

Renewable Resources  
Box 2703, Whitehorse, Yukon Y1A 2C6  
(403) 667-5811

Our File: LCC/K01/0tago  
2025-00-65  
Your File:

February 2, 1994

Niall Watson  
Otago Fish and Game Council  
35 Hope Street  
P.O. Box 76  
Dunedin, New Zealand

Dear Mr. Watson:

Thank you for your letter of enquiry dated January 14, 1994. I have enclosed the following material for your information:

- a location map of the Yukon Territory, Canada;
- summary of the Yukon Indian Land Claim Umbrella Final Agreement (UFA);
- definition of "developed" and "undeveloped" settlement land;
- excerpt regarding the water front right-of-way (UFA Chapter 5 - Tenure and Management of Settlement Land;
- UFA Chapter 6 - Access;
- UFA Chapter 16 - Fish & Wildlife; and,
- an excerpt from the Territorial Lands Act regarding water front right-of-way.

An important point to remember when reading through the information provided is that a First Nation Final Agreement will be a land claims agreement within the meaning of section 35 of the Constitution Act, 1982. This means that when complete, the agreements will be entrenched in the Canadian Constitution and will become law.

The Territorial Lands Act is the federal legislation which requires the 100 ft (30 m) right-of-way to the shore of any navigable water or inlet be reserved from land grants (see sections 13 and 14 of attached Territorial Lands Act). However, in the case of settlement land, unless otherwise agreed to in a First Nation Final Agreement, the right-of-way becomes part of the settlement land. The uses allowed within the right-of-way are spelled out in the First Nation Final Agreements which become law (see sections 6.4, 6.5 & 6.6 of the UFA access chapter).

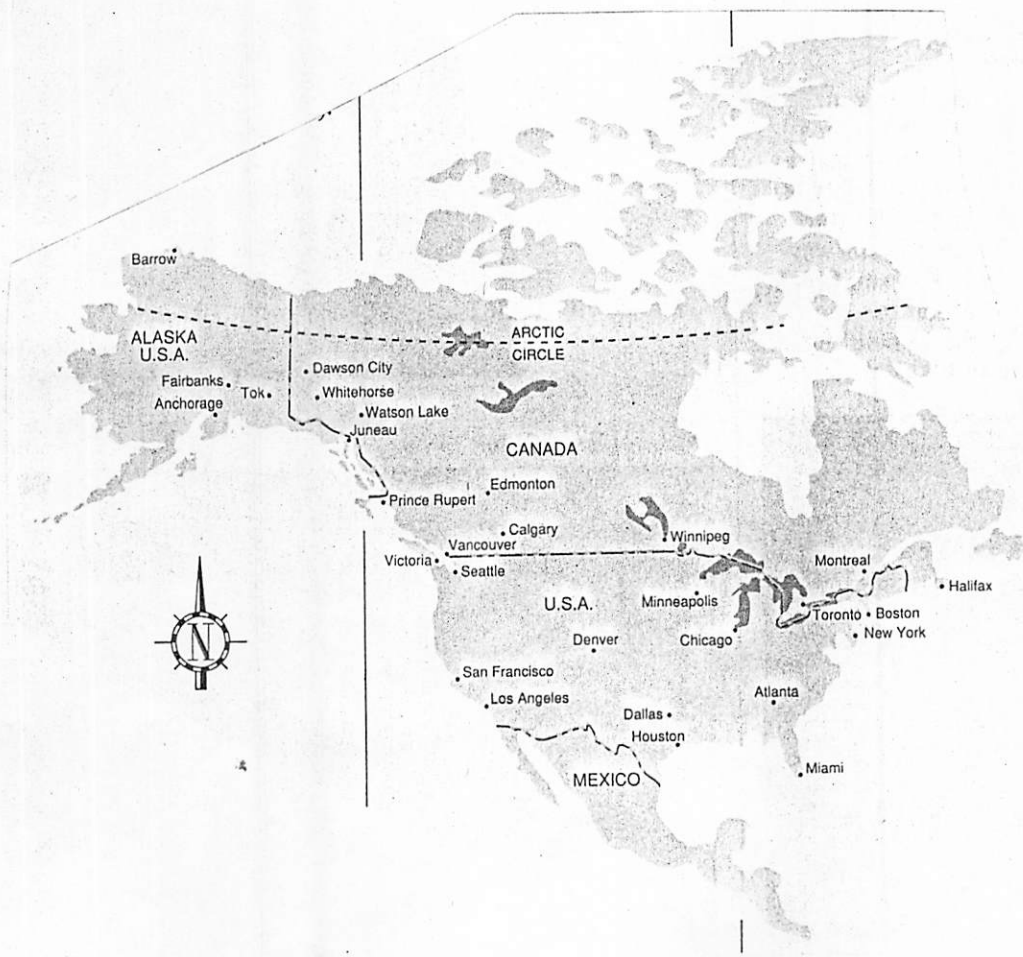
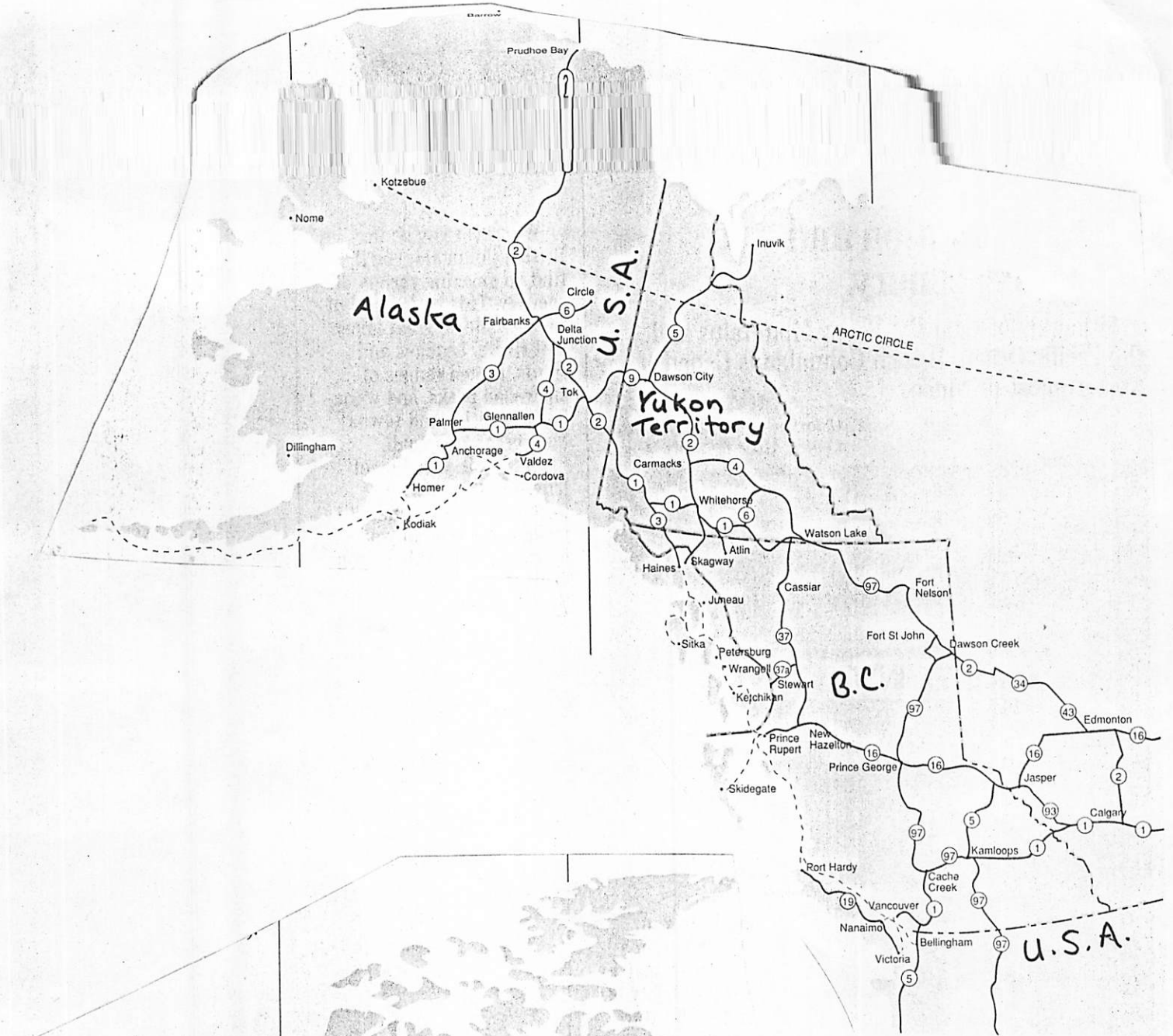
I hope the information provided is helpful in answering any additional questions you may have regarding the claim and access. If there are any further questions, please don't hesitate to contact me.

Sincerely,

Norman K. Marcy  
Manager, Land Claim Coordination

Enc:







## THE YUKON INDIAN LAND CLAIM UMBRELLA FINAL AGREEMENT

These summaries introduce Yukoners to the land claim Umbrella Final Agreement. In them we provide a quick sketch of the goals and main points of each chapter. Keep in mind the summaries cover only part of the total agreement. The UFA is divided into 28 chapters and runs for almost 280 pages. However, you will get a feel for the areas covered from these pages and an idea of where to look for more information should you want it.

In the coming months other material will be produced which will help make the agreement more understandable. In addition, people at the 14 Yukon First Nations, the Council for Yukon Indians, the Yukon government and the federal government are more than willing to talk to individuals and groups about the document and the process. Sources of information and contact numbers are listed at the end of this introduction.

### The Land Claims Process

Some people have asked: "Will land claims ever end?" The answer is "yes", and the Umbrella Final Agreement initialed on March 31, 1990 means we are closer to finishing the process. The UFA settles all the big issues -- the total land amount, the financial compensation, the rights and powers of First Nations. Yet the UFA is not the end of the process. There are several additional steps.

#### *Ratification*

The parties have to ratify the UFA. This means both the governments and the Yukon First Nations have to accept the terms of the agreement. Governments will do it by a cabinet process and the Yukon First Nations' Indian people will decide soon how they will ratify. \* Ratified May '93 - but must still go to Parliament

#### *First Nation Final Agreements*

Some provisions of the UFA apply territory-wide -- to all the First Nations. Others allow flexibility so that each Yukon First Nation final agreement can reflect the specific circumstances and special concerns of the First Nations. Others have not been negotiated yet. For example, harvesting levels and economic measures could vary widely across the Yukon. Further, each First Nation will negotiate what lands it will retain. (There are 14 separate First Nations or 'Bands').

#### *Settlement Legislation*

The federal government and the Yukon government will each introduce legislation to give effect to the UFA and the First Nation final agreements. They also will draft legislation to set up the legal basis for some aspects of the claim. A new Surface Rights Act will be prepared. Existing mining acts will have to be amended.



### *Implementation*

The parties have already begun to plan for implementation. Setting up the new institutions and training people will take time to complete.

### *Self-Government*

Each First Nation will determine how they will govern themselves, and negotiate their responsibilities and their relationships with other governments. The negotiations may take place over a period of time. The First Nations do not have to take on responsibilities right now.

\* \* \*

Land claims discussions will be with us for several more years. However, ratification by government and Indian people will signal that these years of talks have paid off. It will be a signal that the parties have found the basis for meeting the legal obligation to settle claims.

### **Other Information Sources**

#### *Other Materials*

*The Umbrella Final Agreement.* The document is available from any of the contacts listed below, territorial agents and government information counters.

*The Yukon Claim.* A newsletter from the Yukon government Land Claims Secretariat. It contains the latest land claims news. Call the Secretariat to get on the mailing list.

#### *Contact Names and Numbers*

Yukon Government  
Land Claims Secretariat  
Rm. 20 Horwoods Mall  
Whitehorse, Yukon, Y1A 2C6  
(403) 667-5878

---

All First Nation offices in the communities or call (403) 667-7631 (CYI) to get First Nation addresses and phone numbers.

---

Government of Canada  
Yukon Comprehensive Claims Office  
#201 -- 2285 2nd Ave.  
(Above Hennings Yamaha)  
Whitehorse, Yukon, Y1A 1C9  
(403) 668-6583

---

Council for Yukon Indians  
22 Nisutlin Dr.  
Whitehorse, Yukon, Y1A 3S5  
(403) 667-7631

---



## GENERAL PROVISIONS

The general provisions provide certainty as to the relationship between aboriginal people and non-natives in the Yukon.

Governments will provide a wide range of benefits outlined in the Umbrella Final Agreement. In return, Yukon First Nations will release aboriginal claims to non-settlement land in the Yukon.

### Main Points

#### *Aboriginal Rights and Benefits*

- Rights provided to Yukon First Nations will receive constitutional protection.
- Yukon Indian people release their aboriginal claims as set out in the agreement in exchange for the benefits contained in the claim.
- The agreement protects the aboriginal identity of Yukon Indians.
- Yukon Indian people will still benefit from government programs for status Indians. They will continue to receive any other programs available to native people or to Canadian citizens if they qualify for them.
- Any future aboriginal rights will apply to Yukon Indian people, except as set out in the agreement.

#### *The Process*

- Ratification processes for the agreement and the First Nation Final Agreements will be negotiated by the parties.
- Settlement legislation drafting guidelines will be negotiated by the parties prior to UFA ratification. Before the settlement agreements come into effect, the federal and territorial governments have to prepare Settlement legislation.

#### *Amendments and Disputes*

- The agreement can only be amended with the consent of all the parties.
- In case of conflicts between the Umbrella Final Agreement and First Nation final agreements, the Umbrella Final Agreement prevails.



### *Boards and Board Members*

- The agreement refers to a number of boards -- some new and some reshaped. This chapter puts in place general procedures for the boards, including procedures for appointing and financing boards. Among other rules, the majority of board members will be Yukon residents. Further, the approved expenses of these boards will be charged to government.



## ELIGIBILITY AND ENROLLMENT

This chapter covers who can benefit from the settlement agreements and how enrollment works. In general, a person may apply to become enrolled through his or her First Nation enrollment committee, which will consider whether the person meets the criteria for enrollment. The enrollment commission will assist the committees and rule on any disputes.

There are some rules laid out which the committee and the commission will follow in making up the enrollment lists.

### Main Points

#### *Eligibility*

- In order to be eligible for benefits under a Yukon First Nation final agreement, a person must have 25 per cent or more Indian ancestry and must have lived in the Yukon before 1940, or be a direct descendent of such persons.
- Within two years of each First Nation final agreement, the enrollment commission may consider special circumstances under which a person who does not meet the normal criteria may be enrolled.
- No Yukon Indian person can benefit from more than one land claim in Canada. Any persons who find themselves enrolled under two settlements must select one or the other within 60 days.
- A person who qualifies as a Yukon Indian person, but is not a Canadian citizen, can still enroll. However, enrollment does not provide any benefits under the *Indian Act*. It also does not guarantee a right to Canadian citizenship or special rights to enter Canada.

#### *How to Enroll*

- The enrollment commission and the First Nation enrollment committees are up and running already. Anyone who thinks they should be enrolled should check with their First Nation or the enrollment commission to make sure they are on the list. The committees will compile information on who is eligible. The commission will review it.
- Anyone who has the legal responsibility for an eligible adult or a minor may apply on his or her behalf.
- The decisions of the enrollment commission are final. The chapter allows for appeals to the courts, but only if there has been an error in law, jurisdiction, or a decision based on wrong facts.



- Two years after the last Yukon First Nation final agreement, or no later than 12 years after settlement legislation, the enrollment commission and enrollment committees will be disbanded. Yukon First Nations will maintain their enrollment lists and the Dispute Resolution Panel will deal with any disputes over enrollment after that.



## RESERVES AND LAND SET ASIDE

This chapter enables Yukon First Nations to decide whether they want to keep existing reserves as reserves or as settlement lands. Six reserves exist in the Yukon. Two are in Teslin and Carcross. The others are near Teslin, Whitehorse, Stewart Crossing and Dawson City. In addition to the six reserves, other land has been "set aside" over the years throughout the Yukon for the use of Indian people for housing, buildings, and other purposes. These lands can become settlement lands if the Yukon First Nations so wish. If the total amount of reserves and land "set aside" retained as settlement land by all the Yukon First Nations is less than 60 square miles, they will be able to select an additional amount of settlement land up to 60 square miles in total. Yukon First Nations will have to decide how to share that additional amount before ratification of the UFA.

### Main Points

- Each Yukon First Nation final agreement will spell out how the *Indian Act* will apply to any reserves kept by the First Nation.
- Yukon First Nations and government will decide how to share the 60 sq. miles before the ratification of this agreement.
- After a Yukon First Nation final agreement, unselected land "set aside" will not be kept "set aside" for the use of the First Nations.
- If a Yukon First Nation can demonstrate the existence of a reserve other the six known reserves prior to its final agreement, they may be able to keep it as a reserve as well.



## TENURE

The tenure chapter describes how settlement land will be owned and managed. It describes how the different types of land -- Category A, Category B, and fee simple -- can be used.

For the first time in any comprehensive claim, Indian people retain aboriginal title on all Category A and B lands. At the same time, Yukoners will gain certainty over the ownership of all other Yukon land.

Land selection and deciding which land will be which category are part of the First Nation final agreement negotiations.

### Main Points

#### *Land Categories and Rights*

- For Category A land, Yukon First Nations will have rights equivalent to fee simple title to the surface of the lands, and full fee simple title to the subsurface.
- For Category B, Yukon First Nations will have rights equivalent to fee simple title to the surface only.
- Fee Simple Settlement Land will be basically the same fee simple title as is commonly held by individuals. Individual lots in subdivisions will likely be held in fee simple title.
- The term "equivalent to fee simple" for the surface of Category A and B was used to attempt to avoid extinguishing any aboriginal rights the Yukon First Nations may have. This will not however prevent a Yukon First Nation from leasing, granting a permit, or even selling the land. If a Yukon First Nation wishes to sell the land, it will have to register its title in the Land Registry Office and at that time the title will be basically the same as the ordinary fee simple title in the Yukon.
- On Category A settlement land, people who are not beneficiaries will need permission to hunt, except in limited waterfront rights-of-way. Likewise, mining exploration companies will generally need permission to look for minerals. They will have to negotiate with Yukon First Nations to develop any mines.
- On Category B lands, public access for non-commercial hunting will be permitted. Access to the subsurface for mining exploration and development will generally require the developer to negotiate an agreement on the terms and conditions of access. If an agreement cannot be reached, the Surface Rights Board will set the terms and conditions, which will include compensation for the access.



### *Third Party Rights*

- In order to allow for flexibility in the negotiation of land selection, it has been agreed that the Yukon First Nations may select lands with certain existing third party interests. The holder of an interest existing at the time land becomes settlement land will continue to exercise its rights as if the land were Crown Land.
- Royalties collected by government from the production of a mineral on Category A land by a person or company who has an existing right in the subsurface will be paid to the Yukon First Nation.
- On Category B land or Fee Simple settlement land, Yukon First Nations will receive the rent from existing surface leases of a holder of a mineral right.
- Government will have to disclose all its interests in settlement land. If a government interest which was not disclosed is found after the land becomes settlement land, government has the option to cancel its interest or compensate the Yukon First Nation.



# ACCESS

This chapter sets the right of access of Yukon First Nations in Crown Lands, and the right of access of the public for commercial and non-commercial purposes, and of government, on settlement lands.

## Main Points

### *First Nation Access to Crown Land*

- Yukon First Nations and Yukon Indians have a right of access without consent on all unoccupied Crown Lands for non-commercial and commercial activities provided the access has an insignificant impact on the land.
- Government also guarantees First Nations that it will not sell or lease Crown Lands in such a way that Yukon First Nations could not have access to their settlement lands.

### *Public and Government Access to Settlement Lands*

- Access by the public and government to settlement lands is governed by the following principles:

- \* - The public has no access to developed settlement lands, unless the First Nation consents;
- On undeveloped settlement lands, access by the public to cross settlement lands for commercial and non-commercial purposes which will have impact on the land is only allowed:
  - if the access is necessary;
  - if there is no alternative on Crown Lands;
  - based on terms and conditions (including compensation) negotiated with the Yukon First Nation, or if no agreement can be reached, determined by the Surface Rights Board;
- Access by the public to cross settlement lands for commercial and non-commercial purposes which will have no or low impact on the land is allowed provided that there is no damage to the land;
- Government may access the land for public purposes if it is for less than 120 days. For more than 120 days, the Yukon First Nations may negotiate with the government terms and conditions, including compensation, and if no agreement is reached, the Surface Rights Board will determine the terms and conditions.

Important  
Note: see  
definitions  
of developed  
& undeveloped  
settlement  
lands



- The public will be able to use the 100 ft. wide waterfront right-of-way on all navigable waters for emergency and recreational purposes, including sport fishing and hunting of migratory birds.
- The public can use all undeveloped settlement land for casual recreational purposes.



# EXPROPRIATION

The expropriation chapter describes the conditions under which settlement land may be expropriated. It also lays out the rules to be followed for expropriating land taken for public purposes.

The parties based this chapter on the principle that settlement land is fundamental to Yukon Indian people. Government should avoid expropriation wherever possible. But if there are strong reasons to use expropriation, the chapter also makes sure that the process addresses First Nation concerns, and that as much as possible, other land is provided as part of the compensation.

## Main Points

### *The Process*

- Any agency that has the authority to expropriate must do the following if settlement land is involved:
  1. First attempt to negotiate an agreement for the use or transfer of the land with the Yukon First Nation, and if no agreement is reached;
  2. Hold a public hearing so all parties can be heard.
  3. Get approval from either the federal cabinet or the territorial government.
  4. Pay compensation as determined by the Surface Rights Board.

### *Compensation*

- Compensation can include other land if it is available.
- The Surface Rights Board must consider the impact of expropriation on the values of hunting, fishing, and gathering when determining compensation. It also has to consider the effect on other settlement lands and any value associated with cultural activities or sites.
- The chapter provides greater certainty in determining what government land, or land owned by any expropriating agency, can be used as compensation. For example, government can't use land under lease, agreement for sale, or occupied by a government agency to compensate a Yukon First Nation whose land has been expropriated.
- Government may identify up to 10 sites for future hydroelectric projects. And if flooding of those sites affects settlement lands, government will pay compensation.



# SURFACE RIGHTS BOARD

Government will set up a Surface Rights Board through ordinary legislation. The board will resolve disputes over access to privately held land, including settlement land. It will also determine compensation for the expropriation of settlement lands.

In the provinces, there are many private land owners and many resource users. Surface Rights Boards have been needed there. Here in the Yukon that hasn't been the case until now. After the land claim is settled more land will be held privately with the potential for more disputes.

## Main Points

### *The Board and its Powers*

- The board will consist of up to 10 members, plus a chairperson recommended by the board. The Council for Yukon Indians and government will each nominate half the members.
- Not all board members will hear each dispute. Instead, panels of three will hear evidence. A panel hearing a dispute which involves settlement land will include a member nominated by CYI.
- The board can:
  - grant entry orders,
  - determine terms and conditions of access, including fees,
  - set compensation for damage caused by access, and
  - determine compensation for expropriation of settlement land.
- Orders of the board must be consistent with the approved recommendations of the development assessment process.
- One member of the board can hear disputes if the parties agree.
- Orders of the board will be enforceable as if they were orders of the Supreme Court of the Yukon.
- The board can consider the impact on wildlife habitat and harvesting when determining compensation to Yukon First Nations.



## SETTLEMENT LAND AMOUNT

The amount of settlement land is included in this chapter. It also sets out how much land each First Nation gets. The exact parcels won't be known until First Nation final agreement negotiations conclude. The chapter, however, describes guidelines for the selection of land.

Large "rural blocks" make up the largest portion of settlement land. There are "site specifics" (fishing camps and existing cabins). There also are "community lands" in or near communities.

This chapter recognizes the principle that land is fundamentally important for self-government, protecting Indian culture, traditional values, and lifestyles.

### Main Points

#### *Land Amount*

- Yukon First Nations will have 16,000 square miles of settlement land.
- It will be divided into 10,000 sq. mi. of Category A land and 6,000 sq. mi. of Category B land and fee simple settlement lands.

#### *Selection Guidelines*

- First Nations can select land for a variety of reasons, such as: hunting, fishing and trapping, historical and spiritual significance, economic potential, housing or occupancy, and others.
- Land already held by third parties will not be available for selection, unless a third party agrees to the selection.
- Land occupied or used by government is not available for selection.
- Selections of both sides of a major highway or waterway will be avoided unless special circumstances warrant an exception.
- Land selection will be balanced in terms of the terrain and resource potential.

## **SPECIAL MANAGEMENT AREAS**

This chapter on special management areas is new to the Umbrella Final Agreement although it is not new to the land claims negotiations. The 1988 agreement-in-principle contained several sections dealing with special management areas. (The AIP used the term "conservation areas".) This new chapter brings those sections together and adds details.

The aim of this chapter is to provide ways to recognize and deal with important features of the Yukon's natural and cultural environment. It explains how government will embrace the rights and interests of Yukon First Nations when it creates new parks, sanctuaries, wilderness, or other special areas. It outlines how renewable resources councils and advisory bodies will be involved with planning and management.

### **Main Points**

#### *First Nations and Special Management Areas*

- The interests of First Nations in special management areas will be addressed in three ways:
  - Interests in existing sites can be met during First Nation final agreement negotiations.
  - New areas may be set up through the First Nation final agreement negotiations.
  - After land claims, new areas can be set up by government through the process outlined in this chapter.
- Special management areas will not affect the harvesting rights of Yukon First Nations without their agreement.
- Renewable resources councils, or other similar bodies, will advise government on the creation and management of such areas.
- First Nations final agreements may include special provisions for the management of national parks.
- If there's a chance a First Nation's rights might be affected by the setting up of a special management area, an agreement can be negotiated with the First Nation to address the impacts. If an agreement can't be reached after referring the matter to mediation, government can create the special management area. The First Nations' harvesting rights will remain unaffected.

#### *Development Assessment and Land Use Plans*

- The establishment of special management areas must be consistent with approved land use plans. The areas may be reviewed under the development assessment process.



# LAND USE PLANNING

This chapter provides for a land use planning process outside of communities. It will include strong public input so conflicts can be avoided or reduced between competing land users. It applies equally to settlement land and non-settlement land. The chapter ensures Yukon Indian people will be represented on planning commissions with other residents.

Land use plans lay out the best use of land, water and other renewable and non-renewable resources. The land use planning chapter recognizes Yukon First Nations' role as major land owners in the territory. It also acknowledges the desire of Yukon Indian people and other Yukoners to participate in deciding how all land and resources should be used.

## Main Points

### *Land Use Planning Bodies*

- There will be a single land use planning process outside community boundaries and national parks.
- A three-person planning council with the job of overseeing land use planning will replace the existing policy advisory committee.
- The planning council will make recommendations on overall planning policy and priorities, boundaries of planning areas, and planning terms of reference.

### *Regional Planning Commissions*

- Regional planning commissions will develop plans.
- Regional planning commissions must ensure public input. They also must try to avoid land use conflicts and promote sustainable development. In doing this, the commissions have to consider the knowledge and experience of Yukon Indian people.
- Yukon First Nations will approve and implement those sections of plans which deal with settlement lands. Government will approve the sections which deal with non-settlement lands.
- At least one-third of the planning commission's members will be nominees of Yukon First Nations. However, Indian representation on planning commissions will reflect the population of Indian people in each planning region. Up to two-thirds of the members could be nominated by a First Nation.
- Local governments will continue to plan land use within community boundaries.

# DEVELOPMENT ASSESSMENT

This chapter sets out the basic principles and components of a new development assessment process for the Yukon.

Federal and territorial legislation will set up a new Yukon Development Assessment Board. It will be responsible for reviewing major projects to see how they will affect the environment, the economy, and our society.

The process will guarantee the participation of Yukon First Nations and provide for public involvement in the review of projects. Through its activities and with First Nation and public input, the board will ensure sustainable development of the territory's natural resources.

## Main Points

### *The Board*

- Half the seats on the Yukon Development Assessment Board will go to First Nation nominees.
- The board will make recommendations to government and the First Nations on projects with impacts on settlement and non-settlement land.
- Governments and Yukon First Nations will approve projects on non-settlement and settlement land using their respective land and resource management authorities.

### *Scope of the Process*

- The process will cover all development projects in the Yukon. There will be different levels of review for different sizes or types of projects. Most projects, those with no significant social or environmental effects, will not require detailed reviews.
- Minor projects can be reviewed and approved locally. Special panels may review larger projects.

### *Community Involvement*

- The new process provides a much stronger role for community involvement. Details will be set out in the Yukon First Nation final agreements and in legislation.



- The public will be able to participate in project reviews done by the Yukon Development Assessment Board.

### *Land Use Planning*

- The chapter outlines the relationship between land use plans and development assessment.

# HERITAGE

This chapter establishes how Yukon Indian People will participate in the management of heritage resources in the Yukon and how the heritage resources of the Yukon Indian People will be owned and managed.

In managing and interpreting the heritage resources of the Yukon, attention must be given to the cultural knowledge, values and traditional languages of Yukon Indian people.

## Main Points

### *The Heritage Board*

- A 10-member Yukon Heritage Resources Board, to which First Nations will nominate five members, will be set up to advise on:
  - the management of non-documentary heritage resources,
  - the use of traditional Indian knowledge in heritage management,
  - methods by which Indian languages can be preserved,
  - a strategic plan for heritage management in the Yukon, and
  - an inventory of Yukon Indian heritage objects.

### *Ownership and Management of Resources*

- A Yukon First Nation will own and manage all heritage resources found on its settlement lands. It will also own objects relating to its history and culture found off settlement lands within its traditional territory. Government will own and manage all heritage resources which are found off settlement land which do not originate with Yukon Indian people.
- Government will distribute program resources to manage heritage resources of both native and non-native people on a fair basis.
- Government will cooperate with Yukon First Nations in the management of heritage resources and in the preparation of displays in the Yukon, particularly those related to Yukon Indian people.
- Government shall consult with Yukon First Nations when developing heritage legislation and related policies.
- Yukon First Nation burial sites will receive special protection.
- A Yukon Geographical Names Board will advise on naming and renaming features in the Yukon. This Board will have 50% nominees of Yukon First Nations as members.



# WATER MANAGEMENT

The water management chapter is new to the land claims agreement. It outlines the rights of Yukon First Nations and Yukon Indian people to use and protect the use of water. It also explains how other people who need to use water on settlement land will be provided for. This chapter details new rules the Yukon Territory Water Board will have to follow in deciding on water licences which might affect Yukon First Nations' rights. Indian people will sit on the board.

The objective of this chapter is to balance the desire to maintain the Yukon's water in a natural condition with the desire to use water wisely. This chapter also recognizes the cultural, spiritual, and traditional importance of water to Yukon Indian people and other Yukoners.

## Main Points

### *The Water Board*

- Yukon First Nations will nominate one-third of the Yukon Territory Water Board's members.
- The water board can resolve water use disputes.

### *Rights of Users*

- Yukon Indian people will have the right to use water without a licence for traditional purposes.
- Subject to other provisions of the chapter, Yukon First Nations will have the exclusive right to use water while it is on, or flowing through, settlement land.
- Other people with a legal interest in settlement land who need to use water will be able to do so. They will have to follow general laws, however.
- The chapter protects existing water licences on settlement land.
- Yukon First Nations have a right to compensation for losses or damages to settlement land suffered as a result of new or changed water licences.
- This chapter does not affect the rights of domestic water users.

### *Government's Role*

- Government continues to be responsible for managing water throughout the Yukon.
- Government is committed to negotiating water management agreements with neighbouring jurisdictions in consultation with Yukon First Nations.



# BOUNDARIES AND MEASUREMENTS

All settlement land will be surveyed. The initial costs will be paid by the federal government. Within one month of signing each Yukon First Nation final agreement, settlement land committees will be set up. These committees will advise government and the First Nations on the priorities for surveying settlement land. The committees will be disbanded once the surveys are completed.

## Main Points

### *The Survey Process*

- The Surveyor General will determine survey standards, statutory responsibilities and definitions of boundaries.
- Indian people can use settlement land if a survey plan has not yet been completed.
- Qualified Yukon Indian people and Yukon First Nation businesses will be given first consideration for any employment or economic opportunities arising from settlement land surveys.
- The "proposed site specific" concept protects aboriginal title on a specific land site if its exact location is not known. Further, it enables the site to be identified at a future date.
- Special management areas may be described or depicted by map notations at the Surveyor General's discretion.

### *Survey Committees*

- A chairperson appointed by the Surveyor General, and no more than two representatives from a Yukon First Nation, will make up each settlement land committee.
- These committees will determine priorities for all settlement land surveys.

### *Disputes*

- Disputes over survey priorities and boundaries which cannot be settled by the committees may be referred to the dispute resolution process.

# FISH AND WILDLIFE CONSERVATION AND USE

This chapter addresses the management, use and conservation of fish and wildlife populations in the Yukon. It provides for greater public and local community involvement.

The priority of the agreement on both settlement and non-settlement land is the conservation of fish and wildlife and its habitats. This chapter lays out the rights of Yukon First Nations and Yukon Indian people to use fish and wildlife and participate in its management.

## Main Points

### *Fish and Wildlife Management*

- A territory-wide fish and wildlife management board to advise on aspects of fish and wildlife management will be set up according to this chapter. A sub-committee to advise on salmon will be part of the Board, and community-based renewable resources councils will be set up for each First Nation traditional territory. Each will have equal representation from First Nations and government.
- The board and councils will provide recommendations on the management and use of fish and wildlife while the sub-committee will provide recommendations related to salmon.
- Renewable resources councils will have responsibilities for local renewable resource management, including development of certain fish and wildlife management plans and by-laws for furbearer management.

### *First Nation Rights*

- Yukon Indian people have the right to harvest fish and wildlife subject to conservation, public health and public safety factors. Subsistence hunting can take place within their traditional territory and, with the consent of another Yukon First Nation, in its traditional territory.
- Management plans developed by the board, the councils, and the sub-committee will determine how certain species and populations will be managed and harvested. These plans will also allocate and determine the total allowable harvest on both settlement and non-settlement lands.
- Negotiations will set out basic need harvest levels for important fish and wildlife species. These levels may be used when population levels demand hunting limits as part of conservation measures.

- Renewable resources councils will give input on furbearer/trapline management. About 70 per cent of Yukon traplines will be allocated to Yukon Indian people.
- The *Migratory Birds Convention Act*, *Pacific Salmon Treaty* and *Porcupine Caribou Management Agreement* will apply to Yukon First Nations.
- The minister's ultimate responsibility for fish and wildlife is recognized.

### ***Salmon Management and Allocation***

- The salmon sub-committee will have First Nation nominees from the three major drainage basins -- the Yukon, Alsek, and the Porcupine. Overall representation will remain at 50 per cent.
- Yukon Indian people will receive 26 per cent of the total number of Yukon commercial salmon fishing licences.



## FOREST RESOURCES

This chapter recognizes First Nation ownership of forest resources on settlement land, including the First Nation's ability to manage, allocate and protect these resources. Resource management will be integrated and will include community involvement.

### Main Points

#### *Scope*

- The chapter includes all flora, not just trees.

#### *Management and Use*

- Sustainable use and integrated management will be key elements of forest management.
- Government and First Nations will jointly develop management plans.
- Renewable resources councils will provide recommendations to government and the First Nations on forest resource management.
- First Nations can cut a maximum 500 cubic metres of wood a year for community use on Crown land without charge.
- Yukon Indian people have the right to harvest forest resources on Crown land at no cost if the use is connected with hunting, trapping, fishing, handicraft production or for the practice of traditional customs and culture.
- Government will consult with Indians bands on general priorities for fighting forest fires on settlement and adjacent non-settlement land.
- Government shall fight forest fires on settlement land for five years after a First Nation final agreement under the same rules which the government uses to decide which fires are fought on Crown land.
- Current commercial timber permit holders are entitled to exercise all rights within their permit areas on settlement land.
- Forest management and protection must be consistent with approved land use plans and the chapter on development assessment.

## NON-RENEWABLE RESOURCES

This chapter on non-renewable resources is new to the agreement, however, the 1988 agreement-in-principle contained some of its provisions, in the access and tenure sub-agreements.

It is designed to collect together the provisions dealing with non-renewable resources. New and existing third party interests and questions of ownership of specified substances are dealt with in the tenure chapter.

### Main Points

#### *Use of Specified Substances*

- The First Nations will be able to use all specified substances found on settlement lands, and to collect all the royalties from other users.. Specified substances include: sand, gravel, construction and carving stone, and some other materials.
- When there is a conflict between the use of specified substances by a Yukon First Nation and the mining of the minerals in a mining operation, the dispute will be referred to the Surface Rights Board.

#### *Quarries*

- Government will try to locate quarries away from settlement land.
- Where government has not been able to identify all the quarries required for public purposes before a First Nation final agreement, up to two years will be provided for identifying the rest of the quarries.

#### *Access*

- Anyone who has a mineral right existing at the time the land becomes settlement land, will have access on, or across settlement land to get to the resource, providing that the access has low impact on the land or is on an existing route.
- If the access imposes significant impact or if there is a change of route, the developer will have to negotiate terms and conditions with the Yukon First Nation. If no agreement can be reached, the Surface Rights Board will establish the terms and conditions.
- Anyone who has a new mineral right in Category B lands has access to settlement lands without permission of the First Nation, provided that the access has low impact on the land or is on an existing route.

- **If the access affects the land or there is a change of the route, the miner will have to negotiate the terms and conditions with the Yukon First Nation, including compensation. If no agreement can be reached, the Surface Rights Board will determine the terms and conditions and any compensation.**



## FINANCIAL COMPENSATION

The financial compensation chapter sets out the amount of money which the federal government will pay to the Yukon First Nations. It also details how loans made to Indian organizations to negotiate the claim will be repaid.

The compensation money will provide a financial base for the First Nations to meet social and economic goals.

### Main Points

#### *Compensation Amount and Payment Schedule*

- The agreement-in-principle provided for the payment of \$232 million in 1988 dollars through installments over a 15-year period. Today, after indexing that amount and subtracting the \$1 million advance, the compensation is now worth \$242.6 million.
- This chapter will set out each First Nation's share of the financial compensation. A schedule of payment will form part of each First Nation final agreement.
- Over the same 15-year period, Yukon First Nations must repay the loans made to fund the elders benefit program and negotiate the settlement. These loans carry a fixed six per cent yearly interest rate beginning on the signing of each First Nation final agreement.
- Yukon First Nations now have more flexibility in the repayment of negotiating loans than they had in the agreement-in-principle.

#### *Future Loans*

- Three years after settlement legislation, a Yukon First Nation may request a loan from Canada against the unpaid balance of its financial compensation.

# TAXATION

This chapter describes what taxes will apply to settlement corporations and what taxes Yukon Indian people will have to pay.

It also will protect financial compensation from taxation as long as the funds are used to provide social benefits to Yukon Indian people.

## Main Points

### *Settlement Corporations*

- Each Yukon First Nation may set up one or more settlement corporations to invest the financial compensation and carry out community and social development activities.
- Income received from qualified investments or property which is used to carry out community and social development activities will not be taxed.
- A settlement corporation cannot own or control another corporation which carries on a commercial business and still maintain its tax exempt status.
- A settlement corporation will not automatically lose its tax status if it accidentally makes an unqualified investment. There will be period of time to correct the error.

### *Taxes*

- Any tax exemptions which apply to the six Yukon Indian reserves, or to any Yukon Indian person, will cease once settlement legislation is passed.
- In exchange for these tax exemptions, Yukon First Nations will share a \$12.6 million payment which will be made as soon as possible after settlement legislation and an additional \$13.9 million payable in 10 annual installments.
- The federal government will assist the Yukon First Nations with the payment of property tax for a 10-year period after each Yukon First Nation final agreement. In the first year, it will cover 100 per cent of the property tax. It will cover 10 per cent less each year until the 10th year.



## TAXATION OF SETTLEMENT LAND

Some, but not all, settlement land will be subject to property tax. This chapter states which lands will be taxed, how taxes and arrears may be collected, and other rights.

The taxation chapter of the Umbrella Final Agreement has many other clauses which deal with personal income and corporate taxes. Among them is a clause requiring the Government of Canada to assist with property taxes over a 10-year period.

### Main Points

- Fee simple settlement land will be taxed like other fee simple private land.
- First Nations will be eligible for homeowners' grants if they meet the program criteria, even if the First Nation or a First Nation corporation owns the land. This only applies if such a program is available.
- Unimproved rural settlement land will be exempt from property tax.
- Settlement land cannot be seized for the non-payment of taxes. After two years, however, services to settlement land may be withdrawn until all property taxes are paid.
- First Nations will pay for user-pay local government services at rates similar to those of other property owners.
- First Nations final agreements will deal with any outstanding property taxes there may be on settlement land.
- Government agrees not to collect any outstanding taxes on unimproved rural settlement lands.



## RESOURCE ROYALTY SHARING

This chapter describes how the First Nations and government will share resource royalties. Resource royalties arise when a government allows a resource, such as a mineral deposit, to be developed. In return, government receives money.

### Main Points

- The resources covered by this chapter include all onshore minerals, whether liquid or solid, found in the Yukon.
- New revenues received by the Yukon government from any future onshore resource royalties will be shared. First Nations annually will get 50 per cent of the first \$2 million and 10 per cent of any additional royalties net of any royalties received by the Yukon First Nations on settlement lands, to a maximum based on per capita income.
- The Yukon government will be responsible for negotiating control of royalties with the federal government. However, the Yukon government will consult with the First Nations in developing a position for these negotiations.



## YUKON INDIAN SELF-GOVERNMENT

This is a very important chapter to Yukon Indian people because it contains a constitutionally protected guarantee to negotiate self-government.

Self-government agreements will replace the existing *Indian Act* bands with First Nations. The First Nation will have the legal capacity to take on the powers negotiated for Yukon Indian people in the Umbrella Final Agreement, their First Nation final agreement and their Self-Government agreement.

The self-government chapter outlines the principles and scope of community negotiations aimed at re-establishing First Nation governments. It lists the areas that may be negotiated.

### Main Points

#### *Self-Government Powers*

- Through community negotiations, Indian people will assume greater control, authority, and responsibility for Indian communities and resources.
- Self-government can be negotiated in several areas, including: social services, cultural and aboriginal languages, justice, health, economic development, local government, and others.
- Yukon-wide self-government legislation will put into effect self-government agreements that are negotiated with each Yukon First Nation.
- Self-government agreements will describe the law making powers of the First Nation.
- The chapter outlines the principles for how government funding to support self-government will be negotiated.
- Self-government agreements will include sections dealing with the tax status of the First Nation as a municipality under the *Income Tax Act*.

#### *First Nation Constitutions*

- Each First Nation will develop a constitution that will put in place a governing body that is politically and financially accountable to the membership of the First Nation.
- The rights of Indian people as Canadian citizens will not be affected by the self-government agreements.



### *Representation in Other Governments*

- Yukon Indian people can negotiate representation and participation on public boards and committees.
- The First Nations and other levels of government can get together at the regional, district, or community level to share responsibility for providing services in the area.

### *Protection*

- Although agreements negotiated under the chapter won't receive constitutional protection at this time, nothing in this chapter, or elsewhere in the Settlement Agreements prevents them from receiving constitutional protection if it is available through future constitutional amendments.



## TRANSBOUNDARY CLAIMS

This chapter describes how the territorial and federal governments, the Council for Yukon Indians, and Yukon First Nations will work to settle transboundary aboriginal claims. Transboundary claims extend into the Yukon from the Northwest Territories and B.C. They also extend into those areas from the Yukon.

Large amounts of land will not be a part of these negotiations. However, the parties may negotiate agreements based on traditional use and occupancy.

### Main Points

- Both governments, the Council for Yukon Indians, and Yukon First Nations will use their best efforts to ensure settlement of the transboundary aboriginal claims. The agreements will be based upon traditional use and occupancy.
- Resources will be made available for Yukon First Nations to negotiate transboundary aboriginal claims under federal land claims funding policies.
- Yukon First Nations and transboundary claimant groups may share their lands, resources, and benefits. The First Nations can develop their own relationships with transboundary groups.
- Unsettled transboundary claims will not delay the Yukon First Nation final agreements.
- Transboundary agreements may include the participation of transboundary groups in land and resources management.
- Transboundary agreements will be appended to the appropriate First Nation final agreement.
- The Vuntut Gwitchin Final Agreement will include provisions to deal with any overlapping interests with the Inuvialuit Settlement Area.



## DISPUTE RESOLUTION

Certain matters identified in this agreement will be referred to a dispute resolution panel. This chapter describes the panel, the procedure to be used to resolve disputes and the powers of the panel.

The dispute resolution process is designed to avoid complex and costly legal battles in the courts. It can accommodate a wide range of matters.

### Main Points

#### *The Dispute Resolution Board*

- The parties will jointly appoint a dispute resolution board of three members.
- The board will ensure there are enough trained mediators and arbitrators to serve the process.
- Third parties can be represented in this process if their interests are affected.
- After consultation with the parties to the agreement, the board will be able to set rules of procedure for arbitration.

#### *The Dispute Resolution Process*

- The settlement agreement will specifically refer some matters to the dispute resolution process. The parties may mutually agree to refer anything else to dispute resolution.
- The dispute resolution process is a two-stage process. The first stage is mediation. The second stage is binding arbitration. Some disputes will only go to mediation, others will go through both stages.
- The chapter makes provision for limited judicial review of a decision from the dispute resolution process.



## IMPLEMENTATION AND TRAINING

This chapter provides the ways and means of developing implementation plans for the Umbrella Final Agreement and each First Nation final agreement. It also will make possible training for Indian people so they can take full advantage of opportunities arising from the settlement.

### Main Points

#### *Training and Implementation Committees*

- The three parties will jointly develop implementation plans for the Umbrella Final Agreement and each First Nation final agreement.
- Training plans will be developed by a training committee.
- The training committee will act as the trustee body for the training trust. The committee will have three members appointed by the Council for Yukon Indians, one from the Yukon government, and one from the federal government.

#### *Training and Implementation Funds*

- The federal government will finance a \$500,000 implementation planning fund as soon as possible after the settlement legislation is passed. It will be administered by the Council for Yukon Indians. The money will be used to pay for Yukon First nation involvement in implementation planning.
- The federal government will provide \$4 million for implementation as soon as possible after it passes settlement legislation. The money will be used to help Yukon First Nations set up administrative structures to meet their land claims responsibilities. It will also help Indian people take full advantage of economic and other opportunities arising from the settlement agreement.
- The Yukon and federal governments will provide \$3.25 million each for a newly formed training trust fund. The trust will be used to advance the training of Yukon Indian people. The Yukon and federal governments identified \$6.5 million for this fund in November, 1988.
- The trust will be set up as a charitable organization and can issue receipts to anyone making a contribution.



- The training committee will have three members appointed by the Council for Yukon Indians, one from the Yukon government, and one from the federal government.
- Governments are committed to funding the trust as soon as possible after settlement legislation, but recognizing the importance of training, will try to provide the funds sooner.



**DEVELOPED VS UNDEVELOPED**

"Developed Settlement Land" means any Parcel of Settlement Land designated as Developed Settlement Land in a Yukon First Nation Final Agreement or pursuant to 6.1.8 or 7.5.2.9.

In other words, within the Final Agreement, the land chapter and associated maps will designate which parcels or portions of parcels are developed.

If it is not otherwise stated in the land chapter the parcels are undeveloped.

Parcels of Category A, B or Fee Simple can be designated as developed. If the parcel is large, eg. a rural block, only portions will be designated. The majority of the large parcels will remain undeveloped for the foreseeable future.

6.1.8 Government and a Yukon First Nation may agree from time to time to designate Undeveloped Settlement Land to be Developed Settlement Land and Developed Settlement Land to be Undeveloped Settlement Land.

That is, following Settlement Legislation, when the First Nation wished to change the designation of a parcel it will approach Government with a proposal which can then be negotiated. If there are access concerns with the parcel they can be dealt with in the negotiations. Options to maintain access include:

- designating any routes or trails within the parcel as undeveloped,
- designating portions of the parcel as undeveloped,
- agreeing to special terms and conditions for access.

\* DEVELOPED IS NOT THE SAME AS IMPROVED. The terms developed/undeveloped are associated with access provisions only. The terms improved/unimproved are associated with taxation. A parcel can have improvements on it and still be designated as undeveloped, or the opposite.



5.14.3 Where there is more than one Parcel of Site Specific Settlement Land to be selected in one or more Parcels of Proposed Site Specific Settlement Land bearing the same "S" number, 5.14.2 shall not apply until the plan of the last Parcel of Site Specific Settlement Land in the last Parcel of Proposed Site Specific Settlement Land bearing the same "S" number has been confirmed in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land.

5.14.4 Any orders made under the Territorial Lands Act, R.S.C. 1985, c. T-7, the Yukon Quartz Mining Act, R.S.C. 1985, c. Y-4, the Yukon Placer Mining Act, R.S.C. 1985, c. Y-3 or the Lands Act, R.S.Y. 1986, c. 99 withdrawing Proposed Site Specific Settlement Land on the Effective Date of the Yukon First Nation's Final Agreement shall be continued until the provisions of 2.5.0 apply to that land.

**5.15.0 Waterfront Right-of-Way**

5.15.1 Unless otherwise agreed in a Yukon First Nation Final Agreement on a case by case basis, there shall be a Waterfront Right-of-Way 30 metres in width measured landward from the Natural Boundaries within Settlement Land of all Navigable Waters which abut or are within Settlement Land.

5.15.2 The uses allowed upon and the width of the Waterfront Right-of-Way may be varied in a Yukon First Nation Final Agreement to accommodate special circumstances.

5.15.3 Subject to 6.1.6, any Person has a right of access without the consent of the affected Yukon First Nation to use a Waterfront Right-of-Way for travel and for non-commercial recreation including camping and sport fishing, and to use standing dead or deadfall firewood incidental to such use.

5.15.4 Except for hunting Migratory Game Birds if permitted by and in accordance with Law, the right of access in 5.15.3 shall not be construed to permit Harvesting Wildlife at any time on Category A or Fee Simple Settlement Land.

5.15.5 Any Person has a right of access to use a Waterfront Right-of-Way for commercial recreation purposes with the consent of the affected Yukon First Nation or failing consent, with an order of the Surface Rights Board setting out the terms and conditions of the access.

- 5.15.6 The Surface Rights Board shall not make an order under 5.15.5 unless the Person seeking access satisfies the Board that:
- 5.15.6.1 such access is reasonably required; and
  - 5.15.6.2 such access is not also practicable and reasonable across Crown Land.
- 5.15.7 Subject to 5.15.8, no Person shall establish any permanent camp or structure on a Waterfront Right-of-Way without the consent of Government and the affected Yukon First Nation.
- 5.15.8 A Yukon First Nation has a right to establish a permanent camp or structure on a Waterfront Right-of-Way on its Settlement Land, provided that:
- 5.15.8.1 the permanent camp or structure does not substantially alter the public right of access under 5.15.3; or
  - 5.15.8.2 there is a reasonable alternate public right of access for the purposes set out in 5.15.3.
- 5.15.9 Any dispute as to whether the conditions set out in 5.15.8.1 and 5.15.8.2 are met may be referred to the Surface Rights Board by Government or the affected Yukon First Nation.
- 5.15.10 For purposes of 5.15.9, the Surface Rights Board shall have all the powers of an arbitrator under 26.7.3.
- 5.16.0 Notations for Hydro-electric and Water Storage Projects**
- 5.16.1 Government shall identify to Yukon First Nations, before final land selections are signed by the negotiators for all parties to a Yukon First Nation Final Agreement, those areas proposed for future hydro-electric and water storage projects.
- 5.16.2 When land identified pursuant to 5.16.1 forms part of Settlement Land, a notation shall be made in the description of that land pursuant to 5.3.1 that such land is proposed for hydro-electric and water storage projects.
- 5.16.3 If any Parcel of Settlement Land bearing the notation referred to in 5.16.2 is registered in the Yukon Land Titles Office, the notation shall be noted on the title by way of caveat.



(D)

NOTE: 6.4, 6.5 &  
6.6 pertain  
to Fish &  
Wildlife

Y F A CHAPTER 6 - ACCESS

6.1.0 General

- 6.1.1 Laws of General Application in respect of access to and use incidental thereto, of privately held land shall apply to Settlement Land, except as altered by a Settlement Agreement.
- 6.1.2 Government and a Yukon First Nation may agree in a Yukon First Nation Final Agreement or from time to time after the Effective Date of a Yukon First Nation Final Agreement to amend, revoke or reinstate a right of access provided by a Settlement Agreement to address special circumstances in respect of a specific Parcel of Settlement Land.
- 6.1.3 A Yukon First Nation owes the same duty of care to a Person exercising a right of access on Undeveloped Settlement Land pursuant to Settlement Agreements as the Crown owes to a Person on unoccupied Crown Land.
- 6.1.4 Nothing in this chapter imposes an obligation on a Yukon First Nation or Government to manage or maintain any trail or other route of access.
- 6.1.5 Any Person may enter upon Settlement Land in an emergency but when damage is caused, the Person shall report to the affected Yukon First Nation the location thereof as soon as practicable thereafter and shall be liable for significant damage to Settlement Land or to any improvement on Settlement Land as a result of the entry.
- 6.1.6 A right of access provided by 5.15.3, 6.3.1 and 6.3.2 is subject to the conditions that there shall be no:
  - 6.1.6.1 significant damage to Settlement Land or to improvements on Settlement Land;
  - 6.1.6.2 mischief committed on Settlement Land;
  - 6.1.6.3 significant interference with the use and peaceful enjoyment of Settlement Land by the Yukon First Nation;
  - 6.1.6.4 fee or charge payable to the affected Yukon First Nation; or
  - 6.1.6.5 compensation for damage other than for significant damage.

- 6.1.7 A Person who fails to comply with the conditions in 6.1.6.1, 6.1.6.2, or 6.1.6.3 shall be considered a trespasser with respect to that incident of access.
- 6.1.8 Government and a Yukon First Nation may agree from time to time to designate Undeveloped Settlement Land to be Developed Settlement Land and Developed Settlement Land to be Undeveloped Settlement Land.
- 6.1.9 Subject to Chapter 7 - Expropriation, unless the affected Yukon First Nation otherwise agrees, any route of access on Settlement Land which may be established or improved after the Effective Date of the affected Yukon First Nation's Final Agreement shall remain Settlement Land and shall not be designated by operation of law or otherwise, as a highway or public road, notwithstanding that the route is established or improved:
- 6.1.9.1 for the benefit of any Person; or
  - 6.1.9.2 using funds or other resources provided directly or indirectly by Government for the establishment or improvement of such route.
- 6.2.0 Access to Crown Land
- 6.2.1 A Yukon Indian Person has and a Yukon First Nation has a right of access without the consent of Government to enter, cross and stay on Crown Land and to use Crown Land incidental to such access for a reasonable period of time for all non-commercial purposes if:
- 6.2.1.1 the access is of a casual and insignificant nature; or
  - 6.2.1.2 the access is for the purpose of Harvesting Fish and Wildlife in accordance with Chapter 16 - Fish and Wildlife.
- 6.2.2 A Yukon Indian Person has and a Yukon First Nation has a right of access without the consent of Government to cross and make necessary stops on Crown Land to reach adjacent Settlement Land for commercial purposes if:
- 6.2.2.1 the access is of a casual and insignificant nature; or



- 6.2.2.2 the route used is a traditional route of Yukon Indian People or of a Yukon First Nation or is generally recognized and is being used for access on a regular basis, whether year round or intermittently, and the exercise of the right of access does not result in a significant alteration in the use being made of that route.
- 6.2.3 A right of access in 6.2.1 or 6.2.2 does not apply to Crown Land:
- 6.2.3.1 which is subject to an agreement for sale or a surface licence or lease except,
- (a) to the extent the surface licence or lease permits public access, or
- (b) where the holder of the interest allows access; or
- 6.2.3.2 where access or use by the public is limited or prohibited.
- 6.2.4 A right of access provided by 6.2.1 or 6.2.2 shall be subject to the conditions that there shall be no:
- 6.2.4.1 significant damage to the land or to improvements on the land;
- 6.2.4.2 mischief committed on the land;
- 6.2.4.3 significant interference with the use and peaceful enjoyment of the land by other Persons;
- 6.2.4.4 fee or charge payable to Government; or
- 6.2.4.5 compensation for damage other than significant damage.
- 6.2.5 A Yukon Indian Person or Yukon First Nation who fails to comply with the conditions in 6.2.4.1, 6.2.4.2 or 6.2.4.3 shall forfeit the rights provided in 6.2.1 or 6.2.2, as the case may be, with respect to that incident of access.
- 6.2.6 A Yukon First Nation or any Person to whom rights have been granted by a Yukon First Nation in respect of the exploration or development of Mines and Minerals in Category A Settlement Land shall have the same rights of access to Non-Settlement Land and the use thereof incidental to such access as any other Person has for the same purpose.

6.2.7 Government shall not alienate Crown Land abutting any block of Settlement Land so as to deprive that block of Settlement Land of access from adjacent Crown Land or from a highway or public road.

6.2.8 Nothing in this chapter shall be construed so as to deprive Yukon Indian People or a Yukon First Nation of the rights or privileges of access to Crown Land available to the public.

### 6.3.0 General Access

6.3.1 A Person has a right of access, without the consent of the affected Yukon First Nation, to enter, cross and make necessary stops on Undeveloped Settlement Land to reach adjacent Non-Settlement Land for commercial and non-commercial purposes if:

6.3.1.1 the access is of a casual and insignificant nature; or

6.3.1.2 the route used is generally recognized and was being used for access on a regular basis, whether year round or intermittently, either,

(a) prior to public notification of the final land selection for that Yukon First Nation's Final Agreement, or

(b) where the land becomes Settlement Land after the Effective Date of the Yukon First Nation Final Agreement, on the date the land became Settlement Land,

on the condition that the exercise of the right of access does not result in a significant alteration being made of that route.

6.3.2 A Person has a right of access without the consent of the affected Yukon First Nation to enter, cross and stay on Undeveloped Settlement Land for a reasonable period of time for all non-commercial recreational purposes.

- 6.3.8 The parties to a Yukon First Nation Final Agreement may agree therein to limit the application of 6.3.1.2 in respect of any particular route.
- 6.3.9 Nothing in this chapter shall be construed to provide a right to harvest Fish and Wildlife.
- 6.4.0 Government Access**
- 6.4.1 Government, its agents and contractors shall have a right of access to enter, cross and stay on Undeveloped Settlement Land and use natural resources incidental to such access to deliver, manage and maintain Government programs and projects, including but not limited to the necessary alterations of land and watercourses by earthmoving equipment for routine and emergency maintenance of transportation corridors.
- 6.4.2 A Person authorized by Law to provide utilities for public purposes including electricity, telecommunications and municipal services shall have a right of access to enter, cross and stay on Undeveloped Settlement Land to carry out site investigations, assessments, surveys and studies in relation to proposed services after Consultation with the affected Yukon First Nation prior to exercising such access.
- 6.4.3 The right of access provided in 6.4.1 and 6.4.2 shall be subject to the conditions that there shall be no:
- 6.4.3.1 mischief committed on the Settlement Land;
  - 6.4.3.2 fee or charge payable to the affected Yukon First Nation; or
  - 6.4.3.3 unnecessary interference with the use and peaceful enjoyment of its Settlement Land by the Yukon First Nation.
- 6.4.4 Any Person exercising a right of access pursuant to 6.4.1 and 6.4.2 shall be liable only for significant damage to Settlement Land and any improvements on Settlement Land caused by the exercise of such right of access. Significant damage does not include necessary alteration of Settlement Land or watercourses required to maintain transportation corridors referred to in 6.4.1.



exercised:

- 6.4.5.1 for a period of no more than 120 consecutive days for any single program or project without the consent of the affected Yukon First Nation except that notice, where reasonable, shall be given; and
- 6.4.5.2 for a period of more than 120 consecutive days with the consent of the affected Yukon First Nation or, failing consent, with an order of the Surface Rights Board setting out the terms and conditions of access.
- 6.4.6 The Surface Rights Board shall not make an order under 6.4.5.2 unless the Person seeking access satisfies the Board that:
- 6.4.6.1 such access is reasonably required; and
- 6.4.6.2 such access is not also practicable and reasonable across Crown Land.
- 6.4.7 Nothing in this chapter shall be construed to limit the lawful authority of Government to carry out inspections and enforce Law on Settlement Land.
- 6.5.0 Military Access**
- 6.5.1 In addition to the right of access provided by 6.4.1, the Department of National Defence has a right of access to Undeveloped Settlement Land for military manoeuvres with the consent of the affected Yukon First Nation with respect to contact persons, areas, timing, environmental protection, protection of Wildlife and habitat, land use rent, and compensation for damage caused to Settlement Land and improvements and personal property thereon, or, failing consent, with an order of the Surface Rights Board as to terms and conditions with respect to such matters.
- 6.5.2 Nothing in 6.5.1 shall be construed to limit the authority of the Department of National Defence to enter, cross, stay on or use Undeveloped Settlement Land in accordance with the National Defence Act, R.S.C. 1985, c. N-5.
- 6.5.3 Government shall give reasonable advance notice of military exercises or operations to inhabitants of any area to be affected.

**6.6.0 Conditions of Access**

6.6.1 If a Yukon First Nation wishes to establish terms and conditions for the exercise of a right of access provided:

6.6.1.1 by 5.15.3, 6.3.1, 6.3.2, 16.11.12, 18.3.1, 18.4.1 or 18.4.2; or

6.6.1.2 by 6.4.1 or 6.4.2 where the right of access is for a period of no more than 120 consecutive days,

the Yukon First Nation and Government shall attempt to negotiate the terms and conditions.

6.6.2 Failing agreement pursuant to 6.6.1, the Yukon First Nation may refer the matter to the Surface Rights Board. The Surface Rights Board may establish terms and conditions only for the exercise of a right of access which specify seasons, times, locations, method or manner of access.

6.6.3 Unless Government and the affected Yukon First Nation otherwise agree, a condition established pursuant to 6.6.2 affecting the exercise of a right of access shall be established only to:

6.6.3.1 protect the environment;

6.6.3.2 protect Fish and Wildlife or their habitat;

6.6.3.3 reduce conflicts with traditional and cultural uses of Settlement Land by the Yukon First Nation or a Yukon Indian Person; or

6.6.3.4 protect the use and peaceful enjoyment of land used for communities and residences.

6.6.4 A condition established pursuant to 6.6.2 affecting the exercise of a right of access shall not:

6.6.4.1 restrict law enforcement or any inspection authorized by Law;

6.6.4.2 impose a fee or charge for the exercise of that right of access; or

6.6.4.3 unreasonably restrict that right of access.

(E)

related to  
access: 16.4  
16.5  
16.11  
16.2

CHAPTER 16 - FISH AND WILDLIFE

16.1.0 Objectives

16.1.1 The objectives of this chapter are as follows:

- 16.1.1.1 to ensure Conservation in the management of all Fish and Wildlife resources and their habitats;
- 16.1.1.2 to preserve and enhance the renewable resources economy;
- 16.1.1.3 to preserve and enhance the culture, identity and values of Yukon Indian People;
- 16.1.1.4 to ensure the equal participation of Yukon Indian People with other Yukon residents in Fish and Wildlife management processes and decisions;
- 16.1.1.5 to guarantee the rights of Yukon Indian People to harvest and the rights of Yukon First Nations to manage renewable resources on Settlement Land;
- 16.1.1.6 to integrate the management of all renewable resources;
- 16.1.1.7 to integrate the relevant knowledge and experience both of Yukon Indian People and of the scientific communities in order to achieve Conservation;
- 16.1.1.8 to develop responsibilities for renewable resource management at the community level;
- 16.1.1.9 to honour the Harvesting and Fish and Wildlife management customs of Yukon Indian People and to provide for the Yukon Indian People's ongoing needs for Fish and Wildlife;
- 16.1.1.10 to deal fairly with all Yukon residents who use Fish and Wildlife resources in the Yukon; and
- 16.1.1.11 to enhance and promote the full participation of Yukon Indian People in renewable resources management.



## 16.2.0 Definitions

In this chapter, the following definitions shall apply.

"Basic Needs Level" means the number of harvestable animals of a species negotiated in a Yukon First Nation Final Agreement as a harvest allocation to a Yukon First Nation in its Traditional Territory in accordance with 16.9.0.

"Board" means the Fish and Wildlife Management Board established pursuant to 16.7.0.

"Category 1 Trapline" means a trapline so designated pursuant to 16.11.0.

"Category 2 Trapline" means a trapline not designated as a Category 1 Trapline.

"Council" means a Renewable Resources Council established pursuant to 16.6.0.

"Edible Fish or Wildlife Product" means the flesh or organs of Fish or Wildlife that are used for food by people or domestic animals.

"Furbearer" means any of the following species native to the Yukon: Castor including beaver; Alopex including white fox or arctic fox; Lutra including otter; Lynx including lynx; Martes including martens and fishers; Mustela including weasel and mink; Ondatra including muskrat; Vulpes including red, cross, black and silver fox; Gulo including wolverine; Canis including wolves and coyotes; Marmota including marmots; Tamiasciurus including red squirrel; and Spermophilus including ground squirrels.

"Non-Consumptive Use" means a Use of Fish and Wildlife that does not involve Harvesting.

"Non-Edible By-Product" means the fur, hide, skin, antlers, horns, skeleton or other portions of Fish or Wildlife not used for food but used for other purposes including but not limited to clothing, medicine, domestic or personal decoration, or art.

"Sub-Committee" means the Salmon Sub-Committee established pursuant to 16.7.17.

"Subsistence" means:

- (a) the use of Edible Fish or Wildlife Products by a Yukon Indian Person for sustenance and for food for traditional ceremonial purposes including potlatches; and
- (b) the use by a Yukon Indian Person of Non-Edible By-Products of harvests under (a) for such domestic purposes as clothing, shelter or medicine, and for domestic, spiritual and cultural purposes; but
- (c) except for traditional production of handicrafts and implements by a Yukon Indian Person, does not include commercial uses of Edible Fish or Wildlife Products or Non-Edible By-Products.

"Total Allowable Catch" means the total number of Salmon of a particular species and in a particular drainage basin which return to Canadian waters and which, in the manner established by this chapter, are deemed not to be required for Conservation.

"Total Allowable Harvest" means the total number of animals of a Freshwater Fish or Wildlife species which, in the manner established by this chapter, are deemed not to be required for Conservation.

"Use" includes both Harvesting and non-consumptive activities.

#### 16.3.0 General

16.3.1 This chapter sets out powers and responsibilities of Government and Yukon First Nations for the management of Fish and Wildlife and their habitats, while, subject to 16.5.1.1, 16.5.1.2 and 16.5.1.3, respecting the Minister's ultimate jurisdiction, consistent with this chapter, for the management of Fish and Wildlife and their habitats.

16.3.2 The management and Harvesting of Fish, Wildlife and their habitats shall be governed by the principle of Conservation.

- 16.3.3 The exercise of rights under this chapter is subject to limitations provided for elsewhere in Settlement Agreements and to limitations provided in Legislation enacted for purposes of Conservation, public health or public safety.
- 16.3.3.1 Any limitation provided for in Legislation pursuant to 16.3.3 must be consistent with this chapter, reasonably required to achieve those purposes and may only limit those rights to the extent necessary to achieve those purposes.
- 16.3.3.2 Government shall Consult with the affected Yukon First Nation before imposing a limitation pursuant to 16.3.3.
- 16.3.4 Nothing in this or any other chapter is intended to confer rights of ownership in any Fish or Wildlife.
- 16.3.5 Canada shall make reasonable efforts to ensure that when issues involving Fish and Wildlife management arise in international negotiations, the interests of affected Yukon First Nations are represented.
- 16.3.6 Except as provided in this chapter and in Yukon First Nation Final Agreements, nothing shall prevent Yukon residents and others from Harvesting Fish and Wildlife in accordance with Legislation.
- 16.3.7 Government shall make best efforts to amend the Game Export Act, R.S. 1985,c.G-1 to enable the transport of Wildlife products for traditional non-commercial purposes across borders with Alaska, British Columbia and the Northwest Territories.
- 16.3.8 No tax, duty or such other fees or royalties shall be imposed by Government in respect of the export of Wildlife products under 16.3.7.
- 16.3.9 Nothing in the Umbrella Final Agreement shall be construed as an admission by Government that the Migratory Birds Convention Act, R.S. 1985,c.M-7 does not satisfy the terms of 16.3.3.
- 16.3.10 For the purposes of application of 16.3.3 to Harvesting rights of Yukon Indian People for migratory birds, Conservation includes considerations related to conservation of Migratory Game Birds indigenous to the Yukon while those Migratory Game Birds are in other jurisdictions.



- 16.3.11 Notwithstanding anything in this chapter, where there is a conflict between this chapter and the 1987 Canada-USA Agreement on the Conservation of the Porcupine Caribou Herd, the 1985 Porcupine Caribou Management Agreement, or the Canada-USA Pacific Salmon Treaty, those agreements and the Treaty shall prevail to the extent of the conflict. Any amendments to those agreements or the Treaty shall not be construed to diminish or adversely affect the rights of Yukon First Nations or Yukon Indian People under this chapter and Yukon First Nation Final Agreements.
- 16.3.12 Nothing in this chapter shall be construed to grant Yukon Indian People any right to buy, sell, or offer for sale any Migratory Game Bird, Migratory Game Bird's egg or parts thereof not authorized for sale by Legislation.
- 16.3.13 Nothing in this chapter shall be construed to prevent any person from killing Fish and Wildlife for survival in an emergency. Any such kill shall be reported according to requirements established by the Board and shall be without prejudice to any Basic Needs Level or adjusted Basic Needs Level that may be in force from time to time.
- 16.3.14 Subject to 10.4.0, and except as provided in the Inuvialuit Final Agreement and in the specific provisions for National Parks in the Yukon First Nation Final Agreements for the Vuntut Gwich'in First Nation, the Champagne and Aishihik First Nations, the Kluane First Nation and the White River First Nation, Harvesting and management of Fish and Wildlife within National Parks shall be in accordance with the National Parks Act, R.S. 1985, c.N-14.
- 16.3.14.1 The responsible agencies, the Board and the Councils shall make best efforts to coordinate the management of Fish and Wildlife populations which cross a boundary of a National Park.
- 16.3.15 It is intended that there not be any duplication in the public management of Fish and Wildlife.
- 16.3.16 Except as otherwise provided in Laws of General Application, no Person shall waste Edible Fish or Wildlife Products.
- 16.3.17 In the management of Fish and Wildlife and the harvest allocation of Fish and Wildlife, Non-Consumptive Uses of the resources shall be taken into account.

**16.4.0 Yukon Indian People**

- 16.4.1** Subject to a Yukon First Nation Final Agreement, nothing in this chapter affects any right, entitlement or qualification of Yukon Indian People to harvest Fish and Wildlife outside the Yukon. In addition, nothing in this chapter shall preclude negotiations between a Yukon First Nation and Canada, the Government of British Columbia or the Government of the Northwest Territories for rights to harvest Fish and Wildlife within the Yukon First Nation's traditional territory in British Columbia or the Northwest Territories.
- 16.4.2** Yukon Indian People shall have the right to harvest for Subsistence within their Traditional Territory, and with the consent of another Yukon First Nation in that Yukon First Nation's Traditional Territory, all species of Fish and Wildlife for themselves and their families at all seasons of the year and in any numbers on Settlement Land and on Crown Land to which they have a right of access pursuant to 6.2.0, subject only to limitations prescribed pursuant to Settlement Agreements.
- 16.4.3** Yukon Indian People shall have the right to employ within their Traditional Territories traditional and current methods of and equipment for Harvesting pursuant to 16.4.2, or limited pursuant to a Basic Needs Level allocation or pursuant to a basic needs allocation of Salmon, subject to limitations prescribed pursuant to Settlement Agreements.
- 16.4.4** Yukon Indian People shall have the right to give, trade, barter or sell among themselves and with beneficiaries of adjacent Transboundary Agreements in Canada all Edible Fish or Wildlife Products harvested by them pursuant to 16.4.2, or limited pursuant to a Basic Needs Level allocation or pursuant to a basic needs allocation of Salmon, in order to maintain traditional sharing among Yukon Indian People and with beneficiaries of adjacent Transboundary Agreements for domestic purposes but not for commercial purposes.

- 16.4.4.1 Subject to Schedule A - Determination of Basic Needs Allocation for the Drainage Basin of the Yukon River, attached to this chapter, at the request of the Council for Yukon Indians, Government shall enter into negotiations with the Yukon First Nations with a view to amending 16.4.4 and other relevant provisions of the Umbrella Final Agreement as they apply to the commercial trade, barter and sale of Salmon, provided Government has enacted regulations under the Fisheries Act, R.S. 1985, c.F-14, or entered into an agreement with an aboriginal people of British Columbia, which regulations or agreement provide for the trade, barter or sale of Salmon, other than in a test fishery, with fewer restrictions than are set out in 16.4.4.
- 16.4.5 Subject to Laws of General Application, unless otherwise specified in a Yukon First Nation Final Agreement, or as may be agreed to by the parties to the Umbrella Final Agreement, Yukon Indian People shall have the right to give, trade, barter or sell to any person any Non-Edible By-Product of Fish and Wildlife that is obtained from the Harvesting of Furbearers or incidental to Harvesting pursuant to 16.4.2, or limited pursuant to a Basic Needs Level allocation or pursuant to a basic needs allocation of Salmon.
- 16.4.6 The right to harvest pursuant to 16.4.2, or limited pursuant to a Basic Needs Level allocation or pursuant to a basic needs allocation of Salmon includes the right to possess and transport Fish and Wildlife parts and products in the Yukon and in other areas where provided for in Transboundary Agreements.
- 16.4.7 A Yukon First Nation shall provide to a Yukon Indian Person proof that the Yukon Indian Person is enrolled in that Yukon First Nation's Final Agreement, has been given consent under 16.4.2 or has been allocated a Harvesting opportunity pursuant to a Basic Needs Level allocation for Wildlife or a basic needs allocation of Salmon, as the case may be.
- 16.4.8 Subject to 16.4.9, a Yukon Indian Person may be required to show proof of any of the matters listed in 16.4.7.



- 16.4.9 A Yukon Indian Person who is 55 years of age or older at the Effective Date of the Yukon First Nation Final Agreement under which that Yukon Indian Person is enrolled shall not be required to show proof of enrollment under 16.4.7 but shall be required to identify himself or herself where necessary.
- 16.4.10 Government shall not impose any fee or tax on Yukon Indian People in respect of any permit or license to harvest Fish or Wildlife pursuant to 16.4.2, 16.9.0 or 16.10.1.
- 16.4.11 Subject to Yukon First Nation Final Agreements, Yukon Indian People shall comply with Laws of General Application when participating in resident or commercial harvesting.
- 16.4.11.1 Yukon Indian People shall have the right to use leg-hold drowning sets for Furbearer Harvesting unless the Minister, upon recommendation of the Board, determines that such sets are inhumane.
- 16.5.0 Yukon First Nations
- 16.5.1 Each Yukon First Nation shall have the following powers and responsibilities. Subject to the terms of each Yukon First Nation's Final Agreement, each Yukon First Nation:
- 16.5.1.1 may manage, administer, allocate or otherwise regulate the exercise of the rights of Yukon Indian People under 16.4.0 within the geographical jurisdiction of the Council established for that Yukon First Nation's Traditional Territory by,
- (a) Yukon Indian People enrolled pursuant to that Yukon First Nation Final Agreement,
  - (b) other Yukon Indian People who are exercising rights pursuant to 16.4.2, and
  - (c) except as otherwise provided in a Transboundary Agreement, members of a transboundary claimant group who are Harvesting pursuant to that Transboundary Agreement in that Yukon First Nation's Traditional Territory,

where not inconsistent with the regulation of those rights by Government in accordance with 16.3.3 and other provisions of this chapter;

- 16.5.1.2 shall have the final allocation authority for that Yukon First Nation's Category 1 Traplines;
- 16.5.1.3 may align, realign or group Category 1 Traplines where such alignments, realignments or groupings do not affect Category 2 Traplines;
- 16.5.1.4 shall work with the Board and the Council to establish methods to administer Basic Needs Level harvests, including the issuance of permits, licences or tags and the setting of fees;
- 16.5.1.5 may identify and propose from time to time an adjusted Basic Needs Level for the Yukon First Nation for consideration by the Board;
- 16.5.1.6 may distribute to Yukon Indian People, or other Yukon residents, any portion of that Yukon First Nation's Basic Needs Level allocation, subject to 16.5.1.7;
- 16.5.1.7 shall not charge a fee to persons other than Yukon Indian People for Harvesting any of that Yukon First Nation's Basic Needs Level allocation;
- 16.5.1.8 may manage local populations of Fish and Wildlife within Settlement Land, to the extent coordination with other Fish and Wildlife management programs is not considered necessary by the Board;
- 16.5.1.9 may participate in management of Fish and Wildlife within the Yukon in the manner set out in this chapter;
- 16.5.1.10 may make recommendations to the Council on applications for Fish and Wildlife survey and research permits for Government surveys and research within that Yukon First Nation's Settlement Land;
- 16.5.1.11 shall screen and may approve applications for Fish and Wildlife surveys and research permits for private surveys and research within that Yukon First Nation's Settlement Land;

- 16.5.1.12 at the request of the Board, the Sub-Committee or the Council, shall provide harvest information either to the Council, the Sub-Committee or the Board or to an officer with lawful authority, as the case may be, including provision of data necessary for verification and in-season management;
- 16.5.1.13 subject to Chapter 5 – Tenure and Management of Settlement Land and 16.12.0, may charge a fee or obtain a benefit for granting access to its Category A Settlement Land to a Yukon resident or for services other than guiding provided to that Yukon resident in connection with Harvesting Fish and Wildlife on its Category A Settlement Land;
- 16.5.1.14 subject to Chapter 5 – Tenure and Management of Settlement Land and 16.12.0, may charge a fee or obtain a benefit for granting access to its Settlement Land to a Yukon big game outfitter operating within its big game outfitting area or for services provided to a Yukon big game outfitter in connection with Harvesting of Fish and Wildlife on its Settlement Land; and
- 16.5.1.15 may delegate or contract the performance of its responsibilities in whole or part to another Yukon First Nation, the Council, Board or Government, provided that the delegate consents.
- 16.5.2 Nothing in 16.5.1 shall be construed to limit the exercise, consistent with this chapter, of any power of a Yukon First Nation pursuant to that Yukon First Nation's self-government agreement.
- 16.5.3 A Yukon First Nation shall have standing as an interested party to participate in public proceedings of any agency, board or commission on matters that affect the management and Conservation of Fish, Wildlife and their habitat in its Traditional Territory.
- 16.5.4 Government shall Consult with a Yukon First Nation prior to taking action on Fish or Wildlife matters which may affect the Yukon First Nation's management responsibilities or the exercise of Harvesting rights under a Settlement Agreement of Yukon Indian People enrolled under that Yukon First Nation Final Agreement.



**16.6.0 Renewable Resources Councils**

16.6.1 In each Yukon First Nation's Traditional Territory, a Renewable Resources Council shall be established as a primary instrument for local renewable resources management in that Traditional Territory as set out in a Settlement Agreement.

**Composition of Councils**

16.6.2 Subject to Transboundary Agreements and Yukon First Nation Final Agreements, each Council shall be comprised of six members consisting of three nominees of the Yukon First Nation and three nominees of the Minister.

16.6.3 Each Council shall determine its own procedures for selecting its chairperson from its membership. The Minister shall appoint the chairperson selected by the Council.

16.6.3.1 In the event that a Council fails to select a chairperson within 30 days of the position being vacant, the Minister shall appoint a chairperson from the membership of the Council after Consultation with the Council.

16.6.4 Unless otherwise provided in a Yukon First Nation Final Agreement, Council members shall be resident within that Traditional Territory.

16.6.5 Unless otherwise provided in a Yukon First Nation Final Agreement, appointments to a Council shall be for a five year term, except for the initial appointments. One third of the initial appointments shall be made for three years, one third for four years, and one third for five years. Thereafter, the appointments shall be for five years. All appointments to the Council shall be during good behaviour.

16.6.6 Each Council shall make provisions for public involvement in the development of its decisions and its recommendations.

16.6.7 Each Council shall prepare an annual budget, subject to review and approval by Government. The budget shall be in accordance with Government guidelines and may include:

16.6.7.1 remuneration and travel expenses for attendance of Council members at Council meetings;

- 16.6.7.2 the costs of public hearings and meetings;
- 16.6.7.3 a budget for research review, public information and other activities; and
- 16.6.7.4 other items as the Council and Government agree on; and

the approved budget of the Council shall be a charge on Government.

- 16.6.8 The first annual budget for a Council and a multi-year financial forecast of its operation shall be set out in the implementation plan for that Yukon First Nation Final Agreement.

#### **Powers and Responsibilities of Councils**

- 16.6.9 Each Council, acting in the public interest and consistent with this chapter, may make recommendations to the Minister, the affected Yukon First Nation, the Board and the Sub-Committee on any matter related to Conservation of Fish and Wildlife.
- 16.6.10 Subject to Yukon First Nation Final Agreements, and without restricting 16.6.9, each Council:
  - 16.6.10.1 may make recommendations to the Minister on the need for and the content and timing of Freshwater Fish and Wildlife management plans, including Harvesting plans, Total Allowable Harvests and the allocation of the remaining Total Allowable Harvest, for species other than the species referred to in 16.7.12.2;
  - 16.6.10.2 may make recommendations to the Board regarding local management concerns for the species referred to in 16.7.12.2;
  - 16.6.10.3 may make recommendations to the Salmon Sub-Committee on allocation of commercial and other uses of Salmon and on other matters designated in 16.7.17.12;
  - 16.6.10.4 may identify and recommend to the Board harvest requirements, including harvest requirements within the adjusted Basic Needs Level, within guidelines established in Yukon First Nation Final Agreements;

- 16.6.10.5 may make recommendations to the Sub-Committee on the need for and the content and timing of Salmon management plans;
- 16.6.10.6 may establish bylaws under the Wildlife Act, R.S.Y. 1986, c.178, in accordance with 16.11.0, for the management of Furbearers;
- 16.6.10.7 may make recommendations to the Minister and affected Yukon First Nation on the management of Furbearers;
- 16.6.10.8 may make recommendations to the Minister and affected Yukon First Nation, in accordance with 16.11.0, on the use of traplines and the reassignment of all new, vacant and under-utilized traplines;
- 16.6.10.9 may make recommendations to the Minister on priorities and policies related to enforcement of Legislation and on alternatives to penal sanctions with respect to Fish and Wildlife;
- 16.6.10.10 may review and make recommendations to the Minister on allocation of and terms and conditions for commercial uses of Wildlife and Fish other than Salmon;
- 16.6.10.11 may review and make recommendations to the Minister on applications for research permits granted by Government for Fish and Wildlife management-related research activities within the relevant Traditional Territory; and
- 16.6.10.12 may make recommendations to the affected Yukon First Nation regarding the Yukon First Nation's management of Fish and Wildlife on its Settlement Land pursuant to 16.5.1.8.
- 16.6.11 Each Council shall be granted status as an interested party to participate in public proceedings of any agency, board or commission on matters that affect the management and Conservation of Fish and Wildlife and their habitats within the relevant Traditional Territory for which that Council was established.
- 16.6.12 With the consent of the Minister and the affected Yukon First Nations, a Council may merge with other Councils to establish a regional Council with the same powers and responsibilities as a Council.



- 16.6.13 The Minister shall recommend to the Yukon Legislative Assembly an amendment to the Wildlife Act, R.S.Y. 1986,c.178 to enable the Council to establish bylaws under the Wildlife Act, R.S.Y. 1986,C.178 pursuant to 16.6.10.6.
- 16.6.14 Where the Minister proposes to implement a Total Allowable Harvest which would require the implementation of Basic Needs Level provisions for a species or population in a Traditional Territory in accordance with this chapter, the affected Council may make recommendations to the Minister on alternative measures that could be considered in the place of implementing the Basic Needs Level provisions.
- 16.6.15 Government shall provide Councils with the results of research under 16.6.10.11.
- 16.6.16 Where a Council does not carry out one of its responsibilities, the Minister, after giving notice to the Council, may undertake to fulfill that responsibility directly or delegate that responsibility to the Board.
- 16.6.17 Upon request by the Council, the Minister and the affected Yukon First Nation shall make available to the Council information in their possession reasonably required for the Council to carry out its functions under this chapter.

#### 16.7.0 Fish and Wildlife Management Board

- 16.7.1 A Fish and Wildlife Management Board shall be established as the primary instrument of Fish and Wildlife management in the Yukon.

#### Composition of the Board

- 16.7.2 The Board shall be comprised of six nominees of Yukon First Nations and six nominees of Government.
- 16.7.3 The Board shall determine its own procedures for selecting its chairperson from its membership. The Minister shall appoint the chairperson selected by the Board.

- 16.7.3.1 In the event that the Board fails to select a chairperson within 60 days of the position being vacant, the Minister shall appoint a chairperson from the membership of the Board after Consultation with the Board.
- 16.7.4 The majority of representatives of Government and the majority of representatives of Yukon First Nations shall be Yukon residents.
- 16.7.5 Appointments to the Board shall be for a five year term, except for the initial appointments. One third of the initial appointments shall be made for three years, one third for four years, and one third for five years. Thereafter, the appointments shall be for five years. All appointments to the Board shall be during good behaviour.
- 16.7.6 The Board shall make provisions for public involvement in the development of its decisions and its recommendations.
- 16.7.7 The Board may establish an executive secretariat to provide administrative support to the Board.
- 16.7.7.1 The administrator of the secretariat shall be the executive secretary, who shall report to the Board and shall provide administrative and other support to the Board and maintain liaison with the Renewable Resources Councils.
- 16.7.7.2 The Director of Fish and Wildlife for the Yukon shall serve as an advisor to the Board and shall ensure that technical support is provided to the Board.
- 16.7.8 The Board shall be accountable to Government for its expenditures.
- 16.7.9 The Board shall prepare an annual budget, subject to review and approval by Government. Such budget shall be in accordance with Government guidelines and may include:
- 16.7.9.1 remuneration and travel expenses for attendance of Board members at Board and Sub-Committee meetings;
- 16.7.9.2 the costs of public hearings and meetings;
- 16.7.9.3 a budget for research review, public information and other activities;

- 16.7.9.4 the costs of staff and of the operation and maintenance of the office; and
- 16.7.9.5 other items as the Board and Government agree upon; and

the approved budget of the Board and the Sub-Committee shall be a charge on Government.

- 16.7.10 The first annual budget for the Board and Sub-Committee and a multi-year financial forecast of the Board's and the Sub-Committee's operation shall be set out in the implementation plan for the Umbrella Final Agreement.

#### **Powers and Responsibilities of the Board**

- 16.7.11 The Board, acting in the public interest and consistent with this chapter and taking into consideration all relevant factors including recommendations of the Councils, may make recommendations to the Minister, to Yukon First Nations and to the Councils, on all matters related to Fish and Wildlife management, Legislation, research, policies, and programs.

- 16.7.12 Without restricting 16.7.11, the Board:

16.7.12.1 may recommend to the Minister policies for the management of Fish and Wildlife and their habitats;

16.7.12.2 may make recommendations to the Minister on the need for and the content and timing of all Yukon Fish and Wildlife management plans for species included in international agreements, threatened species or populations, species or populations declared by the Minister as being of a territorial, national or international interest, and Transplanted Populations and Exotic Species;

16.7.12.3 may review and make recommendations to the Minister and to Yukon First Nations on management plans recommended by the Councils, specifically the population goals and the management options contained within those plans;

16.7.12.4 may, where required by species or population management plans, recommend to the Minister a Total Allowable Harvest for a species listed in 16.7.12.2 in accordance with 16.9.0;



- 16.7.17.9 The Board shall appoint a chairperson from the membership of the Sub-Committee. In the event the Board fails to select a chairperson within 60 days of the position being vacant, the Minister shall appoint a chairperson from the membership of the Sub-Committee after Consultation with the Sub-Committee.
- 16.7.17.10 The Department of Fisheries and Oceans shall provide technical and administrative support to the Sub-Committee as required to determine appropriate plans for Salmon management, and a senior official of the department in the Yukon shall serve the Sub-Committee as Executive Secretary.
- 16.7.17.11 The Sub-Committee, acting in the public interest and consistent with this chapter and taking into account all relevant factors including recommendations of the Councils, may make recommendations to the Minister and to Yukon First Nations on all matters related to Salmon, their habitats and management, including Legislation, research, policies and programs.
- 16.7.17.12 Without restricting 16.7.17.11, the Sub-Committee:
- (a) may recommend to the Minister policies for the management of Salmon and their habitats;
  - (b) may make recommendations to the Minister on the need for, and on the content and timing of Salmon Harvesting and management plans in accordance with the terms of this chapter;
  - (c) may make recommendations to the Minister on the need for, and on a position on, interjurisdictional agreements affecting the Use of Yukon Salmon resources;
  - (d) may seek, from a Council or the public, input on specific aspects of a Salmon management plan;
  - (e) subject to Yukon First Nations' Final Agreements, may make recommendations to the Minister on new opportunities and proposed management measures for commercial Uses of Salmon;

- (f) after Consultation with affected Yukon First Nations, shall make recommendations to the Minister on allocation, in amount and by area, of Salmon to users, in accordance with this chapter; and
  - (g) may make recommendations on management measures required to best ensure that the basic needs allocation of a Yukon First Nation is met, recognizing that resources available for fisheries management may be limited.
- 16.7.17.13 Representatives from the Sub-Committee shall form the majority of the Canadian representatives to any Yukon River panel established pursuant to the Canada-USA Pacific Salmon Treaty.
- 16.7.17.14 The Sub-Committee shall be granted standing as an interested party to participate in the public proceedings of any agency, board or commission dealing with matters that affect the management and Conservation of Salmon or their habitat in the Yukon.
- 16.7.17.15 The Sub-Committee shall communicate its recommendations and decisions to the Board, and to the Minister in accordance with the provisions of 16.8.0.
- 16.7.18 Where the Board or the Sub-Committee does not carry out a responsibility, the Minister, after giving notice to the Board or the Sub-Committee as appropriate, may carry out that responsibility.
- 16.7.19 The Minister shall Consult with and obtain a recommendation of the Board before declaring a species or population to be of territorial, national or international interest under 16.7.12.2.
- 16.7.20 Upon request by the Board or the Sub-Committee, the Minister and the affected Yukon First Nation shall make available to the Board or the Sub-Committee information in their possession reasonably required for the Board or the Sub-Committee to carry out its functions under this chapter.

**16.8.0 Role of Ministers and Yukon First Nations**

**Implementation of Council, Board and Sub-Committee Decisions**

- 16.8.1 The provisions of 16.8.2 to 16.8.8 apply to decisions and recommendations of the Councils, the Board and the Sub-Committee made to the Minister pursuant only to 10.5.5, 16.3.13, 16.5.1.8, 16.6.10, 16.6.14, 16.7.12, 16.7.17.12, 16.7.19, 16.8.12, 16.9.2, 16.9.8, 16.10.1, 16.10.12, 16.11.10, 17.4.1.2, 17.4.1.3, 17.4.1.5 and 17.4.1.6 and to those recommendations and decisions of the Board, the Councils or the Sub-Committee which may be referred to 16.8.0 in a Yukon First Nation Final Agreement.
- 16.8.1.1 In 16.8.2 to 16.8.7, Board means the Board, Councils and Sub-Committee.
- 16.8.2 Unless the Minister directs otherwise, the Board shall forward its recommendations and decisions pursuant to 16.8.1 to the Minister, accompanied by draft regulations where appropriate.
- 16.8.3 Unless the Minister directs otherwise, all recommendations and decisions of the Board shall be kept confidential until the process in 16.8.4 to 16.8.6 has been completed or the time for the process has expired.
- 16.8.4 The Minister, within 60 days of the receipt of a recommendation or decision under 16.8.2, may accept, vary, set aside or replace the recommendation or decision. Any proposed variation, replacement or setting aside shall be sent back to the Board by the Minister with written reasons. The Minister may consider information and matters of public interest not considered by the Board.
- 16.8.4.1 The Minister may extend the time provided in 16.8.4 by 30 days.
- 16.8.4.2 Nothing in 16.8.4 shall be construed as limiting the application of 16.3.3.
- 16.8.5 The Board, within 30 days of the receipt of a variation, replacement or setting aside by the Minister pursuant to 16.8.4, shall make a final recommendation or decision and forward it to the Minister with written reasons.

- 16.8.5.1 The Minister may extend the time provided under 16.8.5.
- 16.8.6 The Minister, within 45 days of receipt of a final recommendation or decision, may accept or vary it, or set it aside and replace it.
- 16.8.6.1 In the event that the Minister proposes to vary or to set aside and replace a recommendation of the Board with respect to the determination of a Total Allowable Harvest, the Minister shall make reasonable efforts to reach a consensus with the affected Yukon First Nation on the variation or setting aside and replacement of the recommendation.
- 16.8.6.2 In the event that the Minister and the affected Yukon First Nation are unable to reach a consensus under 16.8.6.1, the Minister may proceed to vary or set aside and replace the recommendation of the Board with respect to the determination of the Total Allowable Harvest, provided that the Minister is satisfied that the variation or replacement is consistent with the principle of Conservation.
- 16.8.6.3 The process for seeking consensus with the affected Yukon First Nation shall give due consideration to timing of any statutory or regulatory changes required and to the timing of Harvesting activities.
- 16.8.6.4 The Minister may extend the time provided in 16.8.6 in order to carry out the requirements of 16.8.6.1 and 16.8.6.2.
- 16.8.6.5 The Minister shall provide the Board with notice of the Minister's final decision under 16.8.6.
- 16.8.7 Government shall, as soon as practicable, implement:
- 16.8.7.1 all recommendations and decisions of the Board that are accepted by the Minister under 16.8.4;
- 16.8.7.2 all decisions of the Minister under 16.8.6; and
- 16.8.7.3 subject to 16.8.7.1 and 16.8.7.2, all recommendations or decisions of the Board after the expiry of the time provided in the process set out in 16.8.4 and 16.8.6.



- 16.8.8 The Minister may refer any matter described in 16.8.1 to the dispute resolution process under 26.4.0 once the procedure set out in 16.8.1 to 16.8.4 has been completed.

#### Judicial Review of Decisions

- 16.8.9 All final decisions of the Board, Sub-Committee and Council pursuant to 16.6.10.6 and 16.10.14 shall be final and binding and not subject to appeal or review in any court provided however that an application for judicial review by a Yukon First Nation, Government or any affected Person, shall lie to the Supreme Court of the Yukon upon the grounds that the Board, Sub-Committee or Council:
- 16.8.9.1 failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
  - 16.8.9.2 erred in law in making its decision, whether or not the error appears on the face of the record; or
  - 16.8.9.3 based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.
- 16.8.10 An application for judicial review shall be made within 60 days of the decision.

#### Emergency Action by the Minister

- 16.8.11 Where it appears to the Minister that there is an emergency which affects the well-being of Fish and Wildlife or their habitat, and where time does not permit Consultation with the Board, Sub-Committee or affected Council, the Minister may take such action as is necessary before Consulting with the Board, Sub-Committee or the affected Council.
- 16.8.12 Where emergency action has been taken pursuant to 16.8.11, the Minister shall within seven days inform the Board, Sub-Committee or Council and solicit their continuing advice. The Board, Sub-Committee or Council may recommend to the Minister that the emergency action be terminated pending their consideration of the issue.

- 16.8.13 Notwithstanding 16.3.2, Government may allow a catch of Salmon greater than the Total Allowable Catch in exceptional circumstances.

#### Referral of Matters by the Minister

- 16.8.14 The Minister may request that a Council, the Board or the Sub-Committee exercise a Council, Board or Sub-Committee power or responsibility under a Settlement Agreement, as appropriate, and the Council, the Board or the Sub-Committee shall comply with the request within such reasonable time as the Minister requires.

#### 16.9.0 Fish and Wildlife Harvests

- 16.9.1 Each Yukon First Nation Final Agreement shall set out the manner in which the Total Allowable Harvest shall be shared between Yukon Indian People and other harvesters.
- 16.9.1.1 When opportunities to harvest Freshwater Fish or Wildlife are limited for Conservation, public health or public safety, the Total Allowable Harvest shall be allocated to give priority to the Subsistence needs of Yukon Indian People while providing for the reasonable needs of other harvesters.
- 16.9.1.2 The priority in 16.9.1.1 is subject to provisions set out in Yukon First Nation Final Agreements pursuant to 16.9.1 or 16.9.10 and to provisions negotiated subsequently pursuant to 16.9.13.
- 16.9.2 The Board, pursuant to 16.7.12.4, and the Council, pursuant to 16.6.10.1, may establish, modify or remove Total Allowable Harvests for Freshwater Fish or Wildlife populations from time to time in the Yukon but shall only do so if:
- 16.9.2.1 required for Conservation, public health or public safety;
- 16.9.2.2 required due to the inability of various Fish and Wildlife species and populations to meet sustainable yield requirements as determined by scientific research and surveys and the special knowledge of Yukon Indian People; or
- 16.9.2.3 required to achieve the goals and objectives identified by species and population management plans; and

only to the extent reasonably necessary to achieve those ends.

16.9.3 Where, in any year:

- 16.9.3.1 the maximum harvest allocation for a species of Wildlife negotiated for a Yukon First Nation pursuant to 16.9.1 or 16.9.13 is greater than that Yukon First Nation's Basic Needs Level or its needs, as the case may be; and
- 16.9.3.2 the maximum harvest allocation to another Yukon First Nation pursuant to its Yukon First Nation Final Agreement is less than that Yukon First Nation's Basic Needs Level or its needs, as the case may be, for that species of Wildlife,

Government, upon the request of the Yukon First Nation described in 16.9.3.1, shall allocate some or all of the maximum harvest allocation as determined by that Yukon First Nation which is surplus to the Basic Needs Level or needs of that Yukon First Nation to the Yukon First Nation described in 16.9.3.2 in the Traditional Territory of the Yukon First Nation described in 16.9.3.1 up to the Basic Needs Level or needs, as the case may be, of the Yukon First Nation described in 16.9.3.2.

- 16.9.4 The Board, pursuant to 16.7.12.4, or the Council, pursuant to 16.6.10.1, shall recommend to the Minister the allocation of that portion of the Total Allowable Harvest which is not allocated to a Yukon First Nation to satisfy its Basic Needs Level or adjusted Basic Needs Level.

**Basic Needs Levels**

- 16.9.5 Each Yukon First Nation Final Agreement shall set out Basic Needs Levels or special Harvesting opportunities for key Freshwater Fish and Wildlife species.
- 16.9.6 When determining a Basic Needs Level or special Harvesting opportunities for each Yukon First Nation, Government and Yukon First Nations may consider the following:
  - 16.9.6.1 recent and current harvests of the species or population by Yukon Indian People enrolled under that Yukon First Nation Final Agreement;

- 16.9.6.2 recent and current harvests within the Yukon First Nation's Traditional Territory by other harvesters;
  - 16.9.6.3 current personal consumption estimates of the species or population by Yukon Indian People enrolled under that Yukon First Nation Final Agreement for food;
  - 16.9.6.4 the ability of the species or population to satisfy the Harvesting needs of Yukon Indian People enrolled under that Yukon First Nation Final Agreement as well as other users; and
  - 16.9.6.5 such other factors as the parties may agree.
- 16.9.7 Government and a Yukon First Nation may agree to conduct a study to define more clearly the factors listed in 16.9.6.

#### Adjusted Basic Needs Levels

- 16.9.8 Once a Basic Needs Level has been set pursuant to a Yukon First Nation Final Agreement, the Board may, upon the recommendation of a Council or a Yukon First Nation, review and recommend to the Minister the adjustment of the Basic Needs Level. In reaching its decision about adjusting the Basic Needs Level, the Board shall, in addition to the factors listed in 16.9.6, take into consideration the following factors:
- 16.9.8.1 human population change within the Traditional Territory;
  - 16.9.8.2 changing patterns of consumption;
  - 16.9.8.3 the cultural and nutritional importance of Fish and Wildlife to Yukon Indian People;
  - 16.9.8.4 the use and Harvesting of Fish and Wildlife for personal use by Yukon residents; and
  - 16.9.8.5 the commercial consumptive and Non-Consumptive Use of Fish and Wildlife.



- 16.9.9 In any year the adjusted Basic Needs Level may vary upward or downward, but shall not fall below the Basic Needs Level established pursuant to a Yukon First Nation Final Agreement, unless the affected Yukon First Nation consents.
- 16.9.10 Yukon First Nation Final Agreements may provide for special Harvesting rights for Yukon Indian People for Freshwater Fish. The purpose of the special Harvesting rights shall be to maintain the priority for Yukon Indian People's food fish needs over other uses.
- 16.9.11 The special Harvesting rights for Freshwater Fish pursuant to 16.9.10 may include the designation of certain lakes as being primarily for food fishing by Yukon Indian People, or such other measures as the parties to a Yukon First Nation's Final Agreement may agree, in absence of any Basic Needs Level.
- 16.9.12 Where no special Harvesting rights for Freshwater Fish are negotiated pursuant to 16.9.10, Government shall ensure that the food Freshwater Fish needs of Yukon Indian People receive primary consideration in the allocation of Freshwater Fish resources.
- 16.9.13 Following a Yukon First Nation Final Agreement, a Yukon First Nation and Government may negotiate a Basic Needs Level for a species other than those species where Basic Needs Levels have already been negotiated.
- 16.9.14 Where a Basic Needs Level is established pursuant to 16.9.10 or 16.9.13, the provisions of 16.9.0 shall apply to the determination and allocation of the Total Allowable Harvest to Yukon First Nations and to other harvesters.
- 16.9.15 The Basic Needs Level established for a Yukon First Nation shall be without prejudice to the Basic Needs Level of any other Yukon First Nation.
- 16.9.16 In the event that the Total Allowable Harvest is less than a Basic Needs Level or an adjusted Basic Needs Level, Government, the Yukon First Nation, the Board and the affected Council shall endeavour to rehabilitate the population.

## **Edible Fish or Wildlife Product Usage**

16.9.17 Where the primary reason for Harvesting Wildlife is for purposes other than food, Government and Yukon First Nations shall explore methods of acquiring any edible meat which is a by-product of the harvest to assist in satisfying the needs of Yukon Indian People for food.

### **16.10.0 Allocation of Salmon Harvest**

#### **Total Allowable Catch**

16.10.1 The Sub-Committee, pursuant to 16.7.17.12(b), may recommend to the Minister the establishment, modification or removal of the Total Allowable Catch for Salmon from time to time in a drainage basin, but shall do so only if required:

16.10.1.1 for Conservation, public health or public safety;

16.10.1.2 due to the inability of various Salmon species and populations to meet sustainable yield requirements as determined by scientific research and surveys and the special knowledge of Yukon Indian People;  
or

16.10.1.3 to achieve the goals and objectives identified for Salmon species and populations in Salmon Harvesting and management plans; and

only to the extent reasonably necessary to achieve those ends.

16.10.2 The Sub-Committee, pursuant to 16.7.17.12(f), shall recommend to the Minister, for a drainage basin, the allocation of that portion of the Total Allowable Catch which remains after the basic needs allocations described in this chapter for Yukon First Nations have been made.

#### **Basic Needs Allocation Considerations**

16.10.3 In negotiating a basic needs allocation, the affected Yukon First Nation and Government shall consider the following:

16.10.3.1 the historical uses and Harvesting patterns of Yukon Indian People and other aboriginal groups;

- 16.10.3.2 the Harvesting patterns of other residents of the Yukon;
- 16.10.3.3 changing patterns of consumption;
- 16.10.3.4 the statistics prepared by the Department of Fisheries and Oceans for the Indian food fishery within each drainage basin for the past five years;
- 16.10.3.5 the ability of Salmon stocks within a drainage basin to meet the demands of the Yukon First Nations whose Traditional Territories include that drainage basin; and
- 16.10.3.6 such other factors as the parties may agree.

**Basic Needs Allocation of Salmon Fishery to Yukon First Nations**

- 16.10.4 The total basic needs allocation for Yukon First Nations for each species of Salmon in the drainage basin of the Yukon River, and the allocation among the Yukon First Nations of that total basic needs allocation, is set out in Schedule A - Determination of Basic Needs Allocation for Drainage Basin of the Yukon River, attached to this chapter.
- 16.10.5 The basic needs allocation among the Yukon First Nations of Salmon set out in Schedule A - Determination of the Basic Needs Allocation for the Drainage Basin of the Yukon River, attached to this chapter, may be varied by agreement in writing of all affected Yukon First Nations and Government.
- 16.10.6 The basic needs allocation for the Champagne and Aishihik First Nations of each species of Salmon in the drainage basin of the Alsek River shall be set out in the Champagne and Aishihik First Nations Final Agreement.
- 16.10.7 The basic needs allocation for the Vuntut Gwich'in First Nation of each species of Salmon in the drainage basin of the Porcupine River shall be set out in the Vuntut Gwich'in First Nation Final Agreement.

- 16.10.8 Unless the affected Yukon First Nations otherwise agree, the basic needs allocation for a drainage basin shall have priority over all other fisheries in the allocation of the Total Allowable Catch. A basic needs allocation shall not be construed as a guarantee by Government that the allocation will actually be harvested by the Yukon First Nation.
- 16.10.9 Where the Total Allowable Catch is less than what is required to satisfy the basic needs allocations of Yukon First Nations within the Yukon River drainage basin, the Total Allowable Catch shall be distributed among the affected Yukon First Nations on a pro rata basis proportional to their share of the total basic needs allocation for that drainage basin.
- 16.10.10 Subject to 16.10.11, Government may adjust a Total Allowable Catch because of variations in the anticipated run size but only after Consultation with the Sub-Committee, and any such adjustment may be made in-season.
- 16.10.11 Where Government proposes to adjust the Total Allowable Catch under 16.10.10 and time does not permit Consultation with the Sub-Committee, Government may make the adjustment but it shall, within seven days, inform the Sub-Committee of the adjustment and solicit its continuing advice.
- 16.10.12 The Sub-Committee may recommend to the Minister that any adjustment made under 16.10.11 be varied or terminated pending the Sub-Committee's consideration of the issue.
- 16.10.13 Where:
- 16.10.13.1 a Total Allowable Catch is less than the total basic needs allocation in a season for the affected Yukon First Nations, and it is subsequently determined that the spawning escapement targets for Conservation were greater than was actually required for Conservation in that season; or
  - 16.10.13.2 subject to an agreement entered into pursuant to 16.10.8, Government allocates Salmon to other fisheries which results in there being insufficient Salmon available to a Yukon First Nation to harvest its basic needs allocation for a drainage basin,



Government shall, in subsequent years, allocate additional Salmon to the affected Yukon First Nations, in proportion to their share of the total basic needs allocation, from any Salmon which are not required for Conservation for that drainage basin, so that, over a six year period, the Yukon First Nations are allocated, on average, their total basic needs allocation.

- 16.10.14 Where a downstream Yukon First Nation harvests Salmon in excess of its basic needs allocation with the result that an upstream Yukon First Nation does not have available to it sufficient Salmon to meet its basic needs allocation, the Sub-Committee may, in subsequent years, reallocate a portion of the basic needs allocation of the downstream Yukon First Nation to the upstream Yukon First Nation to compensate for the over-harvesting of the downstream Yukon First Nation.

**Allocation of Commercial Salmon Fishery to the Yukon First Nations**

- 16.10.15 In accordance with 16.10.16, upon ratification of the Umbrella Final Agreement, Government shall issue a number of new additional Yukon commercial Salmon fishing licences to Yukon First Nations whose Traditional Territories include part of the Yukon River drainage basin.
- 16.10.16 The number of licences to be issued pursuant to 16.10.15 shall be the number equivalent to 26 percent of the Yukon commercial Salmon fishing licences in effect for the Yukon River drainage basin on the day immediately preceding the date of ratification of the Umbrella Final Agreement.
- 16.10.16.1 Following ratification of the Umbrella Final Agreement, the Yukon First Nations of the Yukon River drainage basin shall notify Government how the licences to be issued pursuant to 16.10.15 are to be allocated between them.
- 16.10.16.2 Upon receipt of notification pursuant to 16.10.16.1, Government shall issue, without fee, the licences to the affected Yukon First Nations.
- 16.10.17 The licences issued pursuant to 16.10.15 are not transferable except to another Yukon First Nation whose Traditional Territory includes part of the Yukon River drainage basin.

- 16.10.18 The allocation of commercial Salmon fishing licences in the drainage basin of the Alsek River for the Champagne and Aishihik First Nations shall be set out in the Champagne and Aishihik First Nations Final Agreement.
- 16.10.19 The allocation of commercial Salmon fishing licences in the drainage basin of the Porcupine River for the Vuntut Gwich'in First Nation shall be set out in the Vuntut Gwich'in First Nation Final Agreement.
- 16.10.20 Nothing in a Settlement Agreement prevents a Yukon Indian Person or a Yukon First Nation from acquiring a commercial Salmon or commercial sport fishing licence through the normal regulatory process, including, where applicable, the payment of licence fees, and such licences shall not be considered to be part of the allocation allocated under 16.10.15 or 16.10.16.
- 16.11.0 Trapline Management and Use**
- 16.11.1 Yukon First Nation Final Agreements shall set out the manner in which Government, Councils, the Board and Yukon First Nations participate in the regulation, management and Use of Furbearers, including the manner in which local bylaws approved by the Council will be implemented.

#### **General Guidelines for the Councils**

- 16.11.2 In establishing local criteria for the management and Use of Furbearers in accordance with 16.6.10.6 and 16.6.10.7, the Councils shall provide for:
- 16.11.2.1 the maintenance and enhancement of the Yukon's wild fur industry and the Conservation of the fur resource; and
- 16.11.2.2 the maintenance of the integrity of the management system based upon individual trapline identity, including individual traplines within group trapping areas.

#### **Trapline Allocation Formula**

- 16.11.3 Subject to 16.11.4, the overall allocation of traplines in each Yukon First Nation's Traditional Territory shall be approximately 70 percent held by Yukon Indian People and aboriginal people who are beneficiaries of Transboundary Agreements and approximately 30 percent held by other Yukon residents.

- 16.11.10.5 the Yukon and the Council shall maintain a register of Category 1 and Category 2 Traplines, and the Yukon First Nation shall also maintain a register of Category 1 Traplines;
- 16.11.10.6 for Category 1 Traplines, the final allocation authority shall rest with the Yukon First Nation;
- 16.11.10.7 for Category 2 Traplines, the final allocation authority shall rest with the Minister;
- 16.11.10.8 a Yukon First Nation, Government or any affected Person may refer any dispute arising out of 16.11.10 to the dispute resolution process under 26.4.0; and
- 16.11.10.9 a Yukon First Nation Final Agreement may set out additional provisions for trading Category 1 and Category 2 Traplines.

#### Interim Protection

- 16.11.11 The parties to the Umbrella Final Agreement agree not to reduce the number of traplines currently held by Yukon Indian People in a Yukon First Nation's Traditional Territory until the Effective Date of the Yukon First Nation Final Agreement, provided the Yukon First Nation Final Agreement is ratified before May 29, 1994 or within 24 months of commencement of negotiation of that Yukon First Nation Final Agreement, whichever comes sooner.

#### Trapline Development

- 16.11.12 Subject to 6.6.0 and Laws of General Application, holders, other than Yukon Indian People, of traplines on Settlement Land may construct and occupy, on Settlement Land, such cabins as are necessary for the reasonable use and enjoyment of traplines, and may cut necessary trails on their traplines.

## Compensation

16.11.13 Yukon Indian Persons holding traplines whose Furbearer Harvesting opportunities will be diminished due to other resource development activities shall be compensated. Government shall establish a process following the Effective Date of the Yukon First Nation's Final Agreement for compensation, including designation of the Persons responsible for compensation.

16.11.13.1 Nothing in 16.11.13 shall be construed to affect a Yukon Indian Person's right to compensation pursuant to Law before the process in 16.11.13 is established.

## Government Access

16.11.14 The designation of a trapline as Category 1 shall not restrict access by Government, in accordance with the provisions of the Umbrella Final Agreement, to that trapline to handle or collect animals for scientific or management reasons.

## 16.12.0 Access for Wildlife Harvesting on Settlement Land

16.12.1 Any trapper whose trapline is wholly or partially on Settlement Land shall continue to exercise all rights as a trapper to his or her existing trapline without fee in accordance with Settlement Agreements and Laws of General Application and bylaws established by the Council.

16.12.2 Where a Category 2 Trapline lies wholly or in part on Settlement Land, the holder of the trapline shall elect either to:

16.12.2.1 retain that portion of the trapline on Settlement Land and exercise the rights pursuant to 16.12.1;

16.12.2.2 make the trapline available for exchange for another trapline; or

16.12.2.3 sell that portion of the trapline on Settlement Land to the affected Yukon First Nation.



- 16.12.3 Subject to 16.12.4 and 16.12.10, any Person has a right of access to enter and stay on Undeveloped Category B Settlement Land without the consent of the affected Yukon First Nation for the purpose of non-commercial Harvesting of Fish and Wildlife, if permitted by, and in accordance with Laws which apply to lands under the administration and control of the Commissioner.
- 16.12.4 The Minister of the Yukon responsible for Fish and Wildlife may, on his own initiative or at the request of a person or entity holding title to any Parcel which is or was Category B Settlement Land from which the Public Access for Wildlife Harvesting is reserved, release and discharge the Public Access for Wildlife Harvesting in respect of that Parcel in whole or in part on such terms and conditions as he decides.
- 16.12.5 Subject to Settlement Agreements, and notwithstanding a Yukon First Nation's ownership of the Bed of waterbodies set out in Chapter 5 - Tenure and Management of Settlement Lands, Government reserves the right to manage the fishery and to determine who may fish in those waterbodies which are adjacent to a Waterfront Right-of-Way.
- 16.12.6 Where a Yukon First Nation owns the Bed of a waterbody and there is no adjacent Waterfront Right-of-Way, that Yukon First Nation has an exclusive right to fish in that portion of the Bed of the waterbody owned by the Yukon First Nation unless otherwise agreed in Settlement Agreements.
- 16.12.7 An outfitting concession holder has the right of access to cross and to make necessary stops on Settlement Land to reach that outfitting area without the consent of the affected Yukon First Nation. The outfitting concession holder's right of access shall include the right to erect temporary camps and to graze horses incidental to such access, and to travel over the land with employees and clients and their equipment but shall not include the right to hunt thereon or to erect any permanent camp thereon.
- 16.12.8 Yukon First Nations whose final land selections may adversely affect existing outfitting concessions shall negotiate with the outfitting concession holder to determine terms and conditions that can be established to mitigate any impact on the outfitting concession.

16.12.9 To the extent the impact of final land selections on existing outfitting concessions cannot be resolved through negotiations between the outfitting concession holder and a Yukon First Nation, Government will compensate the outfitting concession holder for provable loss caused by the concession holder's inability to use Settlement Land within that concession area for outfitting. Provable loss shall be defined prior to the enactment of Settlement Legislation.

16.12.10 The rights of access provided by 16.12.3 and 16.12.7 are subject to the conditions that there shall be no:

16.12.10.1 significant damage to Settlement Land or to improvements on Settlement Land;

16.12.10.2 mischief committed on Settlement Land;

16.12.10.3 significant interference with the use and peaceful enjoyment of its Settlement Land by the Yukon First Nation;

16.12.10.4 fee or charge payable to the affected Yukon First Nation other than that provided for in 16.5.1.13 and 16.5.1.14; or

16.12.10.5 compensation for damage other than significant damage.

16.12.11 A Person who fails to comply with the conditions in 16.12.10.1, 16.12.10.2 or 16.12.10.3 shall be considered a trespasser with respect to that incident of access.

16.13.0 Training and Education

16.13.1 The parties to the Umbrella Final Agreement shall immediately investigate the needs, opportunities and structures required to ensure the adequate development of human resources needed by Yukon First Nations and other Yukon residents in renewable resources management and related economic development opportunities. The parties to the Umbrella Final Agreement agree to design the structures necessary to develop these human resources.

- 16.13.2 The Yukon shall provide trapper training programs, designed in collaboration with Yukon First Nations and the Councils, for Yukon Indian People as required from time to time, to encourage effective involvement of trappers in the management and development of traplines. Unless the Yukon otherwise decides, these training programs shall be provided for 10 years from the enactment of Settlement Legislation.
- 16.13.3 Government and Yukon First Nations shall cooperate in providing cross-cultural orientation and education for Board, Sub-Committee and Council members.
- 16.14.0 Implementation Provisions
- 16.14.1 Canada shall recommend to Parliament the repeal of section 19(3) of the Yukon Act, R.S. 1985, c.Y-2 upon the enactment of Settlement Legislation.
- 16.15.0 Harvest Support Program
- 16.15.1 The parties to the Umbrella Final Agreement agree to complete a feasibility study on the design of a Harvesting support program in the Yukon prior to Settlement Legislation.

## SCHEDULE A

### DETERMINATION OF BASIC NEEDS ALLOCATION FOR THE DRAINAGE BASIN OF THE YUKON RIVER

#### 1.0 Definitions

In this schedule, the following definitions shall apply.

"Contractor" means the contractor appointed pursuant to 3.7.

"Minister" means the Minister of Fisheries and Oceans.

"Study" means the Yukon River Drainage Basin Salmon Harvest Study.

"Yukon First Nation" and "Yukon First Nations" have the same meaning as in Chapter 1 - Definitions, but do not include the Liard First Nation.

#### 2.0 General

2.1 A basic needs allocation required by 16.10.4 shall be determined for each Yukon First Nation in accordance with 3.0 or 4.0.

2.2 Harvesting of Salmon pursuant to 16.4.2 by Yukon Indian People enrolled under the Yukon First Nation Final Agreement of a Yukon First Nation for which a basic needs allocation for Salmon has been established shall thereafter be limited to the basic needs allocation.

2.3 The provisions of 16.4.4.1 shall not apply to a Yukon First Nation until every Yukon First Nation's basic needs allocation has been established.

#### 3.0 Yukon River Drainage Basin Salmon Harvest Study

3.1 The Council for Yukon Indians and the Minister shall jointly cause the Study to be carried out.

3.2 The purpose of the Study is to determine for each Yukon First Nation, the arithmetic average of the actual annual harvest of all species of Salmon in the drainage basin of the Yukon River by persons eligible to be enrolled as Yukon Indian People under the Final Agreement of a Yukon First Nation.



- 3.3 Subject to 3.4, the actual annual harvest for the study shall be determined during a five year period.
- 3.4 If, during the Study, the exercise of the right under 16.4.2 to harvest Salmon for Subsistence is actually limited pursuant to 16.3.3, the Contractor will, at the request of the Salmon Sub-Committee, eliminate from the Study the year in which the limitation occurs and the Study will be extended by one year, provided that the Study shall be completed in no more than eight years regardless of the number of years which are eliminated under this provision.
- 3.5 The Council for Yukon Indians and the Minister shall negotiate terms of reference for the Study within six months after the effective date of Settlement Legislation, failing which, either party may refer any outstanding matter to the dispute resolution process under 26.3.0
- 3.6 The terms of reference for the Study shall include:
- 3.6.1 an initial one year period during which the Contractor is to assist the Yukon First Nations, Government and other interested parties to prepare for the Study so as to best ensure the accuracy of the Study;
  - 3.6.2 a requirement that the Contractor consider how to balance the change over time in the population of a Yukon First Nation with the factors listed in 16.10.3 in a better way than is reflected in 3.9.1;
  - 3.6.3 the other requirements of this schedule; and
  - 3.6.4 such other provisions as the parties may agree.
- 3.7 The Council for Yukon Indians and the Minister shall, within four months after completing the terms of reference, jointly appoint an independent contractor to carry out the Study, and, failing agreement, either party may refer the matter of the appointment to arbitration under 26.7.0.
- 3.8 An arbitrator acting pursuant to 3.7 shall appoint an independent contractor in accordance with the terms of reference and any bidding criteria the parties have agreed to.

3.9 The basic needs allocation for Salmon for a Yukon First Nation shall be determined in accordance with 3.9.1 or 3.9.2.

3.9.1 The basic needs allocation for Salmon for a Yukon First Nation shall be the greater of:

3.9.1.1 the arithmetic average of the actual annual harvest of Salmon for the years of the Study which are not eliminated pursuant to 3.4, plus 10 percent of that number; and

3.9.1.2 the percentage of the Total Allowable Catch which is equal to the basic needs allocation determined under 3.9.1.1 divided by the Total Allowable Catch arithmetically averaged over the years of the Study which are not eliminated pursuant to 3.4.

3.9.2 If, within three months of the release of the results of the Study, a Yukon First Nation so requests, the Minister and the Yukon First Nation will negotiate with a view to agreeing to make changes to 3.9.1 to balance better the change over time in population of the Yukon First Nation with the factors listed 16.10.3, and each party will consider in negotiations the recommendations of the contractor referred to in 3.6.2 and the factors described in 16.10.3.

3.9.3 If, after one year following the request to negotiate, the parties have not reached agreement, either party may, within a further 30 days, refer any outstanding matter to the dispute resolution process under 26.4.0.

3.9.4 If no agreement is reached under 3.9.2, no reference to dispute resolution is made under 3.9.3, or no agreement is reached within four months following a reference to dispute resolution, the basic needs allocation for the Yukon First Nation shall be as set out in 3.9.1.

#### 4.0 Negotiation of a Basic Needs Allocation

4.1 The Minister and a Yukon First Nation, at the request of the Yukon First Nation, may, at any time before the end of the second year of the Study, negotiate a basic needs allocation for Salmon for that Yukon First Nation in accordance with 16.10.3, and thereafter the Study shall no longer include that Yukon First Nation.



## CHAPTER T-7

An Act respecting Crown lands in the Yukon Territory and the Northwest Territories

### SHORT TITLE

Short title 1. This Act may be cited as the *Territorial Lands Act*. R.S., c. T-6, s. 1.

### INTERPRETATION

Definitions 2. In this Act,

"Crown"  
«*Couronne*»

"grant"  
«*concession*»

"judge of the Court"  
«*juge*»

"land"  
«*terre*»

"Minister"  
«*ministre*»

"notification"  
«*notification*»

"permit"  
«*permis*»

"Crown" means Her Majesty in right of Canada;

"grant" means letters patent under the Great Seal, a notification and any other instrument by which territorial lands may be granted in fee simple or for an equivalent estate;

"judge of the Court" means, in relation to any matter arising in the Yukon Territory, a judge of the Supreme Court thereof, and, in relation to any matter arising in the Northwest Territories, a judge of the Supreme Court thereof;

"land" includes mines, minerals, easements, servitudes and all other interests in real property;

"Minister" means the Minister of Indian Affairs and Northern Development or, in respect of any matter related to the Northern Pipeline referred to in the *Northern Pipeline Act*, the member of the Queen's Privy Council for Canada designated as the Minister for the purposes of that Act;

"notification" means a direction in a form prescribed by the Governor in Council pursuant to paragraph 23(k) and issued pursuant to subsection 9(2);

"permit" means a permit issued under this Act;

## CHAPITRE T-7

Loi concernant les terres domaniales situées dans le territoire du Yukon et les Territoires du Nord-Ouest

### TITRE ABRÉGÉ

1. *Loi sur les terres territoriales*. S.R., ch. T-6, art. 1. Titre abrégé

### DÉFINITIONS

2. Les définitions qui suivent s'appliquent à la présente loi.

«*bois*» Arbres sur pied ou abattus et toute pièce de bois ouvrée ou non.

«*concession*» Acte, notamment lettres patentes délivrées sous le grand sceau ou notification, aux termes duquel des terres territoriales sont concédées en pleine propriété ou à un titre équivalent.

«*Couronne*» Sa Majesté du chef du Canada.

«*juge*» Juge de la Cour suprême du territoire du Yukon ou de la Cour suprême des Territoires du Nord-Ouest, selon le lieu où l'affaire a pris naissance.

«*ministre*» Le ministre des Affaires indiennes et du Nord canadien ou, pour toute mesure ayant trait au pipe-line du Nord, le membre du Conseil privé de la Reine pour le Canada chargé de l'application de la *Loi sur le pipe-line du Nord*.

«*notification*» Notification adressée dans les conditions prévues au paragraphe 9(2) et établie en la forme fixée par le gouverneur en conseil aux termes de l'alinéa 23k).

«*permis*» Permis délivré sous le régime de la présente loi.

«*terre*» Sont compris dans les terres les mines et les minéraux. En outre, les dispositions les

Définitions

«*bois*» «*timber*»

«*concession*» «*grant*»

«*Couronne*» «*Crown*»

«*juge*» «*judge*...»

«*ministre*» «*Minister*»

«*notification*» «*notification*»

«*permis*» «*permit*»

«*terre*» «*land*»

"territorial lands" "terres..."

"territorial lands" means lands in the Yukon Territory or the Northwest Territories that are vested in the Crown or of which the Government of Canada has power to dispose;

"timber" "bois"

"timber" means trees standing or fallen, logs and bolts, cants, boards and lumber, and any other sawn or shaped product of trees. R.S., c. T-6, s. 2; 1972, c. 17, s. 2.

concernant s'appliquent également aux servitudes ou autres droits de nature immobilière.

"terres territoriales" Les terres qui, dans le territoire du Yukon ou les Territoires du Nord-Ouest, sont dévolues à la Couronne ou que le gouvernement du Canada peut légalement aliéner. S.R., ch. T-6, art. 2; 1972, ch. 17, art. 2.

"terres territoriales" "territorial..."

APPLICATION

CHAMP D'APPLICATION

Application

3. (1) Subject to subsection (2), this Act applies only to territorial lands that are under the control, management and administration of the Minister.

3. (1) Sous réserve du paragraphe (2), la présente loi ne s'applique qu'aux terres territoriales sur lesquelles le ministre a toute autorité.

Application générale

Idem

(2) Sections 9 and 12 to 16 and paragraph 23(k) apply to territorial lands the right to the beneficial use or to the proceeds of which is appropriated to the Commissioner of the Yukon Territory by section 47 of the Yukon Act or to the Commissioner of the Northwest Territories by section 44 of the Northwest Territories Act.

(2) Les articles 9 et 12 à 16 et l'alinéa 23k s'appliquent aux terres territoriales dont la jouissance ou le droit d'en percevoir les fruits est attribué au commissaire du territoire du Yukon ou à celui des Territoires du Nord-Ouest par l'article 47 de la Loi sur le Yukon ou l'article 44 de la Loi sur les Territoires du Nord-Ouest, selon le cas.

Application restreinte

Idem

(3) Nothing in this Act shall be construed as limiting the operation of the Yukon Quartz Mining Act, the Yukon Placer Mining Act, the Dominion Water Power Act or the National Parks Act. R.S., c. T-6, s. 3; 1980-81-82-83, c. 47, s. 45.

(3) La présente loi n'a pas pour effet de limiter l'application de la Loi sur l'extraction du quartz dans le Yukon, de la Loi sur l'extraction de l'or dans le Yukon, de la Loi sur les forces hydrauliques du Canada ou de la Loi sur les parcs nationaux. S.R., ch. T-6, art. 3; 1980-81-82-83, ch. 47, art. 45.

Absence d'effet sur certaines lois

LAND MANAGEMENT ZONES

ZONES D'AMÉNAGEMENT

Land management zones

4. Subject to section 6, the Governor in Council may, where he deems it necessary for the protection of the ecological balance or physical characteristics of any area in the Yukon Territory or the Northwest Territories, set apart and appropriate any territorial lands in that area as a land management zone. R.S., c. 48(1st Supp.), s. 24.

4. S'il l'estime nécessaire pour la préservation de l'équilibre écologique ou des caractéristiques physiques d'une région, dans le territoire du Yukon ou les Territoires du Nord-Ouest, le gouverneur en conseil peut classer des terres territoriales en zones d'aménagement. S.R., ch. 48(1<sup>er</sup> suppl.), art. 24.

Zones d'aménagement

Regulations concerning zones

5. Subject to section 6, the Governor in Council may make regulations respecting

5. Le gouverneur en conseil peut, par règlement, régir :

Règlements

(a) the protection, control and use of the surface of land in a land management zone set apart and appropriated under section 4; and

a) la protection, la surveillance, la gestion et l'usage, en surface, des terres situées dans une zone d'aménagement;

(b) the issue of permits for the use of the surface of land in a land management zone, the terms and conditions of those permits and the fees therefor. R.S., c. 48(1st Supp.), s. 24.

b) la délivrance de permis pour l'usage en surface de ces terres ainsi que fixer les conditions à remplir et les droits à acquitter pour leur obtention. S.R., ch. 48(1<sup>er</sup> suppl.), art. 24.



(b) in the case of territorial lands described in subsection 3(2), by the Commissioner of the Yukon Territory if the lands are in the Yukon Territory or by the Commissioner of the Northwest Territories if the lands are in the Northwest Territories.

b) dans le cas des terres territoriales visées au paragraphe 3(2), par le commissaire du territoire du Yukon ou celui des Territoires du Nord-Ouest, selon le cas.

Effect of issue of notification

(4) The issue of a notification pursuant to subsection (2) has the same force and effect as a grant of territorial land made by letters patent under the Great Seal.

(4) La notification vaut concession effectuée par lettres patentes délivrées sous le grand sceau.

Effet

Notification to set out nature of grant

(5) A notification shall set out the nature of the estate thereby granted and any easements, rights or other interests excepted or reserved therefrom. R.S., c. T-6, s. 5.

(5) La notification énonce la nature des droits concédés, y compris les servitudes, exclusions ou réserves y afférentes. S.R., ch. T-6, art. 5.

Teneur

Prohibition

10. No territorial lands suitable for muskrat farming shall be sold. R.S., c. T-6, s. 6.

10. Les terres territoriales propres à l'élevage du rat musqué ne peuvent être vendues. S.R., ch. T-6, art. 6.

Interdiction de vente

Limitation on sale

11. (1) Not more than one hundred and sixty acres of territorial lands may be sold to any one person without the approval of the Governor in Council.

11. (1) Il ne peut être vendu plus de cent soixante acres de terres territoriales à une seule et même personne sans l'approbation du gouverneur en conseil.

Restriction à la vente

Limitation on lease

(2) Subject to subsection (3), not more than six hundred and forty acres of territorial lands may be leased to any one person without the approval of the Governor in Council.

(2) Il ne peut être cédé à bail plus de six cent quarante acres de terres territoriales à une seule et même personne sans l'approbation du gouverneur en conseil.

Restriction au bail

Other limitation

(3) Where territorial lands are hay lands or lands suitable for grazing or muskrat farming, not more than six thousand four hundred acres may be leased to any one person without the approval of the Governor in Council. R.S., c. T-6, s. 7.

(3) S'il s'agit de terres territoriales produisant du foin, ou propres au pâturage ou à l'élevage du rat musqué, la superficie visée au paragraphe (2) est portée à six mille quatre cents acres. S.R., ch. T-6, art. 7.

Exception

MINING RIGHTS

DROITS MINIERS

Leasing of mining rights

12. The Governor in Council may make regulations for the leasing of mining rights in, under or on territorial lands and the payment of royalties therefor, but such regulations shall provide for the protection of and compensation to the holders of surface rights. R.S., c. T-6, s. 8.

12. Le gouverneur en conseil peut prendre des règlements régissant la cession à bail de droits miniers sur la surface ou le sous-sol de terres territoriales et prévoyant le paiement des redevances correspondantes; ces règlements doivent assurer la protection et l'indemnisation des titulaires des droits de surface. S.R., ch. T-6, art. 8.

Cession

RESERVATION FROM GRANTS

RÉSERVES SUR LES CONCESSIONS

Reservation

13. Unless otherwise ordered by the Governor in Council, a strip of land one hundred feet in width, measured from ordinary high water mark or from the boundary line, as the case may be, shall be deemed to be reserved to the Crown out of every grant of territorial lands where the land extends

13. Dans toute concession, sauf instruction contraire du gouverneur en conseil, sont réputés réservés à la Couronne, sur une largeur de cent pieds mesurée à partir de la laisse de haute mer ou de la ligne de démarcation en jeu, selon le cas, les abords :

Rives et lignes de démarcation

a) de la mer ou d'une échancrure de celle-ci;

- (a) to the sea or an inlet thereof,
- (b) to the shore of any navigable water or an inlet thereof; or
- (c) to the boundary line between the Yukon Territory and Alaska, or between the Yukon Territory and the Northwest Territories, or between the Yukon Territory or the Northwest Territories and the Province of Manitoba, Saskatchewan, Alberta or British Columbia. R.S., c. T-6, s. 9.

Reservation of bed of body of water

14. Unless the grant contains a provision to the contrary, the bed, below ordinary high water mark, of a body of water shall be deemed to be reserved to the Crown out of every grant of territorial lands where the lands border a body of water. R.S., c. T-6, s. 10.

Other reservations

15. There shall be deemed to be reserved to the Crown out of every grant of territorial lands

- (a) all mines and minerals whether solid, liquid or gaseous that may be found to exist in, under or on those lands, together with the right to work the mines and minerals and for this purpose to enter on, use and occupy the lands or so much thereof and to such extent as may be necessary for the working and extraction of the minerals; and
- (b) all rights of fishery and fishing and occupation in connection therewith on or around or adjacent to those lands. R.S., c. T-6, s. 11.

Grant does not convey water rights

16. Unless the grant or other document establishing a grant, lease or other disposition of territorial lands expressly states the contrary, no grant, lease or other disposition of territorial lands conveys any exclusive right, privilege, property or interest with respect to any lake, river, stream or other body of water, within, bordering or passing through the lands. R.S., c. T-6, s. 12.

TIMBER

Cutting timber

17. No person shall cut timber on territorial lands unless that person is the holder of a permit. R.S., c. T-6, s. 13.

Timber regulation

18. (1) The Governor in Council may make regulations

- (a) respecting the issue of permits to cut timber and prescribing the terms and conditions thereof, including the payment of ground rent, and exempting any person or

ou de leurs échancrures;

de la ligne de démarcation entre le territoire du Yukon et l'Alaska, entre le territoire du Yukon et les Territoires du Nord-Ouest, entre le territoire du Yukon ou les Territoires du Nord-Ouest et les provinces du Manitoba, de la Saskatchewan, d'Alberta ou de la Colombie-Britannique. S.R., ch. T-6, art. 9.

ou de leurs échancrures;

c) de la ligne de démarcation entre le territoire du Yukon et l'Alaska, entre le territoire du Yukon et les Territoires du Nord-Ouest, entre le territoire du Yukon ou les Territoires du Nord-Ouest et les provinces du Manitoba, de la Saskatchewan, d'Alberta ou de la Colombie-Britannique. S.R., ch. T-6, art. 9.

14. Sauf stipulation contraire de la concession, le lit d'une étendue d'eau contiguë aux terres concédées est réputé réservé à la Couronne jusqu'à la laisse de haute mer. S.R., ch. T-6, art. 10.

15. Sont réputés réservés à la Couronne, sur les terres territoriales concédées :

- a) les minerais et autres minéraux, notamment les hydrocarbures liquides ou gazeux, qui peuvent y être découverts, en surface ou dans le sous-sol, le droit de les exploiter ainsi que les droits d'accès, d'usage et d'occupation nécessaires pour l'exploitation et l'extraction des minéraux;
- b) les droits de pêche ainsi que les droits d'occupation à cette fin sur les terres territoriales elles-mêmes ou leurs abords. S.R., ch. T-6, art. 11.

16. Sauf stipulation contraire de l'acte en cause, l'octroi de droits sur des terres territoriales — par concession, bail ou autre forme d'aliénation — ne confère aucun droit d'exclusivité sur les étendues d'eau — notamment lacs et cours d'eau — qui y sont enclavées, les bordent ou les traversent. S.R., ch. T-6, art. 12.

BOIS

17. Il est interdit de couper du bois sur des terres territoriales sans permis. S.R., ch. T-6, art. 13.

18. (1) Le gouverneur en conseil peut, par règlement :

- a) régir la délivrance de permis de coupe, fixer les conditions à remplir pour leur obtention, ainsi que le loyer des terrains, et déter-