



YUKON LAND USE PLANNING COUNCIL  
[www.plan yukon.ca](http://www.plan yukon.ca)

---

## **UFA BOARDS AND COMMITTEES FORUM**

**March 9-10, 2017**

**Purpose:** The purpose of UFA Board and Committee Gathering is to give organizations involved in land use planning, environmental assessment, land and water regulation and resource management (including cultural resources) an opportunity to learn from one another and to coordinate activities

**Invited Participants:** Yukon Environmental and Socio-economic Assessment Board, Yukon Fish and Wildlife Management Board, Salmon Sub-Committee, Dispute Resolution Board, Surface Rights Board, Yukon Land Use Planning Council, Renewable Resource Councils, Yukon Heritage Resources Board, Yukon Geographic Place Names Board, Yukon Water Board, Training Policy Committee, Porcupine Caribou Management Board

*Representatives of Yukon First Nations, Yukon and Canada are invited as observers on the morning of day one (9<sup>th</sup>).*

**Facilitator:** Florian Lemphers

**Recorder:** Rhoda Merkel

**Host:** Yukon Land Use Planning Council

## **DAY 1, March 9th**

**Location – The Kwanlin Dün Cultural Center, Long House Room**

**8:30-9:00**      ***Breakfast Buffet***

**9:00- 9:30**      **Call to Order**

**Opening Prayer**      – Joe Copper Jack (YLUPC)

**Event Introduction**      – Florian Lemphers, Facilitator

**Around the Room**      – Each organisation introduced themselves mandate

**Why This Gathering Was Called** – George Nassiopoulos, YLUPC Chair

Pearl Callaghan, YLUPC Member

**9:30 – 10:30**      **The Land Claim Negotiation Period and the Origin of UFA Boards**

**Presentations & Panel Session (speaking order TBD):**

- **Daryn Leas**, Lawyer, Co-Head of the Aboriginal Group
- **Joe Linklater**, former Chief Vuntut Gwitchin Government
- **Eric Morris**, former Chief, TTC AFN representative (nc)
- **Dave Joe**, Lawyer, Dave Joe Law Corp.

***Questions & Answers***

**10:30 -10:45**      ***Refreshment Break***

**10:45 – 11:30**      **Interpreting the Agreements and the Implementation Plans**

- Chapter 11 Interpretation: Progress and Challenges (Ron Cruikshank, YLUPC)
- Other Agencies Experiences

***Questions & Answer and Open Discussion***

**11:30 –1:00**      ***Lunch – Soup, Sandwiches and Song with Jerry Alrfed the Long House Room, KDCC***

## **Afternoon Session**

**New Location - MacBride Museum, Downstairs**

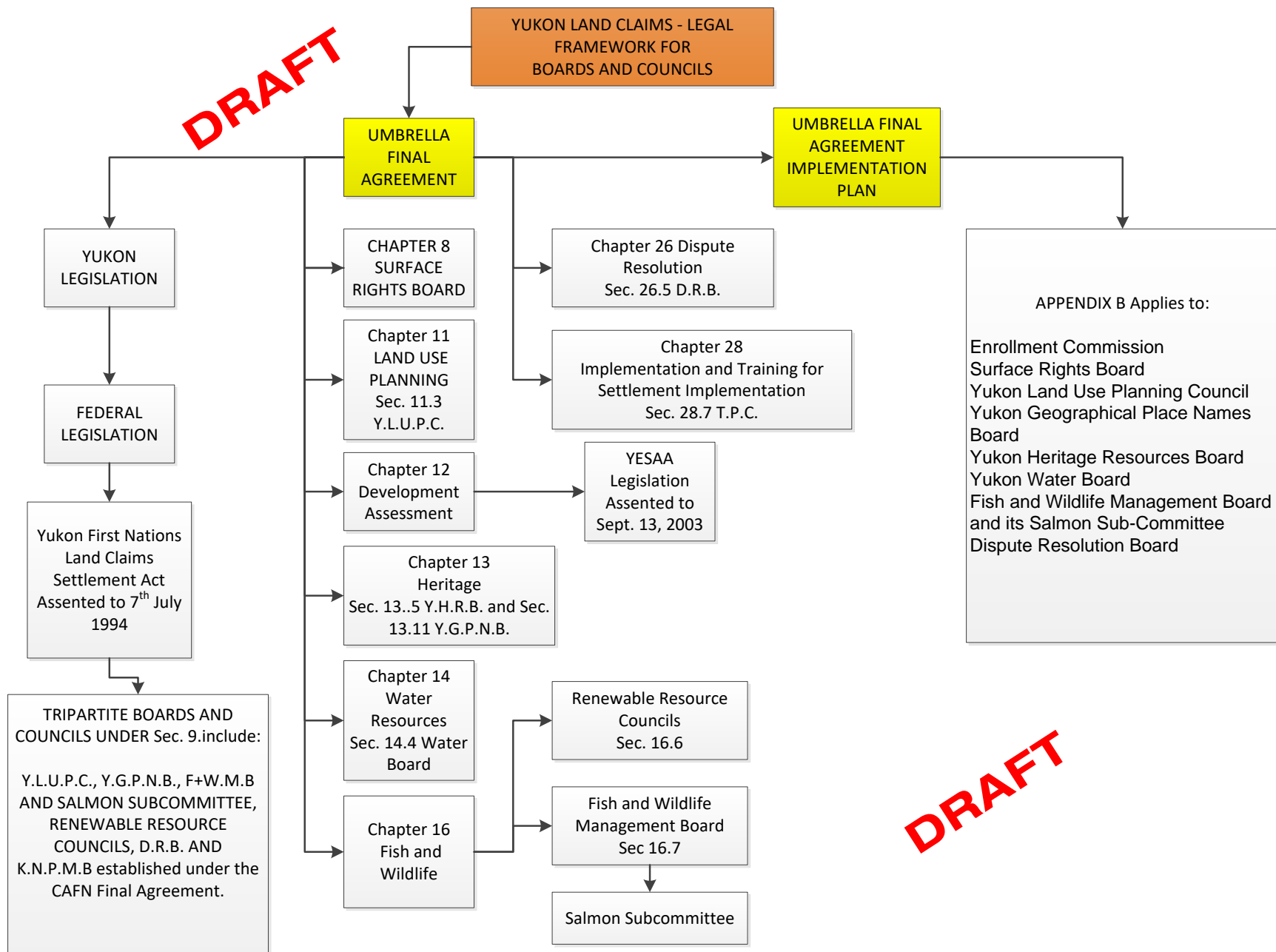
**1:30 – 3:30**      **Celebrating UFA Boards and Committees Milestones and Getting to Know You**

Each board and committee is to contribute their history to a giant “timeline wall” starting with the settlement of the land claims. Important events and happenings in your history will be identified. The goal is for us all to understand and appreciate each other’s experience and work.

**Day 2, March 10<sup>th</sup>**

**Location – The Kwanlin Dün Cultural Centre, Multi-purpose Room**

- 8:30 – 9:00**      ***Breakfast Buffet***
- 9:00 – 9:45**      **NWT Board Forum** - Mark Cliffe-Phillips, Executive Director  
Mackenzie Valley Review Board (video conference)  
***Questions & Answer and Open Discussion***
- 9:45 – 10:30**      **Appointments to UFA Boards and Committees**
- Monica Nordling, Executive Council Office, Yukon Government
  - Michel Leger, Indigenous and Northern Affairs
  - CYFN Process: Power Point Slide
- Questions & Answer and Open Discussion on UFA Board Experiences***
- 10:30-10:45**      ***Refreshment Break***
- 10:45-11:30**      **Challenges of Orientation and Training of Members**
- YLUPC's Orientation and Training of YLUPC and RLUPC Members
  - Other Agencies Experiences
- Questions & Answer and Open Discussion***
- 11:30 – 1:00**      ***Lunch Soup and Bannock and Music from Angel Hall – Multi-purpose Room, KDCC***
- 1:00 – 1:45**      **Policy and Procedures**
- YLUPC's history of operational policies and procedures and key issues
  - Other Agencies Experiences
- Questions & Answers and Open Discussion***
- 1:45 – 2:00**      ***Refreshment Break***
- 2:00 – 3:00**      **UFA Boards and Committees Contribution to Reconciliation: Successes and Challenges**
- “Reconciliation as Consensus-Making?”, Tom Nesbitt, Lawyer and Mediator
  - Regional Planning's Role and History in Reconciliation, YLUPC
  - Other Agencies Experiences
- Questions & Answers and Open Discussion***
- 3:00 – 4:00**      **General Discussion about future of similar forums and additional events**
- 4:00 – 4:30**      **Wrap-up: Round Table Closing Remarks**



**Good morning everyone. Welcome to this first gathering of the Boards and Committees under the Umbrella Final Agreement.**

**I see a lot of familiar faces here and many new ones. I am a citizen of the Teslin Tlingit Council. I live here in Whitehorse. I am a mother and I have four beautiful grandsons ranging from ages 19 years to 17 months. I am aiming to be semi-retired. I have worked for about 45 years in various capacities for the Government of Yukon, the Council of Yukon Indians, First Nations Tourism, the Yukon Fish and Wildlife Management Board, the Teslin Tlingit Council, the Alaska Highway Aboriginal Pipeline Coalition and many years with the Council of Yukon First Nations. I noticed that I usually spent 5 or so years in each of my jobs. I have also sat on numerous Boards and Committees through the years.**

**Over time, I have noticed that there has never been a gathering of the UFA Boards and Committees. Back in 1995 to 2000 when I was the Executive Director for the YFWMB, we had many of the other Chapters of the UFA calling us about our operating procedures and inquiring as to how we were set up and functioning. They were asking about wage scales and how they were being determined. It was then that I wondered why all of the Boards weren't housed under one roof with their various offices and having a common secretariat, board rooms, etc. It appeared to me that we were all operating in isolation of each other and that we could flounder if we didn't reach out to each other and ask for help. Anyway, it appears that we are all set up now and carrying out our various functions but we still need to work together and understand our roles and responsibilities under the Umbrella Final Agreement. Some of you may be veterans in this business and others are brand new wondering how this huge puzzle in Yukon fits together and where to begin.**

**It's been my experience that all Yukoners have a huge learning curve with regards to the UFA and how each of us fit into this large complex scheme of things. I believe that this is now part of the curriculum in schools. That's good. But for the average person and newcomers - where do they go?**

**I think that it is absolutely important for each and every one of us to know our roles and our responsibilities under the chapters of the UFA that we are**

affiliated with. But it is also beneficial to understand what the other chapters are fulfilling, too, and how we can all work together.

For myself, I have just been reappointed to the YLUPC by the CYFN and we have a lot of questions with regards to Chapter 11. We have shared these questions with the Parties and we get no response. So, where do we go? Is it the Implementation Working Group that we go to? Who? These are pointed questions. I am sure you can identify with us on some of these.

Right now, we, the YLUPC is having some down time and we usually have one gathering a year. We talked about having a gathering such as this and we wondered if this was in our mandate and decided to do it anyways because no one else was! We had no point of reference for such a gathering. We were flying by the seat of our pants and we found the NWT Board Forum which was very similar to what we had in mind and we invited them to come speak to us about their integration efforts. We also struggled with the proper role of the Parties in this forum.

Let's identify with each other over the next few days and make a list of our concerns, suggestions and recommendations. If we conclude that such a gathering is beneficial for us then we can look at holding this on an annual basis and decide on who will host this next year.

We all have questions – one of mine is why do we have only 3 board members on some chapters and 12 on others?

I believe that the success of the UFA Boards and committees is crucial to the success of implementing the agreements and the ongoing reconciliation that is at the heart of these agreements, always working for our present and future generations. Together Today for Our Children Tomorrow.

Thank you and I look forward to meeting all of you and enjoying our time together here.



## Interpretation the Agreements

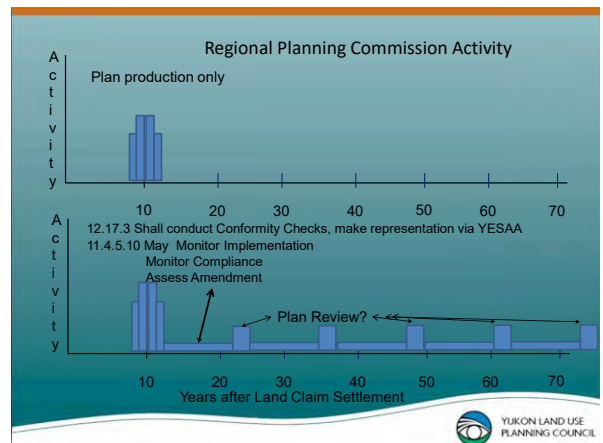
- Ross Burnett's Presentation: How to Read the Agreements
- Chapter 11: Our Experience Reading the Agreements
- Some key interpretation issues



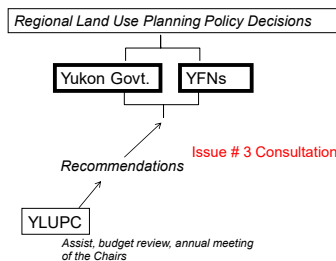
## Reading and working with the Final Agreement

“Shall” clauses vs. “May” clauses:

- Put simply – ‘shall’ clauses must be done; ‘may’ clauses are optional



Issue # 1 Response to YLUPC Recom.      Issue # 2 Agreements that Reflect a Decision.



Issue # 3 Consultation with Parties

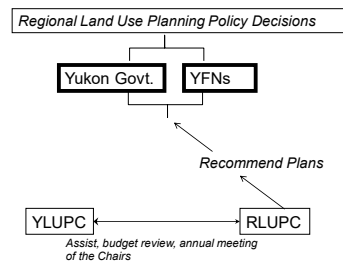
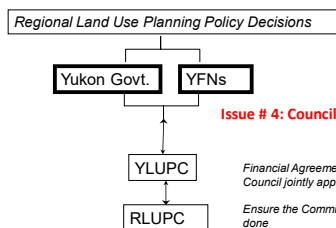


Figure 2: Chapter 11 Roles and Responsibilities



Issue # 4: Council as Overseer?

*Financial Agreements :  
Council jointly approving budgets*

*Ensure the Commission get their work plan done*

*If Commission overspends, Council must pay over expenditure*

*Joint accounts with Council having signing authority on Commission expenditures*

## Policies and Procedures

**2.12.2.10** each Board may adopt bylaws for its internal management and may make rules governing its procedures consistent with the Umbrella Final Agreement and with any Legislation establishing the Board;

VS

Financial Agreement with YG:

*This Agreement is subject to the Yukon Financial Administration Act...in accordance with general accepted accounting principles as defined with the Public Sector Accounting and Auditing Handbook or the Canadian Institute of Chartered Accountants (CICA) Handbook*

Figure 3: Council as Overseer?



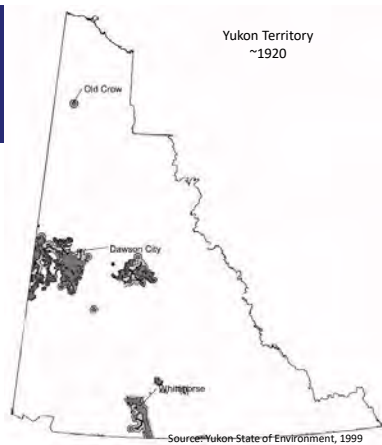


### Policies and Procedures

- They are a necessary evil.
- Ours have grown over time. Now 72 pages. We are 4 people. Why? because a small office has the same issues as a large one...similar to FNs governments or even YG
- If you think I know them all off by heart you are very wrong
- Some are really important to follow and other not so much. Some judgement is always required in enforcing them
- You need to stay competitive with YG, YFNs other Boards
- You can spend all your time developing policies and procedures for work you cannot get to because you are developing your policies and procedures
- When all is well in the office, I am never looking at them
- I am always thinking of new ones: dogs in the office, record archiving, social media
- Don't try to keep up to the Yukon Government...UFA Boards are very different beasts
- You need to stay competitive with YG, YFNs other Boards
- You can spend all your time developing policies and procedures for work you cannot get to because you are developing your policies and procedures
- When all is well in the office, I am never looking at them
- I am always thinking of new ones: dogs in the office, record archiving, social media
- Don't try to keep up to the Yukon Government...UFA Boards are very different beasts



### Yukon Growth



## One Page History of Regional Planning: Post Land Claim Agreements

- 1995 – June 23<sup>rd</sup> YLUPC first meeting
- 1996 – Feb. –YLUPC first Workshop: Community Planning
- 1997 – Sept. - 2<sup>nd</sup> YLUPC Workshop Dawson City
- 1997- YLUPC Establishes Office
- 1998 – YLUPC 1<sup>st</sup> Bylaws – Policy and procedures
- 1999 - YLUPC Recommends 3 planning commissions
- 1999 – YLUPC- Challenges Workshop
- 1999 - YLUPC – Recommended Response Protocol (no response agreement reached)
- 2000 – Vuntut Planning Commission Formed (by Parites)
- 2000 – YLUPC Creates Orientation and Training Starter Kit
- 2000 – Teslin Commission Formed
- 2001 – First Commission begin planning processes
- 2002 – Peel Action Plan – Start of Peel Process; NTC Region work
- 2003 – Prepare 10-year Review; Land Designation Work: NYPC starts
- 2004 – PWPC Members Appointed – NYPC P&P – TRPC “Land of a Living Space” Draft
- 2005 – CTFN Settles: TRPC not reappointed as DahKa region considered
- 2006 – NYPC Discussion Papers; PWPC Issues & Interests
- 2007 - NYPC Draft Plan Consultation
- 2008 – NYPC – Recommended Plan to Partners
- 2009 – PWPC Scenarios Report; Partners Approve NYPC Plan
- 2010 – DRPC Two-Day Orientation; DRPC Members Appointed; PWPC Recommended Plan;
- 2011 - DRPC First Meeting; DRPC Communication Strategy; PWPC Final Recommended Plan; DRPC Issues & Interests
- 2012 – DRPC Resource Assessment Report begins; DRPC Scenarios Evaluation Framework
- 2013 – DRPC Public Consultation; DRPC Resource Assessment Report completed; DRPC Plan Alternatives
- 2014 – PWPC Approve YG Plan; PWPC Court Case
- 2015 - DRPC Cumulative Effects completed; PWPC Court of Appeal Ruling
- 2016 – Northern Planning Conference, North Yukon Cumulative Effects work
- 2017 – PWPC Supreme Court of Canada hearing

YESAB

Yukon Environmental and  
Socio-economic Assessment Board

# THE VOICE

SPECIAL EDITION

CELEBRATING

10  
YEARS

[yesab.ca](http://yesab.ca)





## YESAB – THE EARLY DAYS

By Rob Yeomans

Chapter 12 of the Umbrella Final Agreement and Yukon First Nation national agreements set the foundation for the Yukon Environmental and Socio-economic Assessment Act (YESAA), a process to assess the potential environmental and socio-economic effects of projects in Yukon. In 2005, the Yukon Environmental and Socio-economic Assessment Board (YESAB) was tasked with developing an organization that would fulfil the assessment responsibilities of YESAA. The Act and the two sets of regulations encompassed the extent of direction available to YESAB at the time.

For the most part, the future of Yukon's new assessment process was in the hands of YESAB. How Yukon's own environmental and socio-economic assessment process would unfold was to be determined.

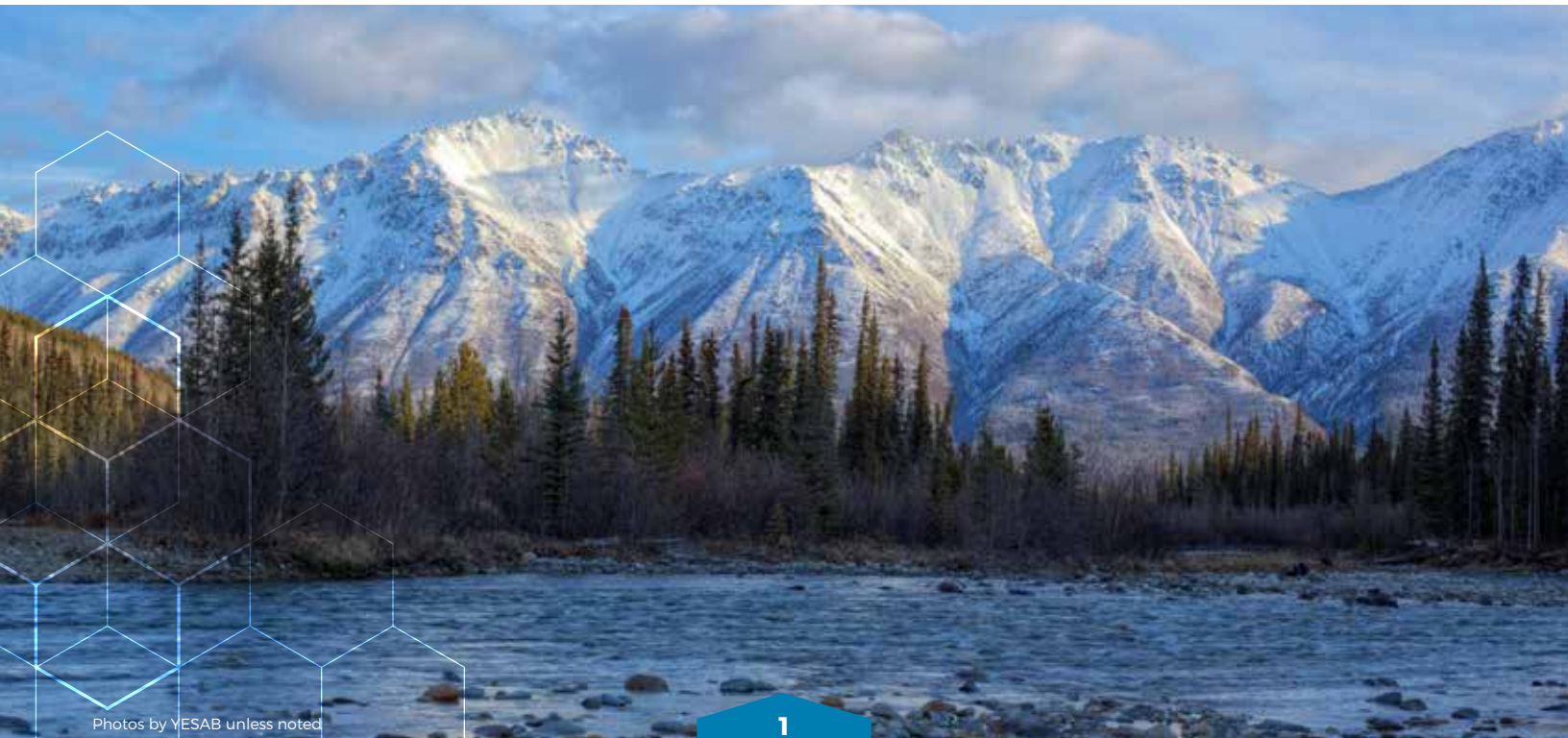
When the legislation came into effect in November 2005, YESAB had just completed the hiring of close to 25 staff and opened seven offices throughout Yukon. Rules were developed by the Board to outline the assessment process and included features that had not been applied in other jurisdictions. Established timelines, the consideration of socio-economic values, guaranteed opportunities for First Nations participation, and an electronic notification system were all key features of the process.

Within the first full year of operations YESAB received a whopping 324 project submissions, which to this day is the highest number of project submissions during any calendar year. Imagine a brand new organization, with new staff, new offices, a new federal Act and a fresh approach to environmental and socio-economic assessment, receiving their largest workload in the first year of operations.

Without a doubt, it was the dedication, focus, commitment and teamwork of the entire staff and Board that made Yukon's assessment process a success, and a model that would be closely monitored by other jurisdictions throughout the country. Few staff and Board members still remain from those glory days, but the memories and the momentum continues.

**“YESAB has completed 2,000 assessments since it opened its doors in November 2005, a remarkable achievement and a testament to the volume and diversity of projects that the organization has faced.”**

~ Wendy Randall, Chair 2015



Photos by YESAB unless noted

## BOOM! THE WHITE GOLD DISTRICT (2010)

By Rob Yeomans and Jennifer Anthony

There is a place in the Dawson district where three great rivers flow: the White, the Stewart and the mighty Yukon. In May 2009 Underworld Resources announced a spectacular drill intersection of 3.4 gpt over 104.0 m in the Golden Saddle zone on the White Gold property, located 75 km south of Dawson City. This significant gold deposit sparked a flurry of activity in the spring of 2010, and the White Gold District was launched into the spotlight.

Helicopters were flying in and out daily, exploration skyrocketed, stakes were being claimed faster than tags could be produced and camps were going up like the Klondike Gold Rush. The mining community was excited about the prospects in the area, and Yukon's boom began to take hold. For YESAB this burst of activity kept all of our Designated Offices busy. The sudden increase in mining exploration and activity had a direct effect on the land, water and wildlife.

How would the sharp increase in the frequency of helicopter flights affect the sheep populations? Would there be lasting effects on the winter range of the Forty Mile Caribou Herd? Would easier access into the area result in an increase in hunting pressure?

To conduct effective assessments for projects in the area, YESAB had to look at the area with a broader lens. We needed baseline information so our assessors would have the tools and information they required to conduct thorough assessments in an area experiencing fast-rising levels of activity.

### The Cumulative Effects Study

Soon after the advent of environmental impact assessment legislation in the 1970s, it was recognized that project assessment had to evolve to incorporate not only the effects of the project being proposed, but also any effects of other projects in the area. Discussion around this idea came together in the mid-1980s, with "cumulative effects assessment."

Cumulative effects are the combined effects of all projects in an area after effects of each project have been reduced or controlled (i.e. mitigated). YESAB conducted

a cumulative effects study in 2010 to examine the potential cumulative effects on wildlife in the White Gold Area. There had been a dramatic increase in the amount of quartz exploration in the White Gold Area and concerns were raised by Yukon First Nations and other Yukoners that the cumulative effects of these projects could adversely affect wildlife in this area.

The purpose of the 2010 Cumulative Effects study was to inform our assessments of the effects on sheep, moose and the Forty Mile Caribou Herd. Much of the study focused on the potential links between moose harvest (the primary driver of population size in this area) and the number of river landing points and the length of access roads. With the help of local and traditional knowledge, we knew that hunters used the rivers to access moose hunting grounds in part due to the lack of practical road access. Our models illustrated that if the proposed projects resulted in increased river access points and too much road access development, the resulting moose harvest rates could exceed the sustainable harvest limits for moose in certain Game Management Zones. It was found that harvest levels correlated with linear development and road density.

As a result, YESAB assessments recommended that limits be put on new river access and access roads in certain areas. In specific cases, we recommended measures to make hunter access more difficult, such as gating and supervising the road use.

For assessors, regulators and stakeholders, cumulative effects assessment poses ongoing and evolving challenges. Nonetheless, YESAB continuously works to improve the ways in which we approach and conduct cumulative effects assessment, recognizing its vital role in the sustainable development and use of Yukon's land and resources.

**"The continued dedication and hard work of our organization has resulted in a dynamic assessment process and a team of professionals that have made a true difference in Yukon's future."**

~ Stephen Mills, Chair 2013

## CHAMPIONS FOR A GOOD CAUSE - THE 6TH ANNUAL BALL HOCKEY TOURNAMENT FUNDRAISER AND CHARITY BARBEQUE (2012)

By Rob Yeomans

The 6th Annual Ball Hockey Tournament Fundraiser and Charity Barbeque took place in October 2012 at the Takhini broomball rink in Whitehorse. YESAB entered a small team with big hearts and raised money for a good cause. The fantastic event was organized by Environment Canada, the Northern Pipeline Agency, and Fisheries and Oceans Canada. It was a fast-paced tourney with more than six teams registered.

Resilience is one attribute you gain quickly when working for a neutral, independent organization like YESAB. As an assessor you're used to getting slammed into the boards, taking shots from all angles, and supporting your wounded team members. That resilience is what YESAB was built on, and it's what brought YESAB a hard-fought win in 2012 against the Department of Fisheries and Oceans. Finally YESAB had become the Golden Cup tournament champions!

It was a defining moment for YESAB's corporate history. All proceeds raised went to United Way Yukon.



6th Annual Golden Cup Champions: (left to right) Steve Caram, Chris Evans, Ken McKinnon, Samatha "The Wall" Darling, Hillary Gladish, Dan Beaudoin, and Rob Yeomans.

## THE YOR

By Erin Spiewak

It was 2004; it was cutting edge. It was a product developed on the basis of everything YESAB stood for – transparency, timeliness and efficiency. YESAB's Online Registry (YOR) was a magic bullet that helped YESAB address key requirements under YESAA.

The Board endorsed a web-based registry to effectively manage all assessment documents while keeping assessment information open and accessible to the public. The registry also allowed any participant with an internet connection the ability to access all assessment information. That level of accessibility and corporate transparency was fairly uncommon 10 years ago. The registry continues to play an essential role in our organization. Today, all assessment documents and projects since 2005 are available on the YOR.

"The unprecedented access to assessment-related material offered by the YOR has proven to be a valuable tool for the public and proponents alike."

~ Dale Eftoda, Chair 2007





## KEN MCKINNON'S TOP 10 LIST

1. Easiest task was becoming Chair of YESAB. The hardest task was trying to get out of being Chair of YESAB.
2. Just couldn't finish my career without knowing all about HLF, TMF, ARD, ML, MMER, CCME, NAG, PAG, SARA and SART.
3. The weekend cold coffee mornings and the warm beer afterwards, as well as nights trying to meet screening deadlines.
4. Trips to and from the communities for public meetings.
5. The well-placed luck of the project consultant's confronted by disgruntled Mayoites.
6. The trip down the Porcupine River to magical Rampart House on a gorgeous cloudless Yukon day. All of the trips to project sites – Mactung, Selwyn, Mt. Nansen, Casino, Dawson Gold Fields, Brewery Creek, and Kaminak – brought back so many fond memories of my long ago Yukon bush camp days while I was working my way through university.
7. The great pot luck lunches – obviously we hire only the best northern gourmet cooks! You'll miss my desserts that I always stayed up half the night baking for you (don't tell Judy I said that).
8. The fishing and hunting stories, and staff's kids in the hall – they are the cutest, the best and the brightest.
9. The Head Office and Whitehorse Designated Office heating and cooling system (thank you, Stephen).
10. Totally serious: working with all of you.  
– “You made me feel so young.”

**“In the few short years since our inception, YESAB is now recognized as one of Canada's leading assessment boards.”**

~ Ken McKinnon, Chair 2008



## MEMORIES

By Scott Kent

In the winter of 2004-05, Ross Leef (Executive Director at the time) and I (Executive Committee and Board member) set out to secure office space for the Designated Offices in the communities. The weather was a balmy -45°C. An adventure ensued that included just about running out of fuel, having trouble finding a hotel room in Dawson City, and not the best experiences for food. None of which we planned for very well. In the end we found some great office space, including my favourite location in Mayo. Watching what was there be transformed into what it is today was awesome, and I hope it remains the Mayo Designated Office for years to come.



## DANCE AMONG THE DOS

By Christina Guillemette

A few YESAB staff have had the pleasure of working in different YESAB offices and communities over the years – some in as many as four different offices! Most of these are a result of the average age group of YESAB staff, with young and growing families, where temporary parental leaves were often time filled with well-qualified returning employees. While working in these various offices, staff became familiar with the land and resources unique to each district, and the

values of the people and First Nations who live within them. Each experience helped staff gain a greater appreciation for the rich diversity in Yukon. This is a great reminder that in our Yukon, one size does not always fit all; and at YESAB we are well positioned with six Designated Offices familiar with each district, and ready to help every community and individual in Yukon participate in the assessment process.



## NETWORKING AT YESAB

By Rob Yeomans

It was a cold October day in 2006. As the newly hired Communications and Information Technology Officer, I was tasked with setting up the remaining community office networks and building a secure and networked environment among YESAB's seven newly established offices. During this time, Government of Yukon's ICT Division was an invaluable resource. Their networking architects got us headed in the right direction and offered us network access and assistance. All I had to do was plug into the network.

It didn't take long to realize that setting up networks in Yukon communities involved unique challenges at every site. Sometimes heavy equipment was brought in to lay out fibre that never existed before while other times we linked together existing fibre, but in Watson Lake a new challenge arose.

The plan was to plug into the Government of Yukon's existing network switch. The challenge was that our office was located on the opposite end of the building and no previous fibre lines had been installed. Accessing building fibre from the local Radio Shack, I suited up with headlamp and gloves and made my way into the roof. It took over two hours to run the cable through the tightly placed rafters, careful not to drop through the ceiling and land on someone's desk. With drill in hand and sweat dripping down, I finally found myself above the communications room, dropped the line, and made my way back to my entry point. Mission accomplished; next office.

## WHY DO I WORK AT YESAB?

By Kathie Thibault

I am a born and raised Watson Laker. I spend a lot of time on the land, and I enjoy and love the country that I live in. I also understand the need to increase the economics in the Southeast Yukon. Development/industry will happen, and I wanted to be a part of trying to help development occur in a way that was responsible to the environment and the people in the Southeast. I have worked for YESAB since November 2005 and intend to continue working here into the future, in hopes that I can help in responsible development and economic opportunities, as well as protection of the environment and the values of the people.

**"Yukon has adopted one of the most progressive and publicly accessible assessment regimes in the country."**

~ Dale Eftoda, Chair 2005





## IT'S JUST A SIMPLE PROJECT...

By Kathie Thibadeau

The words “simple project” are no longer allowed in the Watson Lake Designated Of ce (WLDO). Each and every time a project has been described as simple, it becomes a challenging assessment with new and interesting aspects to it. We have had our share of interesting and challenging projects, including the first Designated Of ce to contemplate LNG in an assessment, and the workovers of existing wells. That being said, the Kotaneelee project was a very

challenging assessment requiring many hours of research, discussions with regulators, and many late nights to complete the assessment on time. It was a rewarding assessment, as the number of hours and information gathered to carry out the assessment produced a quality report that led to a number of compliments indicating that, regardless of the length of the document, it was read.

## FACTS:

### WATSON LAKE

WLDO is one of two DOs (the other being Dawson) that still has an original staff member from when YESAB offices opened their doors in November 2005.

### WLDO

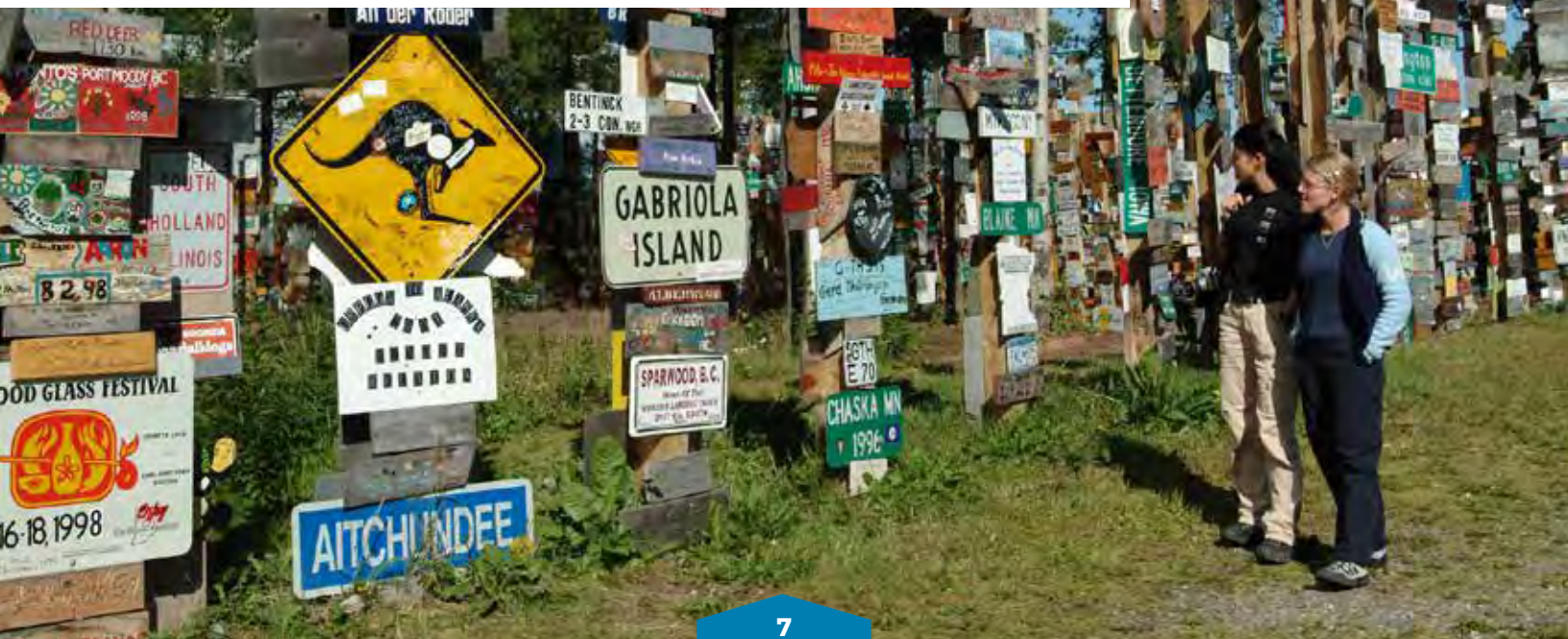
WLDO was the starting point for a number of YESAB staff members; seven YESAB employees who began their YESAB career in the WLDO moved to continue working in the Teslin, Haines Junction, Mayo and Whitehorse DOs.

## THE FIRST CHAIR

By Dale Eftoda

Being the first Chair of the YESAB was a memorable experience. We were handed a federal Act and told to make it a reality. It seemed straightforward at first, but after a Yukon-wide consultation tour, the approval of the federal regulations, the finalization of rules, the establishment of seven offices, and the hiring of close to 30 staff, bringing YESAB into operation had become a monumental task.

However, it wasn't the regular milestones and accomplishments that stuck with me over the years. It was the people. The team that I was fortunate enough to work with were an amazing group of professionals with diverse backgrounds and one common goal: to make YESAB great. No matter what your position or expertise within the organization, the YESAB team would always pull together and get things done.



## YESAB'S TIMELINE

### 1993

Chapter 12 of the Umbrella Final Agreement and Yukon First Nation final agreements set the foundation for the development of YESAA.



### 2005

- Yukon Environmental and Socio-economic Assessment Act Regulations signed
- Yukon-wide community Rules consultation tour
- 7 offices established
- 30 staff hired
- Public Participation Guide completed
- YESAB Online Registry is born
- YESAB's Project Geolocator is launched



### 2007

- Signing of the YESAB/MVEIRB Cooperation Agreement
- Executive Committee releases first Screening Report and Recommendation – for the Carmacks-Stewart/ Minto Spur Transmission Project
- 242 public comments received regarding the Wernecke/Wind River Winter Road project
- Ken McKinnon appointed Chair of the Board

### 2004

First YESA Board Established

- Dale J Eftoda | Chair and Executive Committee Member
- Scott Kent | Executive Committee Member
- Stephen Mills | Executive Committee Member
- Tara Christie | Board Member
- Dave Keenan | Board Member
- Ross Leef | Board Member
- Carl Sidney | Board Member

### 2006

- First full year of operations
- 324 project submissions. The most submissions of any year to date.



### 2008

- Designated Office Rules Review begins
- Northern Regulatory Improvement Initiative – Neil McCrank Report
- The first Referral under YESAA – Dawson City Designated Office refers the Yukon Queen II project to an Executive Committee screening

## 2009



- 30 solid waste facilities entered the assessment process simultaneously
- Mactung Mine Project submitted to the Executive Committee on Christmas Eve
- Mayo Hydro Enhancement Project (Mayo B) submitted to the Executive Committee

## 2011



- Partnership with Yukon College and the Yukon Mine Training Association to co-develop course curriculum
- Liard First Nation files a judicial review application against the decision document of the Selwyn Advanced Exploration Project. YESAB files an application with the court to become a party respondent
- 900 public comment submissions received for Canadian United Minerals proposed Project within the Tombstone Territorial Park – a new record
- Heritage Resource Information Requirements for Land Application Proposals Policy completed
- First consultants workshop hosted by YESAB
- 1,500 assessments since YESAB's inception

## 2010



- First edition of The Voice newsletter is released
- New DO rules released
- YESAB conducts 1,000th assessment
- Stephen Mills appointed Chair of the Board
- Yukon Queen II submitted to Executive Committee
- Eagle Gold Project submitted to Executive Committee
- YESAB Online Registry gets an upgrade

## 2012

- Government of Yukon, Yukon Water Board and YESAB combined forces to develop the Dam Guide
- Water Information Requirements for Quartz Mining Project Proposals released
- The first YESAA Forum established
- YESAB's Strategic Outreach Plan implemented
- Sector Specific Forms for forestry and land disposition's released
- YESAB defeats Department of Fisheries and Oceans to become the 6th Annual Golden Cup Tournament Champions – money raised for United Way
- 324 projects submitted during fiscal year. Largest yearly project load on record
- Mining activity within the Forty Mile Caribou Herd core winter range increases. YESAB continues cumulative effects study





## 2013

- 1st LNG-related project submitted – Watson Lake Bi-Fuel Project
- Whitehorse Diesel - Natural Gas Conversion Project YEC project submitted to Executive Committee
- New YESAB website launched
- Year of the site tours – Faro mine tour, Casino tour, Mount Nansen tour, Dawson's placer tour, Eagle Plains gas tour
- Project submissions drop by over one third from previous year
- YESAB helps fund high-resolution satellite imagery of the Wheaton Valley to gauge the current levels of surface disturbance to help cumulative effects assessments in the area

## 2014

- Casino Mine Project becomes the largest project submitted to date
- Over 100 people attend public meeting on the proposed YEC LNG project
- YESAB gives presentation to the Select Committee Regarding the Risks and Benefits of Hydraulic Fracturing
- Bill S-6, the Yukon and Nunavut Regulatory Improvement Act, passes first reading in the House of Commons
- YESAB launches dynamic statistic page on website

## 2015

- YESAB conducts 2,000th assessment
- Wendy Randall appointed Chair
- Mayo Designated Office collaborates with the First Nation of Na-Cho Nyäk Dun and the Government of Yukon to gather and document traditional and local wildlife use
- Solid waste disposal facility permits round two; 30 proposals submitted
- YESAB receives over 100 placer projects within the fiscal year
- Geohazards and Risk: A Proponent's Guide to Linear Infrastructure released
- Yukon and Nunavut Regulatory Improvement Act receives Royal Assent and becomes law. YESAA 2015 is born



- Public Survey launched – 82% of Yukoners surveyed feel it is important to have an independent environmental and socio-economic assessment process in Yukon
- Dr. Norbert Morgenstern, Chair of the Mount Polley Review Panel, to provide expert advice related to the proposed Casino Mine tailings management facility
- YESAB changes its approach to temporal scoping
- YESAB advances its privacy policies to reflect the Privacy Act

## THE BOARD PAST AND PRESENT

### 2006-2007



Dale Eftoda



Scott Kent



Stephen Mills



Tara Christie



Carl Sydney



Ross Leef



Dave Keenan

### 2007-2008



Ken McKinnon



Simon Mason  
Wood

### 2011-2012



Arthur  
Hoogland

### 2013-2014



Stuart Van  
Bibber



Lora-lee  
Johnstone



Lawrence Joe

### 2015-2016



Wendy Randall

**17** TOTAL AGRICULTURE PROJECTS ASSESSED IN  
**HAINES JUNCTION**  
DISTRICT

**103**  
NUMBER OF PROJECTS LOCATED WITHIN  
**KLUANE**  
NATIONAL PARK RESERVE

**318** PLACER PROJECTS SUBMITTED TO THE  
**DAWSON CITY**  
DESIGNATED OFFICE  
SINCE THEIR DOORS OPENED;  
SIX WERE CLASS III

**100**  
QUARTZ PROJECTS SUBMITTED IN  
**MAYO**  
DISTRICT

**108**  
TOTAL NUMBER OF RESIDENTIAL/COMMERCIAL  
LAND DEVELOPMENT PROJECTS IN  
**WHITEHORSE**  
DISTRICT

**40**  
TOTAL NUMBER OF AGRICULTURAL  
PROJECTS IN  
**WHITEHORSE**  
DISTRICT

PROJECT  
SUBMISSIONS

**324**

**240**

**300**

**230**

**262**

**311**

**235**

**171**

**267**

**163**

YEAR

2006

2007

2008

2009

2010

2011

2012

2013

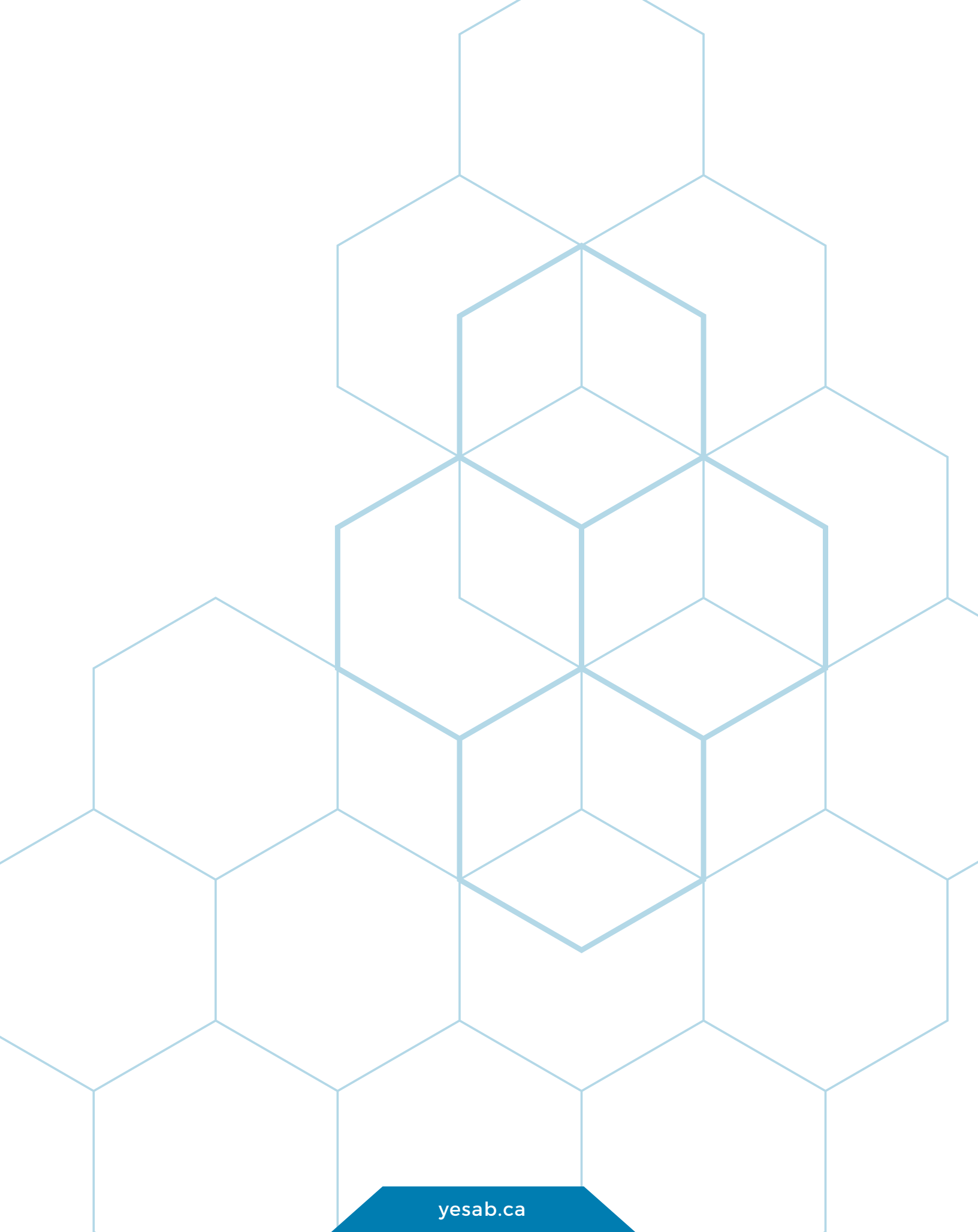
2014

2015\*



CELEBRATING  
**10**  
YEARS









## History of the Dispute Resolution Board

The mandate of the Dispute Resolution Board (DRB) is set out under Chapter 26 of the Umbrella Final Agreement (UFA) and the Yukon First Nation's Final Agreements. The jurisdiction of the DRB is set out under section 35 of the Constitution Act, the Yukon First Nations Land Claims Settlement Act and the Yukon Act Approving Yukon Land Claim Final Agreements.

The DRB is comprised of three members who are jointly appointed by the Parties to the UFA. The Council of Yukon First Nations (CYFN), Canada and Yukon each nominate one person to serve a three-year term. The UFA legislation effective date was February 14, 1995 and the first DRB members were appointed in April 1996.

The DRB facilitates an out-of-court, non-adversarial alternative dispute resolution process to resolve disputes arising from the interpretation, administration or implementation of the settlement agreements and legislation. The first stage is mediation, where a mediator will guide the parties to a dispute through a series of discussions designed to help them arrive at their own solution – one that is acceptable to each party. Mediation of disputes is a voluntary participation process.

The types of matters which can be referred to mediation within the DRB mandate are:

- any matter which the Umbrella Final Agreement refers to the dispute resolution process (UFA section 26.3.1.1);
- any matter which a Settlement Agreement, a Yukon First Nation self-government agreement or any other agreement between the parties to a Yukon First Nation Final Agreement refers to the dispute resolution process (UFA section 26.3.1.2)
- Any other matter which at any time all parties to a Settlement Agreement agree should be referred to the dispute resolution process whether or not related to a Settlement Agreement (UFA section 26.3.1.3)

The mediation proceedings are strictly confidential to the parties of the dispute. The DRB does not receive or retain confidential details. Mediation Rules and Procedures have been developed and distributed to the Parties to the UFA. These are available by download from the website at [www.drbyukon.ca](http://www.drbyukon.ca) or upon request from the DRB.

When mediation is not successful, the parties may have the opportunity to access the second stage process of arbitration. During this process, an arbitrator reviews the evidence and arguments of each party and makes a final decision that will be binding on each party. The arbitrator's decision is deemed to be an order of the Supreme Court of the Yukon.

Over the years, a challenge to the DRB has been the lack of overlapping appointment terms and timely appointments. Timely appointments became a concern when one DRB member resigned on April 14, 1997 and there was no appointment to replace that member until May 25, 1998. The lack of overlapping appointments became an issue in April 1999 when all terms expired at the same time without any replacement appointments in place. The DRB was without any appointed members during the following time periods:

- April 18, 1999 to November 9, 1999
- November 9, 2008 to January 14, 2009
- January 13, 2012 to September 28, 2012
- September 27, 2015 to January 25, 2016

On January 25, 2016, Barbara Joe, CYFN's nominee, was reappointed for her third term and Patricia Daws, Yukon's nominee, was reappointed for her second term. The appointment of Canada's nominee is not in place as at March 2017.

Beginning in 1999 the DRB has requested that the UFA Parties address the lack of overlapping appointment terms. In August 2015, the UFA Parties signed an agreement for a one-time-change to the DRB appointment process to implement the overlap of appointment term lengths as follows:

- CYFN's nominee appointed for a term of 3 years
- Yukon's nominee appointed for a term of 2 years
- Canada's nominee appointed for a term of 1 year

The overlap of appointment terms should ensure that the DRB will never be left without any board members at all.

### Mediation Referrals

Since the DRB was established, the following are the mediation referrals to date:

1. In August 1997, a mediation referral was resolved during the pre-hearing meeting and it was not necessary to continue to the mediation process.
2. In December 1998, a mediation referral was received concerning a Renewable Resource Council's inconsistencies in the allocation of trap lines. There was a delay in dealing with the referral due to all three DRB member terms expiring on April 18, 1999. DRB members were appointed on November 9, 1999. By January 2001 the new Chair was corresponding on the file.
3. In February 2002, a mediation referral was received having to do with clarifying who is the concession holder of a trap line. The issue was mediated within four hours in January 2003.

4. In 2004 a mediation referral was put forth involving land use overlap. The issue did not proceed to mediation as one party declined participation.
5. In May 2005, a mediation referral was initiated regarding human resources and social development. There were eight parties involved in the mediation and the issue was resolved by April 2006.
6. In 2006 a mediation referral was filed regarding education programs. One party declined stating that, the matter in question is not one which can properly be referred to mediation.
7. In 2007 a mediation referral was received regarding access, however one party identified discrepancies in the information and mapping. The issue did not proceed to mediation.
8. In March 2011, a mediation referral was received regarding the Income Tax Sharing Agreement. One party declined the request to participate as they were of the view that it has fulfilled its obligations.
9. In March 2011, a mediation referral was filed regarding the assumption of responsibility for Child and Family Services. The mediation session consisting of three days was productive.
10. In September 2011, a party to the UFA forwarded a notice of dispute to the DRB regarding resource royalty sharing. The second party stated that it was not a dispute and the third party proposed an alternate process for resolution. The matter did not proceed to mediation through the DRB.
11. In 2012 a mediation referral was filed regarding a financial transfer agreement and obligations concerning it. The parties held the mediation session and agreed to break to conduct further research, information sharing and get further direction before deciding if they will meet for a second session.
12. In 2013 a mediation referral was received regarding the loss of hunting rights under the Indian Act in the Yukon because of the land claim. This matter did not fall within the mandate of the Board.
13. In 2013 a second session was held regarding the 2012 financial transfer agreement mediation referral. The issue was resolved enabling the parties to negotiate an agreement.

#### Board Workshops

In August 2010, the DRB held a workshop, with Mr. Dave Joe as the facilitator, for members and staff to explore the history and intent of the UFA with focus on Chapter 26. Mr. Joe is a former Yukon land claims negotiator with the Council of Yukon First Nations and shares his knowledge and expertise with individuals now working to implement the Yukon First Nation's land claim Final Agreements.

In December 2010, the DRB members and staff met with Mr. Barry Stuart to further discuss the history and intent of alternate dispute resolution processes in relation to UFA Chapter 26. Mr. Stuart is a former Yukon land claims negotiator, former Judge of the Yukon Territorial Court and worked with the Yukon First Nations to implement circle sentencing and alternative dispute resolution processes.

In October 2011, the DRB hosted a workshop, with Mr. Dave Joe, for the DRB's mediators, arbitrators, members and staff. The workshop was a walk through of the UFA chapters to discuss the spirit and intent of the negotiated agreement with focus on dispute resolution references. The participants stated they found the workshop to be informative.

In September 2013, the DRB hosted a colloquium, with Mr. Gordon Sloan facilitating, for the Board's mediators, arbitrators, members and staff. The session allowed participants to share experiences, discuss the degree to define issues, shape collegial discussion, intervention skills in emotional issues, dealing with challenging behaviour, addressing transactional power disproportion, enhancing problem solving skills, new approaches and drafting agreements. Mr. Sloan is one of Canada's busiest mediator and dispute resolution trainers with extensive experience working with First Nations to assist in designing culturally consistent and familiar dispute resolution mechanisms.

In September 2015, the DRB hosted a well attended symposium with Mr. Gordon Sloan and Mr. Dave Joe facilitating. The DRB invited employees of the Yukon First Nations, Canada and Yukon, the three levels of Government in Yukon. Also in attendance were DRB members, staff, DRB mediators and arbitrators. The discussions spoke to the spirit and intent of the UFA, how to activate mediation under UFA Chapter 26, various dispute resolution methods and values, how to prepare for mediation, building trust, productive communication and a mock mediation session.

#### The DRB Inherits the Enrollment Commission's Records under Chapter 3 of the UFA

The UFA Chapter 3, Eligibility and Enrollment, determines the criteria and process for enrollment under a Yukon First Nation Final Agreement. The Enrollment Commission (EC) was the first UFA Board to be established in July 1989 and the only UFA board with a set term of existence. The fourteen Yukon First Nation Enrollment Committees were established with funding in place by January 1990.

The responsibilities of the EC ceased on February 14, 2005 as per section 3.10.4 of the UFA. Upon dissolution, the EC delivered its documents and records to the DRB who then assumed duties and responsibilities outlined in UFA section 3.11.0. During this transition time, the DRB retained two EC Commissioners as consultants. The EC's office coordinator continued employment under the direction of the DRB to continue managing the office and complete the enrollment file reviews.

Due to the large volume of enrollment records, the DRB moved into the office space occupied by the Enrollment Commission. Prior to February 2005 the DRB did not rent commercial office space and was housed within the private homes of the previous chairs in Whitehorse and the executive director living in southern BC.

The EC began the enrollment file review in 2004 and the DRB finished in 2007, with twelve Yukon First Nations participating. The file reviews were the last complete set of enrollment files the Yukon First Nations provided to the DRB. Since then a few of the First Nations have sporadically provided enrollment files to the DRB, except for the Champagne & Aishihik First Nations who continue to provide their enrollment files.

The enrollment file review was a task undertaken to ensure the enrollment records held by the EC and the DRB were a mirror image reflecting the same documents and information in each individual enrollment file held by the Yukon First Nations.

The DRB continues to receive and respond to enquiries regarding the Yukon land claims enrollment process, provides information as requested and directs enquiries to the appropriate First Nation Citizenship/Enrollment Registry Offices. The DRB will continue the collection and long term storage of the enrollment files for retrieval of evidence in the event of an enrollment appeal. In the event of an enrollment appeal filed with the DRB, the chairperson will appoint an arbitrator to hear and rule on the appeal.

Information and forms are available from the DRB website at [www.drbyukon.ca](http://www.drbyukon.ca) or upon request from the DRB. The DRB office is open 9:00 to 4:00, Monday to Friday and can be contacted by the following ways:

Phone:	(867) 668-3562
Email:	<a href="mailto:drb.ufa@northwestel.net">drb.ufa@northwestel.net</a>
Toll Free:	1-866-367-6551
Fax:	(867) 668-4474
Location:	101-166 Titanium Way
Mailing Address:	Box 31675, Whitehorse, YT, Y1A 6L3



Date	DRB Member Appointments & Staff	Source of Information & Notes
<b>19-Apr-1996</b>	Ione Christensen, Chair (Canada)	Appointment letter, 3 yr term to Apr 18, 1999
19-Apr-1996	Victor Mitander (CYFN nomination)	DRB Member Contract, 3 yr term to Apr 18, 1999
19-Apr-1996	Tim McTeirnan (YG nomination)	DRB Member Contract, 3 yr term to Apr 18, 1999
14-Apr-1997	Tim McTiernan	Resignation letter
25-May-1998	L McCullough (YG nomination)	Dec 1998 report
	NO BOARD MEMBERS	APRIL - NOVEMBER 1999
<b>9-Nov-1999</b>	Tracy McPhee	Appointment letter 3 yr term to Nov 8, 2002
9-Nov-1999	Mike Smith	Appointment letter 3 yr term to Nov 8, 2002
9-Nov-1999	John L Wright, Chair	Appointment letter 3 yr term to Nov 8, 2002
	Ron Fyfe	DRB executive director
	Mike Smith	resignation reported in the June 2001 Activity Report
4-Apr-2001	Pearl Callaghan to replace M Smith	Appointment letter - BALANCE OF TERM TO NOV 8, 2002
18-Jun-2002	John L Wright	Resignation letter (Appointment vacant to Jun 25, 2003)
<b>9-Nov-2002</b>	Tracy McPhee, Chair	Appointment letter 3 yr term to Nov 8, 2005
9-Nov-2002	Pearl Callaghan	Appointment letter 3 yr term to Nov 8, 2005
25-Jun-2003	Harry Maddison to replace J Wright	Appointment letter-BALANCE OF TERM TO NOV 9, 2005
14-Feb-2005	Dixie Stevenson, office coordinator	Enrollment Commission delivered documents to DRB
<b>9-Nov-2005</b>	Tracy McPhee, Chair	Appointment letter 3 yr term to Nov 8, 2008
9-Nov-2005	Pearl Callaghan (Chair May 28, 2007)	Appointment letter 3 yr term to Nov 8, 2008
9-Nov-2005	Harry Maddison	Appointment letter 3 yr term to Nov 8, 2008
23-Apr-2007	Tracy McPhee	Resignation letter (Appointment vacant to Jan 14, 2009)
30-May-2007	Ron Fyfe	resigned as DRB executive director
	NO BOARD MEMBERS	NOVEMBER 2008 - JANUARY 2009
<b>14-Jan-2009</b>	Steven Smyth (Canada nomination)	Appointment letter 3 yr term to Jan 13, 2012
14-Jan-2009	Barbara Joe, Chair (CYFN nomination)	Appointment letter 3 yr term to Jan 13, 2012
14-Jan-2009	Grant MacDonald (Yukon nomination)	Appointment letter 3 yr term to Jan 13, 2012
	NO BOARD MEMBERS	JANUARY - SEPTEMBER 2012
<b>28-Sep-2012</b>	Steven Smyth (Canada nomination)	Appointment letter 3 yr term to Sep 27, 2015
28-Sep-2012	Barbara Joe, Chair (CYFN nomination)	Appointment letter 3 yr term to Sep 27, 2015
28-Sep-2012	Patricia Daws (Yukon nomination)	Appointment letter 3 yr term to Sep 27, 2015
	NO BOARD MEMBERS	SEPTEMBER 2015 - JANUARY 2016
	<b>IMPLEMENT OVERLAPPING TERMS</b>	
	Vacant (Canada nomination)	Vacant appointment September 2015 to present
<b>25-Jan-2016</b>	Barbara Joe, Chair (CYFN nomination)	Appointment letter 3 yr term to Jan 24, 2019
25-Jan-2016	Patricia Daws (Yukon nomination)	Appointment letter 2 yr term to Jan 24, 2018





## UMBRELLA FINAL AGREEMENT IMPLEMENTATION PLAN FIVE YEAR REVIEW

### Dispute Resolution Board

December 1998

#### History and Activities of the Board:

On April 1, 1996 three persons were appointed to the Board, T.P. McTiernan (YTG.) Victor Mitander (CYFN) and Ione Christensen (Federal)

The appointed members did not have a meeting until early in the fall of 1996 when a Funding Arrangement was developed for the remaining FY with the members of the Federal Claims Planning and Implementation group. The Board had its first meeting on January 5, 1997. At this meeting Ione Christensen accepted the position of Chair.

With no immediate requirements for office space or staff, it was agreed that the Chair would keep all records in her office and do any clerical work required at a rate approved for an Executive Director. A nominal fee for equipment use would be charged monthly. Once the work load was sufficient to justify an office and staff such arrangement would be made.

The first order of business was to draft Rules of Procedures which would go to the three parties to the UFA for comment. This task was started.

The next order of business was to identify persons in the Territory who had the required training to be considered for mediation and arbitration hearings. The Board also wished to find persons who would be interested in receiving training in this field, preferably in communities outside of Whitehorse. To accomplish this the Board placed ads through out the Yukon and received over 35 letters from interested persons.

In February of 1997 the draft Rules of Procedures were mailed to the three parties of the UFA. ( It should be noted that it was not until April of 1998 that we received the last draft back with suggested amendments.)

On April 14, 1997 Mr. McTiernan resigned from the Board as he was leaving the Yukon. This left the Board without a quorum with which to work. The Chair carried on with the required administrative duties for the Board, eg. paying bills, providing for budget reports and year end financial statements.

In August of 1997 there was the possibility a mediation hearing would be required and using our draft procedures, the Chair set up the necessary arrangements for the mediation to take place. The parties were able to settle their differences in a pre hearing meeting and a mediation process was not required. This has been the one and only request for our services received to date. .

In October of 1997 the Board worked with other Boards of the UFA to stage an information workshop for all board members. This was very successful and helped everyone better understand the functions of each Board. There were many common problems identified.

From May 1997 onward, Chair made frequent inquiries to both the Federal and Territorial Governments on the status of a replacement for the Board. In mid November, 1998 the Chair was

advised that on May 25, 1998 Ms. L. McCullough had been appointed. To date Mr. Mitander has not been available to convene a meeting of the Board. Our first task will be to finalize the Terms of Reference for the Board.

### **Assessment of the Boards Effectivness to date:**

Based on our experience and the experience of the Nunavit Arbitration Board it would appear there will be little need of our services. Given the lack of demand no further steps have been taken to train new mediators or arbitrators. There are enough already trained in the Yukon and several outside of the Yukon who can fill special needs if required. The skills of mediation and arbitration are only acquired through conducting hearings. The training given through workshops is quickly lost if not used. At this time the Chair would not recommend that training of new candidates be proceeded with.

Under Chapter 3 - (Eligibility and Enrollment) of the UFA 3.10.4 the Dispute Resolution Board will receive the documents and records of the Enrollment Commission on its dissolution. At that time the Board will have the need of office space and a staff member to manage these new duties. In the mean time, if the past three years are any indication, there will be little for the Board to do. The only outstanding work is finalizing our Rules of Procedure and that will be done once a meeting of the Board can be convened. All the paper work has been done for Board members to review comments on the drafts.

### **Funding:**

The funding for the Board to date has been more than adequate. If we were to receive requests for hearings then our budget requirements would drastically change. It is very difficult to comment on the future funding needs of the Board.

### **Recommendations:**

When appointments to Boards are made, the three parties to the UFA should take into consideration the time which is required of persons appointed to Boards. Persons who are already carrying very full work loads, should not be asked to take on yet another duty. It is not fair to the appointee and impedes the work of the Board. Persons who have a very heavy time commitments and are travelling a good deal cannot be available to attend regular Board meetings.

One of the common complaints expressed by all Boards at the workshop was how to deal with poor attendance at meetings. It is often difficult to have a quorum. It is in the best interest of all parties to the UFA to have good representation at all times. The Boards are important and an integral part of making the UFA an effective document serving all Yukoners. This problem should be addressed IPWG. The Boards are only as effective as the people who sit on them.

The Chair will be completing her term on March 31, 1999 and has advised the Minister that she will not be continuing with the Board.

Prepared and submitted by,

Ione Christensen  
Chair

A handwritten signature in dark ink, appearing to read 'Ione Christensen', is written over a horizontal line. The signature is fluid and cursive.



## **History of the Enrollment Commission and Dispute Resolution Board Enrollment Files**

Report prepared by Dixie Stevenson

The Enrollment Commission was established on July 1, 1989, and closed on February 14, 2005. It was the first Umbrella Final Agreement (UFA) board to be activated and the only UFA board with a set term of existence. Once the Enrollment Commission was dissolved, the Dispute Resolution Board became responsible for the Yukon land claims enrollment files.

The Enrollment Commission (EC) was comprised of three Commissioners appointed by the Minister of the Department of Indian Affairs and Northern Development (DIAND). The Commissioners were nominated by the Parties to the UFA, the Council of Yukon First Nations (CYFN), and the governments of Canada and Yukon. The EC mandate is set out under Chapter 3 of the UFA and the Yukon First Nation's Final Agreements. The jurisdiction of the EC is set out under section 35 of the Constitution Act, the Yukon First Nation Land Claims Settlement Act and the Yukon Act Approving Yukon Land Claim Final Agreements.

In 1989, the CYFN released the Yukon First Nation land claims enrollment files to the EC. The CYFN enrollment files dated to 1973 and 1974 when Enrollment Teams traveled to the Yukon communities to provide the opportunity for people to sign on with the Yukon land claim. These enrollment application files were reviewed by the Credentials Committees comprised, mostly, of Yukon First Nation Elders.

In 1989 and 1990 an advertising campaign took place in Canadian & U.S. newspapers to inform about the Yukon land claim enrollment process and the EC's contact information.

In January 1990, the EC hosted a training workshop for the 14 Yukon First Nation's enrollment coordinators. The EC provided the enrollment coordinators the opportunity to photocopy a complete set of their First Nation's enrollment files. The EC Enrollment Policy and Procedure Manual was distributed to the Yukon First Nation enrollment coordinators.

The Yukon First Nations appointed individuals to their Enrollment Committees and their first task was to review and approve their enrollment lists. Once the Committees approved their lists, the EC published and distributed the **initial 1990 "Council for Yukon Indians Comprehensive Land Claims Beneficiary Enrollment List."**

The EC administered the funding from Canada to the First Nation Enrollment Committees. As per UFA section 3.5.6, the funding to the committees ceased three years from the date of each Enrollment Committee's inception. Despite the lack of funding, the First Nation Enrollment Committees continued their important work. The Enrollment Committees remained in place until the First Nations took over of the powers and responsibilities of enrollment two years after each final agreement effective date (UFA section 3.9.1).

Upon written request, DIAND provided the Yukon First Nation Status Membership Lists to the EC. The last status list released to the EC was in 1994, as that is when Canada's Privacy Act was amended and the status lists were no longer available to the EC. This also restricted the flow of status list data to the First Nations preparing their voter ratification lists.

Individuals applying for enrollment with a Yukon First Nation land claims settlement submitted their applications to the EC or to a First Nation Enrollment Committee. The applications were first reviewed by an Enrollment Committee and their decisions were forwarded to the EC. The EC Commissioners then had final review. There were very few differences in the decisions made by the First Nation Enrollment Committees and the EC Commissioners.

Birth Certificates or affidavits showing parent/s names were the supporting documents required by the EC for all enrollment applications. The EC set time limits for applicants to provide the documents and after the time limit the file would be closed. If an applicant provided the documentation after the file was closed, the file was reactivated and processed.

The collection of documents is important as that supports the validity of individuals enrolled with a First Nation. The collection of personal information must be safe guarded to the highest degree.

Once enrollment applications were approved, the individuals were assigned an enrollment beneficiary ID with one of the Yukon First Nations. If the EC Commissioners determined that further documentation was required, it was requested from the individual. When an individual did not meet the criteria for enrollment, they were informed and provided with the reasons and the process to appeal that decision. The affiliated Yukon First Nation Enrollment Committees received copies of the correspondence.

Some people have withdrawn their name from the Yukon land claim because they don't agree with the land claim process or they are eligible for another land claim in Canada.

The EC worked with the Yukon Post Adoption office to ensure adoptive families and legal guardians of children in care were aware of the Yukon land claim enrollment process and, if required, helped to apply. The EC and the Yukon Family & Children's Services mailed information packages and applications to adoption agencies across Canada and the United States. The Yukon Post Adoption office, on behalf of the EC, liaised with adoption agencies outside the Yukon as our First Nation children were adopted by families across Canada and the world. Most adoptees now have contact with their birth families or their adoptions are open with the families maintaining contact. There are some files remaining closed as the individuals have vetoed contact.

The EC provided enrollment applications to the Whitehorse General Hospital on an ongoing basis and as requested. The Yukon First Nations now have their own enrollment forms and may be providing those to the WGH.

The EC recommended that a central enrollment or statistics registry office continue after the EC is discontinued. In October 2000, the Implementation Working Group indicated that they did not support the idea at that time. The recommendation was again provided in the 2003-2004 implementation review report. Without the support of the parties there was no further discussion. The concept of a central stats office was further discussed in 2013 at the CYFN Enrollment Summit. Also, resulting from the 2015 CYFN Enrollment Forum, an Enrollment Reference Manual was developed and distributed to the First Nations.

The EC's rationalization for a central enrollment or statistics registry office is that it would stream-line the process when data is required for the planning of programs, services and funding. A central office could assist when enrollment staff at the First Nation level is not available due to other commitments or the position is vacant. The central office could also be a one-stop check station to confirm that individuals are enrolled with only one Yukon First Nation, especially when an individual has birth ties to more than one Yukon First Nation. The office could be governed by the Yukon First Nations with the enrollment authority remaining with the First Nations.

A challenge over the years, has been the high turnover of enrollment staff at the First Nation level. Between the years 1990 and 2008 there were 108 different enrollment coordinators with the First Nations. Two First Nations retained the same enrollment coordinators during that time span. The EC devoted a huge amount of time providing re-training. Some of the enrollment coordinators returned to the job when they were between other employment or during breaks from college and university. A couple people stated they didn't like the work and only took the job until something better came along. All too often, training was not passed on from one enrollment coordinator to the other.

Another area of concern is that some people are affiliated with two First Nations by having land claims beneficiary enrollment with one First Nation and status registration membership with another. This was largely created because of the two different cultures. The original 1973 land claims enrollment process followed the First Nation tradition, that children are enrolled with the maternal lineage. Prior to 1985, Canada's Indian Act status membership were registered with the paternal lineage.

First Nations have notified individuals to encourage and request that they complete the forms to be affiliated with only one First Nation. This is still an outstanding issue because some individuals have declined, there was a freeze on transfers or their transfer applications were rejected.

The Yukon land claim settlement agreements have built in clauses that the enrollment lists are to be provided to government. Over the years, it was discovered that the enrollment lists were being made available to various government departments who stated they needed to know who was a beneficiary. The EC recommended that the First Nations provide lists of names only or to include policy outlining privacy and access if confidential personal enrollment information is turned over to government.

The settlement agreements do not have built in clauses that Yukon First Nation status lists must be provided to the First Nation governments. Privacy and access to information legislation at the First Nation level is required by Canada to negotiate access to the status lists and to protect the confidentiality of the sensitive information.

***“Privacy is like a non-renewable resource...Once it's gone, it never comes back.”***

*Gerald Neary , Privacy Commission Director, Canada 1997*

### The Dispute Resolution Board inherits the Enrollment Commission's Records

In February 2005, the EC was dissolved and delivered the enrollment files and office contents to the Dispute Resolution Board (DRB), as per UFA section 3.10.4. Due to the large volume of enrollment files and contents the DRB moved into the office space occupied by the EC. Prior to February 2005 the DRB did not rent commercial office space and was housed within the private homes of the previous chairs in Whitehorse and the executive director living on Vancouver Island. During this transition time, the DRB retained two EC Commissioners as consultants. The EC office coordinator continued employment under the direction of the DRB to continue managing the office and complete the ongoing file reviews.

The DRB became responsible for the confidentiality and long term safe storage of the enrollment files. The DRB Enrollment Access Policy approves access to the enrollment files in the event of an appeal and access to the Yukon First Nations to duplicate their records.

Appeals of an enrollment application decision can be initiated by an individual, a Yukon First Nation, CYFN or the governments of Canada and Yukon. Once the First Nation internal review or appeal processes have been exhausted and it is still not resolved, the enrollment appeal can then proceed to the DRB's appeal process. The chair of the DRB will appoint an arbitrator to hear, determine and provide appropriate remedies.

The EC began the enrollment file review in 2004 and the DRB finished in 2007. The Yukon First Nation's staff transported their enrollment files to the Whitehorse EC/DRB office to ensure both sets of enrollment files reflected the same documents. The file review consisted of the page by page comparison of every active and deceased enrollment file. The file review was completed with twelve Yukon First Nations. Liard and Ross River did not participate as they were no longer negotiating their settlement agreements. The file reviews were the last complete set of enrollment files the Yukon First Nations provided to the DRB. Since then a few of the First Nations have sporadically provided records to the DRB, except for Champagne & Aishihik who continue to provide their enrollment files.



# NWT Board Forum

One mechanism to help coordinate resource management in the NWT is the NWT Board Forum.

The purpose of the NWT Board Forum is to give organizations involved in land use planning, environmental assessment, land and water regulation and resource management an opportunity to learn from one another and to coordinate activities. The Forum is intended to improve and maintain effective lines of communication between its members, resolve common issues, and share expertise. It also provides industry, government and other organizations with a structured forum to engage and interact with the Northwest Territories' co-management boards.

The NWT Board Forum began meeting in April 2004, and has addressed a number of recommendations made in the 2005 Auditor General's Report to improve the northern regulatory system.

- [Membership](#)
  - [Strategic goals](#)
  - [Objectives](#)
  - [Members](#)
  - [Final Reports](#)
  - [Board Forum Photos](#)
- 

## Membership

The NWT Board Forum comprises chairs and senior staff members of all NWT resource management co-management Boards, as well as senior officials from the [National Energy Board](#) (NEB), [Aboriginal Affairs and Northern Development Canada](#) (AANDC) and the [Government of the Northwest Territories](#) (GNWT).

The NWT Board Forum meets twice a year to share information on various resource and environmental issues of common interest and to discuss new initiatives that boards and/or government are undertaking to support the regulatory system in the NWT.

*\*[Download the Terms of Reference here](#)*

**The NWT Board Forum comprises the following members:**

- Chairs of the NWT resource management, advisory and environment assessment boards created under the [Mackenzie Valley Resource Management Act](#) (MVRMA)
- Chairs of the NWT environmental assessment committees, boards, and co-management bodies under the [Inuvialuit Final Agreement](#) and the [NWT Waters Act](#)
- Regional Director General of [Aboriginal Affairs and Northern Development Canada](#)

- Assistant Deputy Minister for [Environment and Natural Resources, Government of the Northwest Territories](#)
  - Chair of the [National Energy Board](#) (NEB)
- 

## Strategic Goals

Recently, the Forum carried out strategic planning exercises, and came up with three goals:

**Goal 1:** A coordinated, sustainable, continually improving and publicly supported natural resource management system exists in the NWT.

**Goal 2:** Members of the Board Forum are knowledgeable and effective contributors to the resource management regime.

**Goal 3:** Communities, constituents and clients are informed and engaged in the pursuit of our goals.

---

## Objectives

**Objectives of the forum include:**

- Increasing mutual understanding – presentation on current issues
- Identifying and developing collaborative approaches to resolve issues of concern – developed inter-agency working groups
- Planning strategic and operational initiatives of mutual benefit
- Identifying opportunities to share resources and expertise – cross-board opportunities
- Acting as a Forum to hear from industry, government and other interest groups. For example, in last two years, there have been presentations from the [Canadian Association of Petroleum Producers](#) (CAPP), the [Prospectors and Developers Association of Canada](#) (PDAC), the [Mining Association of Canada](#) (MAC) and the [NWT and Nunavut Chamber of Mines](#)
- Pursuing training and development initiatives—formalized training committee, materials, and the delivery of courses for board members and staff—is a cornerstone of Board Forum activities.

**Examples of courses include:**

- Administrative Law
  - Board Orientation
  - Technical Training
  - Public Hearing Course
-

# Northwest Territories Resource Management Boards

There are several governing bodies and regulatory organizations that have different mandates and responsibilities for certain areas in the Northwest Territories. The term ‘boards’ refers to institutions of public government and co-management and advisory bodies.

The Inuvialuit Settlement Region and the Mackenzie Valley are governed by different statutes and have established resource management boards to perform regulatory, advisory, planning, and environmental assessment functions.

The Inuvialuit Settlement Region boards and organizations involved in the environmental assessment and regulatory process are as follows:

- Northwest Territories Water Board
- Government of the Northwest Territories
- Indian and Northern Affairs Canada
- Fisheries and Oceans Canada
- Environment Canada
- National Energy Board
- Parks Canada

## General functions of the boards

- Ensure all land and water decisions protect the environment from any significant adverse impacts of proposed developments
- Consider the economic, social and cultural well-being of residents and communities of the region and the territory as a whole
- Prepare regional land use plans to guide resource development, and the use of land, water and other resources (Mackenzie Valley only)
- Regulate all uses of land and water through the issuance of licences and permits (Mackenzie Valley only)
- Conduct environmental assessment and environmental impact review processes
- The management of wildlife and its habitat
- The management of oil and gas exploration

Inspection and enforcement is the responsibility of the federal and territorial governments.

In the NWT, public lands are controlled, managed and administered by either [Indian and Northern Affairs Canada](#), on federal Crown lands, or the [Government of the Northwest Territories](#), on Commissioner’s Lands. [Parks Canada](#), [Environment Canada](#) and the [Department of Fisheries and Oceans](#) also share responsibility for certain areas of the territory.

Through settled land claim agreements there are also areas of land which are governed by Aboriginal groups. Generally, the territory is divided into two regions:

### **Inuvialuit Settlement Region**

- A northern region of the territory which runs along the Beaufort Sea.
- The [Inuvialuit Land Administration](#) has the administrative authority for Inuvialuit Private Lands under the Inuvialuit Final Agreement.

### **Mackenzie Valley**

- The Mackenzie Valley makes up much of the territory, with the exception of the Inuvialuit Settlement Region and Wood Buffalo National Park.
- The [Mackenzie Valley Resource Management Act](#) governs the management of land in the Mackenzie Valley.

# **CYFN Board and Committee Selection Process**

At least quarterly, CYFN identifies any board and/or committee vacancy that CYFN either provides nomination or appointment towards

A Board vacancy is advertised in local newspapers, on CYFN website, and by fax to each YFN office



Upon closer of application process, the CYFN Selection Committee (Natural Resources Manager, Executive Director, Community Member and Elder) will conduct an internal meeting.

During the meeting each member scores the applicants based on an established and leadership-approved process, and the committee, by consensus, will recommend candidate(s) to Leadership for appointment or nomination.

Briefing note with CYFN Selection Committee recommendations for each board and committee vacancy is provided to CYFN Leadership requesting the Chiefs to decide which applicant should be nominated or appointed.

These proceedings are all confidential and not open to the public, since CYFN view it as sensitive information, similar to a hiring process







# Reconciliation as Consensus-Based Decision Making?

Tom Nesbitt, March 10 2017

# 1. Purpose?

- Facilitator / mediator, planner, lawyer (not offering legal advice here).
- Chair of TNNPMB, Co-Chair S-EMB.
- Negotiator/facilitator/drafter of several of protected area agreements in the NWT and Nunavut, whereby final protected area management decisions are made, by consensus, at protected area board tables.
- “Facilitator”? An impartial professional, with no substantive decision-making power, who assists others in *their* resolution of the issues among them. Facilitator acts to help prevent disputes; mediator to help resolve: same logic of decision making.

# Suggestions, not Answers

- My role to make suggestions, initiate a discussion, not give “answers”. Expertise collectively with participants: you. And participant discussion will take time.
- Present information and suggest two questions:
  - Might consensus decision making be adapted — and contribute — to the work of the YUFA boards, and thus ultimately to reconciliation?
  - Or, if consensus is not applicable, how might reconciliation nonetheless inform the actions of YUFA boards?

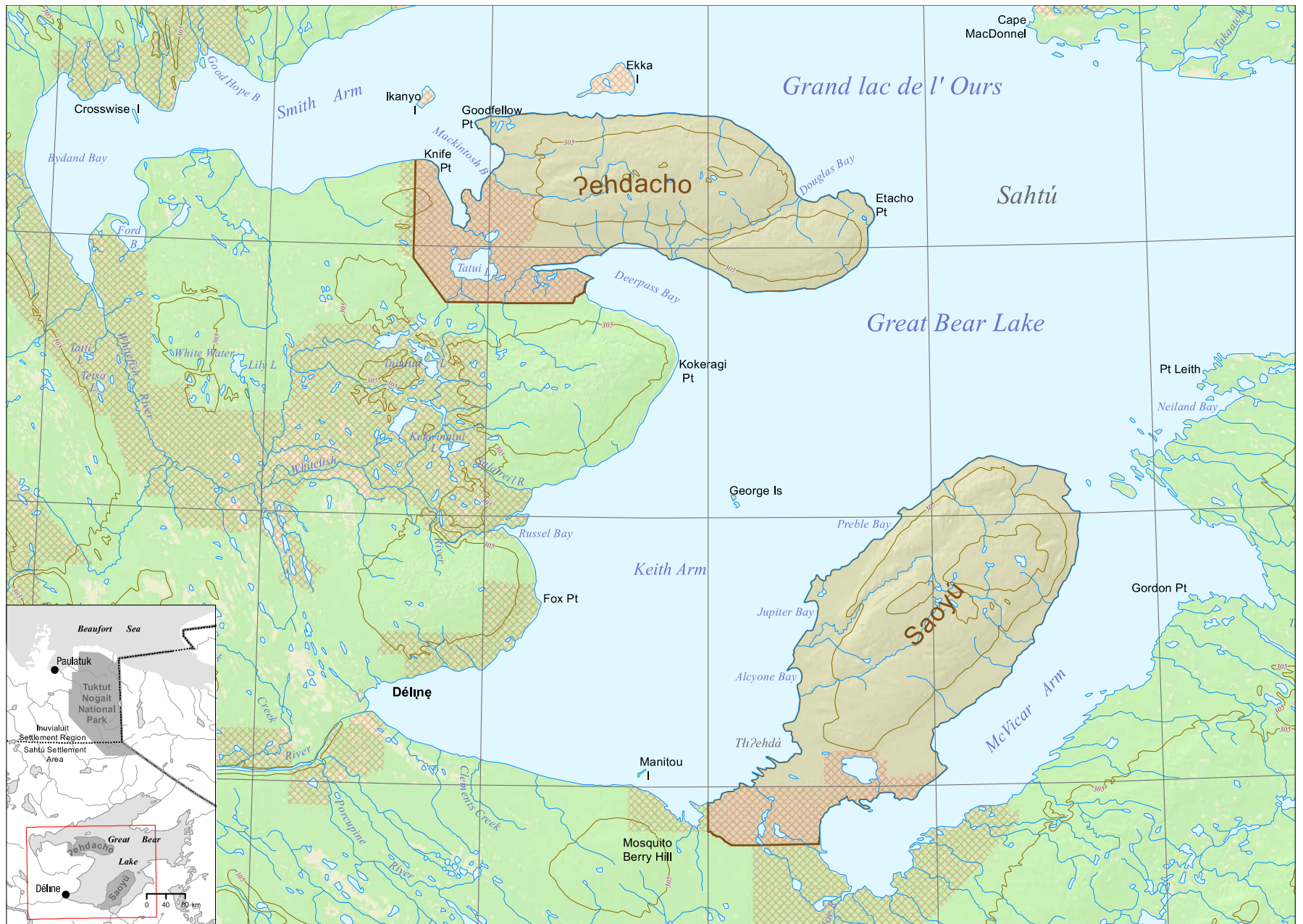
## 2. Outline

- Quick case illustration: Saoyú-?ehdacho NHS
- Reconciliation
- Consensus decision making
- Advisory paradigm vs. consensus management
- *Moresby Explorers* (2001)
- Initial discussion of questions above

### 3. Case: Saoyú-?ehdacho

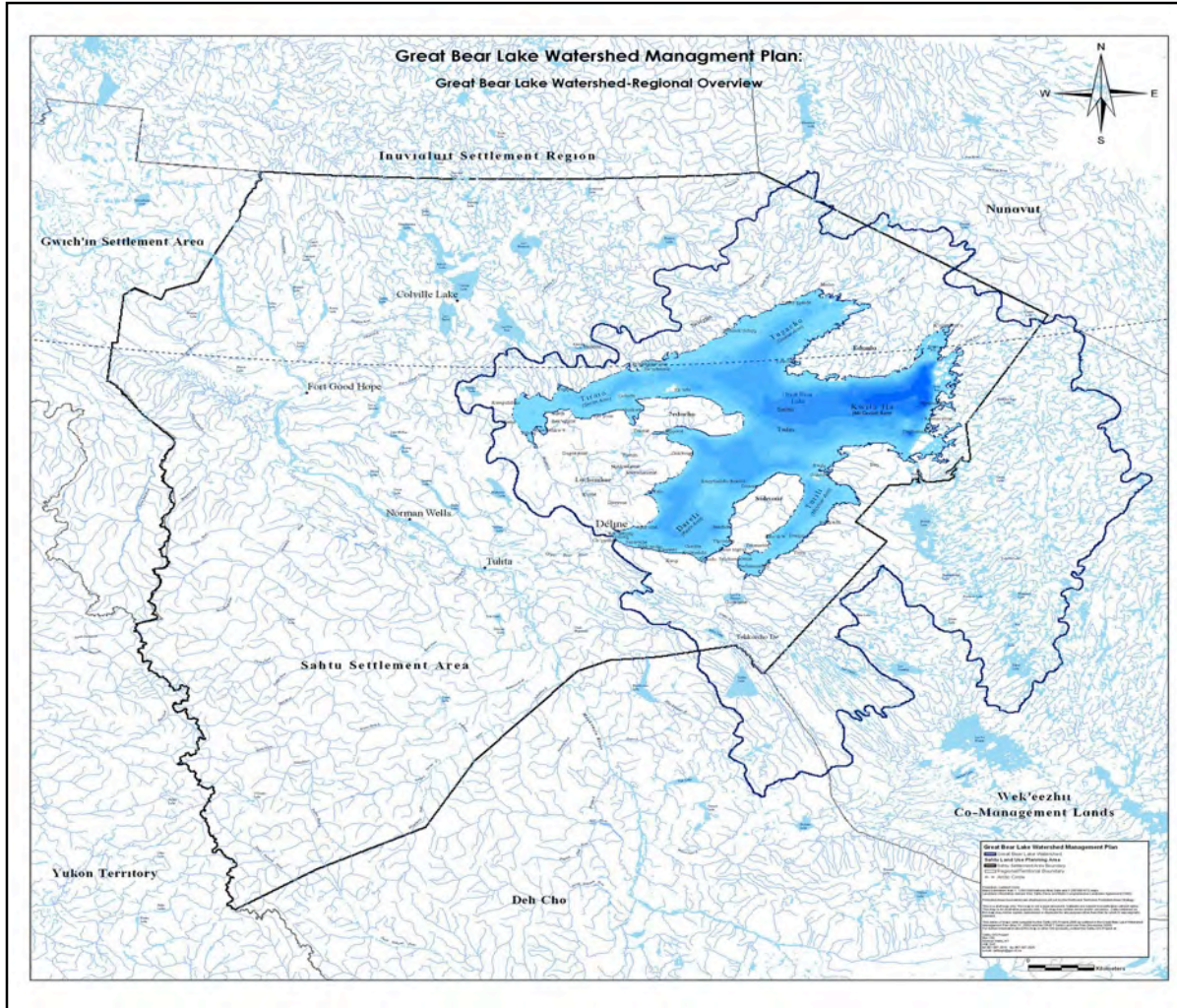
- Saoyú-?ehdacho is a national historic site, established in 1998, on Great Bear Lake (NWT,) legally protected since 2008.
- > 6000 km<sup>2</sup>, size of PEI, unique legal protection
- Cooperatively managed, by Déline authorities and Parks Canada, by consensus, through a cooperative management board.
- Others similarly managed: — Tuktut Nogait National Park — Gwaii Haanas National Park Reserve — 13 NWAs and MBSs in Nunavut?





ands

# Sahtu (Great Bear Lake)





# The Land



# ʔehdacho Cultural Camp





# Saoyú Cultural Camp





## 4. Saoyú-?ehdacho Agreement (2008)

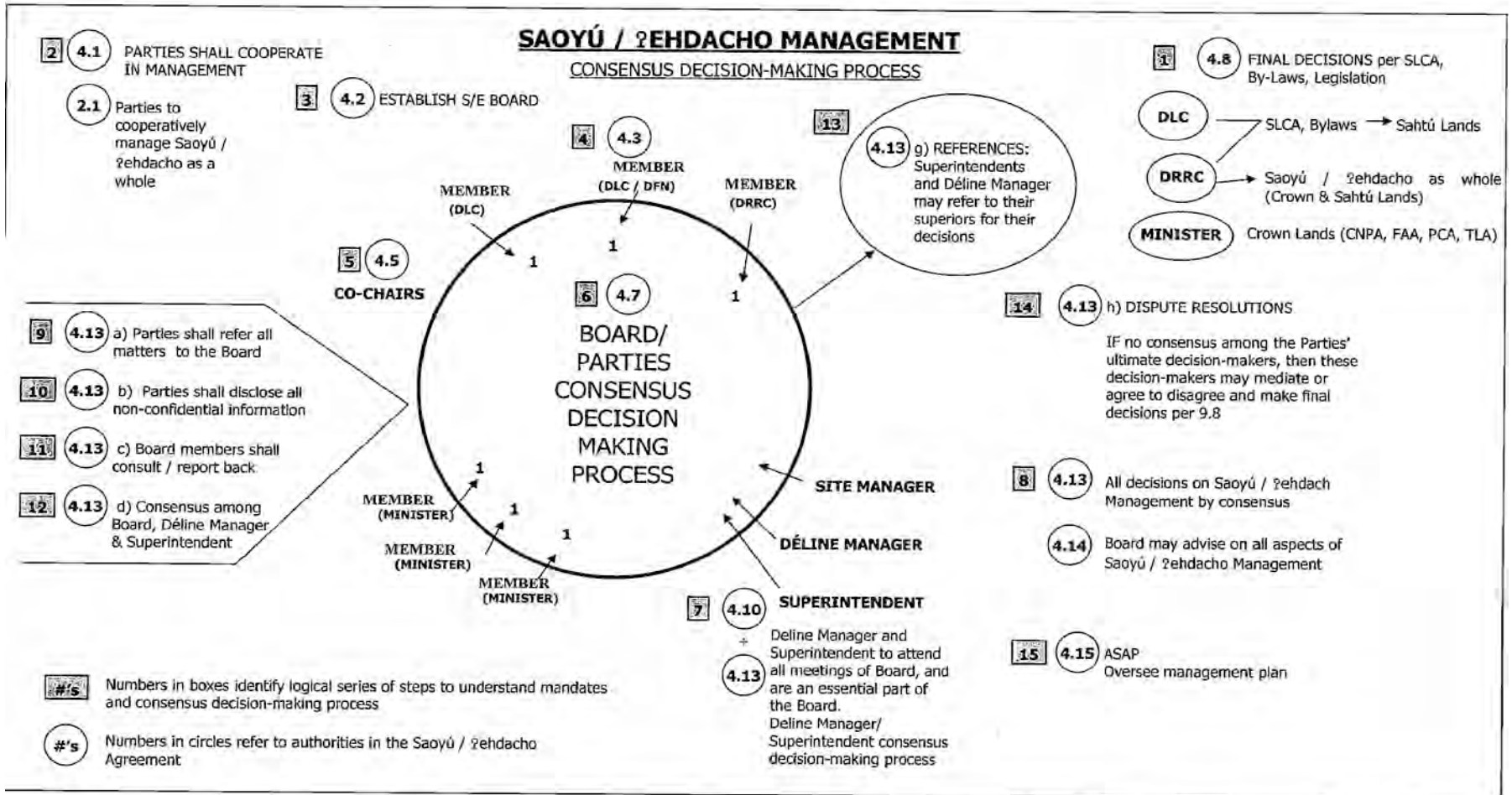
- Saoyú-?ehdacho as part of a new paradigm of protected area management:
- Aboriginal authorities and the Government of Canada agree to manage a protected area, through a Board, by consensus
- Agreement unique: 12 years of discussion/negotiation
- Import the Aboriginal tradition of consensus decision making into management: Consensus decision making within existing legislative and land claim authorities.
- About a new and ongoing relationship between Aboriginal authorities and the Government of Canada, representing other Canadians
- A contribution to reconciliation

# Saoyú-?ehdacho Agreement:

## Main Elements

- S-ENHS incorporates and protects both crown and Aboriginally-held Lands
- Managed by common, negotiated, management principles, within the SDMCLCA
- Management by consensus among the Board and representatives of the parties (Pks Can, DLC, DRRC)
- Authority at the table: decisions at the table

# Saoyú-?ehdacho Management



# Questions

- Is this method of consensus-based management applicable to:
  - other protected areas?
  - other land claim created boards (YUFA bds.)?
- Can this method of consensus-based management be *adapted* to these other contexts, to advance reconciliation?

# 3. Reconciliation

- Supreme Court of Canada and the theme of reconciliation: *Van der Peet* (1996), *Haida Nation* (2005), *Mikisew Cree* (2006) ...
- Cases about consultation ... But prior to that, they are about reconciliation. Focus there.
- *Mikisew Cree* (2006): reconciliation as “... the fundamental objective” of land claim agreements and s. 35 of Canada’s *Constitution Act, 1982*
- Reconciliation of the concepts, world views and interests of Aboriginal and non-aboriginal Canadians. Not aware of SCC further *definition* of concept.
- To “reconcile” is to heal, harmonize, make compatible, show that apparently conflicting things are compatible (Concise Oxford Dict.)
- To make space for coexistence, mutual learning



# Reconciliation (cont.)

- To reconcile the concepts, world views and interests of Aboriginal and non-Aboriginal Canadians is to understand that they are complementary, and to find means by which they can co-exist and inform our actions
- Reconciliation has no end; it is a never-finished task, an ongoing relationship and process
- Reconciliation and mutual respect as sister, conjoined objectives in *Mikisew*.
- Reconciliation as about decision making, shared decision making and self-determination.

## 4. Consensus Decision-Making

- An Aboriginal concept and practice
- Traditionally about adapting relationships within and among aboriginal collectives over time
- Oral cultures: consensus is about how we act, make mutual decisions → not just about results and written words
- Consensus as itself traditional knowledge & law

# Consensus Decision-Making: Adapted (TNNPMB, S-EMB)

- **Mutual Respect and Culture**
  - Becoming aware of, hearing and accommodating our different cultures
- **Cadence, Learning, Integration**
  - Reflective cadence
  - A space for participants to contribute, listening & learning
  - Not representatives: perspectives, public duty(ies), *common* interests
  - Integration of perspectives into one coherent whole
- **More about accommodation — reconciliation — than compromise**
- **Group decision-making & sound group decision-making**
  - Eliciting different cultural perceptions, realities & interests; identifying “interest families”; accommodating different perceptions of the fact; identifying and evaluating options and making decisions
  - Not a vague-majority based decision-making process

# Consensus Decision-Making Adapted (Cont.)

- **Inclusive:** all offered an opportunity to speak
- **Longer term process:** the co-evolution of a culture of the table
- **Roles of members of Board:**
  - Consult appointing Parties and bring Parties' interests to Board discussions on any matter
  - Seek to accommodate / make all reasonable efforts to find a consensus among Party interests
  - Report back to Parties
  - Act in the public interest as defined in several negotiated principles, purposes, a common vision and land claim rights
- **Open:** Board meetings generally open to public
- **Authority:** Party representatives take part in consensus management decisions

# Consensus Decision Making Adapted (cont.)

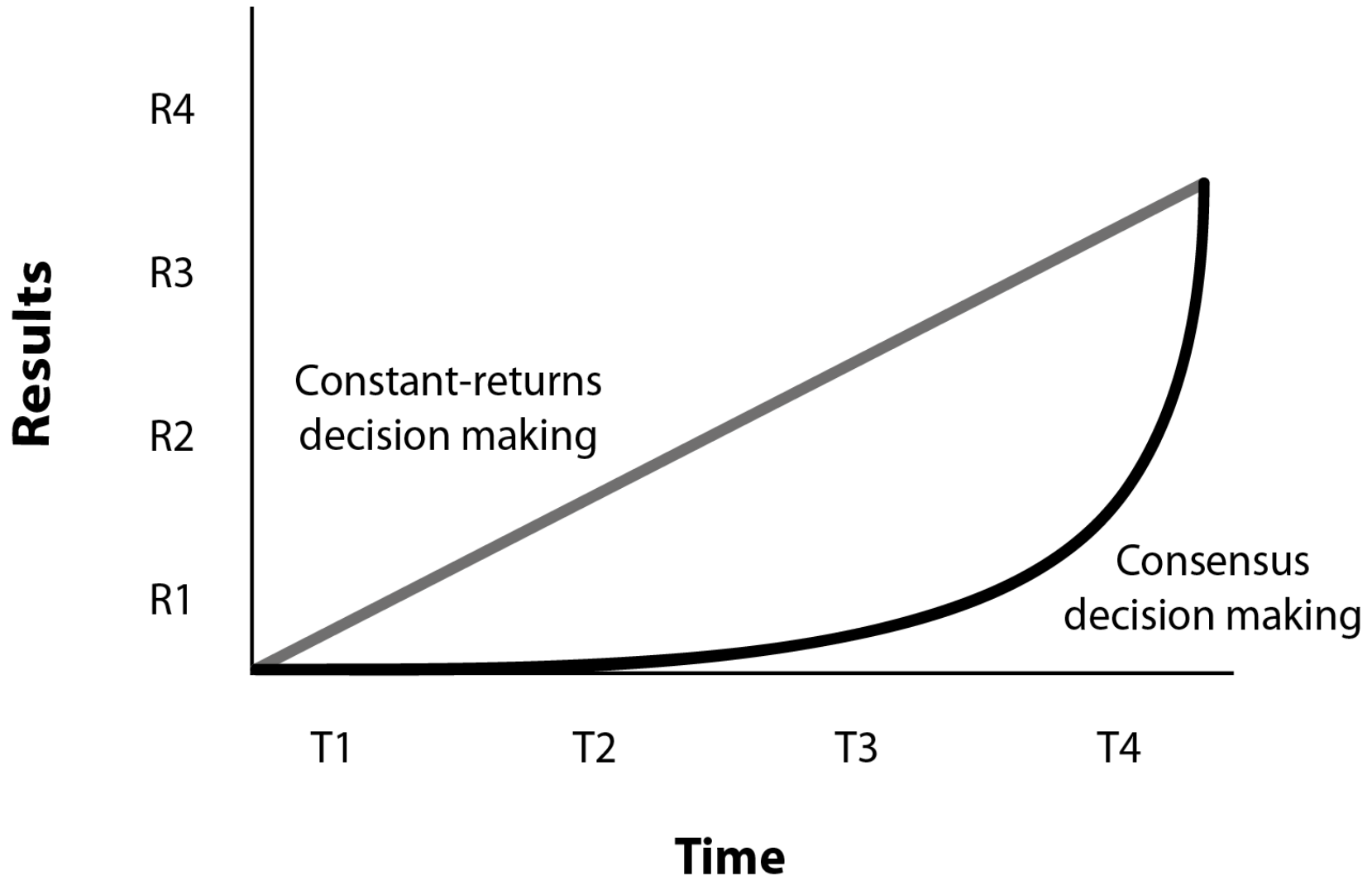
- **Roles of Chair** (e.g. TNNPMB)
  - Primarily a facilitator — impartial oversight of Board/Party decision-making process — but also responsible for upholding Tuktut Nogait Agreement
  - Drafts agendas and ensures opportunity of all to speak
  - Establishes mood of discussions: all about respect
  - Establishes space for consensus: common interests, interweaving facts, complementary realities, options, assessment of options, consensus decisions
  - Weaves perspectives together into one coherent and respectful whole: frames potential consensus
  - Tests consensus with Board/Pks Can
  - Drafts consensus for Board's/Pks Can's consensus approval

# Challenges & Rewards of Consensus Management

- Participants bring different:
  - cultures
  - realities
  - authority structures
  - partitioned understanding of roles
- Daily challenges and rewards:
  - listening
  - hearing
  - reconciling all of the above
- Decisions are gradually assembled, mutually put together, refined, nuanced



# Perceptions of Time: Expectations of Progress



# 5. The Older Management Paradigm

- Boards advise ministers: ministers decide at their discretion. Separation of:
  - board decision, and ministerial decision/determination
  - board perspectives and expertise, and minister/staff perspectives and expertise
- Inefficient decision making (wastes time and resources)
- Bad dispute prevention: generates unnecessary conflict

# Alternative Paradigm: Way Out of the Box

- Consensus decision making within existing legislative and land claim authorities
- Boards as ultimately *advisory*: ministerial (and Aboriginal) discretion is not fettered
- Authority at the table + agreement to make all reasonable efforts to manage by consensus.
- No separation of Board and Minister/Aboriginal authority.
- “Advisory boards”, Ministerial and Aboriginal discretion, final, consensus-based decision-making and reconciliation can co-exist.

## **6. *Moresby Explorers v Canada* [2001] 4 F.C. 591**

- Gwaii Haanas Agreement established the Archipelago Management Board
- Moresby challenged the Board's refusal of its application for greater access to GHNPR
- Case establishes that:
  - Consensus-based management is consistent with ministerial authority as set out in the legislation
  - Consensus is a way of carrying out consultation

# ***Moresby Explorers v Canada (contin.)***

- Issue 1: Does the Board consensus decision-making process illegally fetter the Minister? No.
  - A Minister cannot without the clearest of legislative authority pass off his/her responsibilities to a board.
  - The Minister's participation in a consensus decision-making process is not an illegal fettering or passing off: the Minister can say "no" or "yes". Agree or disagree.
- Issue 2: Did the Minister consider matters beyond his/her jurisdiction? Yes. Minister's decision set aside / returned to Minister to make properly.

# 7. Conditions for Consensus-Based Management

- Parties agree to:
  - Disclose all relevant information
  - Refer all management issues to Board process
  - Bring the interests of appointing parties to the table and make all reasonable efforts to find a consensus among them (consensus among Board members *and* Party representatives)
  - Send decision-making authority to the table
  - Common management principles and procedures



# Conditions for Consensus Decision Making >

- Participants must *get* the gestalt to consensus decision making. And get it thoroughly.
- Limited number of participants at the table
- Parties in long-term relationship
- Time and space to explore interests and world views, develop mutual understanding, learn from each other, weave or reconcile different perspectives into one coherent whole
- Communication from / to appointing Parties

# Consensus adaptable to YUFA Boards?

- YUFA 2.12.2.10: board power to adopt bylaws for internal management and make rules governing procedures ...: power to make board decisions by consensus, if a board deems it appropriate?
- Willingness of boards and responsible ministers to work together and make selected management decisions by board-ministerial consensus? (*Moresby Explorers*):
  - Does “recommendations” in YUFA imply board and ministerial decisions separated in time, sequential?

# Mahsi

- [tom.nesbitt@telus.net](mailto:tom.nesbitt@telus.net) or (604) 267-0319



## **Yukon Land Use Planning Council**

### **UFA Boards and Committees Forum**

#### **Speakers Bios:**

##### Facilitator Florian Lemphers

Florian successfully completed, or is currently involved in various contract projects for clients including:

- Chairperson Teslin Tlingit Council Off Settlement Land Working Group; Implementation planning of socioeconomic development agreement between a major mine under development and a First Nation;
- The Selwyn/ Kaska Nation Socioeconomic Agreement;
- Council of Yukon First Nations-Education Project.
- Mr. Lemphers was also Acting Executive Director and Strategic Advisor to the Champagne and Aishihik First Nation;
- Project Manager on Alaska Highway Gas Pipeline Guidelines Project, for the Alaska Highway Aboriginal Pipeline Coalition; and
- Chair of several General Assemblies for the White River, Champagne and Aishihik and Liard First Nations.

##### George Nassiopoulos

George first moved to the Yukon in 1979 with a HonBSc in Ecology and Wildlife studies. He has worked for DPW surveying the Alaska Highway, Yukon Liquor Corp., Renewable Resources as an Ecological Land Classification Technician and as a private environmental consultant. From 1982-1985, George worked at the Ontario Wildlife Research Section as a technician for the Department of Natural Resources. In 1985, George returned to the Yukon and lived in Carmacks. In 1986, he began his long term career with Renewable Resources (YG) first as an inventory coordinator for 3 years providing inventory support for the Planning and Parks branches. He also was responsible for conducting agricultural assessments for the Agriculture Section. The following 23 years George served as a Park's Superintendent in the Klondike and Kluane Regions before retiring in August, 2013. Appointed May 2014 by the Yukon Government, George is the Interim Chairperson of YLUPC.

## Pearl Callaghan

Pearl has extensive experience representing Aboriginal interests within First Nation governments, the Government of Yukon, and local environmental and economic development organizations. Among others, she has been part of the First Nations Environmental Steering Committee, the Yukon River Intertribal Watershed Council, the Yukon Anniversaries Commission, the Yukon First Nations Tourism Association, Indian and Northern Affairs National Sustainable Development Working Group, a member on the Dispute Resolution Board, the Constitutional Review Committee for the Teslin Tlingit Council, the Yukon Aboriginal Women's Council, past President for the Northern Cultural Expressions Society, and currently sits on the Investment Committee for the Teslin Tlingit Council. Recently Pearl was hired in the Executive Office of the Council for Yukon First Nations. Pearl was first appointed as Yukon Land Use Planning Council Member, in August 2013 by the Council of Yukon First Nations, and reappointed August 2016 for a second three-year term.

## Dave Joe:

Mr. Dave Joe is the Yukon's first Aboriginal lawyer. Prior to and after being called to the Yukon Bar in 1976, Mr. Joe was intimately involved with the land claim movement in the Yukon. On February 14, 1973, he was present when Yukon Chiefs convinced Prime Minister Pierre Trudeau and Indian Affairs Minister Jean Chretien to negotiate a modern-day treaty with Yukon First Nations. Twenty-two years later, Joe was involved when the first four Yukon Land Claims Agreements became part of the Constitution of Canada. Mr. Joe was named as an Officer of the Order of Canada in 2008 "for his leadership in building stronger communities and positive relations between native and non-native peoples and in negotiating final land claims agreements for several Yukon First Nations". Today, the recognition of Aboriginal rights is still a focus of his Whitehorse, Yukon law practice. He is a Southern Tutchone citizen of the Champagne and Aishihik First Nations.

## Thomas Nesbitt

Mr. Nesbitt typically work with community representatives, First Nations and other Aboriginal authorities, one or both levels of Government, and sometimes industry, over a period of several weeks or months. His interest is in helping negotiate fair agreements and healthy long-term relationships among the parties to the agreements. Thomas has facilitated the multi-party development of a range of agreements and plans on land and resource use and management, environmental research and sustainable development. He uses interest-based and consensus-based methods that draw on a range of cultures and experience, particularly northern Aboriginal cultures. Thomas is a member of the Canadian Institute of Planners, the Association of Conflict Resolution (international) and the Law Societies of B.C. (retired) and the Northwest Territories, and a member of the Civil Roster of Mediate B.C.

### Daryn Leas

Mr. Leas' law practice focuses on constitutional, environmental, employment and administrative law as they apply to issues affecting First Nations. He has advised several Yukon First Nations on the negotiation and implementation of their land claim and self-government agreements. In addition, he has been involved in the settlement of specific claims, the development of community constitutions and the negotiation of resource transfer agreements. Daryn has represented First Nations during their treaty negotiations in the British Columbia Treaty Process and Aboriginal governments in the Northwest Territories with respect to constitutional development and land claim matters. Daryn has also been the chief legal counsel for the Council of Yukon First Nations. Daryn is a member of the Tr'ondek Hwech'in First Nation.

### Joe Linklater

Joe is a former Vuntut Gwitchin Chief, and Gwich'in Council International Chairperson. Joe was the Chief that signed the first regional land use plan completed under the guidance of Chapter 11 Land Use Planning. Mr. Linklater is the current President of the Vuntut Development Corporation.

### Eric Morris

Morris has been chief of the Teslin Tlingit Council, Assembly of First Nation's Yukon Regional Chief and interim Grand Chief of the Council for Yukon First Nations. Today, Eric owns and operates the Nisutlin Trading Post that sells - fuel, hardware, fishing supplies, groceries and bakery.

### Marc Cliffe Phillips

Marc is the Executive Director of the Mackenzie Valley Environmental Impact Review Board in Yellowknife, NT Canada. He has also worked as the executive Director Wek'eezhii Land and Water Board. Marc has played an instrumental role in organizing and participating in the NWT Northern Board Forum.



### Chief Doris Bill

Chief Bill was elected in 2013, after reporting for CBC for two decades. Doris' vision for Kwanlin Dun is to have a safe, vibrant, healthy, unified community where children can grow up and elders are cared for.

With the direction and guidance of Kwanlin Dün Citizens, Chief Bill is working toward the implementation of Kwanlin Dün's Self-Government and Land Claim Agreements; and, continues to champion the inherent rights of Yukon First Nations by influencing legislation. At the same time, Chief Bill recognizes the need to maintain positive working relationships with all levels of government and the business community. Since being elected, Chief Bill, has initiated an intergovernmental forum with the City of Whitehorse, established a working relationship with the Whitehorse Chamber of Commerce and serves as a sitting member on the high level working group "Partnering for Success".

### Chief Kristina Kane

Chief Kristina Kane was born and raised in Whitehorse, and originates from the Chief Jim Boss Family of the Ta'an Kwach'an Council. She was first elected October 2012, and is currently serving as incumbent Chief for her First Nation. In 1902, Chief Kane's great-grandfather, Chief Jim Boss (Kishwoot) wrote to England and the Commonwealth to articulate the need for First Nation Governments to be recognized and respected. His message was clear: protect the rights of Ta'an People and respect the power of the Ta'an Kwach'an Tribal Government. Chief Kane strives to honour the important work of her Kwaday Kwadan (long ago ancestors), as well as working towards a bright future for Ta'an Kwach'an Citizens, Yukon First Nations and Yukon residents through effective partnership and collaboration.

**Boards and Committees Training Conference  
Yukon Inn, Whitehorse  
November 4-6, 1997**

**Planning for an Effective Board Workshop**

**Workshop Goal:**      **To address the issues and identify practical solution for effective boards.**

**General Comments and Suggestions:**

- boards are the backbone of the UFA; they have a major responsibility to ensure the Agreements are being implemented effectively by the Parties.
- common expectations for board performance and conduct should be clearly established. At least initially, the CYI Boards and Committees Handbook could be formally adopted by various boards to accomplish this.
- financial accounting systems must be open and members must be kept informed on financial management on a regular basis.
- establish an annual conference of Boards (similar to this one) to review and evaluate progress, address issues of common concern, and share knowledge and information.
- establish annual meeting of secretariats to do the same.
- establish semi-annual or annual meetings of board chairs to do the same.
- improve communications with communities and First Nations through presentations to General Assemblies, circulating videos of recorded workshops
- address pay equity issues for board members and secretariats to ensure they are fairly and reasonably compensated for time spent off work
- use video and other medium to educate board members and public on historical background to FFAs, UFA, and SGAs
- consider the concept of a "Super Board" operating in Traditional Territories to consolidate a multitude of boards and, in so doing, address human resource capacity and funding issues
- boards should conduct annual performance evaluations
- boards should endeavor to use local people in research projects
- an annual board training workshop for new board members on the UFA, FFAs, and SGA should be mandatory
- there is a pressing need for community level workshops on board orientation to better inform the communities about the responsibilities and opportunities of serving on boards
- Yukon College should offer a course and school curriculum should be developed to educate Yukoners and board members on the UFA, FFAs. SGAs
- board members should be bona fide Yukon residents

- boards must set the standard for implementation of the Agreements and educate government accordingly
- consider and focus on youth development for future participation on boards

### **Specific Issues and Suggestions:**

#### Commitment of the Parties to support and cooperate with boards. timely appointments

- appointment of experienced people
- work with one Party to secure cooperation of other parties on select issues
- regularly brief ministers and FN leadership
- orient new ministers
- be assertive in dealing with the Parties
- reaffirm the trust and cooperation necessary between the parties for effective boards

#### Differing interpretations of the Agreements by the Parties which impedes implementation

- convene workshop to facilitate common understanding of the UFA, FFAs, and SGAs
- refer to Implementation Coordinating Committee
- refer to Dispute Resolution

#### Linkages between boards and government institutions affecting duplication of effort and increased costs

- the issues often by necessity require cooperation and collaboration between boards
- compile data base and distribution list for circulation of minutes, reports, etc.
- establish informal cooperation and information exchange protocols with other groups in areas of significant overlap
- centralize and post information to a shared WEB site which all boards can access
- boards should circulate their operating procedures to one another to ensure appropriate protocols can be observed in their dealings with one another

#### Knowledge of First Nations governance

- boards need to understand First Nations models of governance if they are to work effectively with them

#### Developing effective recommendations and ensuring timely response from Ministers

- the Parties must allow boards adequate time for consultation and preparing advice
- government must commit to timely responses to recommendations
- cultivate relationship with ministers to ensure they remain informed of key issues
- advocate in advance of conveying recommendations to prepare ground for a positive reception

#### Incorporation and use of traditional knowledge

- distinguish issues of procedure (how treat, use and apply TK) from issues of substance (what it is, what type of knowledge or what subject matter is required. In the first instance, boards should address issues of procedure and policy
- develop a comprehensive policy on TK (eg. definition, treatment, use, application) for all boards through a conference on that subject
- develop board accountability for use of TK as required under the UFA
- link to cross-cultural awareness of board members
- compile concrete examples to demonstrate the application of TK
- address intellectual property rights and use of TK through policy and protocols
- appointing Parties should consider members with strong TK and local knowledge, as well as a high level of cross-cultural awareness
- recognize the response burden on elder and others who are used in TK research
- boards should require governments to demonstrate how TK has been and is being used.
- consider the GNWT policy on TK

#### Cross-cultural awareness of board members

- conduct regular meetings in the communities (build into operating procedures as a commitment)
- alternatively, conduct community tours with chair, secretariat and board members(s) annually to inform the communities of board activities and to inform the board of community issues
- conduct joint community tours with other boards
- invite elders to board meetings to address specific issues
- hold an annual meeting of boards in the bush
- conduct cross-cultural workshops exploring the full range of cultural perspectives of board members
- respect both traditional and local knowledge by seeking it out

#### Effective membership

- establish alternates for members early on to spread the burden of participation and to ensure continuity
- appointing Parties should make clear to candidate members the time and effort requirements of serving on a board
- secretariat plays an important role in supporting members, but members must also make themselves available for communication and contact with secretariats
- ensure that the appointing Parties are well informed through consultation with local organizations) about qualified and experienced candidates in the area
- appointing parties should be clear on their expectations and time requirements of new members from the outset
- members who are solution oriented, not just issue oriented, are needed
- approach governments and employers to provide greater flexibility for members participating in board meetings during work hours

- ensure realistic attendance requirements for board members asked to attend meetings during working hours
- boards should establish a long term meeting schedule so members can properly plan for time off work and to be available for meetings
- consider board member contracts to establish performance requirements and objectives

#### Trust and cooperation

- trust and cooperation are key and cannot be taken for granted.
- specific actions should be identified to build trust between members

#### Responsibilities of chairperson to ensure effective sharing of information

- establish a chair's report as a standing agenda item to ensure members remain informed and current with chair's activities
- require the chair to provide a briefing note to the board following meetings, workshops, and conferences attended
- ensure the chair solicits copies of minutes or other written records from meetings attended
- circulate draft correspondence on key issues to members for review before formally signing-off

#### Tracking and implementing action items

- secretariats should ensure members remain informed of the actions items for which a members is responsible
- members should hold the chair accountable to monitor timely and effective action

#### Establishment of Working Groups

- procedures should be developed for the work and accountability of working groups of subcommittees of boards

#### Effective secretariats

- use hiring opportunities to get good people
- recognize the significance of the secretariat as the key to a well administered and well operating board
- recognize the extraordinary responsibilities expected of secretariats if boards are to function effectively

#### RECOMMENDATION FROM WORKSHOP

Boards should contribute funding and initiate efforts for an annual orientation session for new members requiring mandatory participation for these individuals. Experienced board members should be used as resource people for the workshop.

#### SUGGESTION

Convey these recommendation to the Implementing Coordinating Committee.