

YUKON DEVOLUTION PROTOCOL ACCORD 1998

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File

1998-22a

Accord made this *23rd* day of *Sept.* 1998

BETWEEN:

The Government of Canada as represented by the Minister of Indian Affairs and Northern Development ("Canada")

and

The Government of the Yukon Territory as represented by the Government Leader ("YTG")

and

Carcross/Tagish First Nation, Champagne/Aishihik First Nations, Tron'dek Hwech'in First Nation, Kluane First Nation, Little Salmon/Carmacks First Nation, First Nation of Nacho Nyak Dun, Selkirk First Nation, Ta'an Kwach'an Council, Teslin Tlingit Council, Vuntut Gwitchin First Nation and White River First Nation as represented by the Grand Chief of the Council of Yukon First Nations

and

Kwanlin Dun First Nation as represented by the Chief

and

Liard First Nation as represented by the Chief

and

Ross River Dena Council and the Kaska Dena Council as represented by the Tribal Chief of the Kaska Tribal Council

(the above-noted First Nations, other than the Kaska Dena Council, are hereinafter referred to collectively as the "Yukon First Nations")

(the above-noted First Nations are hereinafter referred to collectively as the "First Nations")

(Canada, YTG and the First Nations are hereinafter referred to collectively as the "Parties")

Whereas Canada and the YTG desire that Canada transfer to YTG the provincial-type

legislative powers, programs and responsibilities associated with the Department of Indian Affairs and Northern Development ("DIAND") in the Yukon, such programs being commonly referred to collectively as the Northern Affairs Program ("NAP");

And Whereas the Parties intend to pursue a negotiation process to effect such transfer in an environment of evolving government-to-government-to-government relationships;

And Whereas each Yukon First Nation with a self-government agreement in effect has the power to enact laws in relation to various matters as set out in its self-government agreement;

And Whereas each Yukon First Nation with a self-government agreement in effect has provided notice to Canada pursuant to its self-government agreement to negotiate its assumption of responsibility for the management, administration and delivery of NAP under programs and services transfer agreements ("PSTAs");

And Whereas Canada and each Yukon First Nation that has so provided notice shall conclude those PSTA negotiations as soon as practical in a manner consistent with the Yukon First Nation's self-government agreement;

And Whereas Canada, YTG and each of the Yukon First Nations yet to conclude a Yukon First Nation Final Agreement and a self-government agreement shall conclude those agreements as soon as practical;

And Whereas the Parties recognize the Yukon First Nation Final Agreements concluded to date contain provisions regarding the negotiation of Transboundary Agreements;

And Whereas the Crown and the Aboriginal peoples of Canada are in a fiduciary relationship;

And Whereas the Parties acknowledge their mutual intention to be guided by this Accord;

Now Therefore the Parties agree as follows:


1. The Parties agree to negotiate an agreement (the "Transfer Agreement") providing for the transfer to YTG of the provincial-type legislative powers, programs and responsibilities associated with NAP in the Yukon and the Transfer Agreement, unless the Parties otherwise agree, shall outline:
 - a) objectives and principles;
 - b) the intent of the Parties to conclude, as matters being of the highest

- priority, the negotiation of any outstanding Yukon First Nation Final Agreement or self-government agreement and any Transboundary Agreement into the Yukon;
- c) an implementation work plan;
 - d) provisions to safeguard interests respecting lands and resources for those Yukon First Nations and Transboundary claimant groups having unsettled land claims in the Yukon as at the date of transfer of NAP; and
 - e) provisions to be outlined in a YTG/ First Nations bilateral schedule to safeguard, after the date of transfer, interests respecting lands and resources for those Yukon First Nations and Transboundary claimant groups having unsettled land claims in the Yukon as at the date of transfer of NAP.
2. Negotiation of PSTAs concerning NAP pursuant to concluded Yukon First Nation Self-government Agreements will proceed at the same time as the negotiation of the Transfer Agreement, and in particular:
- a) negotiations of PSTAs concerning NAP that are being undertaken as at the date hereof shall proceed as provided for in the relevant Yukon First Nation Self-Government Agreement and the parties to such negotiations shall use best efforts to conclude the PSTAs prior to the date of transfer; and
 - b) where a Yukon First Nation having concluded a Yukon First Nation Self-Government Agreement after the date hereof and prior to the date of transfer gives notice as provided for in the self-government agreement to commence negotiation of a PSTA concerning NAP, the parties to such negotiations shall use best efforts to conclude the PSTAs as provided for in the self-government agreement.
3. The Parties acknowledge the Transfer Agreement may comprise schedules which may be developed bilaterally or trilaterally.
4. The Transfer Agreement shall provide that nothing in it shall be construed so as to abrogate or derogate from, nor identify or define, any existing aboriginal or treaty rights of the Aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.
5. The Transfer Agreement shall provide that nothing in it shall be construed to preclude any of the Parties from advocating before the courts any position on the existence, nature or scope of any fiduciary duty or obligation to the Aboriginal peoples of Canada.

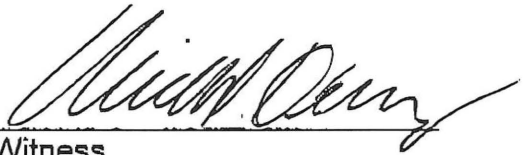
6. The Transfer Agreement shall provide that nothing in it shall be construed to abrogate or derogate from any fiduciary duties or obligations of the Crown that may be derived from treaties, constitutional provisions, legislation, common law or express undertakings.
7. The Parties agree to use best efforts to negotiate and conclude the Transfer Agreement as soon as is reasonably possible but no later than March 31, 1999, and to complete the transfer of NAP by December 31, 1999 in accordance with the Transfer Agreement.
8. As soon as practical after the beginning of negotiations of the Transfer Agreement the Parties shall establish a working group to identify the nature and scope of the amendments required to the *Yukon Act* to effect the transfer to YTG of the provincial-type legislative powers, programs and responsibilities associated with DIAND in the Yukon, develop drafting guidelines, and list, to the extent practical, federal legislation which will need to be amended as a consequence.
9. As soon as practical after the signing of this Accord, the YTG and First Nations shall establish a working group to identify the nature and scope of the legislation required as a result of the transfer of the provincial-type legislative powers, programs and responsibilities associated with DIAND in the Yukon to the YTG, develop drafting guidelines, and list, to the extent practical, territorial legislation which will need to be enacted as a consequence.
10. Pursuant to the Transfer Agreement contemplated by this Accord, during calendar year 1999 or as soon as otherwise reasonably possible:
 - a) Canada will introduce in Parliament amendments to the *Yukon Act* and other federal legislation required to effect the transfer to YTG of the provincial-type legislative powers, programs and responsibilities associated with DIAND in the Yukon; and
 - b) YTG will introduce in the Legislative Assembly legislation required as a result of the transfer to YTG of the provincial-type legislative powers, programs and responsibilities associated with DIAND in the Yukon.
11.
 - a) Canada is aware that the YTG, Yukon First Nations and the Kaska Tribal Council signed bilateral accords in January 1997 which committed them to establish a Joint Devolution Working Group to undertake cooperative working arrangements with respect to the devolution of NAP to the YTG.
 - b) Cooperative working arrangements in respect of the development of a work plan and preparation of new YTG legislation pertaining to devolved NAP responsibilities for lands and resources shall be set out in a YTG/First Nations bilateral schedule to the Transfer Agreement.

- 12. In order to assist First Nation participation in the negotiation of the Transfer Agreement in the 1998-1999 fiscal year, Canada and the YTG shall provide in aggregate up to \$400,000.00 for this purpose.
- 13. Amendments to this Accord may only be made by agreement in writing between the Parties.
- 14. Nothing in this Accord is to be construed to create any legally enforceable rights, obligations or liabilities.

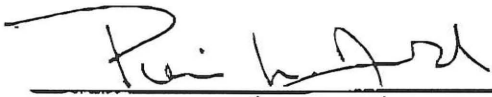
Agreed to as of the date first above written.



 Jane Stewart
 Minister of Indian Affairs
 and Northern Development
 Government of Canada



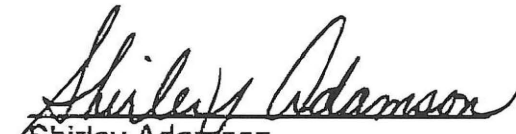
 Witness




 Piers McDonald
 Government Leader
 Government of the Yukon Territory



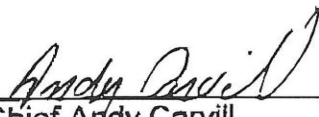
 Witness




 Shirley Adamson
 Grand Chief
 Council of Yukon First Nations, whose
 Leadership includes:



 Witness



 Chief Andy Carvill
 Carcross/Tagish First Nation



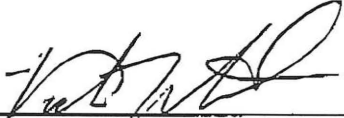
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 Chief Paul Birckel
 Champagne/Aishihik First Nations

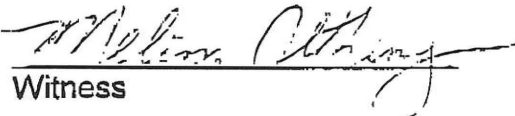
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 Witness


 Chief Steve Taylor
 Tron'dek Hwech'in First Nation

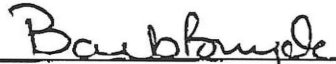

 Witness


 Chief Robert Johnson
 Kluane First Nation


 Witness


 Chief Eddie Skookum
 Little Salmon/Carmacks First Nation


 Witness


 Chief Billy Germaine
 First Nation of Nacho Nyak Dun


 Witness


 Chief Patrick Van Bibber
 Selkirk First Nation


 Witness




 Chief Glenn Grady
 Ta'an Kwach'an Council


 Witness


 Chief Richard Sidney
 Teslin Tlingit Council

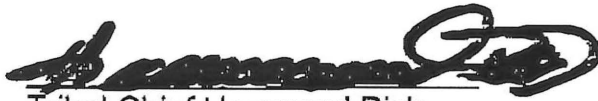

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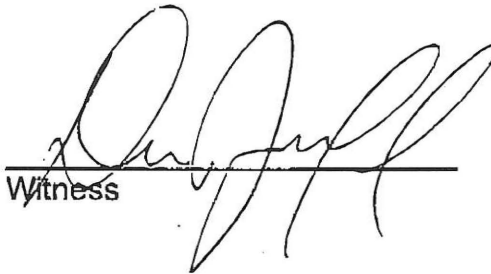

A/Chief Marvin Frost Sr.
Vuntut Gwitchin First Nation


Witness 



Chief Margaret Glazier
White River First Nation


Witness


Tribal Chief Hammond Dick
Kaska Tribal Council, representing
Ross River Dena Council and
Kaska Dena Council


Witness

P21. 
Chief Joe Jack
Kwanlin Dun First Nation


Witness


Chief Ann Bayne
Liard First Nation


Witness