

REGIONAL WORKING AGREEMENT

**BETWEEN
THE DEPARTMENT OF ENVIRONMENT AND
THE DEPARTMENT OF FISHERIES & OCEANS
FOR
ADMINISTRATION OF SECTION 33 OF THE FISHERIES ACT
IN BRITISH COLUMBIA AND YUKON**

**VANCOUVER, BRITISH
MAY 1987**

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REGIONAL WORKING AGREEMENT BETWEEN THE DEPARTMENT OF
FISHERIES AND OCEANS AND DEPARTMENT OF THE ENVIRONMENT FOR
ADMINISTRATION OF SECTION 33, FISHERIES ACT, BRITISH COLUMBIA
AND YUKON

1. ADMINISTRATION

1.1 Authority and Purpose

The Minister of Fisheries and Oceans has legislative responsibility for the Fisheries Act, RSC 1970, C. F-14 as amended and regulations. The Minister of the Environment is responsible by Prime Ministerial instruction for the administration of Section 33 of the Act. The May 1985 Memorandum of Understanding (MOU) between the Department of Fisheries and Oceans (DFO) and the Department of Environment (DOE), herein after referred to as the Parties, identifies the general procedures and guidelines for administration of Section 33.

The purpose of this Regional Working Agreement (RWA), enabled by Clause 10 of the MOU, is to identify DOE and DFO roles and responsibilities, procedures and guidelines and improve effective communication, coordination and cooperation between the departments for matters within the purview of Section 33 in the Province of British Columbia and Yukon Territory.

The agreement is expected to simplify industry and provincial government dealings with the federal government on water pollution matters by setting out one responsible agency for administration. The measure promotes increased efficiency of services from the federal government and opens the way for greater cooperation with the provinces.

1.2 General Responsibilities

Environmental Protection (EP) of Conservation and Protection (C&P) has primary responsibility for pollution prevention and control matters related to Section 33 and is supported in this role by the Department of Fisheries and Oceans (DFO) which has responsibility for management and protection of the fisheries resource and its habitat. DFO is also responsible for those Section 33 matters involving the release of sediments from land clearing, road building and other land use activities that do not involve effluent treatment facilities or structures.

1.3 Policy and Procedural References

The following references to policies and procedures relating to Section 33 have been considered in preparation of this Agreement.

- DOE/DFO Policy on Enforcement and Compliance with Section 33 (proposed)
- DFO Pacific Region Emergency Response Guide (Draft)
- DFO National Policy for the Management of Fish Habitat
- DFO Habitat Prosecution Procedures for the Pacific Region
- MOU on Administration of Section 33 of the Fisheries Act
- Cabinet Decision regarding Environmental Emergencies
- DOE Pacific and Yukon Region Contingency Plan
- Canada-B.C. MOU on Spill Response
- Cabinet Decision on Federal Activities/Assessment (and EARP)

The first two of the above items are currently in active development; final versions may necessitate amendments to this Agreement.

1.4 Federal Water Pollution Control Focus

EP will be identified as the single point of contact for the provincial and territorial governments, other federal departments and industry on matters related to Section 33 as specified in Section 1.2 of this document, unless otherwise mutually agreed. For water pollution control issues on which final federal positions have not been developed, the respective departmental positions will not be expressed publicly prior to inter-party consultation. If DFO is contacted directly, information obtained will be forwarded to EP or the contactee will be referred to EP. For those issues where a DFO position or DFO information or advice has been requested, DFO may respond directly if the issue in question is related to the department's fisheries or fish habitat management mandate. DFO will keep EP advised of the substance of such exchanges.

1.5 Annual Reviews

The Parties recognise the importance of timely information exchange and consultation in the preparation of annual program plans and in the review of completed annual programs. Prior to the finalisation of proposed annual program plans the Chief of the Environmental Protection Branch of EP and Chief of the Habitat Management Division of DFO will meet and exchange views and information on:

- priority issues or concerns and policy matters to be considered in the development of respective program plans;
- proposed field and laboratory research studies, monitoring and surveillance proposals, investigative or assessment projects; contemplated enforcement actions; workshops and technical seminars; hearings and inquiries; and other programs;
- existing and anticipated projects requiring impact assessments via committees or task forces cooperative studies or projects involving staff from both Parties and possibly other agencies.

Immediately following the end of each fiscal year, the Parties will meet to review and discuss the previous year's program, issues and events. Specifically, the Parties will focus discussions on:

- status and results of major investigative programs;
- status and outcome of enforcement and compliance activities;
- problems or difficulties that were experienced and related to cooperative programs;
- other issues related to possibilities pursuant to the MOU or this RWA;
- action items arising from the annual review.

1.6 Regional Policy Development

The Parties will work cooperatively to ensure that regional interests and concerns are adequately emphasised in new policies and revisions to existing policies where they are found to be deficient.

1.7 Arbitration Procedures

1.7.1 Procedural, Operational or Technical Disputes.

Regional procedural, operational or technical disputes will be referred to the Director General, DFO, and the Director General, C&P, for arbitration only after all efforts to resolve it by personnel directly involved at the working level and middle management have failed. The matter will be presented for arbitration as a written statement of facts outlining the nature of the disagreement and specifying options for resolving the dispute. The Director General, DFO, and Director General, C&P, will meet to review or otherwise discuss the matter and establish a decision. The decision becomes binding on both Parties.

1.7.2 Policy Interpretation and Application.

Regional interpretation and application of national and regional policies will be consistent between the two departments regarding Section 33. When the Parties differ on interpretation and/or application of policy following serious deliberation, the issue will be documented by the Parties and forwarded to the Director General, DFO and the Director General, C&P. If resolution of the matter is not reached in the Region, it will be referred to the Assistant Deputy Minister Pacific and Freshwater Fisheries and the Assistant Deputy Minister, C & P, for a decision.

1.8 Amendment of Agreement

This Regional Working Agreement may be amended at any time on mutual consent of the Parties.

2. PROGRAMS ROLES AND RESPONSIBILITIES

2.1 Technical Roles

The following statements of technical roles are intended to describe general roles that will be assumed by the Parties in meeting their obligations under Section 33. The level of involvement by either Party with any particular role will vary in accordance with the circumstances associated with the issues being addressed.

EP will conduct site-specific technical engineering, biological and chemical evaluations, investigations, surveillance operations, monitoring programs or environmental impact assessments as required to assess water pollution control technology and pollution impacts caused by effluent discharges, contaminant use and disposal, and spills of deleterious substances; prepare environmental impact assessments of federal projects; develop and provide federal responses to the provincial and territorial waste management and other permit systems; provide coordination of federal responses to major environmental emergencies; conduct enforcement activities in accordance with established policies and procedures provide other relevant technical expertise; review all planned prosecutions under Section 33 in accordance with the DFO Habitat Prosecution Procedures Paper.

DFO will provide fisheries resource and fish habitat expertise, information and advice regarding specific Section 33 issues; recommend receiving water quality criteria and effluent specifications; develop and recommend criteria and conditions to protect fishery resources and fish habitats; provide recommendations and advice on pollution control strategies; respond to environmental emergencies and participate in evidence collection and other activities in accordance with inter-departmental response procedures prescribed in Section 2.9; conduct scientific research on fish toxicology and the effects of various pollutants on specific biological processes, organisms, populations and communities; conduct resource oriented monitoring and surveillance programs; conduct investigative programs related to the impacts of effluents or pollutants on fish and fish habitat; conduct enforcement activities in accordance with established policies and procedures; and review all prosecutions planned by EP under Section 33 consistent with DFO's fish and fish habitat mandate in B.C. and Yukon.

2.2 Major Projects

Major projects can generally be characterized as those developments, activities or issues with one or more of the following features:

- Construction or operational phases that pose significant risks to water quality which would impact fish stocks or fish habitats;

- Large financial investments or commitments by proponents of projects that pose actual or potential impacts on fish or fish habitat;
- Major socio-economic implications and a high level of public sensitivity or interest;
- Major implications related to the interpretation or application of legislation or policies.

Major projects will be reviewed by the Parties on a cooperative basis. EP will assume lead responsibility for each project unless otherwise mutually agreed. One individual from each Party will be accountable for their Party's involvement in the project review process. It is incumbent on these individuals to ensure that there is open communication, cooperation and coordination on the project and that their respective departmental managements are kept appropriately informed of the project status.

For certain major projects the Parties may agree to conduct their reviews and develop positions unilaterally. These projects will typically be restricted to those of particular regional significance or profile and, with respect to DFO involvement, may include habitat alteration or destruction features pursuant to DFO's responsibilities under Section 31 of the Fisheries Act. Under such circumstances, the Parties will consult regularly during the review process and exchange information on the substantive elements of each Party's position on the project.

2.3 Interagency Permit Referrals

2.3.1 Waste Management Permits

Provincial Pollution Control Permit Application referrals will be screened by EP and those affecting fisheries under direct federal jurisdiction will be referred to the appropriate DFO Area Office in accordance with established permit referral guidelines.

Similar arrangements will be in effect between the Yukon Branch of EP and the District office of DFO to review licence applications to the Yukon Territory Water Board and under the Northern Inland Water Act which involve effluent discharges. EP/DFO will develop arrangements for assessing and responding to Water License Applications for placer mining operations pending the development of the proposed new administrative procedures.

EP will evaluate all referral responses and develop coordinated federal positions taking into consideration the site specific fisheries resources, fish habitat, fishing activities, water quality and biological conditions, pollution abatement technologies, economics and implementation strategies. Additional consultation with DFO Area Offices will be undertaken as needed to resolve outstanding differences between the DFO and EP positions. Where it is

considered necessary by EP or a DFO Area Office, the Habitat Management Division (Vancouver) may be consulted for technical or policy advice or to assist in the resolution of differences between the Parties. EP responses to the Province will be copied directly to DFO and the permit applicant. EP will review issued Permits to determine if Federal conditions are reflected.

DFO will review applications and provide information on fishery resources, fish habitat and fishing activities that could be affected; provide relevant information, comments and recommendations to EP on any or all of the following mitigative strategies including timing restrictions, effluent characteristics, water quality conditions to be maintained, effluent discharge locations or pre-and post-discharge monitoring needs; conduct selected on-site inspections to obtain fishery resource or other relevant information; conduct selected follow-up resource oriented surveillance or monitoring work, in cooperation with EP; advise EP of departmental concerns related to existing operations and discharges for which permit amendments are considered necessary; develop departmental position statements on proponent requests for provincial "Variances" from specific permits or permit conditions; review permits issued to determine if departmental concerns and recommendations have been addressed and advise EP accordingly.

2.3.2 Ocean Dumping.

Pending the Supreme Court of Canada decision on the B.C. Court of Appeal judgement declaring the Ocean Dumping Control Act, Section 4, not valid legislation within inland waters under the jurisdiction of the Province of British Columbia, EP is administering an ocean dumping control program in these waters under the general authority of Section 33 with the concurrence of provincial authorities. Under some circumstances the authority of Section 31 may be used to control certain dumping activities.

EP will manage the Ocean Dumping Application review and approval system; chair the Regional Ocean Dumping Advisory Committee (RODAC); advise the Regional Director of EP on the issuance of ocean dumping approvals; chair the DFO/EP Technical Sub-Committee and conduct monitoring and surveillance of dredging, loading and dumping operations.

DFO will review all ocean dumping applications referred by EP and provide information through their representatives to RODAC on fishery resources, fish habitat or fishing activities that could be affected; specify timing conditions and provide other recommendations to RODAC for consideration in the preparation of approvals; participate in RODAC and its Technical Sub-Committee; provide general advice to EP regarding ocean dumping matters; and conduct selected surveillance of dredging, loading and dumping operations.

For ocean dumping applications in the Pacific-Yukon area of the Beaufort Sea, EP will arrange a referral system with DFO (Western Region) and EP Western and Northern Region.

2.3.3 Pesticides

EP is the federal representative on the Provincial Pesticide Control Committee and will coordinate the DOE and DFO review of pesticide use permit applications and develop recommendations for transmittal to the Administrator of the B.C. Pesticide Control Act.

The B.C. Pesticide Control Branch (PCB) forwards copies of applications to EP which will sort the applications as to type and geographical area. All applications will be review and screened by EP. Applications with fisheries concerns will be forwarded to the appropriate DFO Area Habitat Management Office and sub-district office for review.

DFO will review applications and provide information on fish and fish habitat within proposed treatment areas; conduct selected on-site inspections of treatment areas; provide recommendations to EP on areas that should be deleted from proposed treatment areas, pesticide free zone and buffer zone requirements, alternative treatment strategies and monitoring requirements; and cooperate with EP in the design and conduct of monitoring studies.

Final recommendations based on the DOE and DFO reviews will be prepared by EP. Additional consultation with DFO area offices or DFO Habitat Management as appropriate, will be undertaken as necessary to resolve outstanding differences between DFO and EP positions. The recommendations will be sent to B.C. PCB for inclusion in the pesticide use permits. EP will receive copies of the permits issued and will send copies of these directly to the appropriate DFO Area Habitat and sub-district offices. EP will conduct selected on-site inspections and monitor for compliance with federal requirements; conduct special monitoring programs (e.g. lower mainland agricultural pesticides); conduct special studies such as the efficacy of buffer zones; and chair the Regional (DFO/EP/Provincial Fisheries Branch) Pesticide Committee.

2.3.4 Provincial/Territorial/Municipal Committees.

Referrals for industrial development projects from provincial, territorial or municipal committees will be directed to EP. EP will be responsible for referring the issue to DFO (with the exception of referrals currently forwarded directly to EP and DFO Habitat Management Division, Vancouver by the B.C Mines Development Committee). Development of the "Federal Position" will follow the same process as that for the Waste Management Permit Section (2.3.1), or for large projects, the process described in Section 2.2. EP will be the lead federal

agency, unless otherwise mutually arranged and will be supported by DFO. Federal responses to the above committees will be made through EP.

2.4 Negotiations

Negotiations with provincial, territorial or municipal governments, other federal departments or proponents/industry with respect to the development of provisions under Section 33 for specific projects will, unless otherwise mutually arranged, be led by EP with support provided by DFO. The lead agency is responsible for organizing and leading the negotiations with full cooperation from the supporting agency. Federal positions will be developed and approved by the Parties prior to entering into negotiations.

2.5 Monitoring and Surveillance

Monitoring and surveillance of projects for compliance with Section 33 requirements will be conducted by EP. DFO will conduct fishery resource oriented monitoring and surveillance programs and selected compliance monitoring when EP is unable to conduct same, through mutual agreement with EP and when circumstances, such as suspected illegal discharges in isolated areas, warrant. There will be reciprocal exchange of monitoring and surveillance reports prepared by DFO, EP or the Province/DIAND/Water Board/Other Agencies. DFO will be advised of reports prepared by the proponent/permittee, which will be available upon request. Compliance reports, on regulated industries will be made available to the Habitat Management Division and the appropriate Area Office of DFO.

2.6 Report and Document Reviews

Technical documents related to water pollution control and other water quality issues such as proposed provincial receiving water criteria and objectives, federal water quality guidelines, unsolicited proposals pertaining to Section 33 and other reports and documents are referred to either EP or DFO from outside agencies for review. To promote consistency of response and avoid conflicting federal interpretations and conclusions, joint reviews will be undertaken. EP will coordinate the activity and respond on behalf of both Departments. In those cases when separate reviews are carried out, the Parties will exchange copies of final comments or position developed.

2.7 Hearings and Inquiries

Public hearings or inquiries involving the parties usually pertain to proposed major industrial developments such as large or sensitive mining projects and offshore hydrocarbon exploration; but would also include appeals of permits; and other environmental quality issues.

EP will, unless otherwise mutually arranged, take the lead role and be spokesman for matters related to Section 33 for those hearings and inquiries wherein the Parties participate jointly. The Parties may participate directly in hearings or inquiries as intervenors, as witnesses called by some other individual group or agency, or as government representatives at the invitation of another agency or appointed Panel. The departments may choose to conduct public reviews on major or controversial projects or issues through joint sponsorship arrangements with another federal department or under the federal Inquiries Act. The Parties may also participate in informal public meetings.

In preparation for the active participation in hearings and inquiries, the Parties will jointly review the objectives and terms of reference of the hearing or inquiry; determine the role and nature of the participation by each Party in the hearing or inquiry, including the matter of separate or joint participation; and assign contacts for communications with the press and public.

Where it is decided that the Parties will participate separately in a hearing or inquiry process, the Parties will endeavour to consult frequently on positions or conclusions being developed and exchange draft material as appropriate for reciprocal review; and ensure that final positions or conclusions are exchanged prior to public release and provide an opportunity for consultation should differences between the Parties develop. After the hearing or inquiry has been completed, the Parties will determine the need for post-hearing follow-up, including the assignment of specific responsibilities.

2.8 Participation on Provincial, Territorial and/or Municipal Committees

Technical committees formed by municipalities (e.g. Development of Regional Waste Management Plan) or province (e.g. Mines Reclamation Committee) or other territorial or federal agencies (e.g. DIAND) normally request technical participation by EP and/or DFO. Although EP or DFO are not a participant in the formal decision making process, technical participation allows EP/DFO to be fully informed of the issues and to express its concerns.

EP will, unless otherwise mutually arranged, take the lead role on matters related to Section 33. Positions will be developed and approved by both Parties prior to submission to Provincial/Territorial/Municipal Committees.

2.9 Environmental Emergencies Response

2.9.1 Major Events

Responses to major environmental emergencies, such as spills or discharges of large volumes of oil or other deleterious substances that have affected or pose a threat to the fishery resource or fish habitat will be coordinated by the EP Environmental Emergencies Branch in accordance with the Federal-

Provincial MOU on spill responses. This document provides overall guidance on the subject and is consistent with the Environment Canada Environmental Emergency Program.

DFO will respond in a coordinated manner to official requests from the EP Regional Environmental Emergency Coordinator for assistance. EP and DFO will provide support to the Regional Environmental Emergency Team as needed to assist the Regional Environmental Emergency Coordinator including the provision of recommendations to avert or mitigate damage to the environment caused by spills of oil or deleterious substances. In remote areas, initial coordination of response procedures may be assumed by DFO in consultation with the EP Environmental Emergencies Branch.

Where the fishery resources or fish habitat are threatened, DFO and EP will jointly conduct environmental assessments and provide personnel, equipment and logistical support as requested by the Regional Environmental Emergency Coordinator, to assist in the overall response operations. DFO will conduct assessments and evaluate methods for restoring habitats impact by spills of oil or deleterious substances.

Where prosecutions may result from an environmental emergency incident, EP and DFO will coordinate legal investigations, to ensure that necessary samples, photographs, statements and other evidence are acquired.

2.9.2 Minor Events

Minor events include incidents such as small oil and chemical spills. Responses to these events will be in accordance with the cooperative response procedures or contingency plans that have been developed by each Party, such as the DFO Emergency Response Guide. In general, such events may be dealt with independently by either Party or the Province under the terms of the Federal-Provincial MOU on spill responses. Where one Party leads the response to an event, that Party shall inform the other fully and promptly of all details related to the event including information regarding sample collection and any subsequent litigation action.

2.10 Technical Operational Guidelines and Codes

The lead role in developing technical guidelines/codes on a priority basis may be undertaken by either Party. These documents are prepared to provide information and advice to departmental staff, agencies, industry or the public on the impacts of various activities, developments, effluents or substances on water quality or fish habitat and mitigative strategies that can be applied. Guidelines/codes can also provide technical information and information on assessment, investigative or analytical techniques. The need for

guidelines/codes may arise as a result of specific problems or deficiencies associated with referral systems or specific projects.

Where it is determined that development of joint guidelines/codes should be pursued, the Parties agree to:

- consult on the structure and content of proposed guidelines/codes;
- determine the responsibilities of staff from each Party in the preparation of guidelines;
- develop cost sharing arrangements for the production and distribution of guidelines/codes;
- determine the schedule for preparation and completion of guidelines/codes;
- jointly review drafts of the guidelines/codes before they are finalized;
- where appropriate, develop presentations on the guidelines/codes and present same to user groups (e.g. Fishery Officers);
- develop procedures for assessing the effectiveness of guidelines/codes;
- develop schedules and assign responsibility for programs to gauge the effectiveness of specific guidelines/codes.

Where either Party determines the need for departmental specific guidelines/codes, the other shall be fully informed of the contents prior to their finalisation.

3. COMMUNICATIONS

3.1 Liaison Meetings

Liaison meetings will be convened between the Chief, Environmental Protection Branch, EP, and the Chief, Habitat Management Division, DFO, on a regular basis to review the status of current and potentially active projects under Section 33 to ensure full awareness by both Parties. The Habitat Management Division will be responsible for ensuring that DFO Regional Headquarters and Area representatives attend liaison meetings where appropriate and for keeping DFO Areas fully informed of issues and developments requiring operational action. A list of projects by number with title/name, starting and termination dates where applicable, and status comments will be provided by EP to guide the regular review. Action items arising from the meetings will be recorded and exchanged.

Special additional meetings may be convened as needed on matters of substance and concern related to Section 33 such as: notifications, assessments and investigations with respect to major development projects; departmental positions on major development projects; actions proposed by agents of provincial governments; release of public statements; public consultation; monitoring and auditing projects and review of the results; identification of fishery resource or habitat information required to support

protection actions; requirements for scientific criteria on which protection action and regulations may be based; identification of research needs; funding and coordination of research and monitoring programs; proposals for legal recourse; proposed regulations and amendments to existing regulations; proposed policies on fish habitat and environmental quality; and annual program reviews.

3.2 Coordinated Briefing

Preparation of Ministerial briefing material on Section 33 matters will be discussed jointly during preparation to permit parallel briefings of Ministers where this is deemed appropriate.

3.3 Media and Public Information

Contacts with the media and public normally take the form of personal or telephone inquiries, letters, press releases, press conferences, meetings and requests for information under the Access to Information Act and may be received by both or either Party. Those inquiries directly related to effluent sources and pollution control matters should be directed by DFO to EP unless the inquiries pertain to an issue for which DFO has been assuming a lead role. In light of the need to ensure that information is factually accurate and up-to-date and does not compromise either Party, the Parties will endeavour where possible to abide by the following:

- neither Party shall respond to requests for information or comment on sensitive issues if it is deemed that the request in question falls within the purview of the other Party's responsibilities;
- prior to discussing sensitive issues or incidents with the press or public, the Party receiving the request for information or comment will determine if the other Party has relevant information which should be considered prior to responding or if the other Party should respond to the request;
- following exchanges with the press or public on sensitive issues, the Party in question will immediately advise the other Party of the substance of such exchanges;
- the Parties will exchange information on the contents of proposed press releases prior to their release;
- drafts of proposed brochures or fact sheets of interest to both parties should be exchanged for review prior to publication;
- each Party should advise the other of its intentions to release information requested under the Access to Information Act, and to provide the other with an opportunity to comment on any problems that may arise as a result of the release.

4. REGULATORY ISSUES

4.1 Legislation

The general provisions of the Fisheries Act related to Section 33 and the regulations and guidelines that have been developed for specific industrial sectors are reviewed and updated or otherwise modified periodically. While such activities are generally national in scope, regional contributions can be significant. Where the Parties are called upon to participate in the review of existing legislative material or the development of new legislation, regulations or guidelines, they shall consult to establish respective responsibilities and work cooperatively with a view to developing joint regional submissions. Where either Party is required to comment or provide information to their respective headquarters management on matters related, to legislation, the other Party shall be advised of the general nature of such exchanges.

4.2 Enforcement and Compliance Procedures

Enforcement and compliance procedures will be consistent with the national enforcement and compliance policy currently under development by DOE, DFO and DOJ. One of the following procedures is to be followed for alleged violations of Section 33 pending finalization of the policy.

- a) Where the potential for a fish kill or serious habitat damage is not immediately evident, EP and DFO will evaluate the problem and develop the required corrective measures (federal requirements) and timing for achieving these measures. EP will formally request the Province, if the offender is under Permit, to deliver the federal requirements. The offender will also be notified by EP. If the Province is unwilling or unable to deliver the federal requirements within a specified time frame, EP will take direct action with the offender. If the offender is unwilling to comply with the federal requirements, legal action will be initiated by EP or DFO.
- b) Where a fish kill or serious habitat damage is evident or threatening and the problem is considered urgent, EP and DFO will consult on a priority basis and develop the federal requirements and strategy for their Implementation. If immediate action is necessary to prevent or mitigate a particular problem, either Party may respond to the problem, directly. Where time permits the Province will be advised of the departments concerns and required actions. If the Province is unwilling or unable to take immediate corrective action EP, or DFO after consultation, will take corrective action using the appropriate provisions in Section 33.

The above procedures outline the general steps that will be followed by DFO and EP in responding to alleged violations of Section 33. These procedures notwithstanding, either Party may determine that direct enforcement action in the form of a prosecution under the Fisheries Act may be an appropriate response to an alleged violation of the Act. Such action will be guided by the

DFO/DOE enforcement and compliance policy once completed, and the DFO Habitat Prosecution Procedures document.

4.3 Direct Action

Section 8 of the MOU provides DFO with the authority to take direct action in circumstances where the fisheries resource is being affected and where EP is unable or unwilling to take such action. It is anticipated that such direct action without some level of prior consultation with EP will be infrequent and would occur only as a result of unique circumstances. Where disagreement on a course of action persists following inter-Party consultation, DFO will reserve the right to pursue the action, subject to the arbitration process. EP will be fully apprised of DFO intention to proceed with the action.

THIS SECTION 33 REGIONAL WORKING AGREEMENT FOR THE PROVINCE
OF BRITISH COLUMBIA AND YUKON TERRITORY WAS SIGNED ON THE
19 DAY OF JUNE 1987.

Original signed by

Director General
Conservation and Protection
Department of Environment
Pacific and Yukon Region

Original signed by

Director General
Department of Fisheries and Oceans
Pacific Region