

MEMORANDUM OF UNDERSTANDING

**RESPECTING AN ASSESSMENT OF THE FEASIBILITY
OF ESTABLISHING A PROTECTED AREA
INCLUDING A POSSIBLE NATIONAL PARK RESERVE
AND INDIGENOUS PROTECTED AND CONSERVED AREA
IN THE SEAL RIVER WATERSHED**

BETWEEN

**SAYISI DENE FIRST NATION, NORTHLANDS DENESULINE FIRST NATION,
BARREN LANDS FIRST NATION AND O-PIPON-NA-PIWIN CREE NATION
(EACH A "NATION" / COLLECTIVELY THE "NATIONS")
AS REPRESENTED THROUGH THE SEAL RIVER WATERSHED ALLIANCE
(THE "ALLIANCE")**

AND

**HIS MAJESTY THE KING IN RIGHT OF MANITOBA
AS REPRESENTED BY THE MINISTER OF ENVIRONMENT AND CLIMATE CHANGE AND
THE MINISTER OF ECONOMIC DEVELOPMENT, INVESTMENT, TRADE AND NATURAL RESOURCES**

("MANITOBA")

AND

**HIS MAJESTY THE KING IN RIGHT OF CANADA
AS REPRESENTED BY
THE MINISTER OF ENVIRONMENT AND CLIMATE CHANGE CANADA
FOR THE PURPOSES OF THE PARKS CANADA AGENCY**

("CANADA")

(EACH A "PARTY" AND COLLECTIVELY THE "PARTIES")

MEMORANDUM OF UNDERSTANDING

RECITALS

WHEREAS Canada is working to expand protected and conserved areas, including establishing new National Park Reserves and recognizing Indigenous Protected and Conserved Areas, as mechanisms to achieve the Government of Canada's commitment to protect twenty-five percent of its terrestrial land mass by 2025, and the Seal River Watershed has been identified as a candidate site;

WHEREAS Canada is committed to a nation-to-nation and government-to-government relationship with Indigenous Peoples, based on recognition of rights, respect, cooperation, and partnership, and to implementing the United Nations Declaration on the Rights of Indigenous Peoples as well as the *United Nations Declaration of the Rights of Indigenous Peoples Act* in accordance with the *Constitution Act, 1982*;

WHEREAS Manitoba is committed to reconciliation and is guided by the calls to action of the Truth and Reconciliation Commission and the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples as articulated in *The Path to Reconciliation Act*;

WHEREAS each of the Sayisi Dene First Nation, Northlands Denesuline First Nation, Barren Lands First Nation and O-Pipon-Na-Piwin Cree Nation have a deep relationship with and knowledge of the Seal River Watershed as part of their territories and homelands, and have established the Alliance to advance their shared objective of protecting the Seal River Watershed as an Indigenous Protected and Conserved Area;

WHEREAS section 35 of the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and treaty rights of the Indigenous Peoples of Canada;

WHEREAS the 260 kilometre Seal River corridor, which extends from the junction of the North and South Seal Rivers, at Shethanei Lake to Hudson Bay, was identified as a Canadian Heritage River in 1992;

WHEREAS the Parties have together identified the Seal River Watershed as a region with important environmental, economic, natural resource, heritage resources, and cultural values, and have agreed to initiate and complete a collaborative Feasibility Assessment to determine if it would be feasible to protect and preserve this area in a way informed by these values, including through designations such as a national park reserve and/or as an Indigenous Protected and Conserved Area;

WHEREAS the Parties share an interest in protecting the ecological and cultural integrity and diversity of the Seal River Watershed in a manner that respects Indigenous written and customary laws, knowledge, interests, and values;

WHEREAS much of the lands of the Seal River Watershed are Crown lands under the administration of the Province of Manitoba;

WHEREAS the Parties acknowledge that they will each bring their respective authorities and mandates to this Agreement and that each make decisions in accordance with their respective laws, customs, traditions, and existing agreements;

WHEREAS a portion of the Seal River Watershed is subject to ongoing land-related negotiations,

WHEREAS it is agreed that the feasibility assessment process will not infringe upon the rights of Indigenous Peoples in the region, including but not limited to existing and in-progress treaties, claims, rights tables and agreements.

NOW, THEREFORE, the Parties have reached the following understandings:

1. DEFINITIONS

In this Agreement, including the recitals, the following definitions apply:

“Agreement” means this Memorandum of Understanding.

“Consensus” means that although the representatives of the Parties on the Steering Committee may not support every aspect or decision, they have reached an agreement that satisfies their major interests and addresses their significant concerns to the extent that all can support it.

“Feasibility Assessment” means a process to assess, determine and recommend to the Parties whether the establishment of a protected area, including a possible national park reserve and/or Indigenous Protected and Conserved Area, within the Seal River Watershed is feasible or not; and if so, under what terms and conditions. The Feasibility Assessment process begins with the coming into force of this Agreement and concludes with a decision by the appropriate decision-makers, representing each of the Parties, on whether or not to proceed with the steps required to formally establish a protected area, including possible designations such as a national park reserve and/or Indigenous Protected and Conserved Area.

“Indigenous Protected and Conserved Area” or *“IPCA”* means lands and waters where Indigenous peoples have the primary role in protecting and conserving ecosystems through Indigenous laws, governance and knowledge systems.

“Steering Committee” means a formal committee composed of representatives of each of the Parties as described in section 3.2, that directs and oversees the Feasibility Assessment described in this Agreement.

“Study Area” means the Seal River Watershed area within Manitoba as illustrated in Annex 1, that is the focus of the Feasibility Assessment. It denotes the area that is the focus of research and the development of boundary option(s) for consideration and consultation. For greater clarity, the Study Area is not the proposed boundary for the protected area unless it is so recommended and accepted by the Parties as one of the recommendations of the Feasibility Assessment.

2. PURPOSE AND SCOPE

2.1 The Parties agree to collaborate in initiating and completing the Feasibility Assessment.

2.2 In carrying out the Feasibility Assessment, the Parties may consider, among other things:

- a) the environmental, socio-economic, natural resource, heritage and cultural benefits and impacts of establishing a protected area, including possible designations such as a national park reserve and Indigenous Protected and Conserved Area, within the Study Area.
- b) the potential benefits and impacts of establishing a protected area within the Study Area on Aboriginal and treaty rights, including in the context of Section 35 of the *Constitution Act, 1982*.

- c) the implications of establishing a protected area, including possible designations such as a national park reserve and Indigenous Protected and Conserved Area, on:
 - i. some or all of the Parties;
 - ii. other Indigenous Peoples;
 - iii. commercial interests, stakeholders and local governments; and,
 - iv. existing tenures and encumbrances within and / or adjacent to the Study Area; and,
- d) the interest in portions of the Study Area asserted by other Indigenous governments and organizations and how to engage them in the Feasibility Assessment.

2.3 It is intended that the Feasibility Assessment will be completed in a timely manner in accordance with agreed work plans and milestones following the signing of this Agreement.

2.4 Given the potential interest, or asserted interest, of other Indigenous governments and organizations in protected areas in this region, including possible national park reserves or other Indigenous Protected and Conserved Areas, the Parties may consider the possibility of inviting these Indigenous governments and organizations to participate in the Feasibility Assessment. Any additional area will not be part of the Study Area and no additional party may be added to this Agreement unless a prior written agreement to this effect is reached by all the Parties.

3. STEERING COMMITTEE

3.1 The principal mandate of the Steering Committee is to:

- a) guide the Feasibility Assessment, including the development of a work plan, consultation and engagement plans, a budget, interim and final reports, and other activities as required to ensure that the assessment meets the needs of each of the Parties; and
- b) complete the report as described in 6.1.

3.2 As soon as practicable, but no later than one (1) month from the signing of this Agreement, the Parties will appoint their representatives to the Steering Committee, which will be composed of: one (1) representative from each of the four Nations and the Executive Director of the Alliance; two (2) representatives from Parks Canada; and two (2) representatives from Manitoba.

3.3 The Steering Committee will seek to make Consensus decisions in performing and directing work under this Agreement, and render Consensus recommendations to each Party's respective leadership. A quorum of the Steering Committee for the purposes of Consensus must include at least one (1) representative from each of the Alliance, Canada and Manitoba. If the Steering Committee cannot reach Consensus on any decision, recommendation, or approval, they may refer the matter to leadership from Canada, Manitoba and the Nations as a dispute to resolve under clause 7.

3.4 The Steering Committee will develop and approve a terms of reference and rules of procedure for its work. In addition, the Steering Committee will seek to develop, within two (2) months, or earlier, a work plan and budget that is required to undertake the work under this Agreement.

3.5 The Steering Committee may establish one or more sub-committees for the purpose of addressing specific elements of the Feasibility Assessment. The Steering Committee will determine the mandate and any terms of reference of any such sub-committee.

- 3.6 From the outset of its work, the Steering Committee will ensure that Indigenous knowledge will be provided for and incorporated into the Feasibility Assessment and associated recommendations, alongside other scientific information. The Steering Committee will consider and address any confidentiality requirements that may arise related to the provision and use of specific types of Indigenous knowledge.
- 3.7 Canada will provide secretariat support to facilitate the work of the Steering Committee. At the direction of the Steering Committee, the secretariat, will carry out duties including but not limited to the administrative work in support of the Steering Committee's work, meetings, studies, consultations and technical support. The secretariat will also provide support to any sub-committee established under section 3.5.
- 3.8 No Party will use confidential or proprietary information shared by another Party obtained under this Agreement other than to further the purpose of this Agreement, unless they obtain the prior written approval of the Party who has provided the information.
- 3.9 The Parties will develop a communications plan that includes a protocol for the sharing or public release of information obtained or developed under this Agreement, including reference to requirements of applicable laws.

4. RESOURCING

- 4.1 Canada will staff and fund a project manager and other staff, as necessary, to support the Steering Committee to complete the Feasibility Assessment. The project manager will attend all meetings of the Steering Committee.
- 4.2 Canada, subject to and through a contribution agreement, will provide financial assistance to the Nations to enable each to participate fully and effectively in the Feasibility Assessment through the Seal River Watershed Alliance. This financial assistance can cover staffing requirements, Indigenous knowledge studies, consultations with communities and members and other reasonable costs incurred by each of the Nations during the Feasibility Assessment.
- 4.3 Canada is willing to provide financial assistance to the Government of Manitoba to ensure that the Government of Manitoba has the capacity to participate in the Feasibility Assessment.
- 4.4 Canada will pay for all component studies that the Steering Committee determines are required for the Feasibility Assessment.
- 4.5 The non-confidential and non-proprietary data and reports from all component studies completed as part of the feasibility assessment will be shared in their entirety with the Parties.
- 4.6 To the extent that all Parties agree, the Parties may approach third parties, including philanthropic interests, to enable each First Nation to participate fully and effectively in the Feasibility Assessment through the Seal River Watershed Alliance.

5. ROLES AND RESPONSIBILITIES

- 5.1 When required by the Steering Committee, Canada can enlist the participation of other relevant federal agencies and departments, in particular, the Department of Environment and Climate Change, the Department of Fisheries and Oceans, Natural Resources Canada, and the Department of Transport, given

that each will maintain their regulatory authorities within the protected area, including in a possible national park reserve and Indigenous Protected and Conserved Area.

- 5.2 When required by the Steering Committee, Manitoba can enlist the participation of all relevant provincial agencies and departments.
- 5.3 During the course of the Feasibility Assessment, regular coordination by Manitoba and Canada will occur to support both governments discharging their respective Crown-Indigenous consultation obligations.
- 5.4 In addition to engaging with other Indigenous governments, rights holders, and organizations with interest in the Study Area, the Steering Committee will engage with local governments, communities, stakeholders, and the public. The consultation and engagement plans referred to in section 3.1 will outline the approach to engaging these parties.

6. OUTCOMES

- 6.1 At the conclusion of the Feasibility Assessment, the Steering Committee will submit a report to the leadership of each of the Nations as represented through the Seal River Watershed Alliance, and the federal and provincial ministers of the relevant departments, reporting on its findings, recommending whether the establishment of a protected area, including a possible national park reserve and Indigenous Protected and Conserved Area, in the Seal River Watershed Study Area is considered feasible, and if so, under what conditions.
- 6.2 Following the report of the Steering Committee referred to in section 6.1, Canada, Manitoba and each of the Nations' leadership will make their respective decisions on whether or not to proceed with the steps required to formally establish a protected area, including a possible national park reserve and Indigenous Protected and Conserved Area, and under what conditions, as appropriate. Should the Parties agree to proceed, Canada undertakes to enter into the negotiation of the necessary agreement(s) required to formally establish a protected area, including a possible national park reserve and Indigenous Protected and Conserved Area, in partnership with Manitoba and the Nations.

7. DISPUTE RESOLUTION

- 7.1 If a dispute arises:
 - a) relating to the interpretation or intent of this Agreement, the Steering Committee will meet as soon as practicable and will attempt to resolve the dispute; or
 - b) relating to the work undertaken by the Steering Committee, leadership from Canada, Manitoba and the Nations will meet as soon as practicable and attempt to resolve the dispute.
- 7.2 A reference to the Steering Committee or to leadership pursuant to subsections 7.1.a. or 7.1.b. respectively, will include detailed reports setting out a full description of the dispute, together with the concerns of the Steering Committee members, and proposed specific actions that could be taken to address the dispute.
- 7.3 Where agreed, the Steering Committee or leadership from Canada, Manitoba and the Nations may use a facilitator or mediator to provide facilitation or mediation to assist in reaching a resolution.

8. INTERIM PROTECTION FROM MINERAL EXPLORATION AND STAKING

8.1 Manitoba will withdraw the Study Area from mineral disposition, subject to any existing rights, titles, interests, entitlements, licences, permits or authorizations existing as of the effective date of order or instrument giving effect to the withdrawal.

8.2 Interim protection under 8.1 will remain in force for the term of this Agreement.

9. TERM, AMENDMENT AND TERMINATION

9.1 This Agreement will take effect upon signing by all Parties and will continue until decisions are made under 6.2, unless otherwise terminated pursuant to sections 9.3, 9.4 and 9.5 or extended in writing by the Parties.

9.2 This Agreement may be amended by written agreement of the Parties.

9.3 Prior to any written notice to terminate as described in sections 9.4 or 9.5, a Party will make reasonable efforts to engage in the dispute resolution mechanisms in clause 7 if applicable, or to meet with the other Parties to see if there is a way to continue their participation.

9.4 Any Nation may, at any time, by giving the other Parties 45 days advance written notice, terminate its participation in this Agreement. Upon receipt of such notice, the remaining Parties will discuss the implications of that termination, and the continued implementation of this Agreement.

9.5 Canada, Manitoba, or the Alliance on behalf of the Nations may terminate this Agreement by giving the other Parties 45 days advance written notice of their intent to terminate this Agreement.

10. GENERAL UNDERSTANDING

10.1 The Agreement is not legally binding, does not create legal obligations and is not intended to be enforced in court or otherwise.

10.2 This Agreement is not intended to define, create, recognize, deny or amend any of the rights of the Parties including Aboriginal rights, or treaty rights, within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

10.3 This Agreement is not intended to be a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* or to alter or affect the legal status of lands and resources or the existing authorities of the Parties with respect to lands, resources and governance.

10.4 This Agreement may be signed in any number of counterparts and such counterparts may be delivered by electronic-mail, facsimile or other electronic means. Such counterparts, taken together, will constitute one and the same Agreement.

This MOU Signed by the Parties on the dates indicated below:

FOR THE SEAL RIVER WATERSHED ALLIANCE:

**Chief Jason Bussidor
Sayisi Dene First Nation**

_____ Date _____

**Chief Simon Denecheze
Northland Denesuline First
Nation**

_____ Date _____

**Chief Michael Sewap
Barren Lands First Nation**

_____ Date _____

**Chief Shirley Ducharme
O-Pipon-Na-Piwin Cree Nation**

_____ Date _____

**Stephanie Thorassie
Seal River Watershed Alliance**

_____ Date _____

FOR MANITOBA:

**The Honourable Tracy Schmidt
Minister of Environment and
Climate Change**

_____ Date _____

**The Honourable Jamie Moses
Minister of Economic
Development,
Investment, Trade and Natural
Resources**

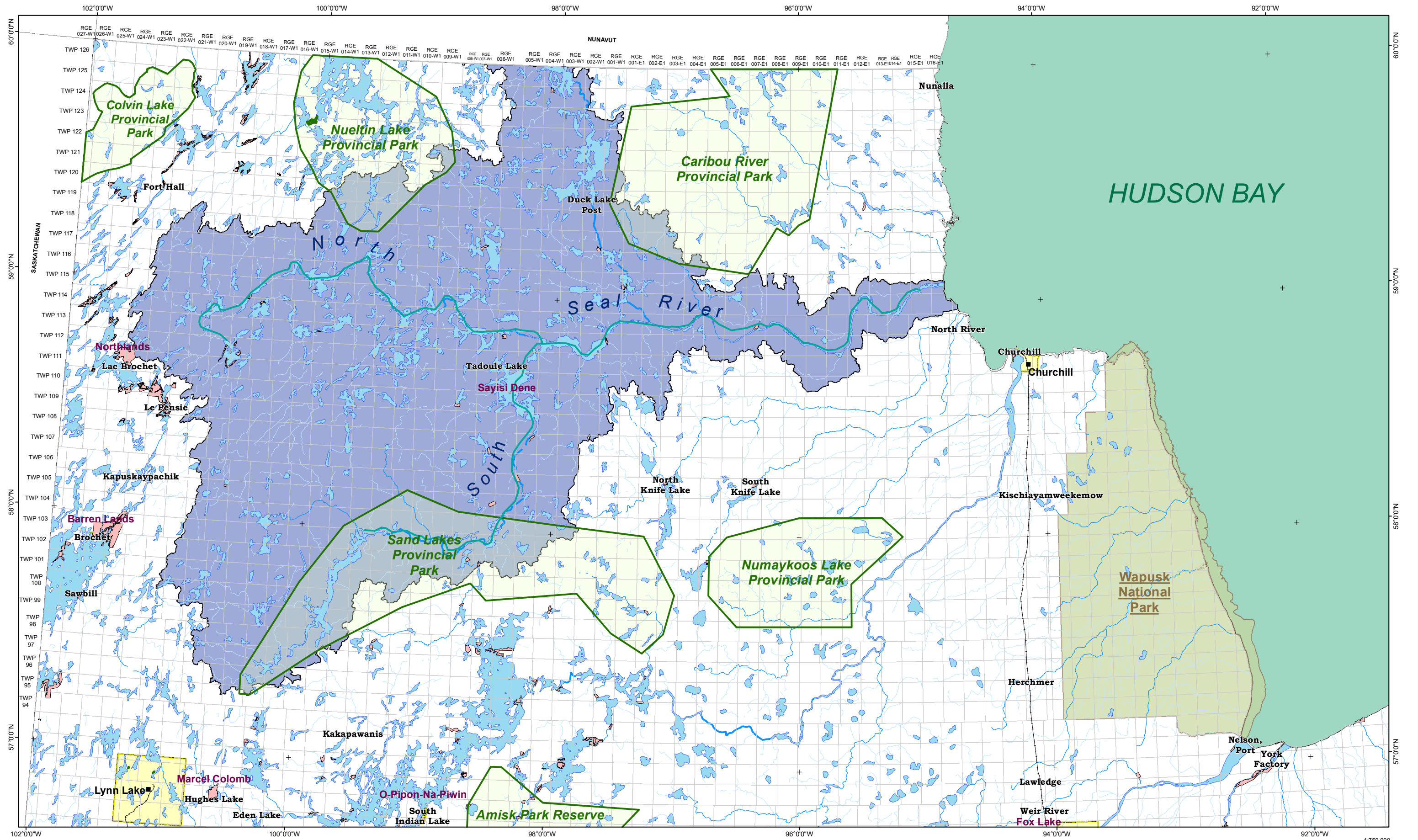
_____ Date _____

FOR CANADA:

**The Honourable Steven
Guilbeault
Minister of Environment and
Climate Change Canada, and
responsible for Parks Canada**

_____ Date _____

ANNEX 1: Seal River Watershed map for illustrative purposes



Seal River Watershed, Manitoba

