

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM dated _____, 2017 for reference is:

BETWEEN:

Carcross/Tagish First Nation,
Champagne and Aishihik First Nations,
First Nation of Nacho Nyak Dun,
Kluane First Nation,
Kwanlin Dün First Nation,
Little Salmon/Carmacks First Nation,
Selkirk First Nation,
Ta'an Kwäch'än Council,
Teslin Tlingit Council,
Tr'ondëk Hwëch'in,
Vuntut Gwitchin First Nation

(the "**Yukon First Nations**"), as represented herein by their respective Chiefs, and the Council of Yukon First Nations (the "**CYFN**"), as represented by the Grand Chief;

AND:

Her Majesty the Queen in Right of Canada ("**Canada**"),
as represented by the Minister of Indian Affairs and
Northern Development (the "**Minister**");

AND:

The Government of Yukon as represented by the
Premier ("**Yukon**");

(each being a "**Party**" and together being the "**Parties**" to this Memorandum)

WHEREAS:

- (A) *An Act to amend the Yukon Environmental and Socio-economic Assessment Act and the Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2015, c. 19 ("**Bill S-6**") was given Royal Assent on June 18, 2015; and
- (B) Bill S-6 did not have the support of the Yukon First Nations because, among other reasons, it provided for certain amendments to the *Yukon Environmental and Socio-economic Assessment Act*, S.C. 2003, c. 7 ("**YESAA**") which the Yukon First Nations considered to be invalid;

- (C) *An Act to Amend the Yukon Environmental and Socio-economic Assessment Act and to Make a Consequential Amendment to Another Act (“Bill C-17”)*, introduced into Parliament on June 8, 2016, will if passed by Parliament repeal certain contentious amendments brought into force under Bill S-6;
- (D) The Parties wish to honour and respect the spirit and intent of the Yukon First Nation Final Agreements and to re-establish collaboration among themselves for the purposes of implementing fully the development assessment process and facilitating its improvement in the spirit of partnership, respect and cooperation and in fulfillment of the objectives and commitments of the Final Agreements; and
- (E) The development assessment process contemplated by the Yukon First Nation Final Agreements and YESAA requires, among other things, the effective and meaningful participation of affected First Nations.

THEREFORE the Parties, in consideration of the agreements, undertakings, and terms herein set out, do now hereby agree that:

1. This Memorandum expresses the political will of the Parties, respectively and together, and is not intended to be legally binding.
2. This Memorandum is and shall be without prejudice to the position which any of the Parties have taken or may take in relation to *Champagne and Aishihik First Nations, Little Salmon/Carmacks First Nation, Teslin Tlingit Council v The Attorney General of Canada and Government of Yukon* (S.C. No.15-A0102).

Oversight Group

3. The Parties agree to establish an Oversight Group whose purpose is to oversee the development assessment process in the Yukon and promote its ongoing improvement. The Oversight Group will achieve its purpose by providing a forum for the Parties to discuss and jointly provide:
 - (a) guidance and/or recommendations about the development assessment process;
 - (b) direction to the YESAA Forum and any technical working groups;
 - (c) direction and/or guidance with respect to the conduct and outcomes of, and follow-up from, any reviews of YESAA or the YESAA process, including implementation of the YESAA Five-year Review recommendations agreed to by the Parties;
 - (d) guidance and/or recommendations about changes to YESAA, including regulations and policies made in respect of YESAA; and
 - (e) guidance, recommendations and/or direction about any other specific YESAA-related matter as agreed by the Parties.
4. The Oversight Group will consist of four representatives, two representatives appointed by the Yukon First Nations, one representative appointed by Canada and one representative appointed by Yukon.

5. The Parties' representatives, respectively, will have appropriate authority to provide guidance, recommendations or direction, as the case may be, by way of the Oversight Group as provided in paragraph 3 of this MOU.
6. The Parties will establish terms of reference for the Oversight Group that will address:
 - (a) the roles and responsibilities of the Oversight Group;
 - (b) the requirement for semi-annual meetings, and any additional meetings when agreed to by all Parties;
 - (c) the Oversight Group's relationship to, and the roles, responsibilities and mandate of the YESAA Forum;
 - (d) the establishment, use and structure of technical working groups to address specific YESAA-related issues;
 - (e) the implementation of paragraph 14 of this MOU; and
 - (f) the review of any clause of this MOU on an annual basis or upon request of the Parties to ensure that the commitments and obligations identified are being met.
7. The Oversight Group will conduct its business by consensus. If consensus cannot be reached, the Oversight Group may refer the issue to their respective principals who will resolve the issue or return the issue to the Oversight Group with guidance and direction for its resolution.
8. Where and by such means as it deems appropriate, the Oversight Group will make reasonable efforts to provide:
 - (a) the Yukon First Nations (including transboundary First Nations) that are not a Party to this MOU but are affected by YESAA; and
 - (b) the Yukon Environmental and Socio-economic Assessment Board (the "YESAB"), industry representatives, environmental groups and others;

with an opportunity to provide input in a matter arising under paragraph 3 for the consideration of the Oversight Group before it finalizes its determination in that matter.

9. At least once every ten years following the date of this Memorandum, the Parties agree to undertake a review of the development assessment process as set out in YESAA, unless the Parties agree otherwise. The Oversight Group will define the scope and approach for these future reviews, whose purpose will be to ensure that development assessment under YESAA is a timely, efficient and effective process that continues to achieve the objectives of Chapter 12 of the Yukon First Nation Final Agreements.

Resources for YESAA Implementation and Assessments

10. The Parties acknowledge that the resource levels provided by Canada to date to support Yukon First Nation engagements under YESAA were identified in advance of actual operating experience.

As part of the Parties' overall commitment to a reset of our relationships and engagements for the assessment process by way of this MOU, Canada and the Yukon First Nations will undertake negotiations to establish the resources to be provided by way of bilateral Financial Transfer Agreements to support Yukon First Nation engagements under YESAA going forward, taking into account the Yukon First Nations' respective cost experience and expected capacity requirements:

- (a) to participate as the affected Yukon First Nation in the assessment of projects and, where applicable, to discharge Yukon First Nation duties and responsibilities as a decision body for:
 - i. projects submitted for evaluation by a designated office, including complex designated office submissions;
 - ii. projects submitted for screening by the Executive Committee; and
 - iii. projects referred by the Executive Committee for review by a YESAB panel;
 - (b) for the implementation of YESAA, including implementation of the approved recommendations of the Five-year YESAA review and Bill S-6 YESAA amendments; and
 - (c) for the new engagements described in this MOU.
11. The negotiations described in paragraph 10 will proceed on the understandings that:
- (a) Canada will address Yukon First Nation capacity requirements in association with the review of a project by a panel by way of arrangements other than the Financial Transfer Agreement to be made on a panel-by-panel basis, taking into account the timing associated with any particular panel review, the *Negotiators' Memorandum of Understanding - Yukon Development Process Implementation Plan* dated January 4, 2005, and any regulation adopted pursuant to YESAA ss. 122 (g) and s. 122.1;
 - (b) the negotiation process will advance as soon as practicable and as Canada and the Yukon First Nations may provide; and
 - (c) the approved negotiation outcome will be incorporated into the applicable Financial Transfer Agreement by way of amendment or renewal provision, as the case may be.
12. If it is a decision body for a project that is screened by the Executive Committee, Yukon agrees to discuss with a Yukon First Nation, on a case-by-case basis, the provision of funding to address the Yukon First Nation's participation in the assessment and to initiate discussions as soon as practicable when the project assessment is initiated. Any discussion regarding funding will take into account funding provided by Canada, Yukon or a project proponent to the Yukon First Nation to assist in its participation in the assessment.
13. Canada agrees to discuss funding arrangements with CYFN to address CYFN's capacity requirements for the engagements described in paragraphs 10.b and 10.c.

Future amendments to the YESAA and its regulations

14. Subject to federal Cabinet confidentiality requirements and the legislative independence of Parliament, Canada, Yukon and Yukon First Nations agree to work collaboratively with the aim of reaching consensus on:
- (a) guidelines for any legislation that will give effect to any contemplated amendments to the YESAA to the extent that the proposed legislation deals with the YESAA;
 - (b) the text of the proposed final consultation draft of any amending legislation before it is introduced in Parliament to the extent that the proposed legislation deals with the YESAA;
 - (c) guidelines for any new or amended regulation to be made under the YESAA; and
 - (d) the text of any proposed final consultation draft of the regulation before it is presented to the Governor in Council.
15. This Memorandum may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same document.

IN WITNESS WHEREOF we do now execute and deliver this Memorandum each unto the other as of the date first above written.



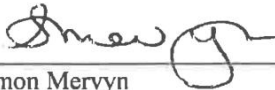
Andy Curvill
Khà Shàde Héni of Carcross/Tagish First Nation

Date: October 26, 2017



Steve Smith
Chief of Champagne and Aishihik First Nations

Date: Oct 24/17, 2017



Simon Mervyn
Chief of First Nation of Nacho Nyak Dun

Date: 8th Nov, 2017



Robert Dickson
Chief of Kluane First Nation

Date: Oct 11, 2017



Doris Bill
Chief of Kwanlin Dün First Nation

Date: OCT 26, 2017



Russell Blackjag
Chief of Little Salmon/Carmacks First Nation

Date: 8th Nov., 2017



Sharon Nelson
Chief of Selkirk First Nation

Date: OCT. 6, 2017



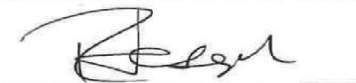
Kristina Kane
Chief of Ta'an Kwäch'än Council

Date: Oct 3, 2017



Richard Sidney
Naa Sháade Háni of Teslin Tlingit Council

Date: 8th Nov, 2017



Roberta Joseph
Chief of Tr'ondëk Hwëch'in

Date: October 12, 2017



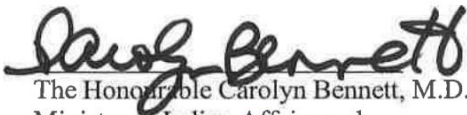
Bruce Charlie
Chief of Vuntut Gwitchin First Nation

Date: 10 OCT, 2017



Peter Johnston
Grand Chief of Council of Yukon First Nations

Date: 8th Nov, 2017



The Honourable Carolyn Bennett, M.D., P.C., M. P.,
Minister of Indian Affairs and
Northern Development

Date: NOV. 22, 2017



The Honourable Sandy Silver
Premier of Yukon

Date: Oct. 17, 2017