEE AGREE AS FOLLOWS:

1 Definitions:

- 1.1 Terms not otherwise defined in this Trust Agreement, shall have the same meaning as defined in the Settlement Agreement or the *Indian Act*, R.S.C. 1985, c-15.
- 1.2 In this Agreement:

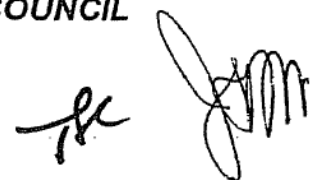
FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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- 1.2.1 "Accounts" means the accounts established by the Trustee for the benefit of the PIIKANI Nation including the Settlement Account, the Investment Account, the Heritage Account, the Implementation Account, the Environmental Remediation Account, and the Youth and Education Account (hereinafter the "Trust Accounts") and no others.
- 1.2.2 "Annual Payments" means the payments made each year by Alberta to the PIIKANI Nation which the PIIKANI Nation directs be transferred to the Piikani Trust on behalf of the PIIKANI pursuant to Section 5 of the Settlement Agreement.
- 1.2.3 "Annual Income" from the Trust Property in each Account means the greater of the amounts described in paragraphs of 1.2.3(a) or 1.2.3(b):
- (a) all of the income for Canadian Federal income tax purposes arising from the Trust Property held in or purchased by funds from that Trust Account in a Fiscal year determined without reference to the provisions of subsection 104(6) of the Income Tax Act (Canada), which amount shall, in accordance with the provisions of this Trust, become due and payable irrevocably to the PIIKANI Nation as at December 31st in each Fiscal year; or
 - (b) the amount calculated as eight (8%) percent, less the amount of annual percentage rate of inflation during the Fiscal Year based on the Consumer Price Index for Canada, multiplied by the total of the amount of cash in that Trust Account and the market value of the Authorized Investments purchased by funds from that Trust Account as of December 31 as determined by the Trustee in accordance with

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL



generally accepted accounting principles described in the CICA Handbook.

The actual payment of the amount calculated pursuant to Section 1.2.3(b) shall first include all of the Annual Income for Canadian Federal income tax purposes arising from the Trust Property held in that Trust Account in a Fiscal Year determined without reference to the provisions of subsection 104(6) of the Income Tax Act (Canada) and shall be due and payable irrevocably to the PIIKANI Nation as at December 31st of each Fiscal Year,

1.2.4 "Authorized Expenses" means the expenses reasonably incurred by the Trustee in each Fiscal Year in carrying out the terms of the Trust Agreement including payment of administrative, accounting, legal, investment and other costs which have been approved by the Band Council Resolution, which the Council shall direct the Trustee to pay from Trust Property. This shall not include payment of any costs of the Council, its members, or PIIKANI administration which they have incurred in performing any of their obligations in relation to the Piikani Trust.

1.2.5 "Authorized Investment" means an investment purchased with funds from the Trust Accounts and selected by the Investment Counsellor from those investments listed in Schedule "4" of this Trust Agreement, as amended from time to time;

1.2.6 "Band Council Resolution" means a resolution of the Council approved by a majority of the Council present at a duly convened meeting;

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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- 1.2.7 "Committee" means the Committee established pursuant to Section "H" of the Settlement Agreement to undertake the work set out in Section "C" of the Settlement Agreement.
- 1.2.8 "Council" means the Chief and Council of the PIIKANI Nation duly elected in accordance with PIIKANI Nation Customary Election Code;
- 1.2.9 "Effective Date" means the date on which this agreement is executed by both parties;
- 1.2.10 "Elector" means a Member and who is eighteen (18) years of age or older on the voting day;
- 1.2.11 "Fiscal Year" means the calendar year.
- 1.2.12 "Investment Management Agreement" means an agreement between the Trustee and an Investment Counsellor which has been approved by Council, by which the investment management responsibility for funds in the Trust Accounts is vested with the Investment Counsellor, not the Trustee, to be undertaken pursuant to the terms of this Trust Agreement and the Investment Management Agreement;
- 1.2.13 "Investment Policy" means the policy approved by the Council from time to time, after having received the advice of Investment Counsellor, which governs the investment of funds from the Trust Accounts in Authorized Investments by the Investment Counsellor;
- 1.2.14 "Majority of Electors" means for the purposes of a referendum held pursuant to the PIIKANI Nation Referendum Regulations attached hereto as Schedule

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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"5", that 50% plus 1 of the number of Electors who voted, voted in favour of the question on the ballot.

1.2.15 "Member" means a person whose name appears on the PIIKANI Nation Membership List in accordance with PIIKANI Nation Membership Code.

1.2.16 "PIIKANI Business Entity" means a joint venture, partnership, trust, or corporation or other business organization in which a majority of shares and/or the controlling interests is held by or for the benefit of the PIIKANI Nation and which is intended to engage in commercial activities to generate profits and revenues for the benefit of the PIIKANI Nation or acquire lands to become PIIKANI Nation Lands and whose financing by the PIIKANI Nation as beneficiary is one of the specific purposes for which this Trust has been formed. A PIIKANI Business Entity does not include corporations, partnerships or business organizations owned by individual Members or groups of Members.

1.2.17 "PIIKANI Investment Corporation" means a Corporation established by the Council, the mandate, purposes, ownership and directors of which are established in accordance with Schedule "2". The formation and development of this Corporation by the PIIKANI Nation, as the beneficiary of this Trust, is one of the specific purposes for which this Trust has been formed.

1.2.18 "PIIKANI Nation Financial Administration Code" means the laws, regulations and policies adopted by the Council from time to time to govern the administration of the finances of the PIIKANI Nation.

- 1.2.19 "PIIKANI Nation Lands" means the PIIKANI Indian Reserve #147A and 147B and other lands acquired by the PIIKANI Nation now or in the future.
- 1.2.20 "PIIKANI Settlement Revenue Account" means an account located on reserve established by the Council, and not by the Trustee, to receive the payments from the Trustee pursuant to Section 8 of the Trust Agreement and which is governed by the PIIKANI Nation Financial Administration Code.
- 1.2.21 "PIIKANI Youth and Education Foundation" means a not-for-profit corporation established by the Council with the mandate and purposes, and in accordance with the provisions, set out in Schedule '3', the funding of which by the PIIKANI Nation, as the beneficiary of this Trust, is one of the specific purposes for which this Trust has been formed.
- 1.2.22 "Piikani Trust" means the Trust established by this Trust Agreement.
- 1.2.23 "Quorum of the Council" means at least seven (7) members of the Council or the number of Councillors constituting a quorum as set out in the customary laws of the PIIKANI, from time to time;
- 1.2.24 "Settlement Funds" means the funds paid by Alberta and Canada to the PIIKANI Nation pursuant to Section "B" of the Settlement Agreement, not including Annual Payments, and which the PIIKANI Nation has directed be paid to the Piikani Trust.
- 1.2.25 "Special Capital Project" means a project whose undertaking by the PIIKANI Nation, as the beneficiary of this Trust, is one of the specific purposes for which this Trust has been formed and which consists of:

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- (a) Construction of facility, building, or housing on PIIKANI Nation Lands;
- (b) Repayment of a PIIKANI Nation debt;
- (c) Acquisition of property or other assets by the PIIKANI Nation;
- (d) Environmental reclamation on PIIKANI Nation Lands;
- (e) Development and Improvements to PIIKANI Nation Lands;
- (f) Other projects or activities the costs of which are incurred in a single Fiscal year, but does not include a per capita distribution of grants, or gifts or loans to Members.

1.2.26 "Trustee" means a trust company duly incorporated, and licenced to carry on business of a Trustee in Alberta and which is a member institution of the Canada Deposit Insurance Corporation which has a duty to insure deposits in the Accounts pursuant to the *Canada Deposit Insurance Corporation Act*, R.S.C. 1985, a. C-3, 5.1.

1.2.27 "Trust Property" means all property which the PIIKANI Nation or any other person may pay, donate, sell or otherwise transfer, cause to be transferred to, vest or cause to be vested in the Piikani Trust and includes any substituted or additional property, together with all accretions thereto and all income derived therefrom, and including loans made by the Trust and but excluding all amounts which have been paid or disbursed therefrom (whether out of capital or income) in the normal course of the administration of or

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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pursuant to the provisions of this Trust Agreement. For greater clarity, it does not include funds once paid out of the Trust, as directed to by the PIIKANI Nation, pursuant to the provision of this Trust Agreement.

2 Schedules:

2.1 The following schedules are attached and form a part of this Trust Agreement:

Schedule "1": Allocation to Trust Accounts of Payments of Settlement Funds and Annual Payments to be made to the Piikani Trust Pursuant to Section B of the Settlement Agreement;

Schedule "2". PIIKANI Investment Corporation;

Schedule "3" PIIKANI Youth and Educational Foundation;

Schedule "4" Authorized Investments;

Schedule "5": PIIKANI Referendum Regulations;

Schedule "6" Trustees Powers.

3 Creation of the Piikani Trust

3.1 The Settlor of the Piikani Trust is the PIIKANI Nation located on the PIIKANI Nation Indian Reserves #147A and #147B.

- 3.2 The PIIKANI Nation being irrevocably entitled pursuant to the Settlement Agreement, to the Settlement Funds, has directed Canada and Alberta to pay all Settlement Funds to the Piikani Trust.
- 3.3 After the first fiscal year of the Settlement Agreement being (2002/03), the PIIKANI Nation, being irrevocably entitled pursuant to the Settlement Agreement to the Annual Payments, has directed the Annual Payments by Alberta shall be paid to the Piikani Trust.
- 3.4 PIIKANI Nation and the Trustee hereby acknowledge whether under this Agreement or the Settlement Agreement, Alberta and Canada's sole obligation, and responsibility with regard to this Trust Agreement is to pay, as agents for the PIIKANI Nation in its capacity as the Settlor of the Piikani Trust, their respective portion of the Settlement Funds and Annual Payments to the Piikani Trust on behalf of the PIIKANI Nation.
- 3.5 PIIKANI Nation appoints the Trustee to hold the Trust Property in trust for the benefit of the PIIKANI Nation, as beneficiary, upon and subject to the trusts set out in this Trust Agreement.
- 3.6 The PIIKANI Nation acknowledges that Trust Property received by it as beneficiary of the Piikani Trust is to be applied by it, or as directed by it, for the specific purposes identified in this Trust Agreement.
- 3.7 The Council may from time to time deposit other funds to the Piikani Trust and direct the Trust Account into which they are to be paid. Such funds will then be governed by the terms of this Trust Agreement.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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4 Trust Accounts:

4.1 Upon execution of this Trust Agreement, the Trustee will open the following six (6) Trust Accounts:

4.1.1. Settlement Account;

4.1.2 Implementation Account;

4.1.3 Environmental Remediation Account;

4.1.4 Investment Account;

4.1.5 Heritage Account;

4.1.6 Youth & Education Account.

4.2.2 For greater clarity, each Trust Account does not constitute a separate trust.

5 Settlement Account:

5.1.1 The Trustee shall establish a Settlement Account which is to receive the Settlement Funds and Annual Payments paid to the Piikani Trust by Canada and Alberta, and by Alberta, respectively.

5.1.2 Immediately upon receipt of funds in the Settlement Account, they shall be transferred by the Trustee into each of the four (4) Trust Accounts in accordance with Schedule "1".

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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5.2 Implementation Account:

5.2.1 Pursuant to Schedule "1", Settlement Funds in the amount of Thirteen Million (\$13,000,000) Dollars shall, upon receipt, be paid from the Settlement Account into the Implementation Account.

5.2.2 The funds in the Implementation Account shall not be transferred by the Trustee except in accordance with this section.

5.3 Settlement Distribution Account

5.3.1 One of the purposes of the Implementation Account is to enable the PIIKANI Nation, by means of a Settlement Distribution Account established by the Council, to effect a one-time per capita distribution of Three Thousand (\$3,000) Dollars to each living Member at the time of the distribution.

5.3.2 Upon receipt of a Band Council Resolution so directing, the Trustee shall distribute funds in an amount not to exceed Ten Million Five Hundred Thousand (\$10,500,000) Dollars from the Implementation Account to a Settlement Distribution Account as a distribution of the capital from the Trust, to the PIIKANI Nation as beneficiary. The Settlement Distribution Account, which is not a Trust Account, shall be opened by the Council and located on reserve.

5.3.3 The Settlement Distribution Account shall be operated by the Council in accordance with the PIIKANI Nation Financial Administration Code.

5.3.4 The Trustee shall have no responsibility or liability in relation to any payments made by the Council from the Settlement Distribution Account.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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5.4 Environmental Remediation Account:

- 5.4.1 Upon receipt of a Band Council Resolution, funds in an amount not to exceed Two Million Four Hundred and Forty Thousand (\$2,440,000) Dollars will be transferred by the Trustee from the Implementation Account to the Environmental Remediation Account. The Environmental Remediation Account is established for the purpose of permitting the PIIKANI Nation, as beneficiary, to work with Canada and Alberta to undertake the studies and activities necessary to complete the FEIA and Dam Safety Work Plans.
- 5.4.2 Upon receiving written directions signed by one person appointed by Band Council Resolution and one person appointed by the Committee, which states the amount of the payment and party to be paid, on behalf of the PIIKANI as beneficiary, the Trustee shall make the requested payments from this account from time to time, as a distribution of the capital from the Trust Account, for application in accordance with clause 5.4.1.
- 5.4.3 The Trustee shall provide the Council and Committee with quarterly financial statements as to the payments from this Account.
- 5.4.4 Upon receipt of notification from the Council and the Committee that the FEIA and Dam Safety Work Plans are complete, the Council by resolution may direct that any funds remaining in this Account to be paid to, or as directed by, the PIIKANI Nation as beneficiary for the purpose of undertaking specific environmental remediation projects. The Band Council Resolution shall state the specific project, the amount to be paid, and the name of the party to be paid by the Trustee on behalf of the PIIKANI as beneficiary.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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5.4.5 The Trustee shall not make payments from this Account totalling more than the sum of Two Million Four Hundred and Forty Thousand (\$2,440,000) Dollars.

5.5 Negotiation and Ratification Costs

5.5.1 Upon receipt of a Band Council Resolution, amounts not to exceed a total of Sixty Thousand (\$60,000) Dollars from the Implementation Account shall be paid by the Trustee to, or as directed by, the PIIKANI Nation as beneficiary, for the purpose of permitting the PIIKANI to discharge from time to time the costs confirmed by the Council to have been incurred by the PIIKANI Nation in relation to the negotiation and ratification of the Settlement Agreement.

5.5.2 The Band Council Resolution shall state the amount and the party to be paid by the Trustee.

5.6 Remaining Funds

5.6.1 Upon receipt of a Band Council Resolution so directing, any funds remaining in the Implementation Account, or the Environmental Remediation Account after completion of the FEIA and Dam Safety Work Plans, and environmental remediation projects shall be transferred by the Trustee to the Heritage Account.

6 Investment Account

6.1 The Settlement Funds paid into the Investment Account shall only be used by the Trustee, as directed by the PIIKANI Nation as beneficiary, for the purpose of permitting the Trustee:

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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P 76

- (i) To enable the purchase of Authorized Investments in accordance with Section 10.
- (ii) To loan funds to a PIIKANI Business Entity pursuant to Section 6.3.
- (iii) To provide guarantees for loans to a PIIKANI Business Entity pursuant to Section 6.3.
- (iv) To loan funds, pursuant to Section 6.4, to the PIIKANI Nation for the purpose of enabling the PIIKANI Nation to purchase Shares or a controlling interest in a specified PIIKANI Business Entity.
- (v) To pay, as directed by Band Council Resolution, the PIIKANI Investment Corporation in an amount not to exceed Three Hundred Thousand (\$300,000.00) Dollars in each Fiscal Year to be used for the annual operating costs.
- (vi) To enable the PIIKANI Nation to pay Authorized Expenses of the Trustee pursuant to Section 11.

6.2 Prior to the expenditure of any funds in the Investment Account other than for the purchase of the Authorized Investments or payment to, or as directed by, the PIIKANI Nation, for discharge of the Authorized Expenses, the Council shall advise the Trustee in writing that the PIIKANI Investment Corporation has been established in accordance with Schedule "2".

6.3 Trust Property acquired from funds in the Investment Account or funds in the Investment Account shall be used to secure a loan guarantee or the funds in the

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL



Investment Account shall directly be loaned by the Trustee to a PIIKANI Business Entity upon receipt by the Trustee of:

- (i) A Band Council Resolution which stipulates the purpose, amount and terms and conditions of a loan agreement or loan guarantee for a designated PIIKANI Business Entity; and
- (ii) A resolution approved by the PIIKANI Investment Corporation stipulating:
 - (i) the business plan of the designated PIIKANI Business Entity has been reviewed and approved by the PIIKANI Investment Corporation; and
 - (ii) the amount, terms and conditions of the loan agreement or a loan guarantee for a PIIKANI Business Entity; and
 - (iii) that Authorized Investments purchased with funds from the Investment Account may be used as security for loan guarantees for a PIIKANI Business Equity.


6.4 Funds from the Investment Account shall be loaned by the Trustee to the PIIKANI Nation as beneficiary upon receipt by the Trustee of:

- (a) A Band Council Resolution which stipulates:

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

- 128 -

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- (i) the purpose of the loan is to enable the PIIKANI Nation purchase a majority of shares or acquire a controlling interest in a PIIKANI Business Entity; and
- (b) A resolution approved by the PIIKANI Investment Corporation stipulating:
- (i) the business plan of the designated PIIKANI Business Entity has been reviewed and approved by the PIIKANI Investment Corporation; and
- (ii) the amount and, terms, and conditions of the investment by the PIIKANI Nation in a PIIKANI Business Entity.
- (iii) the amount, terms and conditions of the loan agreement with the PIIKANI Nation.
- 6.5 Prior to the Trustee entering into a loan agreement and related document including promissory notes with the PIIKANI Nation or, a PIIKANI Business Entity, or loan guarantee agreement with a financial institution, the agreement shall be prepared and approved by the PIIKANI Investment Corporation. Prior to signing the loan agreement or loan guarantee and related documents the Trustee shall review the agreement or guarantee and, if acceptable, notify the Council and PIIKANI Investment Corporation of their acceptance of their obligations under the loan agreement or loan guarantee.
- 6.6 Upon receipt of a Band Council Resolution and resolution of the PIIKANI Investment Corporation so directing, the Trustee shall amend the terms of the loan agreement or loan guarantee, if acceptable.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL



7 Heritage Account

7.1

- (a) Pursuant to Schedule "1", Settlement Funds in the amount of Five Million (\$5,000,000) Dollars, shall, upon deposit into the Settlement Account, be immediately transferred by the Trustee into the Heritage Account.
- (b) In the second year, a further Three Million (\$3,000,000) Dollars, upon deposit into the Settlement Account, shall be transferred by the Trustee to the Heritage Account.
- (c) In the third year, a further Two Million (\$2,000,000) Dollars, upon deposit into the Settlement Account shall be transferred by the Trustees to the Heritage Account.

7.2. Sixty-Five (65%) per cent of Annual Payments made pursuant to Section 5, of the Settlement Agreement shall, upon deposit in the Settlement Account, be transferred by the Trustee to the Heritage Account.

7.3 Subject to Section 7.5, Section 10, and Section 11.2(a), funds in the Heritage Account shall only be used by the Trustee to purchase Authorized Investments.

7.4 Funds in the Heritage Account shall not be expended by the Trustee except in accordance with this Trust Agreement. Specifically the Trustee shall:

- (a) not mortgage, pledge, assign, encumber or grant any security interest of any kind whatsoever against the funds in the Heritage Account or Authorized Investment purchased with funds from this Account for any purpose whatsoever;

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL




- (b) not permit the Council or any Person to withdraw or transfer funds from the Heritage Account for the stated and express purpose of making a grant, gift, loan or loan guarantee to, or for the benefit of:
- i. any Member of the PIIKANI Nation,
 - ii. a corporation owned in whole or in part by a PIIKANI Nation Member;
 - iii. a PIIKANI Business Entity;
 - iv. the PIIKANI Nation itself;
 - v. any other person.

7.5 Special Capital Project Expenditure

7.5.1 After five (5) years from the Effective Date and subject to Section 7.5.2, the Trustee shall distribute capital of the Trust Property taken from funds in the Heritage Account to, or as directed by, the PIIKANI Nation as beneficiary for the purpose of enabling the PIIKANI Nation to fund a Special Capital Project as per Section 1.2.25 provided the amount does not exceed:

- (a) on the first occasion, ten (10%) per cent of the total of the cash held in the Heritage Account and of the market value of the Authorized Investments purchased with funds from the Heritage Account as determined by the Trustee as of a date ten (10) days prior to the posting of Notice of the Referendum;

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL


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- (b) on subsequent occasions, as determined by the Trustee, the lesser of:
- (i) ten (10%) per cent of the total amount of cash held in the Heritage Account and of the market value of the Authorized Investments purchased with funds from the Heritage Account as of a date ten (10) days prior to the posting of Notice of the Referendum; or
 - (ii) fifty (50%) per cent of the net increase in the market value of the Authorized Investments purchased with funds from the Heritage Account since the previous Special Capital Project expenditure, the net increase to be determined by subtracting the market value of the Authorized Investments held in the Heritage Account as of the date ten (10) days prior to the posting of Notice of the Referendum for any subsequent Special Project expenditure minus the market value of the Authorized Investments purchased with funds from the Heritage Account as of the date of the posting of Notice of the Referendum for the immediately previous Special Capital Project expenditure.

7.5.2 The payment of funds from the Piikani Trust to or, as directed by the PIIKANI as beneficiary, for the purpose of funding a Special Capital Project must first be approved by a Majority of Electors in a referendum directed by Band Council Resolution and held in accordance with the PIIKANI Nation Referendum Regulations attached as Schedule "5" to the Trust Agreement.

7.5.3 Upon receipt of a Band Council Resolution stating that an expenditure of a specific amount not exceeding the amounts set out in Section 7.5.1 for a Special Capital Project has been approved by a Majority of Electors in a referendum, the Trustee will pay, to or as directed by the PIIKANI as Beneficiary, the amount either to the

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

PIIKANI Nation Settlement Revenue Account or, if directed by the Band Council Resolution, to a special account opened by the Council for the purpose of the Special Capital Project.

7.5.4 A Special Capital Project may only be proposed by Council, approved by the Electors, and paid by the Trustee once every three (3) years.

8 PIIKANI Nation Settlement Revenue Account (hereinafter the "Settlement Revenue Account")

8.1 The Council shall open the Settlement Revenue Account which shall be located on a reserve.

8.2 Funds paid by the Trustee to the Settlement Revenue Account are not Trust Property.

8.3 The Annual Income from each Trust Account shall be due and payable irrevocably in its entirety to the PIIKANI Nation in accordance with the terms of this Trust Agreement as at December 31 of each Fiscal Year.

8.4 The total amount of the Annual Income calculated for the Investment, Implementation, Environmental, Remediation or Heritage Accounts less the total amount of Authorized Expenses paid by the Trustee in the Fiscal Year on behalf of the PIIKANI Nation, shall be transferred to the Settlement Revenue Account.

8.5 Funds in the Settlement Revenue Account shall be managed, expended and accounted for by Council in accordance with the provisions of the PIIKANI Nation Financial Administration Code, and Settlement Revenue Account By-Law of the

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

PIIKANI Nation, which may include provisions to deposit a portion of the funds paid into this account in the Piikani Trust.

9 Youth and Education Account

- 9.1 Pursuant to Schedule "1" Settlement Funds in the amount of Five Million (\$5,000,000) Dollars shall be transferred by the Trustee from the Settlement Account into the Youth and Education Account in the first Fiscal Year of the Settlement Agreement.
- 9.2 Thirty-Five (35%) per cent of the Annual Payments made pursuant to Section 5 of the Settlement Agreement shall, upon deposit in the Settlement Account, be transferred by the Trustee to the Youth and Education Account.
- 9.3 In the first Fiscal Year of the Settlement Agreement, upon receipt of a Band Council Resolution, so directing, the Trustee shall pay, One Hundred Thousand (\$100,000) Dollars from the Youth and Education Account to the PIIKANI Youth & Education Foundation on behalf of the PIIKANI Nation.
- 9.4 Subject to Section 9.3, funds in this Account shall only be used by the Trustee to purchase Authorized Investments in accordance with Section 10.
- 9.5 Upon receipt of a Band Council Resolution so directing the Annual Income from the Authorized Investments purchased with funds from this Trust Account as determined by the Trustees in accordance with Section 1.2.3 to which the PIIKANI Nation shall be entitled as the beneficiary, shall be paid at the end of each year on their behalf to the Youth and Education Foundation.

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9.6 Prior to the transfer of the funds pursuant to Sections 9.3 and 9.5, the Trustee shall receive a Band Council Resolution and supporting documentation stating the Council has established the PIIKANI Youth and Investment Foundation in accordance with Schedule "3".

10 Authorized Investments

10.1 Upon receipt of a Band Council Resolution so directing, the Trustee shall hire one (1) or more institutional Investment Counsellors named by the Council which shall be a corporation registered and regulated by the Securities Commission of Alberta.

10.2 Funds from the Investment; Heritage, and Youth and Education Accounts shall be used to purchase Authorized Investments provided that the Trustee shall first obtain from the Council the following:

10.2.1 A copy of a current Investment Management Agreement between the Trustee and the Investment Counsellor, which has been approved by the Council, and which appoints the Investment Counsellor and authorizes the Investment Counsellor to retain such additional advisors as directed by Council. The Investment Management Agreement authorizes the Investment Counsellor to purchase Authorized Investments for each of the Trust Accounts in accordance with the terms of this Trust Agreement and the Investment Management Agreement; and

10.2.2 A copy of the current Investment Policy approved by the Council.

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- 10.3 The Trustee shall review the terms of the Investment Management Agreement and Investment Policy and advise the Council and Investment Counsellor of any conflict with the Trust Agreement.
- 10.4 The Trustee shall obtain from the Investment Counsellor a monthly report documenting the list of investments and confirming with Council that the investments acquired with funds from each of the Trust Accounts comply with Schedule "4" and the Investment Policy.
- 10.5 The Trustee shall satisfy itself the investments of funds from the Trust Accounts by the Investment Counsellor comply with Schedule "4" and the Investment Policy and notify the Council and Investment Counsellor of non-compliance with Schedule "4" or Investment Policy.
- 10.6 The Trustee, or any agent hired by the Trustee upon approval of Council, will hold Authorized Investments in accordance with industry standards.
- 10.7 Upon receipt of the Investment Counsellor's instructions with respect to Authorized Investments that have matured or that should be sold in order to optimize the Annual Income from the Accounts, the Trustee shall invest all or any portion of the funds obtained from such Authorized Investments. All funds that are not reinvested shall be deposited into the Account in respect of which the Authorized Investment was purchased.
- 10.8 Upon receipt of a Band Council Resolution so directing, the Trustee shall annually evaluate the performance of the Investment Counsellors against industry standards for portfolios with similar policies, objectives and investment guidelines and advise the Council of the results.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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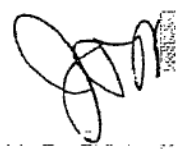

11. Authorized Expenses

- 11.1 The Trustees shall submit a financial statement and explanation of Authorized Expenses to the Council on a quarterly basis.
- 11.2 (a) The PIIKANI Nation may by Band Council Resolution, direct the Trustee to pay on behalf of the PIIKANI Nation all Authorized Expenses on a timely basis from the Trust Property in either the Investment Account or Heritage Account as directed;
- (b) Such payments may only be made by the Trustee upon delivery to the Trustee of a Band Council Resolution directing such payment.
- 11.3 The annual amount not to exceed 3% of the total value of the cash in all Trust Accounts and market value of all Authorized Investments purchased from all the Trust Accounts.
- 11.4 The Council may, by Band Council Resolution, also direct the Trustee to pay Authorized Expenses as and when occurred from funds in the Investment Account pursuant to a Financial Services Management Agreement with the Trustee.

12. Powers and Duties of the Trustee

- 12.1 Without in any way limiting or derogating from the powers, authorities, discretions and immunities otherwise howsoever available to the Trustee, whether under any statute or at law or otherwise, the Trustee hereunder shall have and be vested with the powers, authorities, discretions, and immunities set forth in Schedule "6", and as to which its judgment shall be final and conclusive upon all interested parties.

- 12.2 The Trustee acknowledges the reliance of the PIIKANI Nation on the Trustee in ensuring that no funds will be withdrawn, invested, transferred or expended from the Trust without the requirements and obligations set out in this Trust Agreement having first been met by the Council and the Trustee.
- 12.3 The Trustee shall take reasonable measures to carry out its obligations under the provisions of loan agreements of the Trust with PIIKANI Nation Business Entities.
- 12.4 The Trustee may request of the Council such certificates, resolutions, instruments, or agreements as may be reasonably necessary for the operation of the Trust Accounts or the making of Authorized Investments. The Trustee will take reasonable and diligent measures to confirm the validity of any Band Council Resolution, notice or other document required to be delivered to it under this Trust Agreement. It will be sufficient if the resolution, certificate, notice or other document is in a correct form, signed, and confirmed by the Trustee to be executed by the Council or person(s) designated by Council to sign or execute it.
- 12.5 The Trustee shall maintain adequate records of all transactions affecting the Trust Property.
- 12.6 Within sixty (60) days of the end of each Fiscal Year, the Trustee shall prepare and submit to Council an annual report and financial statement for the purposes of informing the Council and Members about the status and expenditures of each of the Trust Accounts and that the operation of the Trust was in compliance with the Trust Agreement. The Trustee shall annually certify that all expenditures from each of the Trust Accounts were properly documented and authorized in compliance with the requirements of this Agreement.

- 12.7 Any Member shall be entitled to receive a copy of the Trustee's report and financial statement from the Council.
- 12.8 At the request of Council, the Trustee will participate in community information sessions including any special meetings of the Members as may be called by Council to review the annual report of the Trustee.
- 12.9 The Trustee shall immediately notify the Council in writing of any failure on its part or of the PIIKANI Nation to adhere to the provisions of this Agreement.
- 12.10 In the event the Trustees must exercise any discretion on administrative or procedural matters not specifically included in this Agreement they shall advise the Council and obtain their direction by Band Council Resolution.
- 12.11 Upon direction by Band Council Resolution, the Trustee shall obtain bonding or security for the due and faithful administration of the Trust errors and omission insurance for the Trustee.

13 Liability of Trustee

- 13.1 The Trustees shall have no liability arising from the selection, actions or performance of the Investment Counsellors. Specifically, the Trustee shall have no responsibility or liability for losses to the Trust arising from the specific investment of Trust property in Authorized Investments as directed by Investment Counsellors other than to ensure such investments directed by the Investment Counsellor comply with Schedule "4" and the Investment Policy.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

- 13.2 The Trustee shall not be liable for any losses to the Piikani Trust resulting from a loan, loan guarantee, investment or expenditure of Trust Property as properly directed by the Council.
- 13.3 The Trustee shall have no obligations or liabilities in relation to funds once they are properly transferred out of the Trust and ceases to be Trust Property.
- 13.4 The Trustee shall not be liable for losses and damages to the Trust or to the PIIKANI Nation unless the Trustee has:
- (a) Acted with a fraudulent intent or with negligence resulting in actual loss of the Trust Property or loss or damage to the PIIKANI Nation.
 - (b) Breached the Trust Agreement resulting in the actual loss of the Trust Property or loss or damage to the PIIKANI Nation.
- 13.5 The PIIKANI Nation may enter into an indemnity agreement with the Trustee.

14 Amendments:

- 14.1 Subject to Sections 14.2, 14.5 and 14.6, there shall be no amendments to this Trust Agreement for a period of the first eight (8) years from the Effective Date unless such an amendment is required as a result of changes in law that adversely affect the Piikani Trust or the PIIKANI Nation.
- 14.2 Amendments to be made to the Trust Agreement as a result of changes in law shall only be initiated by Council and approved by Band Council Resolution after receipt of a written opinion from legal counsel explaining the adverse changes in the law and the legal implications and benefits of the proposed amendments .

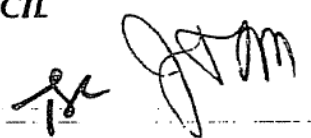
FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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- 14.3 After eight (8) years no amendments to Sections 3 through 10, Sections 14 or 16, or Schedules "1", "2" and "3" are effective unless the proposed amendment is approved by a Majority of Electors in a Referendum held pursuant to the PIIKANI Nation Referendum Regulations attached as Schedule "5".
- 14.4 Prior to the Referendum Date for amending this Trust Agreement, the Council, in their sole discretion, shall use appropriate means to inform the Electors about the proposed amendments.
- 14.5 Amendments to Schedule "4" Re: Authorized Investments may only be approved by Band Council Resolution after the Council has first received advice from their Investment Counsellor in writing stating the reasons, terms and consequences of the amendment.
- 14.6 Notwithstanding Section 14.1, provisions of this agreement which are of an administrative or procedural nature and which legal counsel for the PIIKANI Nation has advised does not substantially alter the entitlements or obligations of the parties hereto, including the beneficial interest of the PIIKANI Nation, or the purposes of the Piikani Trust may be amended at anytime by a Band Council Resolution.
- 14.7 Any party to this Trust Agreement may apply to the Court of Queens Bench of Alberta for advice and direction regarding any question relating to the scope and extent of the powers conferred herein.

15 Removal of the Trustee:

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL



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- 15.1 The Trustee may cease to act under this Trust Agreement by serving sixty (60) days' written notice to the Council but no such resignation shall be effective until a new trustee has been appointed by the Council.
- 15.2 Within 45 days of receiving the Trustee's notice of resignation the Council shall appoint a new trustee and will provide written directions to the resigning Trustee instructing them to transfer the Trust Property to the newly appointed qualified trustee.
- 15.3 The Council may remove the Trustee by serving twenty one (21) days notice to the Trustee.
- 15.4 Prior to serving notice of termination to the Trustee, the Council by Resolution shall have selected a replacement Trustee who is licensed to carry on the business of a Trustee in the Province of Alberta.
- 15.5 The withdrawal or removal of the Trustee by the Council does not affect the rights, obligations, liabilities and responsibilities of either party which accrued prior to the effective date of the termination of the Trustee's appointment hereunder.
- 15.6 The Trustee shall provide the PIIKANI Nation with a complete account of its administration of the Trust, in a form satisfactory to the PIIKANI Nation, within thirty (30) days of the date upon which the Trustee ceases to act hereunder.

16 Duration and Termination of the Trust

- 16.1 This Trust shall terminate and the Trust Property then remaining shall, after the payment of outstanding Trustee's fees, be paid or transferred to the PIIKANI Nation,

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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upon the date which is immediately prior to the date upon the last survivor of the lawful issue of Her Majesty Queen Elizabeth II, alive at that Effective Date, dies.

17 Notices:

17.1 Notices under this Trust Agreement are effective if delivered by facsimile or registered mail as follows:

17.1.1 To the Trustee:

*

Telephone: (*) *

Facsimile: (*) *

17.1.2 To the PIIKANI Nation:

PIIKANI Nation

P.O. Box 70

Brocket, Alberta

TOK 0H0

Telephone (403) 965-3940

Facsimile (403) 965-2030

17.1.3 Ackroyd & Company
Barristers & Solicitors
1500 - 10665 Jasper Avenue
Edmonton, Alberta
T5J 3S9

Attention: Jerome N. Slavik

Telephone (708) 423-8905

Facsimile (780) 423-8946

or such other law firm as designated by the Council from time to time.

18 General:

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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- 18.1 The Trustee confirms that it had received and reviewed the Settlement Agreement prior to entering into the Trust Agreement.
- 18.2 This Trust Agreement represents the entire agreement among the parties and there are no other terms, conditions, or agreements respecting the subject matter of this Trust Agreement other than as specifically stated.
- 18.3 The terms of this Trust Agreement will have priority over any conflicting term in any other agreement in regard to the Trust Property.
- 18.4 This Trust Agreement will be construed, governed and enforced in accordance with the laws of the Province of Alberta.
- 18.5 This Agreement enures to the benefit of and is binding on the parties and their respective successors.

IN WITNESS WHEREOF the Trustee's authorized officer has executed this Agreement this _____ day of _____, A.D. 2002, at _____ of _____, in the Province of Alberta.

Witness

THE TRUSTEE as represented by its duly authorized representative

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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AND FURTHERMORE IN WITNESS WHEREOF the PIIKANI Nation as represented by the Chief and Councillors, for themselves and on behalf of the Nation, have executed this Agreement under their respective hands this _____ day of _____, A.D. 2002, at _____, in the Province of Alberta.

Approved and passed at a duly convened meeting of the Council of the PIIKANI Nation this _____ day of _____, A.D. 2002

Witness

Chief Peter Strikes with a Gun

Witness

Councillor Daniel (Woody) Northman

Witness

Councillor Brian H. Jackson

Witness

Councillor Edwin Small Legs

Witness

Councillor Lionel Crowshoe

Witness

Councillor Harriet North Peigan

Witness

Councillor Terry Yellow Horn

Witness

Councillor Neil Sharp Adze

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

- 145 -

Part

Witness

Councillor Albertine CrowShoe

Witness

Councillor Troy W. Knowlton

Witness

Councillor Roberta Jean Yellow Horn

Witness

Councillor Erwin Bastien

Witness

Councillor Corbin Provost

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SCHEDULE "1"

ALLOCATION TO TRUST ACCOUNTS OF PAYMENTS OF SETTLEMENT FUNDS
AND ANNUAL PAYMENT TO BE MADE TO THE PIIKANI NATION PURSUANT
TO SECTION "B" OF THE SETTLEMENT AGREEMENT

ALLOCATION

Fiscal Year(s)*	Settlement Funds Paid	Investment Acct.	Implementation Account	PIIKANI Youth & Education Foundation	Heritage Account	Total
1	25.5	2.5	13.0	5.0	5.0	25.5
2	10.8	7.8	-	-	3.0	10.8
3	10.5	8.5	-	-	2.0	10.5
4	10.0	10.0	-	-	-	10.0
5	2.5	2.5	-	-	-	2.5
6	2.5	2.5	-	-	-	2.5
7	2.5	2.5	-	-	-	2.5
<hr/>						
	64.30	36.3	13.00	5.0	10.0	64.30

* As defined in the Settlement Agreement.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

- 147 -

SCHEDULE "2"
PIIKANI NATION INVESTMENT CORPORATION (PIC)

I PURPOSES:

- (a) To provide prudent and reliable business and management advice to the Council regarding investment, loans and loan guarantees to PIIKANI Business Entities from the Investment Account and the operations of the PIIKANI Business Entities.
- (b) To develop and/or approve business plans for PIIKANI Business Entities. The mandate of the PIIKANI Investment Corporation includes, but is not limited to, establishing business plans and financial arrangements for the following PIIKANI Business Entities:
 - (c) PIIKANI Hydro (to participate in the ATCO Hydro Project).
 - (d) PIIKANI Land Acquisition (to acquire land for reserves and commercial purposes).
 - (e) PIIKANI Irrigation.
 - (f) PIIKANI Business Opportunity (to provide equity and loan financing to businesses owned by PIIKANI Nation Members).
 - (g) PIIKANI Wind Power (to participate in wind power joint venture).
 - (h) PIIKANI Facilities (to build a multi-purpose building on the reserve).
- (c) Where directed by Council to:
 - (i) hold shares in a PIIKANI Business Entity and appoint directors;
 - (ii) safeguard investments, loans and loan guarantees from the PIC by monitoring the management, operations and financial administration of PIIKANI Business Entities;
 - (iii) provide managerial, administrative and financial services to PIIKANI Business Entities;
 - (iv) report to the Council on a quarterly basis on the operation, management and financial status of PIIKANI Business Entities;

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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- (v) provide a written report to Members on the operation and financial status of PIIKANI Business Entities on an annual basis;
- (vi) undertake other directly related or ancillary tasks as directed by the Council from time to time.

II OWNERSHIP AND LOCATION

- (a) The PIIKANI Investment Corporation shall be located on and operate solely on the PIIKANI Nation Indian Reserve. It shall be 100% owned by the PIIKANI Nation.
- (b) The shares shall be held in trust for the benefit of the PIIKANI Nation by person(s) appointed as shareholder trustees by Council from time to time. The shares shall be exercised in accordance with a Trust Agreement between the shareholder trustees and Council substantially in the form attached hereto.
- (c) The PIIKANI Investment Corporation shall be Federally incorporated.

III APPOINTMENT AND REMOVAL OF DIRECTORS

- (a) The PIC shall have seven (7) directors, three (3) of whom shall not be Members. One director shall be a chartered accountant, one shall be a lawyer, and one an experienced businessperson. Only one (1) Director may be a member of Council.
- (b) All Directors shall be appointed by the Council for a period of four (4) years based on the their qualifications, experience and abilities to manage and direct investments and businesses.
- (c) Directors may only be removed by the Council during their tenure in office only for breach of their duties and obligations as Directors.

BETWEEN:

FIRST NATION,
as represented by the Chief and Council,
of
in the Province of Alberta,
(referred to as the "Shareholder")

and -

of in the Province of Alberta,
(referred to as the "Shareholder/Trustee")

TRUST AGREEMENT

At a duly convened meeting of the Chief and Council of the * FIRST NATION held on the day of _____, 2002, at which a quorum of the Council, by motion, authorized

as Shareholder/Trustee, to acquire, accept transfer of, and to hold One Hundred (100) Class "A" Shares of the issued shares of _____ LTD. (hereinafter referred to as the "Corporation"), in trust for the * FIRST NATION.

The Shareholder/Trustee agrees he shall vote the shares of the Corporation held by him as directed from time to time by the Chief and Council.

The Shareholder/Trustee further agrees that all dividends paid to him as Shareholder/Trustee will be transferred in their entirety to the *FIRST NATION immediately upon receipt of same by the Shareholder/Trustee.

The Shareholder/Trustee, at his sole discretion, may terminate this Trust Agreement upon written notification to the Chief and Council of the * FIRST NATION.

In the event that the Shareholder/Trustee, in his sole discretion, decides to terminate this Agreement, he shall transfer the shares to the replacement Shareholder/Trustee appointed by the Chief and Council.

The Chief and Council of the * FIRST NATION may terminate this Trust Agreement upon the following conditions:

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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**Piikani
Trust Agreement**

- (a) That at a duly convened meeting of the Chief and Council of the * FIRST NATION a motion is passed by a quorum of Council terminating the said Trust Agreement; or
- (b) That the Shareholder/Trustee receives directions from the Chief and Council to transfer the shares held in trust for the * FIRST NATION to another Shareholder/Trustee.

DATED effective the _____ day of _____, 2002.

On behalf of the Chief and Council of the
* FIRST NATION (Pursuant to a Motion
passed on the _____ day of _____
2002

SIGNED, SEALED & DELIVERED)
 in the presence of)
)
 _____)
 (Witness)

 Shareholder/Trustee

the *PH*

INDEMNITY AGREEMENT

BETWEEN:

* FIRST NATION,
as represented by the Chief and Council,
of **,
in the Province of Alberta
(referred to as the "Shareholder")

- AND -

of the * FIRST NATION,
of **

in the Province of Alberta
(referred to as the "Shareholder/Trustee")

WHEREAS the Shareholder has requested that the Shareholder/Trustee hold ONE HUNDRED (100) Class "A" Shares of LTD., a corporation incorporated under the laws of the Province of Alberta, in trust for the * FIRST NATION;

NOW, THEREFORE, THIS AGREEMENT WITNESSES that in consideration of the Shareholder/Trustee holding ONE HUNDRED (100) Class "A" Shares in the share capital of LTD. in trust for the Shareholder, the Shareholder agrees to indemnify and hold harmless the Shareholder/Trustee, his heirs, personal representatives and assigns from any and all liabilities, damages, costs, claims, suits or actions whatsoever arising out of the Shareholder/Trustee holding the said Shares of LTD. in trust for the Shareholder.

IN WITNESS WHEREOF the parties have set their hands and seals effective this ____ day of _____, 2002.

WITNESS

Shareholder/Trustee

* FIRST NATION on behalf of the Chief
and Council
PER:

CHIEF*

pat

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SCHEDULE "3"
TO THE Piikani NATION TRUST AGREEMENT
PIIKANI YOUTH AND EDUCATION FOUNDATION

I PURPOSES

Acting for and on behalf of the PIIKANI Nation:

- (a) To develop and implement policies for scholarship, grants, awards and other financial assistance to Members pursuing adult education and post-secondary education on and off-reserve.
- (b) To provide and assist in funding for social, cultural, recreational, entrepreneurial and leadership Program and Services for Members.
- (c) To acquire additional funding for education from other public and private sources.

II OWNERSHIP AND LOCATION

- (a) The PIIKANI Youth and Education Foundation shall be wholly owned by the PIIKANI Nation. The shares shall be held in trust for the benefit of the PIIKANI Nation by shareholder trustees appointed by Council from time to time. The shares shall be exercised in accordance with a Trust Agreement between the shareholder trustees and Council substantially in the form attached hereto.
- (b) Its head offices and all operations shall be located on the PIIKANI Nation Reserve.
- (c) The PIIKANI Youth and Education Foundation shall be a Federally incorporated "not-for-profit corporation" which shall obtain charitable tax status in order to facilitate corporate and private sector donations.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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III APPOINTMENT AND REMOVAL OF BOARD OF DIRECTORS

- (a) The Council shall appoint seven (7) directors, two (2) of whom shall be non-PIIKANI Nation Members. Only one (1) Director may be a Member of the Council and shall be the Portfolio holder for Education.
- (b) Directors shall be appointed based on their knowledge, experience and educational qualifications in providing advice, assistance and instructions to PIIKANI Nation students.
- (c) The directors shall be appointed for a period of four (4) years and may only be removed by Council for failing to fulfil their duties and obligations as directors.

III REPORTING REQUIREMENTS

The Directors shall report on a semi-annual basis to the Council as to their activities, expenditures, fundraising and any other relevant information.

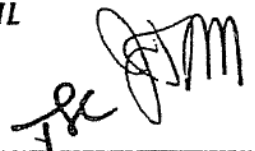
The Directors shall report to the Members at a Band Meeting to be held annually.

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SCHEDULE "4"
AUTHORIZED INVESTMENTS

1. Debt instruments issued or guaranteed by the Government of Canada, a Province of Canada, or a Municipality of Canada, or mutual or pooled funds thereof.
2. Debt instruments issued or guaranteed by a chartered bank (being those listed on Schedule 1 of the *Bank Act* as amended) including bankers' acceptances and mutual or pooled funds thereof.
3. Mortgage backed securities guaranteed by the Government of Canada, an agency of the government of Canada, or a chartered bank, including mutual or pooled funds thereof.
4. Commercial paper issued by corporations rated at R-1 low or A-1 by the Dominion Bond Rating Services or Canadian Bond Rating Services including mutual or pooled funds thereof.
5. Corporate Bonds rated A or better by the Dominion Bond Rating Services or Canadian Bond Rating Services including mutual or pooled funds thereof.
6. Convertible debentures rated BBB or better by the Dominion Bond Rating Services or Canadian Bond Rating Services up to ten (10%) percent of the equity position of the portfolio, or two and one-half (2.5%) percent of the entire portfolio.
7. Preferred shares and convertible preferred shares rated P2 or better by the Dominion Bond Rating Services or Canadian Bond Rating Services up to a maximum of two and one-half (2.5%) percent of the entire portfolio.
8. Equity securities including common shares, installment receipts, ADR's, and share purchase warrants of a corporation listed on a recognized North America stock exchange.
9. For further clarity, the total cost of all instruments in paragraphs 6 through 8 including equity securities, convertible debentures, preferred and convertible preferred shares, common shares, instalment receipts, common share purchase warrants, ADR's, including mutual or pooled funds thereof, purchased in the

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL



Capital Account cannot exceed sixty (60%) percent of the book value of the total cost of all securities held in the Accounts at time of acquisition.

10. Within the guidelines set out in this Schedule, the amount from the Accounts to be invested in each of the various authorized investments, the asset mix policy, and other conditions governing such investments, shall be set out in an investment policy approved by the Council and their investment advisors from time to time.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

SCHEDULE "5"

PIIKANI NATION REFERENDUM REGULATIONS

1 DEFINITIONS:

In this document:

- 1.1 "Deputy Referendum Officer" means a person appointed by the referendum officer for the purposes of the referendum;
- 1.2 "Referendum Officer" means a person as appointed by Band Council Resolution for the purposes of conducting the referendum;
- 1.3 Any term not defined herein shall have the same meaning as set out in the Settlement Agreement, the Trust Agreement or the *Indian Act*.

2 REFERENDUM:

- 2.1 Appointment of Referendum Officer: At least 40 days prior to the Referendum date, the Council shall appoint a Referendum Officer (hereinafter referred to as "the Officer") and, if necessary, a Deputy Referendum Officer, to conduct a referendum under the procedures set out herein to be held to determine if the Electors of the PIIKANI Nation wish to
 - (i) approve a Special Capital Project Expenditure from the Heritage Account;
 - (ii) amend the Trust Agreement;

FINAL DRAFT JULY 4, 2002 - - REVIEWED BY CHIEF AND COUNCIL



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(iii) approve a plan for the termination of the Trust.

2.2 **Question:** The electors shall vote on the following question:

(a) For Special Capital Project Expenditures

*** "Do you approve a payment of \$_____ from the Heritage Account to the Settlement Revenue Account to be used by the Council for the following Special Capital Projects:

- 1. _____ \$(_____)
- _____
- _____ 2. _____ \$(_____)
- _____ ?"

(b) For Amending the Trust Agreement

"Do you approve the following amendment(s) to the Piikani Trust Agreement"

- 1. _____
- 2. _____

(a) For Approving a Plan for Termination of the Trust

"Do you approve the attached Plan for Termination of the Piikani Trust?"

3 POSTING OF NOTICE:

3.1 The Officer shall post a notice of the referendum at least thirty (30) days prior to the date of the referendum. Notices shall be posted at the PIIKANI Nation's administration office, at the facilities, on the PIIKANI Reserve and at other locations designated by Band Council Resolution.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

3.2 The Officer shall cause a notice of the referendum to be published in such publications as appropriate for the two (2) consecutive weeks preceding the date of the voting.

3.3 The notice referred to in subsections 3.1 and 3.2 shall state:

3.3.1 The dates on which the voting will take place;

3.3.2 The question to be submitted to the Electors;

3.3.3 The hours of day the Electors may vote; and

3.3.4 The locations of the polling booths.

4 REFERENDUM OFFICER - DUTIES:

4.1 The Officer shall:

4.1.1 Prepare a list containing in alphabetical order the names of the Electors entitled to vote on the referendum and designating the location of the polling booth where each Elector shall be entitled to vote;

4.1.2 Post a copy of the list of Electors in such places as he deems necessary at least fifteen (15) days prior to the date of the voting;

4.1.3 Prepare sufficient ballot papers in the prescribed form which shall state the question to be submitted to the Electors;

4.1.4 Procure sufficient ballot boxes;

4.1.5 Before the poll is open cause to be delivered to the Deputy Referendum Officer the ballot papers, a sufficient number of lead pencils for marking the ballot papers and copies of the TESA to be posted in the polling places;

4.1.6 Undertake such other activities as are necessary for the proper conduct of the referendum.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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4.2 Any Elector may apply to the Officer within ten (10) days of the posting of the list of Electors to have the list revised on the grounds that:

4.2.1 The name of an Elector has been omitted therefrom;

4.2.2 The name of an Elector is incorrectly set out therein; or

4.2.3 The name of a person not qualified to vote is included therein.

4.3 Where the Officer is satisfied that a revision is necessary in the list of Electors he shall make the revision and such revision shall be final.

4.4 The Officer or the Deputy Referendum Officer shall provide a compartment at each polling place where the Elector can mark his ballot paper free from observation.

4.5 The Officer or the Deputy Referendum Officer shall immediately before the opening of the poll, open the ballot box and call upon such persons who may be present to witness that it is empty and shall then lock and properly seal the box and place it in view for the reception of the ballots.

5 TIME AND PLACE FOR VOTING:

5.1 The voting will take place on two (2) days at the Community Hall on the First Nation's Reserve, and at other locations as may be designated by Band Council Resolution, from the time of 9.00 a.m. to 6.00 p.m.

5.2 An Elector who is inside the polling place at the time fixed for closing the poll shall be entitled to vote before the poll is closed.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

160 -

6 VOTING PROCEDURE:

- 6.1 The voting on the referendum shall be by secret ballot.
- 6.2 The Officer or the Deputy Referendum Officer after satisfying himself that a person presenting himself for the purpose of voting is entitled to vote at the polling place, shall provide such person with a ballot paper on the back of which the officer has affixed his initials, so placed, that when the ballot paper is folded the initials can be seen without unfolding the ballot paper.
- 6.3 The Officer or the Deputy Referendum Officer shall place on the list of Electors a mark opposite the name of every Elector receiving a ballot paper.
- 6.4 The Officer or the Deputy Referendum Officer shall explain the mode of voting to an Elector when requested to do so by such Elector.
- 6.5 On the application of an Elector who is:
 - 6.5.1 Not able to read; or
 - 6.5.2 Incapacitated by blindness or other physical cause,

the Officer or the Deputy Referendum Officer shall assist that Elector by marking his ballot paper in the manner directed by the Elector and shall place such ballot paper in the ballot box and make an entry in the list of Electors opposite the name of the Elector that the ballot paper was marked by him at the request of the Elector and the reasons thereof.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

- 6.6 For electors who are mentally or physically handicapped, their legal guardian or trustee may cast their ballot.
- 6.7 Except as provided in subsection 6(5) every Elector receiving a ballot paper shall:
- 6.7.1 Proceed immediately to the compartment provided for marking the ballot paper;
 - 6.7.2 Mark his ballot by placing a cross ("X") under the word "YES" or "NO" opposite the question stated on the ballot paper;
 - 6.7.3 Fold the ballot paper to conceal the mark on the face of the paper and to expose the initials on the back of it; and
 - 6.7.4 Forthwith deliver it to the Officer or the Deputy Referendum Officer for deposit in the ballot box.
- 6.8 An Elector who receives a spoiled or improperly printed ballot paper, or inadvertently spoils his ballot paper in marking it shall, upon returning the ballot paper to the Officer or the Deputy Referendum Officer, be entitled to another ballot paper.
- 6.9 An Elector who has received a ballot paper and:
- 6.9.1 Leaves the compartment for marking ballot papers without delivering the same to the Officer or the Deputy Referendum Officer in the manner provided; or
 - 6.9.2 Refuses to vote

shall forfeit his right to vote on the referendum and the Officer or the Deputy Referendum Officer shall make an entry on the list of Electors opposite the name

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

of the Elector that the Elector did not return the ballot paper or refused to vote as the case may be.

6.10 The Officer or the Deputy Referendum Officer shall allow only one Elector in the compartment for marking ballot papers at any one time.

7 NON-INTERFERENCE AND MAINTENANCE OF ORDER:

7.1 No person shall interfere or attempt to interfere with an Elector when marking his ballot paper or obtain or attempt to obtain at the polling place information as to how an Elector is about to vote or has voted.

7.2 The Officer or the Deputy Referendum Officer shall maintain peace and good order during the voting and for this purpose he may enlist the assistance of constables, peace officers, or other persons present.


8 APPOINTMENT OF INTERPRETER:

8.1 Whenever the Officer or the Deputy Referendum Officer does not understand the language spoken by an Elector, he shall appoint and swear an interpreter who shall be the means of communication between him and the Elector with reference to all matters required to enable the Elector to vote.

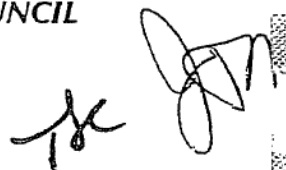
9 COUNTING OF BALLOTS AND REPORTING OF OUTCOME:

9.1 Immediately after the close of the poll the Officer in the presence of the Deputy Referendum Officer and in the presence of any member of the Council of the PIIKANI Nation that may be present shall:

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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- 9.1.1 Examine the ballot papers;
 - 9.1.2 Reject all ballot papers that have not been supplied by him or by the Deputy Referendum Officer;
 - 9.1.2.1 that have been marked incorrectly, or
 - 9.1.2.2 upon which anything appears by which the Elector can be identified;
 - 9.1.3 Count the votes given in favour of and against the question submitted in the referendum.
- 9.2 When the results of the voting are known to the Officer, he shall:
- 9.2.1 Immediately prepare a statement in triplicate signed by himself indicating:
 - 9.2.1.1 the number of Electors who were eligible to vote;
 - 9.2.1.2 the number of Electors who voted;
 - 9.2.1.3 the number of votes cast in favour of and against the question submitted in the referendum; and
 - 9.2.1.4 the number of rejected ballots.
 - 9.2.2 Deliver a copy of the statement to:
 - 9.2.2.1 the Chief and Council of the PIKANI Nation;
 - 9.2.2.2 the financial institution;
 - 9.2.2.3 the Council.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL



10 RETENTION OF BALLOTS:

10.1 The Officer shall deposit the ballot papers used in the voting in a sealed envelope and retain it for sixty (60) days after which time he may, unless directed otherwise by the Council, destroy them in the presence of two witnesses.

11 APPROVAL OF THE EXPENDITURE OUT OF
THE HERITAGE ACCOUNT:

11.1 The approval by a Majority of the Electors or a Plan to terminate the Piikani Trust of the Special Capital Project expenditure or amendment(s) to the Trust Agreement shall constitute authorization for the Council to complete and execute all documentation necessary to implement the outcome of the Referendum after the expiry of the appeal period.

12 APPEAL PROCEDURE:

12.1 Any Elector who has reasonable grounds for believing that:

12.1.1 There was a violation of the procedures outlined herein that may have materially affected the results of the referendum; or

12.1.2 There was corrupt practice in connection with the referendum,

may file a notice of appeal, with a statutory declaration containing a statement of the grounds of the appeal and particulars thereof, within five (5) days from the date of the referendum with the Officer by delivery or mail to the PIIKANI Nation office:

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

- 165 -

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- 12.2 Upon receipt of a Notice of Appeal by Band Council Resolution the Council shall appoint three (3) persons who are not members of the PIIKANI Nation to an "Appeal Panel".
- 12.3 The Officer shall within fourteen (14) days from the receipt of the appeal, forward to the Appeal Panel a copy of the appeal and a statutory declaration containing an answer to the particulars stated in the appeal.
- 12.4 The Appeal Panel may, if the material received is not sufficient to decide the validity of the grounds of the appeal, conduct such further investigation as they deem necessary.
- 12.5 Subject to s. 12.6, the Appeal Panel may dispose of an appeal by allowing it and ruling the results of the referendum are invalid and void.
- 12.6 Where the Appeal Panel is of the opinion that the grounds of appeal:
- 12.6.1 Are not established; or
 - 12.6.2 Do not materially affect the results of the referendum,
- they shall dismiss the appeal.
- 13 COSTS:
- 13.1 All costs incurred by the PIIKANI Nation and associated with the conduct of the referendum and Appeal Panel shall be paid by the PIIKANI Nation.

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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SCHEDULE "6"

The Trustee shall have all of the powers and capacities that a natural person would have in the investment, management, supervision and administration of their own properties except as expressly limited by the terms of this Trust Agreement. Without restricting the generality of the foregoing, and only for the purposes of greater certainty, the Trustee is hereby authorized from time to time in its uncontrolled discretion:

(a) **Investment Powers**

The Trustee shall be limited and restricted to directing the Investment Counsellor to invest the Trust Property to such investments or securities as are set out in Schedule "4" of the Trust Agreement.

(b) **Power to Vote Securities**

The Trustee may exercise in person or by proxy all voting privileges upon any securities held by them.

(c) **Administrative Powers**

The Trustee may grant or accept drafts or promissory notes and to sign all other instruments in writing for the administration and management of the Trust Property; and to leave on deposit any or all of the Trust Property with a bank or trust company for safekeeping as directed by Council.

(d) **Power to Employ and Remunerate Agents and Representatives**

The Trustee shall employ, pay for (using Trust Property or income generated therefrom) and act upon the opinion or advice of or information obtained from any lawyer, accountant, financial advisor, or from any other experts and professional persons as approved by the Council, provided that the Trustee shall not be responsible for any loss, depreciation or damage occasioned by acting, in accordance therewith.

(e) **Power to Settle Claims**

With the approval of the Council, the Trustee may compromise, settle and

FINAL DRAFT JULY 4, 2002 - REVIEWED BY CHIEF AND COUNCIL

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adjust any claim or demand made against the Trust Property.

(f) **Protection of Trust Property**

The Trustee may institute and defend proceedings at law and to proceed to the final determination thereof or compromise the same as the Trustee as directed by the Council.

(g) **Situs of Trust Property**

The Trustee shall hold the Trust Property or any part thereof at any place or places and to move the same from time to time from place to place inside or outside Alberta as directed by Council from time to time.

(h) **Capitalization of Income**

The Trustee may add to the capital of the Trust Property, at such times and in such amounts as directed by Council, the income of the Trust Property.

