



**COMPREHENSIVE LAND CLAIM  
AND SELF-GOVERNMENT  
AGREEMENT-IN-PRINCIPLE**

**AMONG**

**THE DOGRIB FIRST NATION  
AS REPRESENTED BY THE DOGRIB TREATY 11 COUNCIL**

**AND**

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES**

**AND**

**THE GOVERNMENT OF CANADA**

**DOGRIB AGREEMENT-IN-PRINCIPLE**

Signed the 7th day of January, 2000, at Behcho Ko (Rae-Edzo), Northwest Territories, by the representatives of the Dogrib Treaty 11 Council, the Government of the Northwest Territories and the Government of Canada signifying their acceptance of the Dogrib Agreement-in-Principle as the basis to complete the Dogrib Agreement.

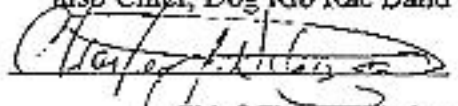
Witness:




Representatives of  
the Dogrib Treaty 11 Council



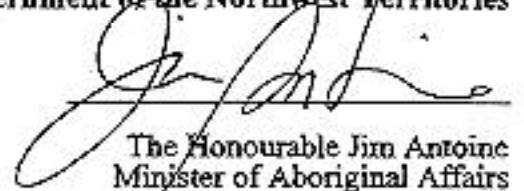
Grand Chief Joe Rabesca  
also Chief, Dog Rib Rae Band



Witness:

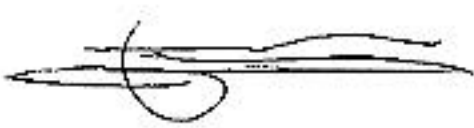


Representative of the  
Government of the Northwest Territories

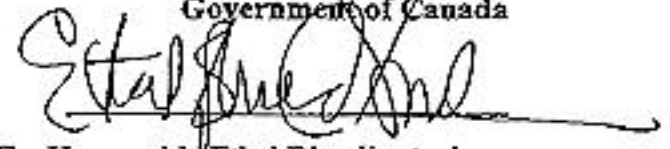


The Honourable Jim Antoine  
Minister of Aboriginal Affairs

Witness:



Representative of the  
Government of Canada



The Honourable Ethel Blondin-Andrew  
Secretary of State  
(Children and Youth)

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**AGREEMENT**

**among**

**THE DOGRIB FIRST NATION**

**and**

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES**

**and**

**THE GOVERNMENT OF CANADA**

- WHEREAS** the Dogrib have traditionally used and occupied lands in and adjacent to the Northwest Territories from time immemorial;
- WHEREAS** Treaty 11 was signed at Fort Rae on the 22nd day of August, 1921, with Chief Monfwi and Headmen Jermain and Beaulieu representing the Dogrib;
- WHEREAS** at the signing of Treaty 11, Chief Monfwi described the traditional Dogrib use area now known to the Dogrib as the *Monfwi gogha ndèniit*;
- WHEREAS** the Dogrib continue to use the *Monfwi gogha ndèniit*;
- WHEREAS** most of the *Monfwi gogha ndèniit* is coincident with the settlement area which is described in Part 1 of the Appendix to Chapter 1;
- WHEREAS** in the period following the signing of Treaty 11, cash grants were issued to Metis of the settlement area;
- WHEREAS** the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada;
- WHEREAS** the parties have negotiated the Agreement in order to define and provide certainty in respect of rights of the Dogrib relating to land, resources and self-government;
- WHEREAS** the Dogrib in a vote held between \_\_\_\_\_ and \_\_\_\_\_, 200\_, approved the Agreement and authorized its signature;
- WHEREAS** the Government of the Northwest Territories, by Order in Executive Council \_\_\_\_\_, dated \_\_\_\_\_, 200\_, approved the Agreement and authorized its signature;
- WHEREAS** the Government of Canada, by Order in Council P.C. \_\_\_\_\_, dated \_\_\_\_\_, 200\_, approved the Agreement and authorized its signature;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

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## CHAPTER 1

### DEFINITIONS

1.1.1 The following definitions apply in the Agreement.

“Aboriginal burial site” means a burial site containing the remains of an Aboriginal person or evidence thereof and includes sites indicated as Aboriginal burial sites under 17.1.5.

"Aboriginal person", except in the definition of “Aboriginal burial site” and in chapter 22, means a member of a group of Aboriginal persons who reside in the Northwest Territories, Nunavut or Alberta and have a right to harvest wildlife in the settlement area.

"Agreement" means the final Dogrib comprehensive land claim and self-government agreement, negotiated by the representatives of the Dogrib Treaty 11 Council and government on the basis of the agreement-in-principle, initialled by the chief negotiators and ratified by the Dogrib and government.<sup>1</sup>

"agreement-in-principle" means the collection of land and resource and self-government provisions accepted and approved by the Dogrib Treaty 11 Council and government as the basis for the Agreement.<sup>2</sup>

“band membership list” means a list, maintained by the Department of Indian Affairs and Northern Development, of the members of the Dog Rib Rae band, the Wha Ti First Nation band, the Gameti First Nation band or the Dechi Laot’i First Nations band.

"bank” of a body of water means the limit or edge of its bed.

"bed" of a body of water means the land covered so long by water as to wrest it from vegetation, or as to mark a distinct character upon the vegetation where it extends into the water or upon the soil itself.

“burial site” means land containing human remains or land in which evidence of such remains are found.

“child” means a person who is less than the age of majority under legislation.

“child and family services” means services for

- (a) the protection of children from abuse, neglect, harm and any threat thereof, where the primary objective is the safety and well-being of children, having due regard for
  - (i) any need for intervention,
  - (ii) the support of families and care givers to provide a safe environment,
  - (iii) the support of kinship ties and a child’s attachment to the extended family, and
  - (iv) the culture and customs of the Dogrib First Nation; or
- (b) the promotion of well-functioning families and of community life.

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<sup>1</sup> The definition of “Agreement” will be revised for the Agreement.

<sup>2</sup> The definition of the “agreement-in-principle” will not be included in the Agreement.

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“comprehensive land claim agreement” means a land claims agreement within the meaning of section 35 of the *Constitution Act, 1982* but does not include Treaty 8 or 11.

"conservation" means

- (a) the maintenance of the integrity of ecosystems by measures such as the protection and reclamation of wildlife habitat and, where necessary, restoration of wildlife habitat; and
- (b) the maintenance of vital, healthy wildlife populations capable of sustaining harvesting under the Agreement.

"consultation" means

- (a) the provision, to the person or group to be consulted, of notice of a matter to be decided in sufficient form and detail to allow that person or group to prepare its views on the matter;
- (b) the provision of a reasonable period of time in which the person or group to be consulted may prepare its views on the matter, and provision of an opportunity to present such views to the person or group obliged to consult; and
- (c) full and fair consideration by the person or group obliged to consult of any views presented.

“Crown lands” means lands belonging to Her Majesty in right of Canada.

"date of the Agreement" means the date on which the Agreement is signed by the representatives of the executive of the Dogrib Treaty 11 Council and government.

"date of the agreement-in-principle"<sup>3</sup> means the date on which the agreement-in-principle is signed by representatives of the Dogrib Treaty 11 Council and government.

“date of the initialling of the Agreement” means the initialling of the Agreement by the chief negotiators for the Dogrib First Nation and government before submitting it to their principals for ratification in accordance with chapter 4.

"developer" means a person or government engaged in a project, including a community, Aboriginal, territorial or federal government.

“direct taxation” has the same meaning, for the purpose of distinguishing between a direct tax and an indirect tax, as in class 2 of section 92 of the *Constitution Act, 1867*.

"Dogrib" for the purpose of chapters 3 and 4, means a person

- (a) of Aboriginal ancestry who resided in and used and occupied the settlement area on or before the twenty-second day of August, 1921, or a descendant of such person;
- (b) who is a registered band member, or a descendant of such person; or
- (c) who was adopted as a child, under the laws of any jurisdiction or under any Dogrib custom, by a Dogrib within the meaning of (a) or (b) or by a Dogrib Citizen, or a descendant of any such adoptee.

“Dogrib Citizen” means a person whose name is on the Register.

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<sup>3</sup> The definition “date of the agreement-in-principle” will not be included in the Agreement; it will be replaced by the date on which the agreement-in-principle was signed.

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"Dogrib community" means the community of Behcho Ko (Rae-Edzo), Wha Ti (Lac La Martre), Gameti (Rae Lakes) or Wekweti (Snare Lake).

"Dogrib community lands" means, in relation to a Dogrib community, the lands within the boundaries of that community other than any parcel to which the Dogrib community government does not hold the fee simple interest.

"Dogrib First Nation" means the Aboriginal people of Canada comprised of all Dogrib Citizens.

"Dogrib First Nation Government" means the government of the Dogrib First Nation established in accordance with chapter 7.

"Dogrib heritage resource" means a heritage resource, other than a burial site, which relates to the history or culture of the Dogrib First Nation.

"Dogrib lands" means the lands vested in the Dogrib First Nation Government under 18.1.1 or lands in which the fee simple interest is held by it following an acquisition under 9.5.1 or in accordance with 18.1.5 or 20.4.9 but do not include lands in which the fee simple interest is no longer held by it following a conveyance under 9.5.2 or 18.1.5 or an expropriation and does not include water.

"Dogrib law" means a law enacted by the Dogrib First Nation Government.

"Dogrib primary use area" means the area described in Part 2 of the Appendix.

"Dogrib Treaty 11 Council" includes any successor organization.

"edible parts" includes, in relation to wildlife, those parts traditionally consumed by Aboriginal peoples for food.

"effective date" means the date on which both territorial and federal settlement legislation have come into force.

"Eligibility Committee" means the Committee established under 3.2.1.

"eligible voter" means, in relation to the ratification vote referred to in 4.2.1(b), a person whose name is on the Official Voters List.

"environment" means the physical environment, including air, land, water, wildlife and heritage resources, and the social and cultural environment, including harvesting of wildlife, plants and trees.

"expropriating authority" means the Government of Canada or the Government of the Northwest Territories or any other authority authorized by legislation to expropriate land or an interest in land, but does not include the Dogrib First Nation Government.

"expropriation" means the compulsory taking of lands or any interest in land.

"fish" means fish as defined in the *Fisheries Act*.

"forest management" includes forest conservation, forest fire control, timber management, reforestation, silviculture and management of a forest for wildlife and recreation.

"fur bearers" means the following species of wildlife: *Castor* including beaver; *Alopex lagopus* including white fox or arctic fox; *Lutra canadensis* including otter; *Lynx canadensis* including lynx; *Martes pennanti* including martens and fishers; *Mephitis mephitis* including skunk; *Mustela* including weasel and mink; *Ondatra zibethicus obscurus* including muskrat; *Vulpes* including red, cross, black and silver fox; *Gulo gulo* including wolverine; *Canis lupus* including wolves and coyotes; *Marmota* including marmots; and *Tamiasciurus* including red squirrels.

"gas" means natural gas and includes all substances, other than oil, that are produced in association with natural gas.

"government" means

- (a) the Government of Canada;
- (b) the Government of the Northwest Territories or its successor or successors; or
- (c) both,

depending upon which government or governments have responsibility, from time to time, for the matter in question, and includes any department, agency or official of such a government.

"harvesting" means, in relation to wildlife, hunting, trapping or fishing and, in relation to plants or trees, gathering or cutting.

"hazardous waste site" means a site on which a toxic substance is stored or disposed of.

"heritage resource" means

- (a) a site with archaeological, historical or cultural significance and includes a burial site, or
- (b) an artifact, object or record of historical or cultural significance and includes human remains and associated grave goods in a burial site.

"Implementation Plan" means the Plan developed under chapter 5.

"independent regulatory agency" means a body established by legislation which, in the exercise of regulatory or licensing powers, is not subject to specific control or direction by government notwithstanding that it may be subject to general direction whether by guidelines, regulations or directives, or that its decisions may be subject to approval, variance or rescission by government and, for greater certainty, does not include the Dogrib First Nation Government.

"initial enrolment period" means a period ending two years after the effective date.

"legislation" means federal or territorial statutes or any laws made under them but does not include Dogrib laws or laws of a Dogrib community government.<sup>4</sup>

"Mackenzie Valley" comprises the Northwest Territories, exclusive of the areas within Wood Buffalo National Park and the Inuvialuit Settlement Region, as defined in the agreement given effect by the *Western Arctic (Inuvialuit) Claims Settlement Act*.

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<sup>4</sup> Each provision of the Agreement which uses the term "legislation" will be reviewed before the date of the initialling of the Agreement to determine the appropriateness of its use and whether any further definition is needed.

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"mineral" means a precious or base metal or other, non-living, naturally occurring substance that is, or was, before production, part of land, whether solid, liquid or gaseous, and includes coal, oil and gas, but does not include water.

"mining right" means a right or interest in minerals that are still part of the land, other than specified substances, or a right to explore for or produce minerals other than specified substances.

"mineral royalty" means, in respect of production of minerals in, on or under the Mackenzie Valley.....<sup>5</sup>

"Minister" means the Minister of the Government of Canada or of the Government of the Northwest Territories, as the context requires, responsible for the subject matter referred to.

"monument" means a device used by a surveyor to mark a boundary in a survey.

"national park" means an area so named that is described in a schedule to the *National Parks Act* and that is within the settlement area.

"navigable" means, with respect to a river, lake or other body of water, capable of navigation by boat or other water craft for commercial or non-commercial purposes.

"North Slave Land and Water Board" means the board referred to in 22.3.2.

"North Slave Renewable Resources Board" means the board established by chapter 12.

"NTS map sheets" means National Topographic System map sheets produced by the Government of Canada.

"Official Voters List" means the list produced under 4.6.1.

"oil" means crude oil, regardless of gravity, produced at a wellhead in liquid form and any other hydrocarbons except gas and, without limiting the generality of the foregoing, hydrocarbons that may be extracted or recovered from deposits of oil sand, bitumen, bituminous sand, oil shale or from any other types of deposits.

"Parties" means the Parties to the Agreement, namely the Dogrib First Nation, as represented by the Dogrib First Nation Government, the Government of the Northwest Territories and the Government of Canada.

"permanent resident of Canada" means a person who has the status of a permanent resident of Canada under the *Immigration Act*.

"plants" means flora, other than trees, in a wild state and includes fungi and algae in a wild state.

"project" means an undertaking, or extension thereof, on land or water and includes the establishment of a national park, a national historic park or site or a territorial park.

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<sup>5</sup> The definition of "mineral royalty" will be completed before the date of the initialling of the Agreement.

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"protected area" means a site or area of land in the settlement area under the administration and control of and protected by government including such a site or area that is a site with archaeological significance, an historic park or site, a territorial park, a game reserve, a sanctuary, a migratory bird sanctuary or other area established for the protection of wildlife and wildlife habitat, but does not include a national park.

"Register" means the Dogrib Citizens Register published on a preliminary basis by the Eligibility Committee under 3.3.6, as amended from time to time in accordance with 3.4.

"registrar" means, in relation to the Register,

- (a) until the designation of a registrar by the Dogrib First Nation Government under 3.2.3, the Eligibility Committee; or
- (b) the registrar designated by the Dogrib First Nation Government under 3.2.3.

"registered band member" means a person who is registered or is entitled to be registered on a band membership list.

"Review Board" means the Environmental Impact Review Board referred to in 22.2.2.

"settlement area" comprises the area within the Northwest Territories described in Part 1 of the Appendix.

"settlement legislation"<sup>6</sup> means the legislation referred to in 4.3.1(c) and 4.3.2(c) that provides the Agreement is approved, given effect and declared valid.

"specified substances" means carving stone, clay, construction stone, diatomaceous earth, earth, flint, gravel, gypsum, limestone, marble, marl, ochre, peat, sand, shale, slate, sodium chloride, soil and volcanic ash.

"Surface Rights Board" means the board referred to in 6.6.1.

"Surveyor General" means the Surveyor General of Canada Lands appointed in the manner authorized by law or a person authorized, by the Minister of the Government of Canada responsible for Canada Lands surveys, to carry out the duties of the Surveyor General.

"territorial park" means an area in the settlement area established under the *Territorial Parks Act*.

"total allowable harvest level" means, in relation to a population or stock of wildlife, the total amount of that population or stock that may be harvested annually in the settlement area.

"toxic substance" has the same meaning as in section 11 of the *Canadian Environmental Protection Act*, R.S. 1985, c. 16.

"trade" means to barter or buy.

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<sup>6</sup> Need to consider listing some minimum matters settlement legislation must cover (for example, retroactively validate chapters 3 and 4 activities).

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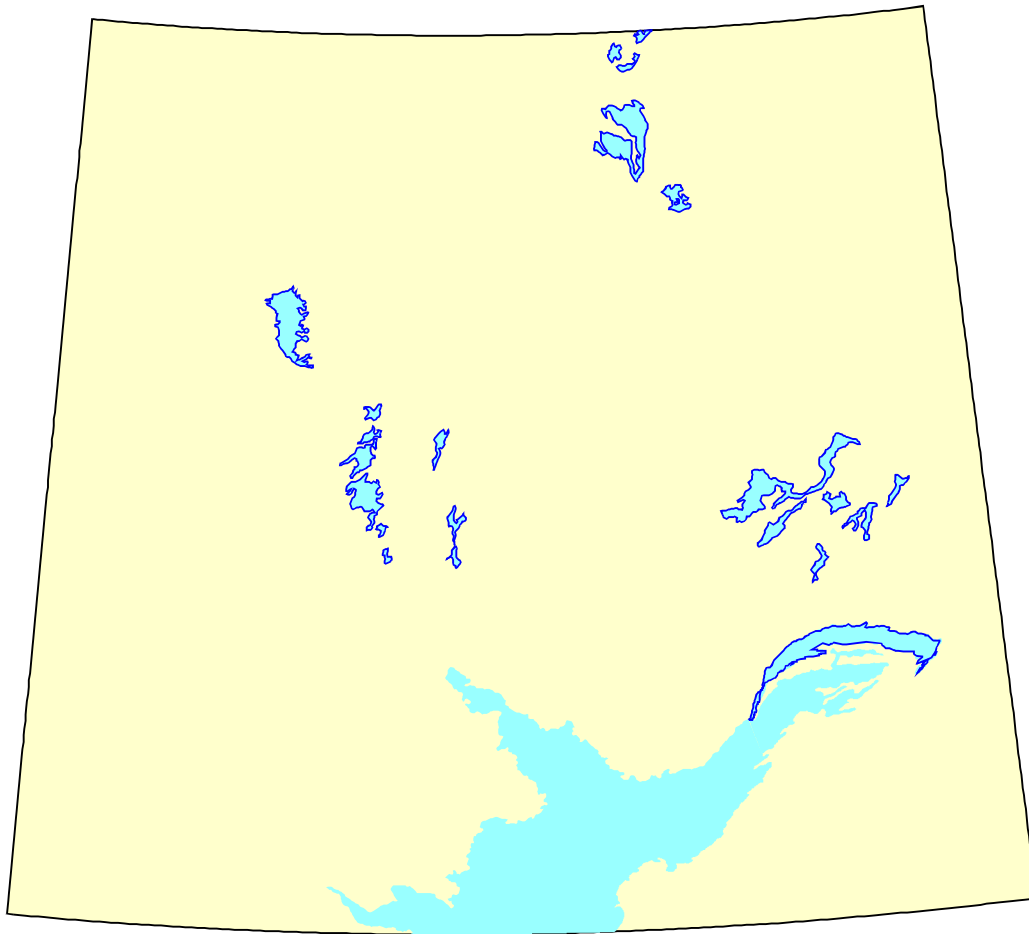
"tree" means a woody, perennial plant generally with a single well-defined stem and a more or less definitively formed crown which is found in a wild state in the Northwest Territories, including

- (a) *Pinus* species including Jack Pine and Lodge Pole Pine;
- (b) *Larix* species including Tamarack;
- (c) *Picea* species including White Spruce and Black Spruce;
- (d) *Abies* species including Alpine Fir;
- (e) *Salix* species including Beaked Willow and Pussy Willow;
- (f) *Populus* species including Trembling Aspen and Balsam Poplar;
- (g) *Betula* species including White Birch, Alaska Birch and Water Birch;
- (h) *Alnus* species including Speckled Alder and Mountain Alder; and
- (i) *Prunus* species including Choke Cherry and Pin Cherry.

"water" includes ice.

"waterfront lands" means a strip of lands 31 metres wide measured inland from the bank of a navigable river or other navigable water body that can be entered from a navigable river.

"wildlife" means all *ferae naturae* in a wild state including fish, mammals and birds.



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<sup>7</sup>

Appendix to be completed before the date of the initialling of the Agreement.

*For the purpose of finalizing the boundary line between the settlement area and the Deh Cho region, the Dogrib Treaty 11 Council will meet with the Deh Cho First Nations.*

*For the purpose of finalizing the boundary line between the settlement area and the South Slave region, the Dogrib Treaty 11 Council will meet with the NWT Treaty 8 First Nations.*

PART 2 DOGRIB PRIMARY USE AREA

All the area more particularly described as:

(to be completed)

*The Dogrib First Nation and the Yellowknives Dene First Nation have for generations used and occupied and continue to use and occupy their traditional territories. It is recognized that their traditional territories overlap and that there is an area used primarily by the Dogrib First Nation and an area used primarily by the Yellowknives Dene First Nation. The Dogrib Treaty 11 Council will conduct discussions with the Yellowknives Dene to explore the concept of primary use areas prior to the date of the initialling of the Agreement and shall attempt to agree with the Yellowknives Dene on the geographic extent of those areas, how those areas will be managed and how rights will be exercised within those areas provided that no such agreement shall adversely affect the rights of persons who are not party to that agreement.*

## CHAPTER 2

### GENERAL PROVISIONS

#### 2.1 AGREEMENT-IN-PRINCIPLE

- 2.1.1 The agreement-in-principle will form the basis for concluding the Agreement.
- 2.1.2 The agreement-in-principle does not create any rights or obligations.

#### 2.2 STATUS OF AGREEMENT

- 2.2.1 The Agreement is a land claims agreement within the meaning of section 35 of the *Constitution Act, 1982*. Unless expressly provided otherwise, no agreement made under or provided for in the Agreement but that is not part of the Agreement is a land claims agreement within the meaning of that section.
- 2.2.2 Ratification of the Agreement by the Dogrib in accordance with 4.2 and by government in accordance with 4.3 is a condition precedent to the validity of the Agreement and, until such ratification, the Agreement is null and void and of no effect.

#### 2.3 DOGRIB RIGHTS AND BENEFITS

- 2.3.1 Nothing in the Agreement or in the settlement legislation shall remove from the Dogrib First Nation its identity as an Aboriginal people of Canada or, subject to 2.7, affect the ability of Dogrib Citizens to participate in or benefit from any existing or future constitutional rights for Aboriginal people which may be applicable to them.
- 2.3.2 Nothing in the Agreement shall affect the ability of the Dogrib First Nation Government and Dogrib Citizens to participate in and benefit from government programs for status Indians, non-status Indians or Metis, as the case may be. Benefits received under such programs shall be determined by general criteria established from time to time.
- 2.3.3 Nothing in the Agreement shall affect the rights of Dogrib Citizens as Canadian citizens and they shall continue to be entitled to all the rights and benefits of all other Canadian citizens applicable to them from time to time.
- 2.3.4 Enrolment as a Dogrib Citizen shall not confer any rights or benefits under the *Indian Act* or a right of entry into Canada or of Canadian citizenship.
- 2.3.5 The *Indian Act* does not apply to Dogrib Citizens, except for the purpose of determining whether or not a Dogrib Citizen is an “Indian” under that Act.
- 2.3.6 Nothing in the Agreement shall be construed to affect hunting, trapping or fishing rights under a Natural Resources Transfer Agreement, or under treaty, in British Columbia, Alberta, Saskatchewan or Manitoba of any person who is eligible to be enrolled as a Dogrib Citizen.<sup>8</sup>

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<sup>8</sup> 2.3.6 needs to be reviewed when the final wording for 2.7 is developed.

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- 2.3.7 Nothing in the Agreement shall be interpreted so as to limit or extend any authority of the Parties to negotiate and enter into international, national, interprovincial, and inter-territorial agreements, but this does not prevent the Dogrib First Nation Government from entering into agreements with a federal, provincial or territorial government for the provision of specific programs and services.
- 2.3.8 Rights and benefits provided under the Agreement for the Dogrib First Nation are vested in Dogrib Citizens collectively and may be exercised by individual Dogrib Citizens subject to any limitations established by or under any provisions of the Agreement, including any limitations established by the Dogrib First Nation Government. No Dogrib Citizen has a right to land, money or other benefits under the Agreement unless specifically provided for in the Agreement, or by decision of the Dogrib First Nation Government.
- 2.4 STATUS OF DOGRIB LANDS
- 2.4.1 Dogrib lands are deemed not to be lands reserved for the Indians within the meaning of the *Constitution Act, 1867* or reserves within the meaning of the *Indian Act*.
- 2.5 INTER-GOVERNMENTAL DEVOLUTION
- 2.5.1 Nothing in the Agreement shall prejudice the devolution or transfer of responsibility or powers from the Government of Canada to the Government of the Northwest Territories.
- 2.6 TREATY 11
- 2.6.1 The historical and cultural importance of Treaty 11 is hereby recognized and there shall be annual meetings to affirm this recognition, to make annual treaty payments<sup>9</sup> and to recognize the importance of the Agreement.
- 2.7 CERTAINTY
- 2.7.1 Before the date of the initialling of the Agreement, the Dogrib Treaty 11 Council and government will agree to the precise legal technique to achieve certainty with respect to
- (a) the recognition of the historical and cultural importance of Treaty 11;
  - (b) ownership and use of land and resources within the settlement area;
  - (c) the application of laws within the settlement area; and
  - (d) the rights of the Dogrib under section 35 of the *Constitution Act, 1982*.
- 2.8 OTHER ABORIGINAL PEOPLES<sup>10</sup>
- General*
- 2.8.1 Nothing in the Agreement shall be construed to affect, recognize or provide any rights under section 35 of the *Constitution Act, 1982* for any Aboriginal peoples other than the Dogrib First Nation.

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<sup>9</sup> 2.6 needs to be reviewed when the final wording for 2.7 is developed.

<sup>10</sup> 2.8 needs to be reviewed in light of the outcome of the discussions referred to in 2.8.2, 2.8.3, 2.8.8 and 2.8.9 and necessary revisions to it and relevant provisions in other chapters need to be considered before the date of the initialling of the Agreement.

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*Gwich'in*

- 2.8.2 Before the date of the initialling of the Agreement, the Dogrib Treaty 11 Council will conduct discussions with and attempt to reach agreement with the Gwich'in on the sharing of wildlife harvesting and wildlife management rights under the *Gwich'in Comprehensive Land Claim Agreement* and under the Agreement provided that no such agreement shall adversely affect the rights of persons who are not party to that agreement.

*Sahtu Dene and Metis*

- 2.8.3 Before date of the initialling of the Agreement, the Dogrib Treaty 11 Council will conduct discussions with and attempt to reach agreement with the Sahtu Dene and Metis on the sharing of wildlife harvesting and wildlife management rights under the *Sahtu Dene and Metis Comprehensive Land Claim Agreement* and under the Agreement provided that no such agreement shall adversely affect the rights of persons who are not party to that agreement.

*Inuit of Nunavut*

- 2.8.4 Dogrib Citizens have the right to harvest wildlife within those areas of the Nunavut Settlement Area which they have traditionally used and continue to use for that purpose, on a basis equivalent to the Inuit of Nunavut under Article 5 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada*.
- 2.8.5 Notwithstanding any provision of chapter 10 or 12, the Inuit of Nunavut have the right to harvest wildlife within those areas of the settlement area which they have traditionally used and continue to use for that purpose, on a basis equivalent to Dogrib Citizens under those chapters.
- 2.8.6 The rights in 2.8.4 and 2.8.5 are subject to any agreement between the Dogrib First Nation and the Inuit of Nunavut.

*Yellowknives Dene*

- 2.8.7 The Dogrib First Nation and the Yellowknives Dene First Nation have for generations used and occupied and continue to use and occupy their traditional territories. It is recognized that their traditional territories overlap and that there is an area that is used primarily by the Dogrib First Nation and an area used primarily by the Yellowknives Dene First Nation.
- 2.8.8 Before the date of the initialling of the Agreement, the Dogrib Treaty 11 Council will conduct discussions with the Yellowknives Dene to explore the concept of primary use areas and shall attempt to agree with the Yellowknives Dene on the geographic extent of those areas, how those areas will be managed and how rights will be exercised within those areas, provided that no such agreement shall adversely affect the rights of persons who are not party to that agreement. These discussions should address the following:
- (a) exclusive and priority harvesting rights for the Dogrib First Nation, other rights of the Dogrib First Nation respecting commercial wildlife activities and access to land for harvesting by the Dogrib First Nation;
  - (b) priority rights of the Dogrib First Nation for employment;
  - (c) establishment of and membership on
    - (i) the North Slave Renewable Resources Board,
    - (ii) the North Slave Land and Water Board, and
    - (iii) any national park advisory management committee;

- (d) establishment of any land use plan for an area of the settlement area outside Dogrib lands;
- (e) Aboriginal burial sites;
- (f) eligibility for the Dogrib ratification vote and enrolment as a Dogrib Citizen; and
- (g) any other relevant matter.

*Deh Cho and NWT Treaty 8 First Nations*

2.8.9 Before the date of the initialling of the Agreement, the Dogrib Treaty 11 Council will conduct discussions with and attempt to reach agreement with the Deh Cho First Nations and the NWT Treaty 8 First Nations on the location of the boundary of the settlement area in the regions used by those First Nations, and on sharing with those First Nations of wildlife harvesting and wildlife management rights of Dogrib Citizens under the Agreement, provided that no such agreements shall adversely affect the rights of persons who are not party to those agreements.

2.9 INTERPRETATION

- 2.9.1 The Agreement may be examined as an aid to interpretation where there is any doubt in respect of the meaning of any legislation implementing the provisions of the Agreement.
- 2.9.2 There shall not be any presumption that doubtful expressions in the Agreement be interpreted in favour of any one of the Parties.
- 2.9.3 The Agreement shall be the entire agreement and there is no representation, warranty, collateral agreement or condition affecting the Agreement except as provided by the Agreement.
- 2.9.4 Unless otherwise provided in the Agreement, legislation of general application shall apply to the Dogrib First Nation Government, Dogrib Citizens and Dogrib lands, waters in, on or under Dogrib lands and resources on or in such lands and waters.
- 2.9.5 Where there is any inconsistency or conflict between the provisions of the settlement legislation or the Agreement and the provisions of any other legislation, Dogrib law or law of a Dogrib community government, the provisions of the settlement legislation or the Agreement, as the case may be, shall prevail to the extent of the inconsistency or conflict.
- 2.9.6 Where there is any inconsistency or conflict between the settlement legislation and the Agreement, the Agreement shall prevail to the extent of the inconsistency or conflict.
- 2.9.7 Except where a specific year and chapter number are included, citation of legislation refers to the legislation as amended from time to time and includes successor legislation.
- 2.9.8 For the purpose of any provision of the Agreement, government may authorize any body or person to act on its behalf, or may identify which of its Ministers is responsible for the subject matter of the provision, by legislation or an order of the Governor in Council, in respect of the Government of Canada, or the Commissioner in Executive Council, in respect of the Government of the Northwest Territories.

2.10 VALIDITY OF AGREEMENT

- 2.10.1 None of the Parties or the Dogrib First Nation Government shall challenge the validity of any provision of the Agreement.
- 2.10.2 Subject to 2.7<sup>11</sup>, none of the Parties or the Dogrib First Nation Government shall have a claim or cause of action based on a finding that any provision of the Agreement is invalid.
- 2.10.3 If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the Parties shall make best efforts to amend the Agreement to remedy the invalidity or replace the invalid provision.

2.11 AMENDMENT

- 2.11.1 The Agreement may be amended with the consent of the Parties as evidenced by
- (a) an order of the Governor in Council, in respect of the Government of Canada;
  - (b) an order of the Commissioner in Executive Council in respect of the Government of the Northwest Territories; and
  - (c) the instrument designated for this purpose by the Constitution of the Dogrib First Nation Government, in respect of the Dogrib First Nation.

2.12 LEGISLATION

- 2.12.1 Government shall consult the Dogrib Treaty 11 Council or, when it is established, the Dogrib First Nation Government, in the planning of the institutions established by or under chapters 12 and 22 and the preparation of the settlement legislation and other legislation proposed to implement the provisions of the Agreement, including the preparation of any amendments to such legislation.

2.13 DISCLOSURE OF INFORMATION

- 2.13.1 Notwithstanding any other provision of the Agreement, neither government nor the Dogrib First Nation Government is required to disclose any information that it is required or entitled to withhold under any legislation or Dogrib law relating to access to information or privacy.
- 2.13.2 Where government or the Dogrib First Nation Government has a discretion to disclose any information, it shall take into account the objects of the Agreement in exercising that discretion.

2.14 DEPOSIT OF AGREEMENT

- 2.14.1 The Minister of Indian Affairs and Northern Development shall cause a copy of the Agreement and of any amendments thereto to be deposited in
- (a) the Library of Parliament;
  - (b) the legislative library of the Government of the Northwest Territories;
  - (c) the main office of the Dogrib First Nation Government;

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<sup>11</sup> 2.10.2 needs to be reviewed when the final wording for 2.7 is developed.



- (d) the library of the Department of Indian Affairs and Northern Development that is situated in the National Capital Region;
- (e) the regional office of the Department of Indian Affairs and Northern Development that is situated in the Northwest Territories; and
- (f) such other places as the Minister deems necessary.

## 2.15 JURISDICTION OF COURTS

2.15.1 Subject to chapter 6, the Supreme Court of the Northwest Territories shall have exclusive jurisdiction in respect of any action or proceeding respecting the interpretation or application of the Agreement including the jurisdiction of the following bodies:

- (a) the North Slave Renewable Resources Board;
- (b) the Surface Rights Board;
- (c) the Review Board; and
- (d) the North Slave Land and Water Board.

2.15.2 The Supreme Court of the Northwest Territories shall have exclusive jurisdiction to review, on a question of law or jurisdiction,

- (a) an enrolment appeal decision under 3.6.7; and
- (b) a decision of an arbitrator under 6.5.

2.15.3 The Supreme Court of the Northwest Territories shall have exclusive jurisdiction for probate and administration of estates of Dogrib Citizens resident in the Northwest Territories at the time of death.

2.15.4 For greater certainty, no Dogrib law shall be interpreted to affect the inherent jurisdiction of the Supreme Court of the Northwest Territories with respect to children and legally incompetent persons.

2.15.5 Unless otherwise agreed by government and the Dogrib First Nation Government,

- (a) the Territorial Court or a justice of the peace with authority in the Northwest Territories shall have jurisdiction to hear and determine proceedings for violations of Dogrib laws and to impose sanctions for such violations;
- (b) in relation to a civil matter arising under Dogrib laws, the Supreme Court or Territorial Court of the Northwest Territories, if it has jurisdiction to hear and determine a similar civil matter arising under the laws of the Government of Canada or the Government of the Northwest Territories, shall have jurisdiction to hear and determine that matter arising under Dogrib laws, except where the Dogrib laws provide for it to be heard and determined other than by a court;
- (c) the Supreme Court of the Northwest Territories shall have jurisdiction to review on a question of law or jurisdiction a final decision of a trustee or an administrative board, commission or tribunal or other body established by the Dogrib First Nation Government or, where Dogrib laws so provide, to hear and determine an appeal of such a decision;
- (d) the Supreme Court of the Northwest Territories shall have jurisdiction to hear and determine a challenge to the validity of a Dogrib law or provision thereof; and

- (e) in relation to a matter arising under Dogrib laws other than one described in any of (a) to (d), the Supreme Court or Territorial Court of the Northwest Territories or a justice of the peace with authority in the Northwest Territories, if that Court or justice has jurisdiction to hear and determine a similar matter arising under the laws of Canada or the Government of the Northwest Territories, shall have jurisdiction to hear and determine that matter arising under Dogrib laws, except where the Dogrib laws provide for it to be heard and determined other than by a court.

2.16 CHARTER OF RIGHTS AND FREEDOMS

- 2.16.1 The *Canadian Charter of Rights and Freedoms* applies to the Dogrib First Nation Government in respect of all matters within its authority.

## **CHAPTER 3**

### **ENROLMENT**

#### **3.1 ELIGIBILITY CRITERIA**

3.1.1 Subject to 3.1.2, a person is eligible to be enrolled as a Dogrib Citizen if

- (a) that person is
  - (i) a Dogrib, and
  - (ii) a Canadian citizen or permanent resident of Canada;
- (b) that person is a Dogrib but as a result of adoption as a child became a citizen of a country other than Canada; or
- (c) that person is
  - (i) of Aboriginal ancestry,
  - (ii) a parent of a person described in (a) of the definition of “Dogrib” in 1.1.1,
  - (iii) accepted pursuant to the community acceptance process in the Dogrib Constitution,
  - (iv) a Canadian citizen or permanent resident of Canada, and
  - (v) resident in the settlement area at the date of enrolment.

3.1.2 A person is not eligible to be enrolled as a Dogrib Citizen while that person is enrolled under another comprehensive land claim agreement.

#### **3.2 ELIGIBILITY COMMITTEE AND REGISTRAR**

3.2.1 Before the date of the initialling of the Agreement, on a date to be determined by government and the Dogrib Treaty 11 Council, an Eligibility Committee shall be established. The Committee shall be dissolved upon the designation of the person or group of persons, as registrar, by the Dogrib First Nation Government under 3.2.3. From the effective date, until it is dissolved, the Eligibility Committee shall perform the functions of the registrar.

3.2.2 The Eligibility Committee shall be composed of six persons appointed as follows:

- (a) four persons shall be appointed by the Dogrib Treaty 11 Council except that any appointments after the effective date are to be made by the Dogrib First Nation Government; and
- (b) two persons shall be appointed by the Minister of Indian Affairs and Northern Development.

3.2.3 Before the end of the initial enrolment period, the Dogrib First Nation Government shall designate a person or group of persons as the registrar.

3.2.4 The Eligibility Committee and the registrar shall determine its own procedures and rules which shall be in accordance with the principles of natural justice.

3.3 PRELIMINARY DOGRIB CITIZENS REGISTER

3.3.1 Before the date of the initialling of the Agreement, the Eligibility Committee shall prepare and provide information respecting eligibility to be enrolled as a Dogrib Citizen.

3.3.2 While preparing the preliminary voters list under 4.4, the Eligibility Committee shall identify, for inclusion on the preliminary Register, the name of every person

(a) whose parent, where that parent has lawful authority to represent that person, or guardian or legal representative applies, by the day before the date of publication under 4.4.1 of the preliminary list of eligible voters, to have that person's name put on that list;

(b) who is eligible, on the date that person's parent, guardian or legal representative applies, to be enrolled as a Dogrib Citizen under 3.1.1(a) or (b); and

(c) who will be less than 19 years of age on the day before the final day of the ratification vote or who is legally incompetent.

3.3.3 For the purpose of the preliminary Register, a person will be considered to be a Dogrib under (b) of the definition of "Dogrib" in 1.1.1 if that person is, on the date the of application under 3.3.2 (a), a registered band member or entitled to be a registered band member, but not if that person is just the descendant of a registered band member.

3.3.4 An appeal may be made to the Eligibility Committee, in writing, within the period set under 4.4.1(c) for appeals respecting the preliminary list of eligible voters, by any person whose application under 3.3.2(a) was rejected.

3.3.5 In respect of any appeal under 3.3.4, the Eligibility Committee shall

(a) hear it in the manner it considers appropriate, in accordance with its rules;

(b) make its decision on the evidence available, which may include unsworn written statements and hearsay evidence; and

(c) give its decision in writing to the applicant.

3.3.6 After all appeals have been dealt with under 3.3.5, and before the effective date, the Eligibility Committee shall consolidate the list of names identified under 3.3.2 with the Official Voters List produced under 4.6.1, publish it as the Dogrib Citizens Register and provide copies to the Dogrib Treaty 11 Council and to government.

3.4 MAINTENANCE OF DOGRIB CITIZENS REGISTER AFTER EFFECTIVE DATE

3.4.1 The registrar shall prepare information respecting the Register and the eligibility criteria required to be enrolled as a Dogrib Citizen and make that information available to persons eligible to be enrolled as Dogrib Citizens.

3.4.2 After the effective date, the registrar shall add to the Register the name of each person eligible to be enrolled as a Dogrib Citizen, and shall remove from the Register and make corrections to the name of any person on the Register, upon application by

(a) that person, if he or she is not a child and is legally competent;

(b) the parent or guardian of that person, if he or she is a child; or

- (c) the legal representative of that person, if he or she is legally incompetent.
- 3.4.3 After the effective date, the registrar shall remove the names of the following persons from the Register:
- (a) a person who is dead;
  - (b) a person who is not a Canadian citizen or permanent resident of Canada, except where that person is eligible under 3.1.1(b);
  - (c) a person enrolled under another comprehensive land claim agreement; and
  - (d) a person enrolled by mistake or on the basis of false or misleading supporting documentation.
- 3.4.4 A person's name shall not be removed under 3.4.3(b), (c) or (d) unless the person or, if that person is a child or is legally incompetent, his or her parent, where that parent has lawful authority to represent that person, or guardian or legal representative, has been given an opportunity to be heard.
- 3.4.5 For the purpose of enrolment in the Register under 3.4.2 to be considered as a Dogrib under (b) of the definition of "Dogrib" in 1.1.1, a person must have been a registered band member on the effective date or a descendant of such a registered band member.
- 3.4.6 Any person whose application for enrolment on the Register under 3.4.2 is refused or whose name is removed from the Register under 3.4.3 may, within 60 days of notice of such decision, appeal in writing to the registrar.
- 3.4.7 The registrar shall give notice in writing of the reasons for any decision to refuse enrolment under 3.4.2 or to remove a name from the Register under 3.4.3 and of the right to appeal, including the period for making an appeal,
- (a) in the case of refusal to enrol, to the person from whom the application for enrolment was received, and
  - (b) in the case of removal from the Register, to the person whose name was removed and any person who applied for its removal.
- 3.4.8 The registrar shall provide each Dogrib Citizen with proof of enrolment on the Register.
- 3.4.9 The registrar shall publish the Register at least once a year.
- 3.4.10 The registrar shall maintain a record of every person whose application for enrolment under 3.4.2 is refused or whose name is removed from the Register under 3.4.3.
- 3.4.11 The registrar shall send to government and the Dogrib First Nation Government a copy of each annual publication of the Register as well as a notice of any alteration to the Register as soon as it is made.
- 3.4.12 The registrar shall provide to every person reasonable access to the Register and, on request, a copy of it or any part thereof. The registrar may impose a reasonable fee for copies.

3.5 ENROLMENT APPEAL PROCESS AFTER EFFECTIVE DATE

- 3.5.1 Subject to 3.5.2, between the effective date and the date the Eligibility Committee is dissolved, appeals under 3.4.6 shall be heard by an appeal panel, composed of three persons appointed by the Eligibility Committee, at least two of whom are appointed on the recommendation of the Dogrib First Nation Government.
- 3.5.2 The appeal panel shall complete its consideration of any appeal commenced but not completed before the dissolution of the Eligibility Committee.
- 3.5.3 By the effective date, the Eligibility Committee shall establish procedures and rules for appeals to the appeal panel established under 3.5.1, and the panel may amend those procedures and rules.
- 3.5.4 After it has designated a registrar under 3.2.3, the Dogrib First Nation Government shall establish an enrolment appeal process.
- 3.5.5 The principles of natural justice shall apply to the enrolment appeal process.
- 3.5.6 A decision on an appeal shall be made within 60 days of receipt of the appeal.

3.6 COSTS

- 3.6.1 The Government of Canada shall, until the end of the initial enrolment period, pay the costs incurred, in accordance with an approved budget, by the Eligibility Committee and its appeal panel and by the Dogrib First Nation Government registrar and its appeal body.
- 3.6.2 The Eligibility Committee and, where applicable, the Dogrib First Nation Government shall prepare an operations budget for each year in the initial enrolment period and submit it to the Government of Canada. The Government of Canada may approve the budget as prepared or vary it and approve it as varied. The budget shall provide for funds reasonably required to fulfill the mandates of the Committee, the Dogrib First Nation Government registrar, where applicable, and their appeal panel or body and shall be in accordance with the Government of Canada's Treasury Board guidelines.
- 3.6.3 After the initial enrolment period, the Dogrib First Nation Government shall bear the costs of the enrolment process, including the costs of its enrolment appeal process.

## **CHAPTER 4**

### **RATIFICATION PROCESS**

#### 4.1 GENERAL

- 4.1.1 Once the Agreement has been initialled by the chief negotiators, it shall be submitted by them to their principals for ratification in accordance with this chapter.
- 4.1.2 Government shall consider the Agreement as soon as possible after approval by the Dogrib Treaty 11 Council under 4.2.1(a).
- 4.1.3 The Agreement shall be signed by the executive of the Dogrib Treaty 11 Council and government as soon as possible after they have been authorized to sign.
- 4.1.4 The Government of the Northwest Territories shall recommend to the Legislative Assembly that the Agreement be approved, given effect and declared valid by territorial legislation.
- 4.1.5 After the federal Cabinet has approved the federal bill for settlement legislation, the Government of Canada shall recommend it to Parliament. The federal settlement legislation shall provide that the Agreement is approved, given effect and declared valid.

#### 4.2 RATIFICATION BY DOGRIB

- 4.2.1 Dogrib ratification shall consist of
  - (a) approval by the Dogrib Treaty 11 Council;
  - (b) approval by a majority of the eligible voters<sup>12</sup> through a ratification vote held in accordance with these provisions; and
  - (c) the signing of the Agreement by the executive of the Dogrib Treaty 11 Council as authorized through the ratification vote.

#### 4.3 RATIFICATION BY GOVERNMENT

- 4.3.1 Government of the Northwest Territories ratification shall consist of
  - (a) approval of the Agreement by the Executive Council;
  - (b) signing of the Agreement by the Minister authorized by the Executive Council; and
  - (c) the coming into force of territorial settlement legislation.

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<sup>12</sup> Need to consider how, in the ratification process, to authorize the transfer of the assets of the four Dogrib bands to the Dogrib First Nation Government.

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- 4.3.2 Government of Canada ratification shall consist of
- (a) approval of the Agreement by Cabinet;
  - (b) signing of the Agreement by the Minister authorized by Cabinet; and
  - (c) the coming into force of federal settlement legislation.
- 4.3.3 The settlement legislation shall be brought into force by a date set by a federal order in council, after consultation with the Dogrib Treaty 11 Council, and that date shall be more than two weeks after the order is made.
- 4.4 PRELIMINARY VOTERS LIST
- 4.4.1 The Eligibility Committee shall
- (a) set the date or dates of the Dogrib ratification vote;
  - (b) prepare a preliminary list of eligible voters, namely of every person who,
    - (i) consents, by the date immediately before the publication of that list, to having his or her name put on that list,
    - (ii) is eligible, on the date that person gives consent, to be enrolled as a Dogrib Citizen under 3.1.1(a) or (b), and
    - (iii) will be at least 19 years of age before the final day of the vote and is legally competent;
  - (c) set the date by which appeals under 4.5.1 must be made, which shall be at least 90 days after the publication of the preliminary voters list, and specify that date on that list; and
  - (d) publish the preliminary voters list in each Dogrib community, in Yellowknife and in any other location it considers appropriate.
- 4.4.2 For the purpose of the preliminary voters list, a person will be considered to be a Dogrib under (b) of the definition of “Dogrib” in 1.1.1 if that person is, on the date consent is given, a registered band member or entitled to be a registered band member, but not if that person is just the descendant of a registered band member.
- 4.5 APPEALS
- 4.5.1 An appeal, in writing, may be made to the Eligibility Committee within the period set by it under 4.4.1(c),
- (a) by a person whose name is not on the preliminary voters list to have his or her name included in the Official Voters List;
  - (b) by a person whose name is on the preliminary voters list to prevent the name of another person being included in the Official Voters List on the basis of ineligibility; and
  - (c) by a person whose name is on the preliminary voters list to prevent his or her name from being included in the Official Voters List.



- 4.5.2 The Eligibility Committee shall, in respect of an appeal under 4.5.1,
- (a) hear it in the manner it considers appropriate;
  - (b) make its decision on the evidence available, which may include unsworn written statements and hearsay evidence; and
  - (c) prior to publishing the Official Voters List under 4.6.1, give its decision in writing to the appellant and, in the case of an appeal under 4.5.1(b), to the person alleged to be ineligible.
- 4.5.3 The Eligibility Committee shall grant an appeal made under 4.5.1(c).
- 4.5.4 The Eligibility Committee shall, whether or not an appeal has been made, correct any errors in the preliminary voters list, other than those that can be raised under 4.5.1(a) or (b), where those errors are brought to its attention within the period set by it under 4.4.1(c).
- 4.5.5 A decision of the Eligibility Committee under 4.5 is final.
- 4.6 OFFICIAL VOTERS LIST
- 4.6.1 The Eligibility Committee shall, at least \_\_\_<sup>13</sup> days before the first day of the vote, revise the preliminary voters list in accordance with its decisions under 4.5.2 to 4.5.4 and produce it as the Official Voters List.
- 4.7 INFORMATION CAMPAIGN
- 4.7.1 The Eligibility Committee shall be responsible for affording eligible voters a reasonable opportunity to review the substance and details of the Agreement.
- 4.7.2 The Eligibility Committee shall organize community meetings to provide eligible voters an opportunity to discuss the Agreement with representatives of the Dogrib First Nation and government.
- 4.8 RATIFICATION VOTE
- 4.8.1 The Eligibility Committee shall establish rules, consistent with these provisions, for the conduct of the ratification vote, including the establishment of polling stations.
- 4.8.2 The ratification vote shall be held on the same date or dates in all of the polling stations.
- 4.8.3 The date or dates of the ratification vote including the date of any advance poll and location of the polling stations shall be published in each community with a polling station at least 60 days before the first day of the vote.
- 4.8.4 The ratification vote shall be by secret ballot.
- 4.8.5 The form and contents of the ballot shall be approved by the chief negotiators.

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<sup>13</sup> To be completed before the date of the initialling of the Agreement.

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- 4.8.6 The Eligibility Committee shall receive and tabulate all ballots and publish the results in each Dogrib community, in Yellowknife and in any other location it considers appropriate, showing
- (a) the total number of ballots cast;
  - (b) the total number of ballots approving the Agreement;
  - (c) the total number of ballots not approving the Agreement; and
  - (d) the total number of ballots spoiled or rejected.

## **CHAPTER 5**

### **IMPLEMENTATION AND TRAINING**

#### **5.1 IMPLEMENTATION PLAN**

5.1.1 Before the date of the initialling of the Agreement, an Implementation Plan (“the Plan”) for the initial 10 year period shall be developed by government and the Dogrib Treaty 11 Council to

- (a) identify the obligations and activities required to implement the Agreement;
- (b) identify the allocation of responsibility among the Parties for the activities;
- (c) identify how the activities will be carried out by the Parties;
- (d) identify time frames for the activities;
- (e) identify, in relation to the implementation of the Agreement, funding obligations of the Parties, including funding for capital projects;
- (f) identify the employment opportunities for Dogrib Citizens to participate in the implementation of the Agreement; and
- (g) address other matters agreed to by government and the Dogrib Treaty 11 Council.

5.1.2 The Plan is not part of the Agreement.

5.1.3 The Plan does not create legal obligations binding on the Parties, except to the extent that the Plan expressly provides otherwise for funding obligations.

5.1.4 The list of obligations and activities set out in the Plan is without prejudice to the right of any Party to assert that additional obligations or activities are required to implement the Agreement.

5.1.5 The Plan may provide that funding for certain identified activities may be made available prior to effective date.

#### **5.2 IMPLEMENTATION COMMITTEE**

5.2.1 Within two months of the effective date, an Implementation Committee shall be established.

5.2.2 The Committee shall consist of three persons: one person representing and designated by the Government of Canada; one person representing and designated by the Government of the Northwest Territories; and one person representing and designated by the Dogrib First Nation Government.

5.2.3 All decisions of the Committee shall be by unanimous agreement of all members.

- 5.2.4 The Committee shall oversee the implementation of the Agreement by
- (a) monitoring the status of the Plan;
  - (b) revising activities and funding levels identified in the Plan, to the extent authorized by the Plan;
  - (c) attempting to resolve implementation issues, without in any way affecting the application of chapter 6;
  - (d) making recommendations to the Parties respecting the implementation of the Agreement beyond the initial 10-year period; and
  - (e) providing the Parties with an annual report on the implementation of the Agreement.
- 5.2.5 Each Party shall be responsible for the costs of the participation of its representative to the Committee.
- 5.2.6 The Government of Canada shall be responsible for publishing the annual report.
- 5.3 TRAINING
- 5.3.1 The Parties recognize the importance of training to Dogrib Citizens in order for them to benefit fully from the Agreement.
- 5.3.2 Before the date of the initialling of the Agreement, government and the Dogrib Treaty 11 Council will develop final provisions respecting training.
- 5.3.3 In developing the provisions referred to in 5.3.2, the following objectives will be taken into account:
- (a) the enhancement of the capacity of Dogrib Citizens to assume the responsibilities associated with self-government;
  - (b) the implementation of human resource development strategies in areas including
    - (i) the making of Dogrib laws,
    - (ii) the enforcement of Dogrib laws,
    - (iii) the environmental stewardship of Dogrib lands,
    - (iv) the management of Dogrib lands and resources, and
    - (v) community support;
  - (c) investing in Dogrib Citizens by assisting them to acquire the education, skills and training necessary to support the self-reliance of the Dogrib First Nation Government and Dogrib Citizens; and
  - (d) such other matters agreed to by government and the Dogrib Treaty 11 Council.

## **CHAPTER 6**

### **DISPUTE RESOLUTION**

#### **6.1 GENERAL**

- 6.1.1 Before invoking a court process to resolve a dispute concerning the interpretation or application of the Agreement, the parties to the dispute shall, in accordance with any rules of the administrator, attempt to resolve the dispute through discussion and by mediation under 6.4.
- 6.1.2 Where a Dogrib Citizen has a right of action in relation to the Agreement, the Dogrib First Nation Government may, with the consent of the Dogrib Citizen, bring that action on behalf of the Dogrib Citizen.
- 6.1.3 The parties to a dispute referred to in 6.1.1 may at any time resolve their dispute by an agreement in writing. Notification of any such agreement shall be provided to a Party who is not a party to the dispute and to the administrator when mediation or arbitration is underway.
- 6.1.4 During discussions under 6.1.1 and mediation under 6.4, all communications concerning the dispute shall be “without prejudice”. For the purposes of such discussions or mediation, the parties to a dispute shall treat documents or communications as confidential unless they agree otherwise. The report of a mediator shall be confidential unless the parties to the dispute agree otherwise.
- 6.1.5 Where the mediation process under 6.4 applies to a matter, no other mediation process provided by or under legislation applies, and where the arbitration process under 6.5, 6.6 or 6.7 applies to a matter, no other arbitration process provided by or under legislation applies.

#### **6.2 APPOINTMENT OF DISPUTE RESOLUTION ADMINISTRATOR**

- 6.2.1 As soon as possible after the effective date, the Parties shall jointly appoint a dispute resolution administrator and a deputy to act as administrator during any period while the administrator is unable to act. The Parties shall fill any vacancy without delay.
- 6.2.2 In the absence of an administrator and deputy administrator, a judge of the Supreme Court of the Northwest Territories shall on application of one of the Parties exercise the functions of the administrator under 6.4 and 6.5, until one is appointed under 6.2.1.
- 6.2.3 The term of appointment of the administrator and the deputy shall be six years and the administrator and the deputy may be reappointed.
- 6.2.4 The administrator or the deputy may be removed for cause by joint decision of the Parties.
- 6.2.5 The administrator and the deputy shall be remunerated at a rate set by government for time worked which shall be within the range set by government for equivalent public servants, and shall be paid for reasonable expenses incurred by them that are consistent with Treasury Board guidelines for public servants.

6.2.6 The administrator, in consultation with the Parties, shall prepare an annual budget and submit it to government. Government may approve the budget as submitted or vary it and approve it as varied. The budget shall provide for the funds reasonably required to fulfill the mandate of the administrator and the deputy, including those required to pay remuneration and expenses under 6.2.5.

6.2.7 Costs incurred by the administrator and the deputy in accordance with the approved budget, including their remuneration and expenses, shall be a charge on government.

### 6.3 GENERAL FUNCTIONS OF ADMINISTRATOR

6.3.1 The administrator shall

- (a) from time to time, invite each of the Parties to provide, within a period specified by the administrator, a list of recommended candidates to act as mediators and arbitrators;
- (b) in accordance with 6.3.2, establish and maintain from the lists a roster of no more than 12 persons;
- (c) in consultation with the Parties, establish rules for mediation, including rules setting criteria for determining whether there have been adequate attempts to resolve a dispute by discussion for the purpose of 6.1.1 and 6.4.1;
- (d) in consultation with the Parties, establish rules for arbitration, which shall provide for an expeditious and, where appropriate, informal process;
- (e) in accordance with 6.4 and 6.5, appoint mediators and arbitrators; and
- (f) maintain a public record of arbitration decisions.

6.3.2 The administrator shall identify the persons on the lists who the administrator considers to have a familiarity with the circumstances of the Parties and their relationships or with analogous circumstances and relationships, and to have the skills and abilities to act as mediators and arbitrators. The administrator shall notify each Party of any person recommended by it who does not meet this standard and give an opportunity for it to recommend an additional candidate. The administrator shall put on the roster all those on a list who meet the standard except that if there are more than 12 such persons, the administrator shall put on the roster the 12 best qualified.

6.3.3 If there are no persons on the roster or none who are available, upon receipt of a request for mediation or arbitration, the administrator shall, after consultation with the parties to the dispute, appoint a person as mediator or arbitrator who the administrator considers to have the skills and abilities to act as the mediator or arbitrator for the matter in dispute.

### 6.4 MEDIATION

6.4.1 The administrator shall not accept a request for mediation from a party to a dispute until that party has attempted to resolve that dispute by discussion.

6.4.2 Subject to 6.4.1, upon receiving a request from a party to a dispute, the administrator shall appoint a mediator agreed to by the parties to the dispute or, in the absence of agreement, from the roster or under 6.3.3.

6.4.3 The mediator shall, without delay, consult with the parties to the dispute and arrange for the commencement of the mediation.

- 6.4.4 Unless the parties to the dispute agree otherwise, the mediation shall be held in the settlement area.
- 6.4.5 The mediation shall be concluded within a period of four hours from its commencement unless the parties to the dispute and the mediator agree to an extension.
- 6.4.6 All costs of mediating a dispute, including the remuneration and expenses of the mediator, but excluding the costs incurred by the parties to the dispute, shall be shared equally among the parties to the dispute, unless provided otherwise in the Agreement or in the Implementation Plan. Each party to the dispute is responsible for the costs incurred by it.
- 6.4.7 Upon termination of the mediation proceedings, the mediator shall submit a mediation report, including the degree to which the parties to the dispute reached any agreement, to
- (a) the parties to the dispute;
  - (b) the administrator;
  - (c) the Surface Rights Board, in the case of a dispute that would be referred to that Board under 6.6; and
  - (d) the North Slave Land and Water Board, in the case of a dispute that would be referred to that Board under 6.7.
- 6.5 ARBITRATION
- 6.5.1 The administrator shall not accept a request to arbitrate from a party to a dispute until that party has participated in mediation conducted in accordance with 6.4.
- 6.5.2 Subject to 6.5.1, the administrator shall appoint an arbitrator agreed to by the parties to the dispute or, in the absence of agreement, from the roster or under 6.3.3, upon receiving a request from a party to a dispute in respect of
- (a) any matter which the Agreement stipulates shall or may be resolved in accordance with this chapter, except the matters required by 6.6.1 or 6.7.1 to be referred to the Board identified in 6.6 or 6.7 or by 6.8.1 to be referred to an arbitration committee appointed under the *National Energy Board Act*; or
  - (b) any other matter concerning the interpretation or application of the Agreement where the parties to the dispute agree in writing to be bound by an arbitration decision in accordance with this chapter.
- 6.5.3 Unless the parties to the dispute otherwise agree, a person who has acted as mediator in a dispute cannot act as an arbitrator for that dispute.
- 6.5.4 A Party that is not a party to the dispute may participate in any arbitration as a party to the dispute.
- 6.5.5 An arbitrator may allow any person that is not a party to the dispute, on application and on such terms as the arbitrator may order, to participate, as an intervener, in an arbitration if, in the opinion of the arbitrator, the interest of that person may be directly affected by the arbitration.
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- 6.5.6 Subject to the rules of the administrator and the other provisions of the Agreement, and in addition to any other powers provided by the Agreement, the arbitrator may, in relation to any matter before the arbitrator,
- (a) determine all questions of procedure, including the method of giving evidence;
  - (b) make an award, including interim relief;
  - (c) provide for the payment of interest and costs;
  - (d) subpoena witnesses;
  - (e) administer oaths or affirmations to witnesses;
  - (f) refer questions of law to the Supreme Court of the Northwest Territories; and
  - (g) correct clerical errors in the arbitration decisions.
- 6.5.7 A decision of an arbitrator shall be conclusive and binding on the parties to the dispute and shall not be challenged by appeal or review in any court except on the ground that the arbitrator has erred in law or exceeded his or her jurisdiction.
- 6.5.8 Each party to a dispute shall bear its own costs and an equal share of the other costs of the arbitration including the remuneration and expenses of the arbitrator, except where the arbitrator decides to impose the responsibility for costs on just one or some of the parties to the dispute or to distribute it among those parties in a different manner.
- 6.5.9 Any intervener shall bear its own costs.
- 6.5.10 A party to the dispute may, after the expiration of 14 days from the date of the release of an arbitration decision or order or from the date provided in the decision for compliance, whichever is later, file in the Registry of the Supreme Court of the Northwest Territories a copy of the decision and the decision or order shall be entered as if it were a decision or order of the Court, and on being entered shall be deemed, for all purposes except for an appeal from it, to be an order of the Supreme Court of the Northwest Territories and enforceable as such.
- 6.5.11 Where requested by a party to a dispute, any information provided by that party shall be kept confidential among the parties to the dispute, the arbitrator and its agents.
- 6.5.12 In respect of an access order for Dogrib lands, 6.6.5 to 6.6.10 apply to the arbitrator as if the arbitrator was the Surface Rights Board and to an order of the arbitrator as if it were an access order from that Board.
- 6.6 SURFACE RIGHTS BOARD
- 6.6.1 If a Surface Rights Board is established by legislation as an institution of public government with jurisdiction over matters relating to access and compensation in an area larger than but which includes the settlement area, and that jurisdiction accords with the provisions set out in 6.6, the matters specified in 19.3.2, 19.4.4, 19.4.7, 19.4.8 and 19.5.7 shall be referred by a party to the dispute to the Board for resolution instead of to the administrator for resolution by arbitration under 6.5.
- 6.6.2 Members of the Surface Rights Board shall be residents of the Mackenzie Valley. When dealing with Dogrib lands, the Board shall act through a panel of its members at least one of whom shall be a resident of the settlement area.
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- 6.6.3 The costs of the Surface Rights Board incurred in accordance with an approved budget shall be a charge on government. The Board shall prepare an annual budget and submit it to government. Government may approve the budget as submitted or vary it and approve it as varied.
- 6.6.4 The Surface Rights Board shall not accept a request to resolve a dispute from a party to a dispute until that party has participated in mediation conducted in accordance with 6.4.
- 6.6.5 The Surface Rights Board may, with respect to an access order for Dogrib lands,
- (a) establish, as a condition of access, a requirement to pay compensation for the use of the lands including compensation for unforeseen damage that may result from the access;
  - (b) grant the order before any compensation for such access has been determined;
  - (c) establish, as a condition of access, the right of the Dogrib First Nation Government to verify that the access is being exercised in accordance with any applicable condition established by the Agreement or the Board;
  - (d) periodically review the order or any conditions, including compensation;
  - (e) terminate the order, after a hearing, where the lands are no longer being used for the purpose authorized; and
  - (f) award costs.
- 6.6.6 In determining compensation payable in respect of access to Dogrib lands, the Surface Rights Board shall consider all relevant factors, including
- (a) the market value of the land;
  - (b) loss of use of the land to Dogrib Citizens;
  - (c) effect on wildlife harvesting;
  - (d) adverse effect of the use upon lands retained by Dogrib Citizens;
  - (e) damage which may be caused to the land used;
  - (f) nuisance, inconvenience and noise;
  - (g) the cultural and other special value of the land to the Dogrib First Nation;
  - (h) the cost associated with any inspection rights established by the Surface Rights Board as a condition of access; and
  - (i) such other factors as may be provided for in the legislation establishing the Board,
- but shall not consider the reversionary value of the land after the use terminates, or any entry fee payable.
- 6.6.7 Any conditions set by the Surface Rights Board in an access order shall be consistent with any conditions established for the activity in question by a regulatory authority and, in the event of a conflict between them, the latter shall prevail.

- 6.6.8 Prior to exercising a right of access on Dogrib lands under an access order from the Surface Rights Board, the person with the right shall pay to the Dogrib First Nation Government an entry fee, to be prescribed by legislation, and 80 percent of the last compensation offer made before the matter was referred to the Surface Rights Board.
- 6.6.9 Where an access order for Dogrib lands is granted before compensation is determined, a hearing to determine compensation shall be held not later than 30 days from the date of the access order.
- 6.6.10 Where any preconditions to a right of access have been satisfied, the Surface Rights Board has discretion only with respect to the conditions on which the access may be exercised and cannot refuse to issue the access order.
- 6.7 NORTH SLAVE LAND AND WATER BOARD
- 6.7.1 The matters specified in 19.7.5 and 19.7.6, except for a dispute on the amount of any payment for the value of the materials supplied or for the exercise of access, shall be referred by a party to the dispute to the North Slave Land and Water Board for resolution instead of to the administrator for resolution by arbitration under 6.5.
- 6.7.2 The North Slave Land and Water Board shall not accept a request to resolve a dispute from a party to a dispute until that party has participated in mediation conducted in accordance with 6.4.
- 6.8 NATIONAL ENERGY BOARD ACT EXPROPRIATION
- 6.8.1 A dispute as to compensation for Dogrib lands expropriated under the *National Energy Board Act* shall be referred to an arbitration committee appointed under that Act instead of to the administrator for resolution by arbitration under 6.5 except that the committee shall include at least one nominee of the Dogrib First Nation Government.
- 6.8.2 An arbitration committee shall not be appointed under the *National Energy Board Act* for a dispute referred to in 6.8.1 until the parties to the dispute have participated in mediation conducted in accordance with 6.4 or negotiation in accordance with that Act.

## CHAPTER 7

### DOGRIB FIRST NATION GOVERNMENT

#### 7.1 CONSTITUTION OF DOGRIB FIRST NATION GOVERNMENT

- 7.1.1 The Dogrib First Nation Government is established at the effective date. The Constitution for that Government shall be established before the date the ratification process commences.<sup>14</sup>
- 7.1.2 In addition to anything else necessary in relation to the Dogrib First Nation Government, the Dogrib First Nation Government Constitution shall provide for
- (a) governing bodies and the exercise of their powers and duties and their composition, membership and procedures;
  - (b) protections for Dogrib Citizens and for other persons to whom Dogrib laws apply, by way of rights and freedoms no less than those set out in the *Canadian Charter of Rights and Freedoms*;
  - (c) a system of political and financial accountability to Dogrib Citizens;
  - (d) the challenging of the validity of Dogrib laws by any person directly affected by such laws and the quashing of invalid laws;
  - (e) implementation of the principle that persons directly affected by any programs or services delivered by any Dogrib First Nation Government institution should have an opportunity to participate in the decision making process with respect to the management and delivery of those programs and services;
  - (f) the possibility that persons who are not Dogrib Citizens may be appointed or elected as members of Dogrib First Nation Government institutions; and
  - (g) amendment of the Constitution by Dogrib Citizens.
- 7.1.3 The governing body of the Dogrib First Nation Government that exercises its law making powers and its primary executive functions will include at least
- (a) a Grand Chief elected at large by eligible Dogrib Citizens;
  - (b) the Chief of each Dogrib community government; and
  - (c) one representative from each Dogrib community elected by the residents of that community.
- 7.1.4 To the extent of any conflict between the Dogrib First Nation Government Constitution and the Agreement, the Agreement prevails.
- 7.1.5 Every person shall have reasonable access to a copy of the Dogrib First Nation Government Constitution during normal business hours, and, upon request, the Dogrib First Nation Government shall provide, at cost, copies of the Constitution.

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<sup>14</sup> Before the date of the initialling of the Agreement, the issue of Canada's international legal obligations in relation to the Dogrib First Nation Government will be discussed.

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7.2 GENERAL POWERS

7.2.1 The Dogrib First Nation Government is a legal entity with the legal capacity of a natural person, including but not limited to, the ability to

- (a) enter into contracts or agreements;
- (b) acquire and hold property, including real property, or any interest therein, sell or otherwise dispose of property or any interest therein;
- (c) raise, invest, expend and borrow money;
- (d) sue or be sued;
- (e) form corporations or any other legal entities; and
- (f) do such other things as may be conducive to the exercise of its rights, powers and privileges.

7.2.2 For greater certainty, the Dogrib First Nation Government may establish trusts and administrative boards, commissions and tribunals and other bodies to perform functions identified in Dogrib laws.

7.3 DELEGATION

7.3.1 The Dogrib First Nation Government may delegate any of its powers, except law-making to

- (a) a body or official established by a Dogrib law;
- (b) government, including a department, agency or office of government;
- (c) a board or other public body established by legislation; or
- (d) a Dogrib community government or other municipal government.

7.3.2 A delegation under 7.3.1 must be in writing and with the agreement of the delegate, if under 7.3.1(b), (c) or (d).

7.3.3 The Dogrib First Nation Government has the capacity to enter into agreements to receive powers, including law making powers, by delegation.

7.4 LAW MAKING POWERS

7.4.1 The Dogrib First Nation Government has the power to enact laws in relation to

- (a) the structure of the Dogrib First Nation Government and its internal management; and
- (b) the management and exercise of rights and benefits provided under the Agreement to Dogrib Citizens, to the Dogrib First Nation or to the Dogrib First Nation Government including those related to harvesting of wildlife, plants and trees.

- 7.4.2 The Dogrib First Nation Government has the power to enact laws in relation to the use, management, administration and protection of Dogrib lands and the renewable and non-renewable resources found thereon<sup>15</sup>, including, for greater certainty, laws respecting
- (a) the granting of interests in Dogrib lands and the expropriation of such interests by the Dogrib First Nation Government;
  - (b) land use plans for Dogrib lands;
  - (c) businesses, occupations and activities of a local nature on Dogrib lands;
  - (d) the control or prohibition of the transport, sale, manufacture, possession or use of weapons and dangerous substances on Dogrib lands;
  - (e) the control or prohibition of the transport, sale, possession or use of intoxicants on Dogrib lands; and
  - (f) the requirement for a licence, permit or approval from the North Slave Land and Water Board for use of Dogrib lands where legislation provides an exemption from such a requirement.
- 7.4.3 The Dogrib First Nation Government has the power to enact laws in relation to the following matters:
- (a) who may harvest fish in waters overlying Dogrib lands;
  - (b) which Dogrib Citizens may harvest fish in waters within the settlement area;
  - (c) use of waters overlying Dogrib lands, for the purpose of fishing, to identify opportunities or activities for aquaculture, fish stocking, fish hatcheries, trophy fish harvesting or catch and release fishing;
  - (d) limits, other than total allowable harvest levels, on any species or stock of fish which may be harvested,
    - (i) by any person, in waters overlying Dogrib lands, and
    - (ii) by Dogrib Citizens in other waters within the settlement area;
  - (e) limits on when fish harvesting may occur, including non-quota limitations such as limits on location, methods, quantities and seasons,
    - (i) in relation to any person, in waters overlying Dogrib lands, and
    - (ii) in relation to Dogrib Citizens, in other waters in the settlement area;
  - (f) restrictions on the type of equipment or gear that may be used for fish harvesting, including methods of use and identification of gear and harvested fish
    - (i) by any person, in waters overlying Dogrib lands, and
    - (ii) in relation to Dogrib Citizens, in other waters in the settlement area;
  - (g) identification designating
    - (i) any person who is authorized to harvest fish in waters overlying Dogrib lands, and
    - (ii) a Dogrib Citizen who is authorized to harvest fish in other waters in the settlement area;

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<sup>15</sup> Before the date of the initialling of the Agreement, the Dogrib Treaty 11 Council and the Government of the Northwest Territories will develop provisions to ensure that Dogrib laws and Government of the Northwest Territories laws will be harmonized to ensure that wildlife and wildlife habitat will not be adversely affected in the Northwest Territories.

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- (h) identification of fish transported outside Dogrib lands or the settlement area by Dogrib Citizens;
- (i) fish allocations received from the North Slave Renewable Resources Board; and
- (j) other items in regard to fish management as agreed to by the Dogrib First Nation Government and government and confirmed in legislation.

7.4.4 The Dogrib First Nation Government has the power to enact laws in relation to

- (a) protection of spiritual and cultural beliefs and practices of Dogrib Citizens in the settlement area and protection and promotion of the Dogrib language and of the culture of the Dogrib First Nation;
- (b) the use of Dogrib language in operations of the Dogrib First Nation Government, on Dogrib lands, and by Dogrib Citizens in the settlement area, and standards for the Dogrib language;
- (c) the practice of traditional Dogrib medicine in the settlement area, including the certification of such practitioners;
- (d) heritage resources on Dogrib lands and in Dogrib communities;
- (e) training by the Dogrib First Nation Government for Dogrib Citizens;
- (f) social assistance, including social housing, for Dogrib Citizens in the Dogrib primary use area, provided that such laws provide for standards, including standards for equitable access, portability and availability of appeal mechanisms;
- (g) child and family services for Dogrib Citizens in the Dogrib primary use area, provided that such laws provide for standards, including standards for the application of the principle of acting in the best interests of the child;<sup>16</sup>
- (h) guardianship and trusteeship of adult Dogrib Citizens in the Dogrib primary use area, except in relation to persons who are subject to the *Mental Health Act*, provided that such laws provide for standards, including standards for the application of the principles of natural justice and the promotion of the safety and well-being of those persons;
- (i) adoption, in the Northwest Territories, by a Dogrib Citizen of a child who is a Dogrib Citizen provided that such laws provide for adoption in accordance with the principle of acting in the best interests of the child and are consistent with any territorial legislation of general application requiring consent or notification of a biological parent;
- (j) education, except post-secondary, for Dogrib Citizens in Dogrib communities or on Dogrib lands, including the teaching of the Dogrib language and the history and culture of the Dogrib First Nation but not including the certification of teachers;
- (k) pre-schooling and early childhood development programs for Dogrib Citizens in Dogrib communities or on Dogrib lands;
- (l) wills, intestacy and administration of estates of Dogrib Citizens resident in the Northwest Territories at the time of death;

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<sup>16</sup> Need to confirm whether a provision is required in the Agreement or in an intergovernmental services agreement regarding children who are not Dogrib Citizens but are in the care of Dogrib Citizens.

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- (m) certification of persons to teach the Dogrib language and the history and culture of the Dogrib First Nation;
  - (n) solemnization of marriage within the Dogrib primary use area, including conditions under which individuals appointed by the Dogrib First Nation Government may solemnize marriages; and
  - (o) provision of services to Dogrib Citizens by the Dogrib First Nation Government for the resolution of disputes by processes other than courts.
- 7.4.5 The Dogrib First Nation Government has the power to enact laws for Dogrib First Nation Government purposes in relation to direct taxation of Dogrib Citizens on Dogrib lands.<sup>17</sup>
- 7.4.6 The powers to enact laws in relation to any of the matters set out in 7.4.1, 7.4.2, 7.4.3, 7.4.4 or 7.4.5 includes the power to enact laws for the enforcement of those laws, including laws
- (a) establishing powers of search, seizure, arrest and detention;
  - (b) providing for the appointment of enforcement officers and identifying their specific duties; and
  - (c) providing for the imposition of fines, imprisonment or other sanctions of a type authorized by legislation, or for the imposition of other sanctions consistent with the culture and customs of the Dogrib First Nation.
- 7.4.7<sup>18</sup> Before the date of the initialling of the Agreement, government and the Dogrib Treaty 11 Council shall determine the funding arrangements for the preparation of a land use plan by the Dogrib First Nation Government.
- 7.5 LIMITATIONS AND CONDITIONS
- 7.5.1 The power to enact laws in relation to the matters set out in 7.4.2 does not include the power to enact laws authorizing the use of water or the deposit of waste in water.
- 7.5.2 The only laws that may be enacted under 7.4 in relation to fish and fish habitat are those set out in 7.4.3.
- 7.5.3 7.5.1 and 7.5.2 do not restrict any power under 7.4.1 or 7.4.2 to enact laws respecting habitat for wildlife other than fish.
- 7.5.4 The power to enact laws in relation to the matters set out in 7.4.4(d) does not include the power to enact laws affecting private property rights in heritage resources.

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<sup>17</sup> The issue as to whether the Dogrib First Nation Government will have the power to make laws for the direct taxation of Dogrib Citizens within Dogrib communities and whether such a power would be provided by chapter 7 or a taxation agreement under 27.4 will be dealt with before the date of the initialling of the Agreement.

<sup>18</sup> 7.4.7 will not be included in the Agreement.

- 7.5.5 The Government of the Northwest Territories shall develop, and amend as necessary, core principles and objectives for social assistance, social housing, child and family services, guardianship and trusteeship of adults and pre-schooling and early childhood development. In developing these principles and objectives, the Government of the Northwest Territories shall consult the Dogrib First Nation Government. Standards established by the Government of the Northwest Territories and Dogrib First Nation Government shall be compatible with these core principles and objectives.
- 7.5.6 The Dogrib First Nation Government shall provide to the Government of the Northwest Territories notice of adoptions under 7.4.4(i) laws and of marriages under 7.4.4(n) laws.
- 7.5.7 Curriculum, examination and other standards established under 7.4.4(j) shall be designed with the objective of permitting transfers of students between and within provincial and territorial school systems at a similar level of achievement and enabling qualified students to gain admission to provincial and territorial post-secondary education systems.
- 7.5.8 The power to enact laws in relation to the matters set out in 7.4.4(o) does not include the power to require persons to submit to any dispute resolution process without their consent.
- 7.5.9 Except where expressly applicable only to Dogrib Citizens, the power to enact laws in relation to the matters set out in 7.4 includes the power to enact laws that are applicable to persons who are not Dogrib Citizens.
- 7.5.10 The power to enact laws in relation to the matters set out in 7.4 does not include the power to enact laws
- (a) regulating professions or certifying trades or occupations;
  - (b) authorizing the manufacture of intoxicants;
  - (c) preventing any person from exercising a right of access under chapter 19 or imposing any conditions on the exercise of such rights, except conditions agreed to by government in accordance with 19.1.9, conditions allowed by 19.2.3, or conditions established in accordance with chapter 6 where that process is expressly provided for in chapter 19;
  - (d) imposing any conditions on the exercise of a right or interest described in Part 2 of Schedule 2, or any renewals, replacements, transfers or extensions of term thereof;
  - (e) establishing a permitting system for the use of the surface of Dogrib land;
  - (f) relating to broadcasting or telecommunications or to intellectual property;
  - (g) conferring the status of a corporation on a body created by the Dogrib First Nation Government under Dogrib laws;
  - (h) that are criminal laws or in relation to criminal procedure;
  - (i) establishing a court;
  - (j) providing for the imposition of fines or imprisonment beyond general limits provided for summary conviction offences in the *Criminal Code* for which no specific punishment is provided; or
  - (k) providing for the imposition of sanctions, other than those of a type authorized by legislation, on a person who is not a Dogrib Citizen without that person's consent.



- 7.5.11 A Dogrib law providing for the appointment of an enforcement officer authorized to exercise a power of search, seizure, arrest or detention shall confirm that the officer in exercising such power has all the power, authority, protection and privileges that a peace officer has by law.
- 7.5.12 For greater certainty, the power to enact laws in relation to the matters set out in 7.4.5 shall not limit the power of government or a Dogrib community government to impose or levy tax or pass laws in respect of taxation.
- 7.5.13 Any Dogrib law enacted in relation to the matters set out in 7.4.5 is subject to the obligations of the Government of Canada under international treaties, conventions and protocols respecting taxation.
- 7.5.14 Before enacting a law in relation to the matters set out in 7.4.2, the Dogrib First Nation Government shall consult with government.
- 7.5.15 Before enacting a law in relation to a matter set out in 7.4.4(d) that is applicable in a Dogrib community, the Dogrib First Nation Government shall consult with the Dogrib community government.
- 7.5.16 Before enacting a law in relation to a matter set out in any of 7.4.4(f) to (l), the Dogrib First Nation Government shall consult with the Government of the Northwest Territories.
- 7.5.17 When the Government of the Northwest Territories is of the opinion that a Dogrib law in relation to a matter set out in any of 7.4.4(f) to (l) has rendered Government of the Northwest Territories legislation partially inoperative, unreasonably alters the character of the legislation, or makes it unduly difficult to administer that legislation, the Government of the Northwest Territories may amend its legislation.
- 7.6 JUDICIAL PROCEEDINGS
- 7.6.1 The Dogrib First Nation Government has standing in any judicial proceedings, including any other dispute resolution proceedings, to act on behalf of any individual Dogrib Citizen, except where that Dogrib Citizen objects, or on behalf of the Dogrib First Nation with respect to rights or benefits under the Agreement.
- 7.6.2 The Dogrib First Nation Government has standing in any judicial proceedings in which custody of a child who is a Dogrib Citizen is in dispute, and the court will take judicial notice of Dogrib laws and will consider any evidence and representations in respect of the culture and customs of the Dogrib First Nation in addition to any other matters it is required by law to consider. The participation of the Dogrib First Nation Government in such judicial proceedings will be in accordance with the applicable rules of court and will not affect the ability of the court to control its process.
- 7.6.3 When the courts of the Northwest Territories are enforcing Dogrib laws, the courts shall give consideration to the culture and customs of the Dogrib First Nation.
- 7.6.4 The Dogrib First Nation Government is responsible for the prosecution of violations of Dogrib laws before the courts of the Northwest Territories and for appeals or other judicial proceedings with respect to such prosecutions, and will ensure that such prosecutions are consistent with the common law standards required for similar types of offences in Canada taking into account the culture and customs of the Dogrib First Nation.
- 7.6.5 The Dogrib First Nation Government is responsible for implementing and enforcing sanctions imposed for violations of Dogrib laws other than those referred to in 7.6.6.
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7.6.6 The Government of the Northwest Territories is responsible for implementing and enforcing fines, imprisonment and other sanctions of a type authorized by legislation imposed for violations of Dogrib laws.

7.6.7 An agreement may be concluded in respect of the enforcement of Dogrib laws, of legislation in relation to Dogrib Citizens or of legislation on Dogrib lands

(a) before the date of the initialling of the Agreement, by the Dogrib Treaty 11 Council and government; and

(b) after the effective date, by the Dogrib First Nation Government and government.

7.6.8 Any agreement concluded under 7.6.7(a) shall bind the Dogrib First Nation Government as a party.

## 7.7 CONFLICT OF LAWS

7.7.1 Unless otherwise provided in the Agreement, the powers of the Dogrib First Nation Government to enact laws are concurrent with those of government.

7.7.2 Subject to 22.3.10 and 22.3.11, in the case of conflict between federal legislation of general application and a Dogrib law, the federal legislation prevails to the extent of the conflict.

7.7.3 Except where provided otherwise in the Agreement, in the case of conflict between territorial legislation of general application and a Dogrib law, the Dogrib law prevails to the extent of the conflict.

## 7.8 REGISTER OF DOGRIB LAWS

7.8.1 The Dogrib First Nation Government shall maintain, at its principal administrative offices, a register on which it shall enter the text of all Dogrib laws, including any amendment to those laws.

7.8.2 Every person shall have reasonable access to the register during normal business hours.

7.8.3 The Dogrib First Nation Government upon request shall provide, at cost, copies of Dogrib laws.

## 7.9 COORDINATION OF PROGRAM AND SERVICE DELIVERY

7.9.1 Government and the Dogrib First Nation Government shall exercise their respective powers, to the extent practicable, in a manner that coordinates the delivery of programs and services provided to Dogrib Citizens and to all residents of the Northwest Territories.

7.9.2 Government and the Dogrib First Nation Government may enter into agreements to coordinate the delivery of programs and services or to otherwise harmonize program and service delivery, including arrangements for information sharing, record-keeping, methods of ensuring comparability of standards, cooperation in negotiation of inter-jurisdictional agreements, and any other measures as agreed.

7.10 INTERGOVERNMENTAL SERVICES AGREEMENTS

- 7.10.1 Before the date the ratification process for the Agreement commences, government and the Dogrib Treaty 11 Council shall negotiate and their chief negotiators shall initial an intergovernmental services agreement<sup>19</sup>. During the ratification process, the chief negotiators shall submit that intergovernmental services agreement to their principals for signing authority. The Agreement shall not come into effect until the intergovernmental services agreement, as submitted, has been signed.
- 7.10.2 The first intergovernmental services agreement referred to in 7.10.1 and any subsequent agreement shall, where practicable, provide for the delivery of a type of program or service to all persons in the Dogrib primary use area by a single mechanism.
- 7.10.3 The primary objective of an intergovernmental services agreement is to provide for the management, administration and delivery of health, education, welfare, family or other social programs and services to persons other than Dogrib Citizens in the Dogrib primary use area and to Dogrib Citizens
- (a) through which government and the Dogrib First Nation Government exercise their authorities over these types of programs and services and have responsibility and accountability for their delivery; and
  - (b) that respects and promotes the Dogrib language and the culture and way of life of the Dogrib First Nation.
- 7.10.4 An intergovernmental services agreement shall include
- (a) a description of the principal elements of any legislation or Dogrib laws governing the types of programs and services covered by it;
  - (b) a description of the manner in which Dogrib language and the culture and way of life of the Dogrib First Nation will be respected and promoted;
  - (c) a description of the manner in which the programs and services will be delivered, including any role to be played by government, by the Dogrib First Nation Government, by any institution of government, including, for greater certainty, a Dogrib community government, by any institution of the Dogrib First Nation Government or by any joint institution;
  - (d) provisions implementing the principle that persons affected by an intergovernmental services agreement should have an opportunity to participate in the decision making process with respect to the management and delivery of the programs and services covered by it, provided that, in the case of programs and services delivered by an institution of government or of the Dogrib First Nation Government or by a joint institution of both, this principle shall be implemented by providing an appropriate opportunity for those persons to be represented on that institution;
  - (e) provisions for the resolution of disputes; and
  - (f) provisions for its periodic review, a process for its amendment and a process, including appropriate notice periods, for its renewal or replacement.

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<sup>19</sup> During the negotiation of the first intergovernmental services agreement, government and the Dogrib Treaty 11 Council will consider provisions for this chapter or for the intergovernmental services agreement respecting what roles the Dogrib First Nation Government and government will play if the first intergovernmental services agreement or a subsequent one expires without a renewal or replacement.

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- 7.10.5 The first intergovernmental services agreement shall be in effect for a period of 10 years from the effective date, unless another time period is set out in that agreement and may, upon its expiration, be renewed or replaced by another intergovernmental services agreement on all or any of the types of programs and services covered by the first agreement.
- 7.10.6 Unless the Parties otherwise agree, at least two years prior to the expiration date of an intergovernmental services agreement, the Parties shall give notice to each other as to whether they wish to negotiate a renewal or replacement agreement.
- 7.10.7 During the negotiation of an intergovernmental services agreement after the first one, the Parties shall review the financing agreement referred to in 7.11 to determine whether any amendments are required to the financing agreement in relation to financing in support of the intergovernmental services agreement.
- 7.10.8 Intergovernmental services agreements shall not form part of the Agreement
- 7.10.9 An intergovernmental services agreement shall bind, as parties, government, the Dogrib First Nation Government and, where appropriate, a Dogrib community government.
- 7.11 FINANCING AGREEMENTS
- 7.11.1 Before the date the ratification process for the Agreement commences, government and the Dogrib Treaty 11 Council shall negotiate and their chief negotiators shall initial the first financing agreement<sup>20</sup>. During the ratification process, the chief negotiators shall submit that financing agreement to their principals for signing authority. The Agreement shall not come into effect until the first financing agreement, as submitted, has been signed.
- 7.11.2 The first financing agreement shall be for a term of five years from the effective date and may, upon its expiration, be renewed or replaced by another financing agreement.
- 7.11.3 The following are objectives for the negotiation of a financing agreement:
- (a) the Dogrib First Nation Government and its institutions be able to
    - (i) fulfill any role identified for them in an intergovernmental services agreement made under 7.10 in relation to the programs and services covered by that agreement so that those programs and services are provided at levels reasonably comparable to those generally prevailing in the Northwest Territories, and
    - (ii) exercise any other powers of the Dogrib First Nation Government under the Agreement that are identified in the financing agreement; and
  - (b) the Parties be guided by their commitment to an effective central government in the Northwest Territories with the ability
    - (i) to continue to deliver its programs and services to all residents of the Northwest Territories, and
    - (ii) to effect economic and fiscal policies on a territory-wide basis.

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<sup>20</sup> During the negotiation of the first financing agreement, government and the Dogrib Treaty 11 Council will consider provisions for this chapter or for the financing agreement respecting financing for the Dogrib First Nation Government if the first financing agreement or a subsequent one expires without a renewal or replacement.

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- 7.11.4 In negotiating a financing agreement, the following shall be taken into account:
- (a) in accordance with 7.11.13, the capacity of the Dogrib First Nation Government to generate revenues from its own sources;
  - (b) diseconomies of scale which impose higher operating or administrative costs on the Dogrib First Nation Government;
  - (c) opportunities for economies, including the possibilities for cooperative or joint arrangements among government, Dogrib community government and the Dogrib First Nation Government for the management and delivery of programs or services;
  - (d) other financing provided to the Dogrib First Nation Government;
  - (e) geographic distribution of the population receiving services covered by the financing agreement from the Dogrib First Nation Government;
  - (f) the prevailing fiscal policies of government;
  - (g) the costs to government of managing and delivering a particular program or service for which the Dogrib First Nation Government is assuming responsibility;
  - (h) the desirability of funding arrangements that are reasonably stable and predictable; and
  - (i) such other matters as government and the Dogrib First Nation Government may agree.
- 7.11.5 To assist in the negotiation of a financing agreement, government and the Dogrib First Nation Government or, in the case of the first financing agreement, the Dogrib Treaty 11 Council, shall disclose all relevant information required for those negotiations.
- 7.11.6 A financing agreement shall set out
- (a) the amounts of money to be provided by government towards the cost of establishing and operating the Dogrib First Nation Government and its institutions including any role identified for it or them under an intergovernmental services agreement made under 7.10;
  - (b) the mechanism for the transfer of money provided by government;
  - (c) financial accountability provisions, including those respecting reporting and audit;
  - (d) provisions for the exchange of information required to administer the financing agreement;
  - (e) procedures for negotiating a subsequent financing agreement;
  - (f) procedures for the resolution of disputes; and
  - (g) any other relevant matters.
- 7.11.7 A financing agreement may consolidate federal and territorial operating and capital program financing for the Dogrib First Nation Government.
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- 7.11.8 The Dogrib First Nation Government and Dogrib Citizens may continue to access federal and territorial program financing for those programs not consolidated in a financing agreement in accordance with program authorities and conditions in effect from time to time.
- 7.11.9 Monies to be provided under a financing agreement shall be paid out of such monies as may be appropriated by Parliament or the Legislature of the Northwest Territories for those purposes.
- 7.11.10 Financing agreements shall not form part of the Agreement.
- 7.11.11 A financing agreement shall bind government and the Dogrib First Nation Government as parties.
- 7.11.12 The levels of financing provided pursuant to a financing agreement may be adjusted annually according to a formula set out in the financing agreement.
- 7.11.13 Before the date the ratification process commences, government and the Dogrib Treaty 11 Council will negotiate the details of the manner in which the various types of the Dogrib First Nation Government's own source revenue capacity will be determined and taken into account in the negotiation of a financing agreement. These details shall reflect the following principles:<sup>21</sup>
- (a) the funding of the Dogrib First Nation Government will be a shared responsibility of government and the Dogrib First Nation Government, and it is the objective of government and the Dogrib First Nation Government that, where feasible, the reliance of the Dogrib First Nation Government on funding from government will be reduced over time;
  - (b) if the Dogrib First Nation Government has access to a tax base, the revenue capacity associated with that tax base may be considered in determining the level of financing to be received pursuant to the financing agreement, provided that the revenue capacity associated with that tax base will be subject to offset at a ratio of less than 1:1;
  - (c) the Dogrib First Nation Government's own source revenue capacity will not be taken into account so as to unreasonably reduce the incentives for the Dogrib First Nation Government to raise revenues;
  - (d) except where a source of revenue is specifically excluded, the Dogrib First Nation Government's revenues from all sources will be taken into account;
  - (e) the amount of the Dogrib First Nation Government's own source revenue capacity to be considered will be phased in over a period to be specified before the date the ratification process commences;
  - (f) the manner in which this capacity is taken into account should not affect the ability of the Parties to deliver programs and services at an adequate level to Dogrib Citizens; and

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<sup>21</sup> 7.11.13 will not be included in the Agreement. The details negotiated under 7.11.13 may be included in an agreement separate from the first financing agreement, to the extent they are to apply to financing agreements after the first one expires.

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- (g) annual revenues received by the Dogrib First Nation Government from minerals, other than specified substances, on Dogrib lands shall be exempt from own source revenue consideration up to an amount for each year set out in an exemption schedule and calculated in the same manner as the Capital Transfer Payments Schedule under Appendix 1 to chapter 24. The amounts on the exemption schedule shall have a net present value of \$33 million on the effective date (adjusted for inflation) and unused amounts shall cumulate for the 15-year duration of the exemption schedule and shall continue until the cumulated exemption has been exhausted or until the 25th anniversary of the effective date.

7.11.14 Recognizing that the Government of Canada and the Government of the Northwest Territories have not reached agreement with respect to responsibility for funding the Dogrib First Nation Government, defining and methods for determining incremental costs and responsibility for payment for those costs, those governments, in consultation with the Dogrib Treaty 11 Council, shall resolve those matters before government and the Dogrib Treaty 11 Council finalize the first financing agreement referred to in 7.11.1.

## 7.12 OBLIGATIONS

7.12.1 Except where expressly agreed by the Parties, nothing in this chapter, including the law making powers set out in 7.4, creates or implies or can be used by any Party to create for another Party or for any other jurisdiction any financing obligations or any obligations to provide programs and services.

## 7.13 TRANSITIONAL

7.13.1 On the effective date, the Dogrib Treaty 11 Council, the Dog Rib Rae band, the Wha Ti First Nation band, the Gameti First Nation band and the Dechi Laot'i First Nations band cease to exist and are succeeded by the Dogrib First Nation Government.

7.13.2 On the effective date, the assets and liabilities that are listed in the Appendix and any other assets or liabilities of the bands referred to in 7.13.1 become the assets and liabilities of the Dogrib First Nation Government.

7.13.3 Any monies held by the Government of Canada for the use and benefit of the bands referred to in 7.13.1 shall be transferred to the Dogrib First Nation Government as soon as practicable after the effective date.

7.13.4 On the effective date,

- (a) any assets or liabilities of the Dogrib Treaty 11 Council become the assets and liabilities of the Dogrib First Nation Government; and
- (b) the Executive of the Dogrib Treaty 11 Council that is in office immediately before that date becomes the governing body of the Dogrib First Nation Government until replaced in accordance with the Dogrib First Nation Government Constitution.

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<sup>22</sup> 7.11.14 will not be included in the Agreement.

**APPENDIX TO CHAPTER 7<sup>23</sup>**

PART 1 ASSETS (7.13.2)

<u>Name of Band</u>	<u>Description of Asset</u>
Dog Rib Rae	
Wha Ti First Nation	
Gameti First Nation	
Dechi Laot'i First Nations	

PART 2 LIABILITIES (7.13.2)

<u>Name of Band</u>	<u>Description of Liability</u>
Dog Rib Rae	
Wha Ti First Nation	
Gameti First Nation	
Dechi Laot'i First Nations	

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<sup>23</sup> The Appendix will be completed before the date of the initialling of the Agreement.

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## CHAPTER 8

### DOGRIB COMMUNITY GOVERNMENTS

#### 8.1 ESTABLISHMENT OF DOGRIB COMMUNITY GOVERNMENTS

- 8.1.1 The Dogrib community governments of Behcho Ko, Wha Ti, Gameti and Wekweti must be established by legislation of the Government of the Northwest Territories.
- 8.1.2 The federal and territorial settlement legislation shall not be brought into force until the legislation establishing the Dogrib community governments is enacted. Government shall obtain the consent of the Dogrib Treaty 11 Council before enacting the legislation establishing the Dogrib community governments.<sup>24</sup>
- 8.1.3 The legislation establishing the Dogrib community governments shall be consistent with the Agreement and shall
- (a) set out the powers of the Dogrib community governments and election procedures to be followed by Dogrib community governments, including those for by-elections to fill vacated positions;
  - (b) provide for the structures and administration of the Dogrib community governments and for their dissolution in accordance with 8.8;
  - (c) provide for the dissolution of and other transitional arrangements respecting existing community governments in the Dogrib communities, including the transfer of their assets and assumption of their liabilities; and
  - (d) provide for any necessary authority of the Minister with respect to the operational and financial accountability of the Dogrib community governments.
- 8.1.4 The Chief Municipal Elections Officer in the Northwest Territories shall conduct the elections of the first Chiefs and councillors for the Dogrib community governments.
- 8.1.5 The provisions of the legislation establishing the Dogrib community governments will come into force on the effective date, except that any provisions in it respecting the first elections may come into force earlier.
- 8.1.6 Any Chief or councillors of a Dogrib community government elected before the effective date will not be considered to be in office before the effective date.

#### 8.2 STRUCTURE OF DOGRIB COMMUNITY GOVERNMENTS

- 8.2.1 A Dogrib community government shall be comprised of a Chief and an even number of councillors. No Dogrib community government shall have fewer than four councillors. The maximum number of councillors for each Dogrib community government shall be determined in relation to the number of residents in the community, including children, as follows:

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<sup>24</sup> 8.1.2 will not be included in the Agreement.

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## Dogrib Agreement-in-Principle

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<u>Number of Dogrib Community Residents</u>	<u>Maximum Number of Councillors</u>
Less than 199	4
200 - 299	6
300 - 499	8
500 - 999	10
1,000 or more	12

- 8.2.2 The legislation establishing the Dogrib community governments,
- (a) shall define residency in a Dogrib community or in the settlement area, for the purpose of 8.2.1 and of voting in elections for a Dogrib community government; and
  - (b) may provide eligibility criteria, for Dogrib community government elections, that is the same as the criteria provided generally for elections of other community governments in the Northwest Territories.
- 8.2.3 Any person who
- (a) is a Canadian Citizen or permanent resident of Canada;
  - (b) is resident in a Dogrib community for at least the six months immediately preceding the vote;
  - (c) is at least 18 years of age on the day of the vote; and
  - (d) has been resident in the settlement area for at least the two years immediately preceding the vote,
- is an eligible voter in that community.
- 8.2.4 The Chief of a Dogrib community government must be a Dogrib Citizen who is at least 18 years of age, has been resident in the community for at least the two years immediately preceding the vote, and is nominated and elected by Dogrib Citizens who are eligible voters.<sup>25</sup>
- 8.2.5 A councillor of a Dogrib community government must be an eligible voter who is nominated and elected by eligible voters.
- 8.2.6 Subject to 8.2.7, in an election for a Dogrib community government, those candidates with the most votes shall be elected as Councillors.
- 8.2.7 No more than half of the council seats may be filled by candidates who are not Dogrib Citizens and the remaining seats shall be filled by the candidates with the most votes among those who are Dogrib Citizens.
- 8.3 DELEGATION
- 8.3.1 A Dogrib community government may delegate any of its powers, except law-making, to
- (a) a public body or office established by a law of that community government;
  - (b) the Dogrib First Nation Government or a body or office established by a law of the Dogrib First Nation Government;

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<sup>25</sup> Before the agreement-in-principle is signed by the principals, the requirement in 8.2.4 for election of Chief by Dogrib Citizens will be reviewed in relation to the Charter of Rights and Freedoms.

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- (c) government, including a department, agency or office of government; or
  - (d) a public body established by legislation.
- 8.3.2 A delegation under 8.3.1 must be in writing and, if under (b), (c) or (d), must be agreed to by the delegate.
- 8.3.3 A Dogrib community government has the capacity to enter into agreements to receive powers, including law-making powers, by delegation. The delegation agreement may include powers exercisable and laws applicable outside the community.
- 8.4 LAW MAKING POWERS
- 8.4.1 A Dogrib community government shall have the power to enact laws relating to
- (a) the operation and internal management of the Dogrib community government;
  - (b) the borrowing of money by the Dogrib community government;
  - (c) the administration of and the granting of interests in Dogrib community lands; and
  - (d) the following matters within Dogrib community boundaries:<sup>26</sup>
    - (i) management, use and protection of lands, including land use planning,
    - (ii) public order, peace and safety,
    - (iii) housing for residents,
    - (iv) by-law enforcement,
    - (v) intoxicants,
    - (vi) local transportation,
    - (vii) business licensing and regulation,
    - (viii) gaming and recreational contests, and
    - (ix) such other matters of a local or private nature, including taxation, as may be provided by legislation.
- 8.5 CONFLICT OF LAWS
- 8.5.1 In the case of any inconsistency or conflict between federal legislation and laws enacted by a Dogrib community government, the federal legislation prevails to the extent of the inconsistency or conflict.
- 8.5.2 In the case of any inconsistency or conflict between territorial legislation and laws enacted by a Dogrib community government, the territorial legislation prevails to the extent of the inconsistency or conflict.
- 8.5.3 For greater certainty, in the case of conflict between a Dogrib law and a law enacted by

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<sup>26</sup> 8.4.1(d) to be re-visited after work on drafting guidelines for the legislation. For example, no criminal law powers to be included.

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8.6 PROGRAMS AND SERVICES

- 8.6.1 A Dogrib community government may enter into agreements with government, other community governments in the settlement area, the Dogrib First Nation Government or bodies of a type identified in the legislation establishing the Dogrib community governments to deliver, administer and manage programs and services for residents of a Dogrib community.
- 8.6.2 Programs and services delivered and managed by a Dogrib community government shall be funded at levels comparable to funding levels for similar programs and services in other communities in the Northwest Territories as determined in accordance with the principles and criteria set out in Part 1 of the Appendix.
- 8.6.3 The programs and services listed in Part 2 of the Appendix in relation to a Dogrib community government specified therein shall be delivered and managed by that government on the date set out in that Part.

8.7 EXPANSION OF DOGRIB COMMUNITY BOUNDARIES

- 8.7.1 The boundaries of a Dogrib community may, in accordance with applicable legislation and Part 3 of the Appendix, be expanded.

8.8 DISSOLUTION OR RELOCATION

- 8.8.1 The agreement of the Parties is required before a Dogrib community government is dissolved or before a Dogrib community is relocated.
- 8.8.2 An agreement under 8.8.1 shall, subject to chapter 9, make provision for all assets and liabilities of the Dogrib community government.
- 8.8.3 The Parties shall amend the Agreement to reflect the dissolution of any Dogrib community government or the relocation of any Dogrib community.

8.9 ESTABLISHMENT OF NEW DOGRIB COMMUNITY GOVERNMENTS

- 8.9.1 A new Dogrib community may be established by agreement among the Parties and by the enactment of legislation, consistent with the Agreement, setting out the powers of the government for that community and providing for its administration and structures.
- 8.9.2 The Parties shall amend the Agreement to reflect and provide for any new Dogrib community government established under 8.9.1.

8.10 ASSETS AND LIABILITIES

- 8.10.1 The assets listed in Part 4 of the Appendix in relation to a Dogrib community government specified therein are the assets of that government.
- 8.10.2 The liabilities listed in Part 5 of the Appendix in relation to a Dogrib community government specified therein are the liabilities of that government.

**APPENDIX TO CHAPTER 8<sup>27</sup>**

PART 1 PRINCIPLES AND CRITERIA TO DETERMINE LEVELS OF FUNDING  
(8.6.2)

PART 2 PROGRAMS AND SERVICES TO BE DELIVERED AND MANAGED BY  
DOGRIB COMMUNITY GOVERNMENT (8.6.3)

<u>Name of Government</u>	<u>Description of Programs or Services</u>	<u>Date</u>
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Behcho Ko

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PART 3 PROCESS FOR EXPANSION OF BOUNDARIES OF A DOGRIB  
COMMUNITY (8.7.1)

PART 4 ASSETS OF A DOGRIB COMMUNITY GOVERNMENT (8.10.1)

<u>Name of Government</u>	<u>Description of Asset</u>
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PART 5 LIABILITIES OF A DOGRIB COMMUNITY GOVERNMENT (8.10.2)

<u>Name of Government</u>	<u>Description of Liability</u>
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<sup>27</sup> Appendix to be completed before the date of the initialling of the Agreement.

## CHAPTER 9

### DOGRIB COMMUNITY LANDS

#### 9.1 TITLE

9.1.1 Subject to 9.1.2, title to all lands within a Dogrib community, other than the parcels listed in Part 1 of the Appendix, but including lands not so listed that are within the community and are adjacent to or under any water body, is, on the effective date, vested in fee simple in the Dogrib community government.

9.1.2 The title referred to in 9.1.1

- (a) does not include title to the mines and minerals, other than specified substances; and
- (b) is subject to any rights or interests described in Part 2 of the Appendix in relation to that community and to any renewals or replacements of those rights and interests.

9.1.3 For greater certainty, a Dogrib community government may not acquire, by agreement or by expropriation, the fee simple interest in any mines or minerals, other than specified substances, but may, without any approval by government, acquire fee simple title in any part of a parcel that is adjacent to or under a water body within its community boundaries.

9.1.4 Upon acquisition by a Dogrib community government of the fee simple interest of any part of a parcel listed in Part 1 of the Appendix in relation to that community, that land becomes Dogrib community land.

9.1.5 After the effective date, government shall not grant any new mining rights within a Dogrib community. For the purpose of this provision, a new mining right does not include a mining right that is a renewal or a replacement of a mining right that was granted before the effective date.

#### 9.2 NEW OR EXPANDED DOGRIB COMMUNITIES

9.2.1 Subject to 9.2.2, the fee simple title to any Dogrib land within the expanded boundaries of a Dogrib community or within the boundaries of a Dogrib community established after the effective date shall be conveyed to the Dogrib community government or to government for subsequent conveyance to the Dogrib community government, in accordance with 18.1.4 or expropriated for that Dogrib community in accordance with chapter 20. The title to these Dogrib community lands is subject to any rights or interests described in Part 2 of the Appendix to chapter 18, to any rights or interests granted by the Dogrib First Nation Government since the effective date and to any renewals, replacements, transfers or extensions of term of such rights and interests.

9.2.2 The mines and minerals, other than specified substances, and the right to work them, in the Dogrib lands conveyed or expropriated under 9.2.1 shall be vested in government.

#### 9.3 LIMITS ON ALIENATION OF DOGRIB COMMUNITY LANDS

9.3.1 It is important to maintain the integrity of Dogrib community lands. Therefore, as a general principle, such lands shall not be expropriated, but if expropriation is necessary, the minimum interest required shall be taken.

- 9.3.2 Dogrib community lands may be expropriated by an expropriating authority in accordance with legislation.
- 9.3.3 Before proceeding with the expropriation of Dogrib community lands, an expropriating authority shall discuss with the Dogrib community government the need for expropriation and shall attempt to negotiate with it an agreement for the transfer of the required interest, including its location, extent and nature.
- 9.3.4 Subject to 9.3.5, a Dogrib community government may not, except to an expropriating authority in place of expropriation, convey the fee simple interest in Dogrib community lands or grant an interest in the lands for a term exceeding 99 years, including any period of renewal, or that arises more than 99 years after the grant is made.
- 9.3.5 If authorized by the majority of those voting in a referendum conducted by a community government, that government may,
- (a) grant an interest less than fee simple in Dogrib community lands for a term exceeding 99 years or that arises more than 99 years after the grant is made; or
  - (b) after the 20<sup>th</sup> anniversary of the effective date, convey the fee simple interest in Dogrib community lands.

Only persons qualified to vote for councillors of the community government may vote in such a referendum.

#### 9.4 RIGHT TO ACQUIRE GOVERNMENT LANDS

- 9.4.1 Where government has determined it no longer requires land that it holds within a Dogrib community, it shall make an offer to convey fee simple title to that land or whatever lesser title it holds, excluding mines and minerals that are not specified substances, to the Dogrib community government and shall not convey such an interest in those lands to any other person or government.
- 9.4.2 The Dogrib community government is not liable for the payment of any consideration in respect of the value of lands conveyed to it under 9.4.1, but is liable for any costs incurred by government to effect the conveyance. If there are any improvements on the lands, government may, before conveyance of title to the Dogrib community government, grant an interest in relation to the improvements, and the title of the Dogrib community government will be subject to that interest.
- 9.4.3 Notwithstanding 9.4.1 and 9.4.2, government is not obliged to convey title to the land referred to in 9.4.1 if the land had been acquired by government from the Dogrib community government upon payment of consideration or compensation, and government may require payment of compensation by the Dogrib community government as a condition of conveyance of title of such land.

#### 9.5 DISSOLUTION OR RELOCATION

- 9.5.1 Fee simple title to Dogrib community lands and to mines and minerals held by government in, on or under those lands shall, upon dissolution of the Dogrib community government or, in the case of the relocation of a Dogrib community, upon confirmation by government that the Dogrib community government is no longer responsible for those lands, be conveyed by government to the Dogrib First Nation Government, and those lands shall become Dogrib lands. Such title is subject to any rights or interests in such lands identified in the transfer documentation and to any renewals, replacements, transfers or extensions of term of such rights or interests.

9.5.2 Unless otherwise agreed by the Parties, the Dogrib First Nation Government shall convey to government the fee simple title in Dogrib lands of equivalent value to the lands conveyed to the Dogrib First Nation Government under 9.5.1. If the lands conveyed under 9.5.1 are improved, and the substitute lands are unimproved, the Dogrib First Nation Government may pay for the value of those improvements with money instead of with land.

## 9.6 HAZARDOUS WASTE SITES

9.6.1 Where government undertakes any program respecting the clean-up of hazardous waste sites on Crown lands in the settlement area, the program shall apply to such sites on Dogrib community lands that are listed in Part 3 of the Appendix. Criteria to establish any priorities among hazardous waste sites in the settlement area shall not include whether the land is Crown land or Dogrib community lands. After the effective date, Part 3 of the Appendix shall be amended to include any site that the Parties agree existed on the effective date or that is confirmed in accordance with chapter 6 to have existed on that date.

9.6.2 Any dispute as to whether a hazardous waste site existed on the effective date may be referred for resolution in accordance with chapter 6 by a Party.

9.6.3 Government shall be responsible for the costs associated with any clean-up of a hazardous waste site under 9.6.1 on Dogrib community lands.

9.6.4 9.6.3 shall not prevent government from recovering any costs associated with the clean-up from a person who is liable for these costs.

9.6.5 There shall be no compensation payable for damage which may be caused to Dogrib community lands as a result of the clean-up of a hazardous waste site on Dogrib community lands under 9.6.1.

9.6.6 Government shall not be liable for any loss or damage to residents of a Dogrib community or to the Dogrib community government from hazardous waste sites on Dogrib community lands whether or not they are known at the time of land identification.

9.6.7 9.6.6 does not affect any obligation of government under 9.6.1 or 9.6.3.

## 9.7 PROPERTY TAX ASSISTANCE

9.7.1 For lands within Dogrib communities that were, immediately before the effective date, lands reserved in the name of the Indian Affairs Branch for Indian Housing and are, on that date, occupied by Dogrib Citizens, the Government of Canada shall make annual lump sum payments to the Dogrib First Nation Government for the first ten years after the effective date. The lump sum payments shall be 100 percent of the property taxes due for those lands in the first year, decreasing 10 percentage points per year to 10 percent in year 10. The Government of Canada will have the same rights as a property owner or occupier of the lands in respect of the property assessment. The Dogrib First Nation Government shall, in its sole discretion, determine how to use the lump sum payments.

9.7.2 For greater certainty, nothing in 9.7.1 affects any liability under legislation for the payment of property taxes assessed in relation to the lands referred to in 9.7.1.



**APPENDIX TO CHAPTER 9**

PART 1 EXCLUDED PARCELS (9.1.1)

PART 2 EXISTING RIGHTS AND INTERESTS LESS THAN FEE SIMPLE (9.1.2)

PART 3 HAZARDOUS WASTE SITES (9.6.1)

## CHAPTER 10

### WILDLIFE HARVESTING RIGHTS

#### 10.1 WILDLIFE HARVESTING

10.1.1 Subject to any limitations prescribed by or in accordance with the Agreement, the Dogrib First Nation has

- (a) the right to harvest all species of wildlife including, for greater certainty, bird eggs, throughout the settlement area at all times of the year; and
- (b) the exclusive right to harvest wildlife that are fur bearers throughout the Dogrib primary use area at all times of the year.

10.1.2<sup>28</sup> The right to harvest wildlife under 10.1.1 does not extend to migratory non-game birds or to migratory insectivorous birds as defined in the *Migratory Birds Convention Act*.

10.1.3 Subject to legislation, persons who are not Dogrib Citizens may hunt, but not trap or, for greater certainty, snare, wolves and coyotes on lands other than Dogrib lands throughout the Dogrib primary use area.

10.1.4 Nothing in this chapter shall be construed to

- (a) confer rights of ownership of wildlife; or
- (b) guarantee the supply of wildlife.

10.1.5 10.1.1(b) does not prevent a person

- (a) who resides in the Northwest Territories and who held a General Hunting Licence and harvested fur bearers in the Dogrib primary use area in the 10 year period prior to the date of the agreement-in-principle from continuing to harvest fur bearers in the Dogrib primary use area, excluding Dogrib lands; or
- (b) who has the consent of the Dogrib First Nation Government, from harvesting fur bearers on Dogrib lands.

#### 10.2 HARVESTING METHODS

10.2.1 Subject to any limitations prescribed by or in accordance with the Agreement, in exercising a right under 10.1.1, a Dogrib Citizen has the right to employ any methods of harvesting and, for that purpose, to possess and use any equipment.

#### 10.3 TRADE AND GIFTS

10.3.1 A Dogrib Citizen has the right to trade with or give to other Dogrib Citizens, for their own consumption and other Aboriginal persons, for their own consumption, edible parts of wildlife harvested under 10.1.1 including, for greater certainty, bird eggs.

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<sup>28</sup> Delete when the Protocol is ratified.

- 10.3.2 Subject to 15.6 and 16.4, a Dogrib Citizen has the right to make gifts to any persons, for their own consumption, of edible parts of wildlife harvested under 10.1.1.
- 10.3.3 Subject to 15.6 and 16.4, a Dogrib Citizen has the right to trade with or give to any persons, non-edible parts of wildlife harvested under 10.1.1 including, for greater certainty, down and other feathers.
- 10.4 POSSESSION AND TRANSPORTATION
- 10.4.1 Subject to any identification requirements established by legislation or Dogrib laws, a Dogrib Citizen has the right to possess and transport anywhere in Canada the edible and non-edible parts of wildlife harvested under 10.1.1 including, for greater certainty, bird eggs, down and other feathers.
- 10.4.2 Government and the Dogrib First Nation Government shall, before the date of the initialling of the Agreement, enter into an agreement for the delegation to the Dogrib First Nation Government of the power to provide Dogrib Citizens with any documentation that may be required by legislation for the transportation of wildlife under 10.4.1. This agreement will not form part of the Agreement.<sup>29</sup>
- 10.5 RIGHT OF ACCESS
- 10.5.1 Subject to limitations which may be prescribed by or in accordance with the Agreement, a Dogrib Citizen has the right of access to all lands within the settlement area for the purpose of harvesting wildlife under 10.1.1.
- 10.5.2 The right of access under 10.5.1 includes the right to
- (a) establish and maintain hunting, trapping and fishing camps established primarily for use by Dogrib Citizens; and
  - (b) use plants and trees for purposes ancillary to wildlife harvesting under 10.1.1 except, in the case of trees, where the use of trees conflicts with any activity carried out under an authorization or permit granted by government, such as a timber licence or permit, a forest management agreement or a land use permit.
- 10.5.3 The right of access under 10.5.1 does not extend to
- (a) lands that are dedicated to military or national security purposes under legislation or areas temporarily being used for military exercises for the period of such temporary use, after notice of such dedication or use has been given to the Dogrib First Nation Government;
  - (b) an area of land not exceeding 10 hectares that is
    - (i) fenced or otherwise identified as an area within which access for harvesting is not permitted, and
    - (ii) held under a surface lease or in fee simple or subject to an agreement for sale or reserved by government in the name of any department or agency of government;
  - (c) lands that were, on the effective date, held under a surface lease or in fee simple or subject to an agreement for sale; or
  - (d) lands identified under chapter 12 as ones where harvesting or access for harvesting is not permitted for safety reasons.

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<sup>29</sup> 10.4.2 will not be included in the Agreement.

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- 10.5.4 The exercise by a Dogrib Citizen of the right of access under 10.5.1 on lands owned in fee simple or subject to an agreement for sale or a surface lease, is subject to 10.5.5, to any restrictions agreed to or imposed under 10.6 and to the following conditions:
- (a) the Dogrib Citizen shall not cause any significant damage to the lands, and shall be responsible for any such damage;
  - (b) the Dogrib Citizen shall not commit any mischief on the lands;
  - (c) the Dogrib Citizen shall not significantly interfere with the occupier's use and peaceable enjoyment of the lands; and
  - (d) the Dogrib Citizen shall not, without the consent of the owner or occupier, establish any permanent or seasonal camp or structure or cut or use any wood other than dead wood.
- 10.5.5 Unless otherwise provided for in an agreement with the owner or occupier or, in the case of Crown land, government, a Dogrib Citizen exercises the right of access under 10.5.1 at his or her own risk and has no right of action against the owner, occupier or government for loss suffered or damage arising therefrom, except where such loss or damage results from a danger negligently created by the owner, occupier or government, as the case may be.
- 10.5.6 The exercise of the right to harvest under 10.1.1 and the right of access under 10.5.1 within community boundaries is subject to laws for purposes of safety.
- 10.6 CONFLICT BETWEEN AUTHORIZED USE OF LAND AND HARVESTING ACTIVITIES
- 10.6.1 If, in relation to land that is not Dogrib land and to which the right of access under 10.5.1 applies, government or a holder of an interest in the land (hereinafter called "the proponent") believes that there may be a conflict between the use of the land by the proponent and the harvesting activities of Dogrib Citizens and that the right of access or the harvesting activities of Dogrib Citizens should be consequently restricted, the proponent shall consult the Dogrib First Nation Government and attempt to conclude an agreement with respect to the proponent's use of the land and the nature and extent of restrictions of the access right or of the harvesting activities that may be necessary to avoid the conflict.
- 10.6.2 The Dogrib First Nation Government or the proponent may refer a dispute as to a proposed restriction for resolution in accordance with chapter 6.
- 10.6.3 Subject to 10.6.4, if no reference for resolution of a dispute is made under 10.6.2 and no agreement has been reached within any time limit set by rules of the administrator under chapter 6, after giving the Dogrib First Nation Government 10 days notice, the proponent may impose a restriction proposed during the consultation.
- 10.6.4 If the Dogrib First Nation Government refers a dispute for resolution under 10.6.2,
- (a) within the 10-day notice period, the proponent cannot impose a restriction unless and until the restriction is agreed to or confirmed in accordance with chapter 6; and

- (b) after the 10-day notice period, any restriction imposed by the proponent under 10.6.3 remains in effect unless and until removed in accordance with chapter 6.
- 10.6.5 If a dispute as to a proposed restriction is referred for resolution in accordance with chapter 6 and an arbitrator is appointed under 6.5, the arbitrator shall determine whether the proposed land use conflicts with the harvesting activities of Dogrib Citizens, and if so, make an order confirming the nature, extent, duration and conditions of the restriction on their right of access or on their harvesting activities required to allow the proposed use. A restriction confirmed by an order of an arbitrator shall be effective from the date ordered by the arbitrator.
- 10.7 COMMERCIAL HARVESTING OF FISH
- 10.7.1 There shall be no commercial harvesting of fish in the Dogrib primary use area. In any part of Great Slave Lake within the Dogrib primary use area this prohibition applies only in the area or areas described in Schedule III to the *Northwest Territories Fishery Regulations*.<sup>30</sup>
- 10.7.2 For licensing of commercial harvesting of fish within the settlement area, a Dogrib Citizen, the Dogrib First Nation Government or its designate shall be treated on the same basis as other licence applicants.
- 10.8 COMMERCIAL ACTIVITIES IN RELATION TO WILDLIFE OTHER THAN COMMERCIAL HARVESTING OF FISH
- 10.8.1 10.8 does not apply to
- (a) a licence for activities on Dogrib lands; or
- (b) a licence that is a renewal or replacement of a licence unless the renewal or replacement authorizes activities not covered by the prior licence.
- 10.8.2 Subject to 10.8.7, upon submission of an application in the form and manner required for such applications by legislation and by the licensing authority and within the time specified by the licencing authority, the Dogrib First Nation Government or its designate shall have the right, in priority to any other person, to acquire any licence government is prepared to issue for the following activities in the Dogrib primary use area, or to take up any such licence in force that is being relinquished:
- (a) commercial harvesting of wildlife other than fish;
- (b) commercial propagation or husbandry of fish, mammals or birds indigenous to the settlement area; and
- (c) non-consumptive commercial activities in relation to wildlife.
- 10.8.3 For the purpose of 10.8.2, the Dogrib First Nation Government may only designate a Dogrib Citizen or an individual who is its agent or a body that is its agent or is controlled or owned by it.

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<sup>30</sup> The areas of Great Slave Lake described in Schedule III to the *Northwest Territories Fishery Regulations* are those currently reserved for domestic fishing. 10.7.1 will be revisited when the extent of the Dogrib primary use area is identified, to consider incorporating into the Agreement the description of any areas in the lake where the prohibition would apply rather than referring to the regulations.

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- 10.8.4 Where a person has applied for a licence of a type described in 10.8.2, the licencing authority shall notify the Dogrib First Nation Government of such application and shall give it a reasonable time to prepare and submit an application for the licence.
- 10.8.5 Subject to 10.8.6, where a person who holds or held a licence for activities of a type described in 10.8.2 is not seeking a replacement or is relinquishing it and intends to sell or transfer an enterprise directly associated with that licence, or any part of that enterprise, the Dogrib First Nation Government or its designate shall have, in accordance with the Appendix, the first opportunity to purchase the said enterprise or the part thereof at fair market value.
- 10.8.6 10.8.5 does not apply to
- (a) a sale or transfer of an enterprise or part thereof to persons holding rights or options to purchase as at the effective date;
  - (b) a sale or transfer of an enterprise or part thereof to a person who is a spouse, child, parent, brother or sister of the licence holder, and who is eligible to hold a licence; or
  - (c) a sale or transfer of an enterprise or part thereof resulting from incorporation or reorganization which do not affect the effective ownership of the enterprise.
- 10.8.7 Where the Dogrib First Nation Government or its designate does not exercise its right to purchase all or part of an enterprise under 10.8.5, it shall not have a priority right under 10.8.2 to acquire or take up a licence with which that enterprise is directly associated.
- 10.8.8 The Dogrib First Nation Government or its designate shall have the exclusive right to be licensed to commercially harvest free-roaming muskox or bison in the Dogrib primary use area and the exclusive right to be licensed to provide guiding services and harvesting opportunities with respect to these species in the Dogrib primary use area.
- 10.8.9 If the Dogrib First Nation Government or its designate does not elect to take up any particular licence under 10.8.2, Dogrib citizens applying for that licence shall be treated on the same basis as other applicants.
- 10.8.10 For commercial activities in relation to wildlife within the settlement area and outside the Dogrib primary use area, the Dogrib First Nation Government, its designates and a Dogrib Citizen shall be treated on the same basis as other licence applicants.
- 10.9 COMMERCIAL WILDLIFE ACTIVITIES ON DOGRIB LANDS
- 10.9.1 The Dogrib First Nation Government shall have the exclusive right to be licensed to conduct commercial wildlife activities, other than harvesting, on Dogrib lands and to assign any rights under such licences to others.
- 10.9.2 Where the commercial harvesting of a species of wildlife in the settlement area is authorized by government, the Dogrib First Nation Government has the power to authorize commercial harvesting of that species on Dogrib lands. For greater certainty, no person may harvest wildlife on Dogrib lands, for commercial purposes, without the authorization of the Dogrib First Nation Government.
- 10.10 LEASE OF CROWN LAND TO DOGRIB FIRST NATION GOVERNMENT
- 10.10.1 Government shall, upon request and at reasonable rent, lease such lands to the Dogrib First Nation Government or its designate, as in the opinion of government are reasonably necessary to allow the exercise of the rights under any licences taken up by that Government or its designate under 10.7 or 10.8.
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10.11 EMERGENCIES

10.11.1 Nothing in the Agreement prevents any person from killing wildlife within the settlement area for survival in an emergency or to defend or protect persons or property.

**APPENDIX TO CHAPTER 10**

**PROCESS FOR ACQUISITION OF COMMERCIAL ENTERPRISES (10.8.5)**

1. Where the owner of an enterprise wishes to sell the enterprise or any part thereof ("the asset"), the owner shall notify the Dogrib First Nation Government in writing of the asset, the selling price of the asset, the terms of sale and any other relevant details and conditions which a reasonable, informed purchaser would require. The owner shall provide the Dogrib First Nation Government or its designate a reasonable opportunity to inspect the asset.
2. The notification in 1 shall constitute an offer to sell the asset to the Dogrib First Nation Government or its designate upon the terms and conditions specified in the notification.
3. The Dogrib First Nation Government or its designate shall have 30 days from the date of receipt of notification to indicate whether it is interested in purchasing the asset.
4. If the Dogrib First Nation Government or its designate indicates it is interested in purchasing the asset within the time limit specified in 3, the Dogrib First Nation Government or its designate shall have 120 days from the date of receipt of notification to accept the offer. The owner may extend the time in which the Dogrib First Nation Government or its designate may accept the offer.
5. Where the Dogrib First Nation Government or its designate fails to notify the owner that it is interested in purchasing the asset within the time limit specified in 3 or fails to accept the offer within the time limit specified in 4, the right to purchase shall lapse and the owner shall be free, subject to 6, to sell the asset to another person.
6. The owner may not sell the asset to a person other than the Dogrib First Nation Government or its designate at a price less than the selling price or under significantly different terms and conditions than set out by the owner in accordance with 1 unless the owner has given the Dogrib First Nation Government or its designate the opportunity to purchase the asset under the those new terms or price in accordance with 1 to 4.



## CHAPTER 11

### WILDLIFE HARVESTING COMPENSATION

#### 11.1 DEFINITIONS

11.1.1 The following definitions apply in this chapter.

"compensation" means a cash payment, either lump sum or a periodic payment, or non-monetary compensation such as replacement or substitution of damaged or lost property or equipment or relocation or transportation of Dogrib Citizens or equipment to a different harvesting locale or a combination of such elements.

"project" does not include a wildlife harvesting activity or naturalist activity.

#### 11.2 GENERAL

11.2.1 A developer is liable absolutely, without proof of fault or negligence, for the following losses and damage, suffered by a Dogrib Citizen or the Dogrib First Nation as a result of a project in the settlement area in which that developer is engaged:

- (a) loss or damage to property or equipment used in wildlife harvesting under 10.1.1 or to wildlife harvested under 10.1.1;
- (b) present and future loss of income from wildlife harvesting under 10.1.1; and
- (c) present and future loss of wildlife harvested under 10.1.1.

11.2.2 Notwithstanding 11.2.1, a developer shall not be liable for losses suffered by a Dogrib Citizen or the Dogrib First Nation as a result of the establishment of a national park or a protected area, or any lawful activity within a park or protected area, except for direct loss or damage to property or equipment used in wildlife harvesting under 10.1.1 or to wildlife harvested under 10.1.1.

11.2.3 A Dogrib Citizen and the Dogrib First Nation Government shall make their best efforts to mitigate any losses or damage referred to in 11.2.1.

11.2.4 If agreement has not been reached between a developer and a Dogrib Citizen or the Dogrib First Nation Government with respect to a claim for compensation within 30 days of the submission of a claim in writing by the Dogrib Citizen or the Dogrib First Nation Government, either party may refer the dispute for resolution in accordance with chapter 6.

11.2.5 Following a reference under 11.2.4, if an arbitrator is appointed under 6.5, that arbitrator shall determine whether the developer is liable under 11.2.1 and, if so, what compensation to award, and may also

- (a) provide for future review of the compensation award, if appropriate;
- (b) recommend that the developer, the Dogrib Citizen or the Dogrib First Nation Government take or refrain from taking certain action in order to mitigate further loss or damage; and

- (c) on review of a previous award, determine whether the developer, the Dogrib Citizen or the Dogrib First Nation Government has adopted any mitigative recommendations made under that previous award.
- 11.2.6 A Dogrib Citizen or the Dogrib First Nation Government that refers a dispute respecting a claim for compensation under this chapter for resolution in accordance with chapter 6, cannot exercise any right they might have otherwise had to resolve the dispute in a court.
- 11.2.7 Nothing in this chapter is intended to limit the ability of the Dogrib First Nation Government to negotiate with a developer with respect to compensation for losses in relation to wildlife harvesting, including the process for settling and resolving claims. Any such agreement will be binding on Dogrib Citizens.
- 11.2.8 Legislation may provide for limits of liability of developers, the burden of proof on claimants, limitation periods for making claims and any other matters not inconsistent with the Agreement.

## CHAPTER 12

### WILDLIFE HARVESTING MANAGEMENT

#### 12.1 GENERAL

- 12.1.1 A board to be known as the North Slave Renewable Resources Board (“Board”) is hereby established, as an institution of public government, to be the main instrument of wildlife management in the settlement area. The Board shall act in the public interest.
- 12.1.2 Notwithstanding any other provision of the Agreement, the Board does not have authority respecting
- (a) wildlife or wildlife habitat in a national park; or
  - (b) fish or fish habitat in Great Slave Lake.
- 12.1.3 Authorities whose responsibilities include the management of wildlife, wildlife habitat, forests, plants, land and water in the settlement area shall coordinate their functions to the extent practicable.
- 12.1.4 The objective of this chapter is to recognize the importance of wildlife and its habitat to the Dogrib First Nation well-being, way of life and land-based economy.
- 12.1.5 In exercising their powers under this chapter to achieve the objective in 12.1.4, each of the Parties and the Board shall
- (a) make management decisions on an ecosystemic basis so as to recognize the interconnection of wildlife with the other components of the physical environment;
  - (b) apply the principles and practices of conservation;
  - (c) use the best information available, except that, in the absence of complete information, where there are threats of serious or irreparable damage, lack of complete certainty shall not be a reason for postponing reasonable conservation measures;
  - (d) monitor and periodically review its management decisions and actions and modify those decisions and actions, on the basis of the results of such monitoring and review; and
  - (e) consider, where appropriate, public health and public safety issues.
- 12.1.6 In exercising their powers under this chapter, the Parties and the Board shall take steps to acquire and use traditional knowledge as well as other types of scientific information and expert opinion.

#### 12.2 STRUCTURE OF BOARD

- 12.2.1 The Board shall have an odd number of members not exceeding nine, one of whom shall be the chairperson.
- 12.2.2 The chairperson shall be nominated by the members of the Board and appointed jointly by the Parties. The members may nominate one of themselves or any other person.

- 12.2.3 Of the members other than the chairperson, government shall appoint half and the remainder shall be appointed by the Dogrib First Nation Government. The Parties shall consult with each other before making their appointments.
- 12.2.4 The Parties shall endeavour to appoint as members of the Board persons who have knowledge of
- (a) wildlife in the settlement area, including its harvesting; and
  - (b) the Aboriginal way of life in the settlement area, in relation to wildlife.
- 12.2.5 Board members shall not be considered to have a conflict of interest by reason only of being public servants or employees of Aboriginal organizations.
- 12.2.6 A quorum of the Board shall consist of at least three members, including one of the members appointed by government and one of the members appointed by the Dogrib First Nation Government. Subject to this quorum, vacancies shall not prevent the remaining members from acting. The Board may, when it is first established, start to operate as soon as this quorum has been appointed.
- 12.2.7 Each member shall be appointed to hold office for a specific term not to exceed five years. A member may be reappointed.
- 12.2.8 A member may be removed from office at any time for cause by the Party or Parties which appointed the member.
- 12.3 ADMINISTRATION
- 12.3.1 The Board shall be accountable to government for its expenditures.
- 12.3.2 The Board shall prepare an annual budget and submit it to government. This requirement does not prevent government from providing multi-year funding to the Board. Government may approve the budget as submitted or vary it and approve it as varied. The expenses of the Board incurred in accordance with its approved budget shall be a charge on government. The budget shall provide for funds reasonably required to fulfill the mandate of the Board and shall be in accordance with the Government of Canada's Treasury Board guidelines.
- 12.3.3 The budget of the Board may provide for
- (a) remuneration and travel expenses for attendance of Board members at board and committee meetings;
  - (b) the expenses of public hearings and meetings;
  - (c) the costs of research, public education and other programs as may be approved by government from time to time; and
  - (d) the expenses of staff, advisors and consultants and of the operation and maintenance of the office.

- 12.3.4 The budget of the Board in its first year of operation shall be set out in the Implementation Plan.
- 12.3.5 The Board shall have, subject to its approved budget, such staff, professional and technical advisors and consultants as are necessary for the proper conduct of its affairs.
- 12.3.6 The Board may make by-laws respecting
- (a) the calling of meetings of the Board and the conduct of its business at its meetings; and
  - (b) the establishment of special and standing committees of the Board, the delegation of duties to such committees and the fixing of quorums for meetings of such committees.
- 12.3.7 The Board may make rules respecting consultations to be conducted by it, the procedure for making applications, representations and complaints to it, including the conduct of hearings before it, and generally respecting the conduct of any business before it. The Board shall publish any such rules.
- 12.3.8 Subject to 12.3.9, the Board shall have
- (a) the power to summon before it any witnesses and require them to
    - (i) give evidence, orally or in writing, and on oath or, if they are persons entitled to affirm in civil matters, on solemn affirmation, and
    - (ii) produce such documents and things as the Board deems requisite to the full investigation of the matters before it; and
  - (b) the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases.
- 12.3.9 The Board may not summon before it Ministers of government or the Grand Chief of the Dogrib First Nation Government.
- 12.3.10 The Board may consult with government, the Dogrib First Nation Government, representatives of other Aboriginal groups, Dogrib community representatives and the public and may do so by any means including informal meetings or public hearings.
- 12.3.11 A public hearing may be held by the Board where the Board is satisfied that such a hearing is desirable. A public hearing shall be held when the Board intends to recommend or determine a total allowable harvest level in respect of a population or stock of wildlife which has not been subject to a total allowable harvest level within the previous two years. A public hearing may be held at such place or places within the settlement area as the Board may designate.
- 12.3.12 The Board shall establish and maintain a public file for reports, research papers and data received by the Board and for its determinations and recommendations, except that any material furnished on a confidential basis shall not be made public without the consent of the originator.

12.4 POWERS OF BOARD

12.4.1 The primary powers of the Board are those respecting

- (a) wildlife management, as described in 12.5, 12.6 and 12.7;
- (b) commercial wildlife activities, as described in 12.8;
- (c) forest management, as described in 13.4;
- (d) plant management, as described in 14.6; and
- (e) protected areas, as described in chapter 16.

12.4.2 The Board may, to the extent provided by its approved budget,

- (a) monitor wildlife harvesting in the settlement area and collect data and conduct or participate in research in relation to such harvesting; and
- (b) develop and conduct public education programs respecting wildlife harvesting in the settlement area and the management thereof.

12.4.3 Wildlife research and harvesting studies conducted in the settlement area by government or by the Board or with government assistance shall directly involve the Dogrib First Nation Government and Dogrib Citizens to the greatest extent possible and that Government and those Citizens shall cooperate in and assist government or the Board in the context of such research studies.

12.4.4 The Board may, to the extent provided by its approved budget, exercise any other powers relating to wildlife harvesting, including those respecting enforcement, assigned to it by a Party.

12.5 REVIEW OF PROPOSED WILDLIFE MANAGEMENT ACTIONS

12.5.1 A Party shall, before taking any action for management of wildlife in the settlement area, including such actions as set out in a management plan, submit its proposals to the Board for review under 12.5.4. These proposals may include provisions respecting such matters as protection or enhancement of habitat, research, identification and reporting requirements, monitoring, total allowable harvest levels, limitations on methods of harvesting and other limitations on harvesting activities, allocations of any total allowable harvest levels, designation of species or stocks at risk and identification of lands where harvesting or access for harvesting is prohibited for safety purposes. The Board may identify types of actions that need not be sent to it for review. In preparing any proposal, a Party shall consult with any other Party or other body with powers to manage any aspect of the proposal.

12.5.2 12.5.1 does not prevent a Party from establishing identification requirements in relation to wildlife harvested, harvesters or persons in possession of wildlife without first submitting them as proposals to the Board for review under 12.5.4. In order to facilitate co-ordination, the Parties shall consult with each other before establishing such identification requirements.

12.5.3 Any wildlife management plans, limits on wildlife harvesting or regulations respecting wildlife harvesting or other wildlife activities in existence before the effective date remain in effect until replaced, amended or removed under 12.5.

- 12.5.4 The Board shall review a proposal submitted to it under 12.5.1, 12.9.2 or 12.9.3. Before making its determination or recommendation under 12.5.5, the Board shall consult with the Party that submitted the proposal and with any other Party or body with powers to manage any aspect of the proposal, including any body with management powers over a national park and, in the case of a proposal respecting wildlife that migrates between the settlement area and another area, any body with authority over that wildlife in that other area, with a view to harmonizing the proposal with the actions of such other bodies.
- 12.5.5 The Board shall
- (a) make a final determination, in accordance with 12.6 or 12.7, in relation to a proposal
    - (i) regarding a total allowable harvest level, except for fish,
    - (ii) regarding the allocation of portions of any total allowable harvest levels to groups of persons or for specified purposes, or
    - (iii) submitted under 12.9.2 or 12.9.3(a) for the management of the Bathurst caribou herd with respect to its application in the settlement area; and
  - (b) in relation to any other proposal, including a proposal for a total allowable harvest level for a population or stock of fish, recommend implementation of the proposal as submitted or recommend revisions to it, or recommend it not be implemented.
- 12.5.6 The Board may, without waiting for a proposal from a Party, make the following recommendations or determinations, after consulting with any Party or body with powers to manage any aspect of the subject matter of its recommendation or determination:
- (a) recommend actions for management of harvesting in the settlement area, including
    - (i) a total allowable harvest level for any population or stock of fish,
    - (ii) harvest quotas for wildlife or limits as to location, methods, or seasons of harvesting wildlife, or
    - (iii) the preparation of a wildlife management plan;
  - (b) determine a total allowable harvest level for any population of wildlife in the settlement area, except for fish, in accordance with 12.6; and
  - (c) determine the allocation of any total allowable harvest levels to groups of persons or for specified purposes, in accordance with 12.7.
- 12.5.7 The Board shall, at the request of a Party, review the way in which rights under 10.1.1, 10.3, 10.4, 13.2, 14.2 and 14.3 are being exercised and recommend measures to be taken to prevent the use or consumption of wildlife, trees or plants in a manner inconsistent with those provisions.
- 12.5.8 The Board shall forward its determination or recommendation under 12.5.5, 12.5.6, 12.5.7, 13.4.1 or 14.6.1 with written reasons to each Party with powers under its laws to implement the determination or recommendation, indicating the date by which a Party is expected to respond to or implement them, and give public notice of these determinations and recommendations.
- 12.5.9 Any determination of the Board under 12.5.5(a)(i) or (iii) or 12.5.6(b) shall be consistent with any international or domestic intergovernmental agreement given effect by a Party in relation to a population or stock that migrates in or out of the settlement area.
- 12.5.10 Any recommendation of the Board under 12.5.5(b) or 12.5.6(a)(ii) regarding methods of harvesting shall be consistent with any international agreement given effect by a Party in relation to humane trapping standards.

- 12.5.11 Each Party with power under its laws to implement a recommendation of the Board made under 12.5.5, 12.5.6, 12.5.7, 13.4.1 or 14.6.1 shall accept, reject or vary such recommendation. In making its decision, each Party shall consult with any other Party or body with power to manage any aspect of the recommendation. Where a Party rejects or varies any recommendation received from the Board, it shall give its decision in writing, with reasons, to the Board and to the other Parties, and shall give public notice of that decision.
- 12.5.12 Each Party shall, to the extent of its power under its laws, establish or otherwise implement
- (a) a determination of the Board under 12.5.5, 12.5.6 or 12.5.7; and
  - (b) any recommendation of the Board as accepted or varied by it.
- 12.5.13 If the Board fails to make a determination or recommendation under 12.5.5 within any reasonable period of time required by the Party that submitted the proposal, the Party may exercise its powers in accordance with 12.6 and 12.7 without the Board's determination or recommendation.
- 12.5.14 Notwithstanding 12.5.1, a Party may take any action for the management of wildlife in the settlement area, in an emergency, without waiting for a determination or recommendation of the Board, but if it does so the Party shall notify the Board and the other Parties as soon as possible, with reasons for taking such action.
- 12.5.15 A Party may refer to the Board for advice any matter respecting management of wildlife or wildlife habitat, whether or not the matter is within the management powers of the Party. The Board may provide advice or may refer the matter back to the Party without advice.
- 12.6 TOTAL ALLOWABLE HARVEST LEVELS AND OTHER LIMITS
- 12.6.1 Subject to chapters 15 and 16, a total allowable harvest level shall be determined for conservation purposes only and only to the extent required for such purposes.
- 12.6.2 Subject to chapters 15 and 16, limits prescribed under legislation, other than total allowable harvest levels, on the exercise of rights under 10.1.1, shall only be for the purposes of conservation, public health or public safety, and only to the extent required for such purposes.<sup>31</sup>
- 12.6.3 For greater certainty, a Dogrib Citizen does not have to obtain a licence from government to exercise their rights under 10.1.1, 10.3 or 10.4 except for identification purposes referred to in 10.4.1 and 12.5.2.
- 12.6.4 In exercising their powers in relation to limits on harvesting in the settlement area, the Board and the Parties shall give priority to
- (a) non-commercial harvesting over commercial harvesting; and
  - (b) with respect to non-commercial harvesting,
    - (i) Dogrib Citizens and other Aboriginal persons over other persons, and
    - (ii) residents of the Northwest Territories over non-residents of the Northwest Territories other than persons described in (i).

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<sup>31</sup> Need to confirm whether "and only to the extent required for such purposes" is appropriate.

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12.7 ALLOCATION OF TOTAL ALLOWABLE HARVEST LEVEL

- 12.7.1 When the Board or a Party makes an allocation of a total allowable harvest level, it shall allocate
- (a) a sufficient portion
    - (i) for the Dogrib First Nation to allow Dogrib Citizens to exercise the rights under 10.1.1, and
    - (ii) for any other group of Aboriginal persons to allow the members of that group to exercise any rights to harvest wildlife in the settlement area; and
  - (b) portions of any remainder of the total allowable harvest level among other groups of persons or for other purposes.
- 12.7.2 When the Board or a Party makes an allocation under 12.7.1(a) for the Dogrib First Nation or other groups of Aboriginal persons, it shall consider all relevant factors including, in particular,
- (a) the usage patterns and levels of past harvests by Dogrib Citizens or other Aboriginal persons;
  - (b) consumption or use by Dogrib Citizens or other Aboriginal persons, including for food, clothing and cultural purposes and for their dogs;
  - (c) trade and gifts among Dogrib Citizens and other Aboriginal persons; and
  - (d) the availability of other populations of wildlife to meet the needs of Dogrib Citizens or other Aboriginal persons.
- 12.7.3 When the Board or a Party makes an allocation under 12.7.1(a), if the total allowable harvest level is not sufficient to allow the Dogrib First Nation and the other groups of Aboriginal persons to exercise their rights, it shall allocate the level equitably among the Dogrib First Nation and those groups.
- 12.7.4 When the Board or a Party makes an allocation under 12.7.1(b), of any portion of a total allowable harvest level remaining after an allocation for the Dogrib First Nation and for other groups of Aboriginal persons, it shall consider all relevant factors including, in particular,
- (a) demand for hunting and sport fishing by residents and non-residents of the Northwest Territories;
  - (b) demand for commercial harvesting in the Northwest Territories; and
  - (c) demand by lodge operators and outfitters in the settlement area.
- 12.7.5 When the Board or a Party makes an allocation under 12.7.1(b) of any portion of a total allowable harvest level remaining after an allocation for the Dogrib First Nation and for other groups of Aboriginal persons, it shall give priority to
- (a) non-commercial harvesting over commercial harvesting; and
  - (b) with respect to non-commercial harvesting,
    - (i) residents of the Northwest Territories over non-residents of the Northwest Territories, and
    - (ii) to the extent provided by legislation, residents of the settlement area who rely on wildlife from that area for food for themselves and their families over other persons.

12.7.6 Any allocation among individual Dogrib Citizens of the exercise of the harvesting rights of the Dogrib First Nation in the settlement area, including in national parks and protected areas, shall be the responsibility of the Dogrib First Nation Government.

12.8 COMMERCIAL WILDLIFE ACTIVITIES

12.8.1 Recommendations of the Board under 12.5.6(a) may include recommendations for regulations respecting the following activities in the settlement area:

- (a) operation of commercial establishments and facilities for harvesting of wildlife;
- (b)

12.9 MANAGEMENT PLANS FOR MIGRATORY SPECIES

- 12.9.1 It is an objective that management plans, respecting wildlife that migrates between the settlement area and another area, be prepared jointly with any body with authority over that wildlife in that other area. Failure to reach agreement on the application of such a plan outside the settlement area does not prevent the Parties from preparing and implementing a plan for the settlement area.
- 12.9.2 Within the first year after the effective date, the Board shall convene a meeting of the Parties for the purpose of establishing a process to prepare a comprehensive proposal for the management of the Bathurst caribou herd. The Board shall invite any government other than the Parties with jurisdiction over any part of the caribou range, and representatives of any Aboriginal group other than the Dogrib First Nation with harvesting rights over the caribou, to participate. The Parties may consult any other person or body with an interest in or responsibilities over the caribou, or their range. Upon its completion, the proposal shall be submitted to the Board for review under 12.5.4.<sup>32</sup>
- 12.9.3 Within three years after the effective date or such later date agreed to by the Parties, each Party shall, separately or jointly, to the extent of their powers, prepare a proposal and submit it to the Board for review under 12.5.4, for the management of
- (a) the Bathurst caribou herd, if one has not been prepared under 12.9.2; and
  - (b) woodland caribou.

12.10 INTERNATIONAL AND DOMESTIC ARRANGEMENTS

- 12.10.1 Government shall consult with the Board with respect to the formulation of government positions in relation to international agreements which may affect wildlife or wildlife habitat in the settlement area prior to adopting positions.
- 12.10.2 In respect of wildlife in the settlement area which cross international boundaries, the Government of Canada shall endeavour to include the countries concerned in cooperative conservation and management agreements and arrangements. The Government of Canada shall endeavour to have provisions in such agreements and arrangements respecting joint research objectives and related matters respecting the control of access to such wildlife.
- 12.10.3 Government shall provide the Dogrib First Nation Government with the opportunity to be represented in any Canadian management regimes in respect of wildlife which are established under international or domestic intergovernmental agreements and which affect wildlife in the settlement area.

12.11 GREAT SLAVE LAKE

- 12.11.1 The Dogrib First Nation Government may nominate or appoint at least one member to any governmental body having advisory or management responsibilities with respect to the management of fish or fish habitat in Great Slave Lake.

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<sup>32</sup> Need to review 12.9.2 before the date of the initialling of the Agreement to reflect any planning done by that date.

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## **CHAPTER 13**

### **TREES AND FOREST MANAGEMENT**

#### 13.1 GENERAL

13.1.1 This chapter, other than 13.1.3 and 13.4, does not apply to Dogrib lands.

13.1.2 Nothing in this chapter shall be construed to

- (a) confer rights of ownership of trees;
- (b) guarantee the supply of trees;
- (c) preclude persons who are not Dogrib Citizens from harvesting trees, subject to legislation;
- (d) entitle a Dogrib Citizen or the Dogrib First Nation Government to any compensation for damage to or loss of trees or harvesting opportunities; or
- (e) derogate from the access right of a Dogrib Citizen under 10.5.

13.1.3 Nothing in the Agreement is intended to affect any responsibility of government for the fighting of forest fires in the settlement area.

13.1.4 The commercial harvesting of trees throughout the settlement area is subject to legislation.

#### 13.2 RIGHT TO HARVEST

13.2.1 Subject to any limitations prescribed by or in accordance with the Agreement and to legislation in respect of forest management, land management within a community boundary, conservation, public health, public safety or protection of the environment from significant damage, the Dogrib First Nation has the right to harvest trees, including dead trees, throughout the settlement area at all seasons of the year for

- (a) firewood for use by Dogrib Citizens or for community purposes in a Dogrib community;
- (b) construction or maintenance of hunting, trapping and fishing camps primarily for use by Dogrib Citizens;
- (c) the making of handicrafts by Dogrib Citizens;
- (d) use by Dogrib Citizens for traditional, cultural or medicinal purposes;
- (e) construction of boats and rafts primarily for use by Dogrib Citizens; and
- (f) construction of houses for occupancy by Dogrib Citizens and of buildings in a Dogrib community for community purposes.

13.2.2 The right of the Dogrib First Nation to harvest trees under 13.2.1 does not apply

- (a) on lands held in fee simple or subject to an agreement for sale or surface lease;

- (b) where it conflicts with any activity carried out under an authorization or permit granted by government, such as a timber licence or permit, a forest management agreement or a land use permit; or
- (c) on lands dedicated to military or national security purposes under legislation or in areas temporarily being used for military exercises for the period of such temporary use, after notice of such dedication or use has been given to the Dogrib First Nation Government.

### 13.3 AUTHORIZATION OF COMMERCIAL HARVESTING

- 13.3.1 Subject to 13.3.3, no authorization for the commercial harvesting of trees in the Dogrib primary use area shall be granted without the consent of the Dogrib First Nation Government where such commercial harvesting would significantly affect the harvesting of wildlife by Dogrib Citizens.
- 13.3.2 The Dogrib First Nation Government shall be consulted by government prior to any change in the area of a commercial harvesting operation in the settlement area.
- 13.3.3 On application by an interested party, or on its own motion, the North Slave Renewable Resources Board may review a decision of the Dogrib First Nation Government under 13.3.1 not to consent to the granting of an authorization for the commercial harvesting of trees. If the Board determines that such commercial harvesting is reasonable, in the circumstances, the authorization may be granted.

### 13.4 FOREST MANAGEMENT

- 13.4.1 The North Slave Renewable Resources Board may, in relation to the settlement area but not in relation to a national park, and after consultation with any Party or body with powers respecting forest management, make recommendations to the Parties with respect to
    - (a) policies and rules in respect of the harvesting of trees; and
    - (b) plans and policies for forest management which may include
      - (i) determination of areas of commercial harvesting of trees and the terms and conditions of such harvesting which may include cutting rates, allowable harvests of trees, harvesting methods, reforestation measures and the employment and training of Dogrib Citizens,
      - (ii) provisions for management agreements with commercial harvesters and land owners, and
      - (iii) provision for forest fire management activities.
  - 13.4.2 In relation to the settlement area but not in relation to a national park, government may consult the North Slave Renewable Resources Board on any matter which affects forest management and shall consult the Board on
    - (a) draft legislation respecting forest management;
    - (b) land use policies or draft legislation where those policies or legislation will likely impact on forest management;
    - (c) policies respecting forest management research and the evaluation of such research; and
    - (d) plans for training Dogrib Citizens in forest management.
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## CHAPTER 14

### PLANTS

#### 14.1 GENERAL

14.1.1 This chapter, other than 14.4, does not apply to Dogrib lands.

14.1.2 Nothing in this chapter shall be construed to

- (a) confer rights of ownership to plants;
- (b) guarantee the supply of any plants;
- (c) preclude persons who are not Dogrib Citizens from harvesting plants, subject to legislation;
- (d) entitle a Dogrib Citizen or the Dogrib First Nation Government to any compensation for damage to or loss of plants or harvesting opportunities; or
- (e) derogate from the access right of a Dogrib Citizen under 10.5.

#### 14.2 RIGHT TO HARVEST

14.2.1 Subject to any limitations prescribed by or in accordance with the Agreement and to legislation in respect of conservation, land management within a community boundary, public health, public safety or protection of the environment from significant damage, the Dogrib First Nation has the right to harvest plants throughout the settlement area at all seasons of the year for

- (a) the making of handicrafts by Dogrib Citizens;
- (b) use or consumption by Dogrib Citizens for food, medicinal or cultural purposes, and for purposes ancillary to wildlife harvesting under 10.1.1; and
- (c) trade or gifts to other Aboriginal persons for their own use or consumption.

14.2.2 The right of the Dogrib First Nation to harvest plants under 14.2.1 does not apply

- (a) on lands held in fee simple, subject to an agreement for sale or surface lease;
- (b) where it conflicts with any activity carried out under an authorization or permit granted by government such as a timber licence or permit, a forest management agreement or land use permit; and
- (c) on lands dedicated to military or national security purposes under legislation or in areas temporarily being used for military exercises for the period of such temporary use, after notice of such dedication or use has been given to the Dogrib First Nation Government.

14.3 AUTHORIZATION OF COMMERCIAL HARVESTING

14.3.1 Subject to 14.3.3, no authorization for the commercial harvesting of plants in the Dogrib primary use area shall be granted without the consent of the Dogrib First Nation Government where such commercial harvesting would significantly affect the harvesting of wildlife by Dogrib Citizens.

14.3.2 The Dogrib First Nation Government shall be consulted by government prior to any change in the area of a commercial harvesting operation in the settlement area.

14.3.3 On application by an interested party, or on its own motion, the North Slave Renewable Resources Board may review a decision of the Dogrib First Nation Government under 14.3.1 not to consent to the granting of an authorization for the commercial harvesting of plants. If the Board determines that such commercial harvesting is reasonable, in the circumstances, the authorization may be granted.

14.4 MANAGEMENT OF PLANTS

14.4.1 The North Slave Renewable Resources Board may, in relation to the settlement area but not in relation to a national park, and after consultation with any Party or body with powers respecting the management of plants, make recommendations to the Parties with respect to

(a) policies and rules in respect of the harvesting of plants; and

(b) plans and policies for plant management which may include

- (i) determination of areas of commercial harvesting of plants and the terms and conditions of such harvesting and the employment and training of Dogrib Citizens, and
- (ii) provisions for management agreements with commercial harvesters and land owners.

14.4.2 In relation to the settlement area but not in relation to a national park, government may consult the North Slave Renewable Resources Board on any matter which affects plant management and shall consult the Board on

(a) draft legislation respecting plant management;

(b) land use policies and draft legislation where those policies or legislation will likely impact on plant management;

(c) policies respecting plant management research and the evaluation of such research; and

(d) plans for training Dogrib Citizens in plant management.

14.5 LEGISLATION

14.5.1 Government shall consult with the Dogrib First Nation Government with respect to the harvesting of plants by Dogrib Citizens before legislating to regulate or prohibit harvesting of plants in the settlement area.

14.5.2 Any legislation which regulates but does not prohibit the harvesting of plants in the settlement area shall provide a preferential right of harvesting in the Dogrib primary use area to the Dogrib First Nation for the reasonable livelihood and societal needs of Dogrib Citizens, including for their own food, medicinal, cultural and other purposes and for purposes ancillary to wildlife harvesting under 10.1.1 and may describe on which lands and under what conditions the preferential right shall apply.

## CHAPTER 15

### NATIONAL PARKS

#### 15.1 GENERAL

- 15.1.1 The purpose of establishing a national park is to preserve and protect for future generations representative natural areas of national significance, including the wildlife resources of such areas, and to encourage public understanding, appreciation and enjoyment of such areas, while providing for the rights of the Dogrib First Nation under the Agreement to use such areas for the harvesting of wildlife, plants and trees.
- 15.1.2 The traditional and current use of lands within a national park by the Dogrib First Nation shall be recognized in policies and public information programs and materials.
- 15.1.3 Park management plans and interim management guidelines for national parks shall respect
- (a) Aboriginal burial sites and places of religious and ceremonial significance; and
  - (b) sites of historic and archaeological significance to the Dogrib First Nation.
- 15.1.4 Exploration for and production of minerals shall not be permitted within a national park, except as may be required for construction purposes within the park.
- 15.1.5 Except as otherwise provided in the Agreement, a national park shall be planned, established and managed in accordance with the *National Parks Act* and other legislation, the national parks policy and any interim guidelines or park management plan in effect.
- 15.1.6 Once established, the boundaries of a national park shall not be reduced without the consent of the Dogrib First Nation Government. The boundaries of a national park shall not be enlarged except after consultation with the Dogrib First Nation Government.
- 15.1.7 Wildlife management within a national park shall be compatible with wildlife management in the settlement area to the extent possible, consistent with national parks objectives and policies.
- 15.1.8 The Minister or the Minister's designate and any Committee described in 15.3 shall consult with the North Slave Renewable Resources Board when exercising its powers in relation to wildlife that may migrate between a national park and another part of the settlement area or in relation to any other matter in a national park which may affect wildlife habitat in a part of the settlement area outside the park.

#### 15.2 DOGRIB IMPACT AND BENEFIT PLAN

- 15.2.1 Prior to establishment of a national park in the Dogrib primary use area, a Dogrib Impact and Benefit Plan for the proposed park shall be prepared and approved in accordance with 15.2.2.



- 15.2.2 The Dogrib First Nation Government and officials designated by the Minister shall attempt to prepare jointly a Dogrib Impact and Benefit Plan. If they agree on a plan, they shall submit it to the Minister for consideration and approval. If they fail to reach agreement on a plan within 18 months, each party may submit its own plan to the Minister for the Minister's consideration and approval. The Minister may approve a plan that consists of one of the plans submitted to the Minister or of parts of each. The Minister shall give written reasons for a decision. Government and the Dogrib First Nation Government shall implement a plan once it has been approved.
- 15.2.3 A Dogrib Impact and Benefit Plan shall
- (a) address the impact of the establishment and development of the park on any affected Dogrib community, in accordance with the provisions of the Agreement<sup>33</sup>;
  - (b) describe the steps that will be taken by government to establish the park; and
  - (c) describe training opportunities to assist Dogrib Citizens to qualify for employment in the park.
- 15.2.4 The Dogrib Impact and Benefit Plan may include provisions relating to
- (a) the Committee described in 15.3;
  - (b) the continued use by Dogrib Citizens of camps, cabins and traditional travel routes to exercise the harvesting rights of the Dogrib First Nation in the park;
  - (c) economic and employment opportunities for Dogrib Citizens and measures which will be adopted to assist Dogrib Citizens to take advantage of such opportunities, in addition to the opportunities provided under 15.2.3(c);
  - (d) mitigation of potential negative impacts of park establishment on any affected Dogrib community;
  - (e) routes and locations for public access to the park; and
  - (f) other impacts and benefits of concern to government or any affected Dogrib community.
- 15.2.5 A Dogrib Impact and Benefit Plan shall contain provisions providing for a review of the plan not less than once every 10 years after the establishment of the park.
- 15.3 NATIONAL PARK ADVISORY MANAGEMENT COMMITTEE
- 15.3.1 A National Park Advisory Management Committee (“the Committee”) shall be established for each national park within the settlement area at the time the park is established.
- 15.3.2 The Committee, when the park is wholly within the settlement area, shall consist of a number of members appointed by the Minister in consultation with the Government of the Northwest Territories, an equal number of members appointed by the Dogrib First Nation Government, and an additional member as chairperson selected in accordance with 15.3.3.

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<sup>33</sup> “in accordance with the provisions of the Agreement” in 15.2.3(a) to be reviewed for the purpose of clarification before the date of the initialling of the Agreement.

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- 15.3.3 The members appointed by the Minister and the Dogrib First Nation Government shall select from among themselves a chairperson. If the members fail to agree on a chairperson within 60 days of their own appointments or from the date when the position became vacant, the Minister shall select the chairperson from among the members. The authority which appointed the member who was selected as chairperson shall appoint a replacement to the Committee.
- 15.3.4 All appointments shall be for a fixed term. A member may be removed from office for cause by the authority which appointed that member.
- 15.3.5 The Park Superintendent or his or her designate shall sit as an ex-officio, non-voting member.
- 15.3.6 Each member shall exercise one vote except that the chairperson shall vote only in the event of a tie.
- 15.3.7 The Committee may meet as often as necessary, but shall hold at least two meetings annually.
- 15.3.8 The Committee may establish its own rules of procedures respecting the conduct of its business.
- 15.3.9 The Committee may advise the Minister or the Minister's designate and agencies of government, as appropriate, with respect to the following matters in relation to the park:
- (a) wildlife management;
  - (b) interim management guidelines and management plans and any amendments to them;
  - (c) training plans and economic and employment opportunities for Dogrib Citizens associated with the development and operation of the park;
  - (d) any proposed changes to park boundaries;
  - (e) issuance of permits for cabins or camps which may be required for the exercise of the harvesting rights of the Dogrib First Nation;
  - (f) protection of sites of cultural, spiritual or historical significance to the Dogrib First Nation and of sites of archaeological significance;
  - (g) information and interpretive programs to recognize the Dogrib First Nation's traditional use of the park area;
  - (h) research and field work conducted by or for government in the park; and
  - (i) any other matters which may be referred to the Committee by the Minister or agencies of government.
- 15.3.10 The Minister shall inform the Committee in writing of reasons for rejection or variance of any advice provided and afford the Committee an opportunity for further consideration of the matter.

15.4 INTERIM MANAGEMENT GUIDELINES

- 15.4.1 Interim management guidelines for a national park shall be prepared by Parks Canada, in consultation with the Committee, within two years of the establishment of a national park. To the extent feasible, the guidelines shall be prepared in the settlement area.
- 15.4.2 Interim management guidelines come into effect upon approval by the Minister. Before approving the guidelines, the Minister shall inform the Committee in writing of reasons for rejection or variance of any guideline proposed by the Committee and afford the Committee an opportunity for further consideration of the matter.

15.5 PARK MANAGEMENT PLAN

- 15.5.1 Within five years of the establishment of a national park, Parks Canada shall, in consultation with the Committee, prepare a management plan for the park. The plan shall describe the policies and procedures to manage and protect the park and its resources, and shall replace the interim management guidelines. To the extent feasible, the plan shall be prepared in the settlement area.
- 15.5.2 A park management plan comes into effect upon approval by the Minister. Before approving the plan, the Minister shall inform the Committee in writing of reasons for rejection or variance of any proposal of the Committee and afford the Committee an opportunity for further consideration of the matter.
- 15.5.3 A park management plan shall be reviewed and revised as required from time to time and not less than every 10 years after the plan is approved.

15.6 WILDLIFE

- 15.6.1 A national park shall be managed in a manner which provides for wildlife harvesting by Dogrib Citizens in the park. Such harvesting shall be consistent with
- (a) the other provisions of the Agreement;
  - (b) the interim management guidelines approved under 15.4.2 or the park management plan approved under 15.5.2;
  - (c) the principles of conservation; and
  - (d) the use and enjoyment of the national park by other members of the public.
- 15.6.2 Except for wildlife that are fur bearers, wildlife harvested by a Dogrib Citizen in a national park, including any products thereof, shall be only for that Citizen's own use or consumption or for the use or consumption of that Citizen's spouse, parent or child or for trade or gift to
- (a) other Dogrib Citizens for their own use or consumption; or
  - (b) other Aboriginal persons for their own use or consumption.
- 15.6.3 The harvesting of wildlife by Dogrib Citizens in a national park, including their right to trade or to give wildlife away, may be restricted for reasons related to the management of the park. No such restrictions may be established after the effective date except through the interim management guidelines approved under 15.4.2 or the park management plan approved under 15.5.2.

15.6.4 Permits may be required for the establishment, in a national park, of cabins and camps required for the exercise of the Dogrib First Nation's harvesting rights but not for cabins and camps that existed before the park was established. Such permits shall be issued by the Park Superintendent without charge. Cabins and camps in a national park shall conform to the interim management guidelines approved under 15.4.2 or the park management plan approved under 15.5.2.

15.6.5 Except where manipulation of wildlife populations is required by means of a controlled hunt, hunting by persons who are not Dogrib Citizens shall not be permitted in any national park.

#### 15.7 PLANTS AND TREES

15.7.1 Plants and trees harvested by a Dogrib Citizen in a national park under chapter 10, 13 or 14 and any product made from them shall only be used within the park.

15.7.2 The harvesting of plants or trees by a Dogrib Citizen in a national park, including the right to trade or give them away, may be restricted for reasons related to the management of the park. No such restrictions may be established after the effective date except through the interim management guidelines approved under 15.4.2 or the park management plan approved under 15.5.2.

#### 15.8 ECONOMIC AND EMPLOYMENT PROVISIONS

15.8.1 The Parties intend that Dogrib Citizens will hold a majority of the jobs in a national park in the Dogrib primary use area. To this end, training opportunities, as described in the Dogrib Impact and Benefit Plan, shall be provided to assist Dogrib Citizens to qualify for such employment.

15.8.2 If the Dogrib First Nation Government does not exercise its rights in a national park under a licence acquired under 10.8.2 in accordance with the terms of that licence, the licencing authority may rescind the licence and the priority right of the Dogrib First Nation Government to acquire the licence under 10.8.2 no longer applies. Any dispute as to whether the Dogrib First Nation Government is exercising its rights in accordance with the terms of the licence may be referred by the Dogrib First Nation Government for resolution in accordance with chapter 6.

15.8.3 In the event that manipulation of wildlife populations by means of a controlled hunt is required in a national park in the Dogrib primary use area, the Park Superintendent shall notify the Dogrib First Nation Government. The Dogrib First Nation shall be given first consideration, by the Park Superintendent, to conduct the hunt. For greater certainty, Dogrib Citizens shall not dispose of any wildlife, resulting from this controlled hunt, or their parts or products except in accordance with 15.6.1 to 15.6.3.

#### 15.9 NATIONAL PARK IN VICINITY OF EAST ARM OF GREAT SLAVE LAKE

15.9.1 This chapter does not apply to any national park established within the area withdrawn under Order in Council P.C. 1997-1922.<sup>34</sup>

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<sup>34</sup> Before the date of the initialling of the Agreement, the application of this chapter and of chapters 10 to 14 will be reviewed and a determination will be made as to whether to include in the settlement area any part of the area withdrawn under Order in Council P.C. 1997-1922.

## **CHAPTER 16**

### **PROTECTED AREAS**

#### 16.1 GENERAL

- 16.1.1 Except as otherwise provided in the Agreement, protected areas shall be planned and managed in accordance with legislation respecting protection of the resources in the protected areas

#### 16.2 ESTABLISHMENT OR BOUNDARY CHANGES

- 16.2.1 Subject to 16.6.1, government shall consult with the North Slave Renewable Resources Board, the Dogrib First Nation Government and with any affected Dogrib community government prior to the establishment of any protected area, or changes in the boundaries of an established protected area. Such consultation shall commence not less than 12 months prior to the establishment of the protected area or the change in boundaries.

#### 16.3 TERRITORIAL PARK MANAGEMENT PLAN

- 16.3.1 For each territorial park that is larger than 130 hectares and outside the boundaries of a community, the Government of the Northwest Territories may prepare a park management plan describing the policies which will guide the conservation and management of the park and its resources. The Dogrib First Nation Government and the North Slave Renewable Resources Board shall be invited to participate in the preparation of any such plan. A park management plan comes into effect upon approval by the Minister.

#### 16.4 HARVESTING RIGHTS

- 16.4.1 The harvesting of wildlife, plants and trees in a protected area by Dogrib Citizens, including their right to trade or give them away, may be restricted for reasons related to the management of the protected area. Subject to 16.6.1, no such restrictions may be established after the effective date except through an agreement under 16.5.1 or in accordance with a determination of the North Slave Renewable Resources Board under 16.5.2.

#### 16.5 PROTECTED AREA AGREEMENT

- 16.5.1 An agreement may be negotiated between the Dogrib First Nation Government and government on any of the following matters in relation to a protected area:
- (a) employment of Dogrib Citizens;
  - (b) training of Dogrib Citizens;
  - (c) protection of sites of cultural, spiritual or historic significance to the Dogrib First Nation or of archaeological significance;
  - (d) mitigation of potential negative impacts of the establishment of the protected area on affected Dogrib Citizen harvesters and affected residents of Dogrib communities;

- (e) participation of the Dogrib First Nation Government in management committees or other similar structures relating to the development and administration of the protected area;
- (f) any management guidelines or management plan;
- (g) the continued use by Dogrib Citizens of camps, cabins and traditional travel routes to exercise the harvesting rights of the Dogrib First Nation in the protected area;
- (h) restrictions on the harvesting of wildlife, plants and trees by Dogrib Citizens, including their right to trade or to give them away;
- (i) the periodic review of the agreement; and
- (j) other matters of concern to the affected residents of Dogrib communities, the Dogrib First Nation Government and government.

16.5.2 In the event that an agreement on the restriction of harvesting by Dogrib Citizens under 16.5.1(h) is not concluded within two years of the commencement of negotiations, government or the Dogrib First Nation Government may submit its proposal respecting such restrictions to the North Slave Renewable Resources Board for consideration and determination. The Board shall give written reasons for a determination.

## 16.6 EMERGENCIES

16.6.1 In the event of an emergency for reasons of conservation, government may establish a protected area or change the boundaries of such an area without prior consultation under 16.2.1 or may restrict harvesting of wildlife, plants or trees by Dogrib Citizens in such an area without an agreement under 16.5.1 or a determination of the North Slave Renewable Resources Board under 16.5.2, but shall consult with the Board, the Dogrib First Nation Government and with any affected Dogrib community government, as soon as possible thereafter, on the necessity of the action and, in the case of the establishment of a new protected area, the terms and conditions to be attached to the management of the area.

## 16.7 ECONOMIC AND EMPLOYMENT PROVISIONS

16.7.1 It is the objective of the Parties that Dogrib Citizens be employed at all occupational levels in protected areas in the Dogrib primary use area. Government shall identify employment opportunities in respect of the management of protected areas in the Dogrib primary use area and shall provide appropriate training opportunities for Dogrib Citizens to assist Dogrib Citizens to qualify for such positions. The nature and extent of these employment and training opportunities shall be set out

- (a) in the Implementation Plan, for any protected area established before the effective date; and
- (b) in an agreement negotiated between government and the Dogrib First Nation Government, for any protected area established after the effective date.

16.7.2 In the event that manipulation of wildlife populations by means of a controlled hunt is required in a protected area in the Dogrib primary use area, the Dogrib First Nation shall be given the first opportunity to conduct the hunt under the supervision of the managers of the protected area. Government may restrict the use that can be made of wildlife harvested as a result of the hunt.

16.8 IDENTIFICATION OF PROTECTED AREAS

16.8.1

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<sup>35</sup> 16.8.2 will not be included in the Agreement.

<sup>36</sup> 16.8.3 will be revised before the date of the initialling of the Agreement or it will not be included in the Agreement.

## CHAPTER 17

### HERITAGE RESOURCES

#### 17.1 GENERAL

- 17.1.1 Dogrib heritage resources are the cultural patrimony of the Dogrib First Nation.
- 17.1.2 17.1.1 shall not be interpreted as creating ownership rights for the Dogrib First Nation.
- 17.1.3 Nothing in this chapter shall limit any entitlement, right, title or interest of the Dogrib First Nation Government, the Dogrib First Nation or a Dogrib Citizen available under law in respect of intellectual property.
- 17.1.4 Where the Dogrib First Nation Government identifies an issue of concern arising out of the administration of legislation or government policy in respect of heritage resources in the settlement area, government will consult with the Dogrib First Nation Government in respect of that concern.
- 17.1.5 The location of burial sites in the settlement area outside cemeteries shall, as they become known, be recorded by government. Government shall indicate in that record those sites known to be Aboriginal burial sites.
- 17.1.6 Any dispute as to whether a heritage resource is a Dogrib heritage resource or whether a burial site is an Aboriginal burial site may be referred for resolution in accordance with chapter 6 by government, the Dogrib First Nation Government or a person with a right or interest in the resource or site where it is located.

#### 17.2 MANAGEMENT OF HERITAGE RESOURCES

- 17.2.1 The Dogrib First Nation Government shall be the custodian of heritage resources on Dogrib lands.
- 17.2.2 The Dogrib First Nation Government shall notify government when a heritage resource, other than a Dogrib heritage resource, is found in a site of archaeological significance on Dogrib lands.
- 17.2.3 Government shall notify the Dogrib First Nation Government when a Dogrib heritage resource is found in a site of archaeological significance outside Dogrib lands but within the settlement area.
- 17.2.4 The Dogrib First Nation Government shall have an opportunity to be represented on any board, agency or committee established by government with responsibilities restricted to the Northwest Territories that include the administration or protection of Dogrib heritage resources in the Mackenzie Valley or Aboriginal burial sites in the Dogrib primary use area. The Dogrib First Nation Government shall be consulted with respect to the implementation of this provision prior to the establishment of any such board, agency or committee.



- 17.2.5 Within two years after the effective date, to address the potential effect of land use activities on heritage resources in the settlement area, representatives of the Parties shall, in consultation with each other, develop guidelines for
- (a) conditions that should be attached to a land use permit issued by the North Slave Land and Water Board in respect of the presence of heritage resources on the lands to which the permit applies; and
  - (b) the procedure that should be followed where heritage resources are discovered on the lands to which the land use permit applies.
- 17.2.6 Prior to the issuance of a land use permit by the North Slave Land and Water Board in the settlement area, the Board shall
- (a) forward a copy of the land use permit application to the Dogrib First Nation Government, any other affected Aboriginal group or government agency responsible for heritage resources; and
  - (b) seek advice concerning the presence of heritage resources on the lands to which the land use permit will apply from each of the groups and agencies identified in (a).
- 17.2.7 Prior to issuing an archaeological permit government shall,
- (a) in respect of heritage resources on Dogrib lands, ensure that the applicant has obtained the written consent of the Dogrib First Nation Government; and
  - (b) in respect of Dogrib heritage resources elsewhere in the settlement area, consult with the Dogrib First Nation Government.
- 17.2.8 All archaeological permits in respect of Dogrib heritage resources in the settlement area shall
- (a) specify plans and methods for site protection and restoration, where applicable;
  - (b) require consultation with the Dogrib Citizens of the local Dogrib community or communities;
  - (c) provide for treatment and disposition of materials extracted; and
  - (d) require submission of a technical report and a non-technical report on the work completed.
- 17.3 ACCESS TO AND CARE OF HERITAGE RESOURCES
- 17.3.1 It is an objective of the Parties that Dogrib heritage resources which have been removed from the settlement area be available for the benefit, study and enjoyment of Dogrib Citizens and all other residents of the Northwest Territories. The attainment of this objective may include the return of such resources to the settlement area or the Northwest Territories, on a temporary or continuing basis, provided that
- (a) appropriate facilities and expertise exist in the settlement area which are capable of maintaining such Dogrib heritage resources for future generations; and
  - (b) such relocation is compatible with the maintenance of the integrity of public archives and national and territorial heritage resource collections.

- 17.3.2 Government and the Dogrib First Nation Government will work together to attain the objective in 17.3.1.
- 17.3.3 17.3.1 and 17.3.2 do not apply to human remains and associated grave goods found in Aboriginal burial sites. At the request of the Dogrib First Nation Government, government shall
- (a) return any such remains and goods held by government to the Dogrib First Nation Government in accordance with applicable legislation and government policies; and
  - (b) make reasonable efforts to facilitate the return to the Dogrib First Nation Government of such remains and goods held by a person or body other than government.
- 17.3.4 Within the settlement area, Dogrib Citizens shall be given preference for employment at public sites, museums, heritage resource projects, archaeological works and similar public facilities and projects related to Dogrib heritage resources or to Aboriginal burial sites, in a manner to be set out in the protected area agreement or, where there is no protected area agreement, in the management or work plans for the sites, museums, projects, facilities and works. The Dogrib First Nation Government shall be consulted in the development of such plans.
- 17.3.5 Where government prepares public information material with respect to protected areas, projects and programs concerning Dogrib heritage resources or Aboriginal burial sites in the settlement area, the Dogrib First Nation Government shall be consulted to ensure that appropriate recognition is given to the culture and history of the Dogrib First Nation.
- 17.4 BURIAL SITES
- 17.4.1 Immediately upon discovering a burial site in the settlement area outside a cemetery, a person shall notify the Dogrib First Nation Government and government.
- 17.4.2 Subject to 17.4.4, an Aboriginal burial site in the Dogrib primary use area shall not be surveyed or disturbed without first,
- (a) in the case of an Aboriginal burial site in a national park, consulting with the Dogrib First Nation Government, and
  - (b) in any other case, obtaining the written consent of the Dogrib First Nation Government.
- 17.4.3 Any person surveying or disturbing an Aboriginal burial site in the settlement area shall take appropriate measures to respect the dignity of the site and of any human remains and associated grave goods therein.
- 17.4.4 An Aboriginal burial site in the Dogrib primary use area may be disturbed by police, where authorized by legislation, without prior consultation with or the consent of the Dogrib First Nation Government, if such disturbance is required in relation to a police investigation.
- 17.4.5 In consultation with each other, representatives of the Parties shall develop procedures for the protection of Aboriginal burial sites in the Dogrib primary use area.

17.5 PLACE NAMES

- 17.5.1 The Dogrib First Nation Government shall establish its own procedures and policies for place naming within Dogrib lands.
- 17.5.2 The Dogrib First Nation Government may, in consultation with government, name or rename lakes, rivers, mountains and other geographic features and locations wholly within Dogrib lands.
- 17.5.3 Once the Dogrib First Nation Government notifies government that it has given a new place name for a lake, river, mountain or other geographic feature or location within Dogrib lands, that new name shall be recognized as the official name by government and the Dogrib First Nation Government.
- 17.5.4 Where the Dogrib First Nation Government requests government to establish a new official name or change an existing official name of a lake, river, mountain or other geographic feature or location in the Dogrib primary use area that is located wholly or partly outside Dogrib lands, government and the Dogrib First Nation Government shall, taking into account the integral role that place names play in the living history of the Dogrib First Nation, attempt to reach an agreement on the official name.
- 17.5.5 Government will consult the Dogrib First Nation Government when considering any proposal to name or rename a lake, river, mountain or other geographic feature or location in the settlement area.
- 17.5.6 Dogrib place names recognized as official under 17.5.3 or 17.5.4 shall be included, to the extent practicable and in accordance with map production specifications of the Government of Canada, on NTS map sheets when they are revised and on other maps when they are produced or revised by government.

## CHAPTER 18

### DOGRIB LANDS

#### 18.1 DOGRIB TITLE

- 18.1.1 The Dogrib First Nation Government, on behalf of the Dogrib First Nation, is vested with title, which may be referred to as "Dogrib title", to the block of lands described in Part 1 of the Appendix, totalling approximately 38,850 square kilometres, including the mines and minerals that may be found to exist within, upon or under such lands, subject to the rights or interests described in Part 2 of the Appendix and to any renewals, replacements, transfers or extensions of term of such rights or interests. Government, after consulting with the Dogrib First Nation Government, will amend Part 2 of the Appendix after the effective date to include any rights or interests or renewals, replacements, transfers or extensions of term made or granted up to the effective date. Such amendments shall be deemed to have been made on the effective date.<sup>37</sup>
- 18.1.2 Dogrib title is held in the form of fee simple title. The form of title shall not be construed as having the effect of extinguishing any rights recognized and affirmed by section 35 of the *Constitution Act, 1982*. Dogrib title does not include title to water in, on or under the lands.
- 18.1.3 Unless otherwise provided in Part 1 of the Appendix,
- (a) Dogrib title shall include title to the beds of lakes, rivers and other water bodies wholly contained within the boundaries of Dogrib lands;
  - (b) where a boundary of Dogrib lands crosses a lake, river or other water body, Dogrib title shall include the portion of the bed of that water body within the boundaries of Dogrib lands; and
  - (c) Dogrib title shall not include title to the bed of any lake, river or other water body where the water body is described as a boundary of Dogrib lands.
- 18.1.4 Dogrib lands may only be conveyed by the Dogrib First Nation Government to
- (a) government; or
  - (b) government or another expropriating authority, in circumstances where that authority could expropriate those lands.
- 18.1.5 The lands conveyed by the Dogrib First Nation Government under 18.1.4 cease to be Dogrib lands and any lands the fee simple title to which is received in exchange that are adjacent to Dogrib lands become Dogrib lands.
- 18.1.6 18.1.4 shall not be interpreted to prevent the Dogrib First Nation Government from granting leases or licences to any person for the use and occupancy of Dogrib lands, or from granting rights to any person to remove natural resources, including minerals, and to own such resources upon removal.

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<sup>37</sup> The process set out in Part 4 of the Appendix will be followed to identify Dogrib lands. Part 4 will not be included in the Agreement.

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- 18.1.7 Dogrib lands are not subject to seizure or sale under court order, writ of execution or any other process whether judicial or extra-judicial.
- 18.1.8 Dogrib lands shall not be mortgaged, charged or given as security.
- 18.1.9 18.1.7 and 18.1.8 do not apply to any mortgages, charges or securities granted before the effective date.
- 18.1.10 No person may acquire, by prescription, an estate or interest in Dogrib lands.
- 18.1.11 Subject to chapter 20, any access route across Dogrib lands which is established or improved after the effective date shall, unless the Dogrib First Nation Government otherwise agrees, remain Dogrib lands and not be a highway or public road, by operation of law or otherwise.
- 18.2 SPECIFIED SUBSTANCES
- 18.2.1 The holder of a mining right described in Part 2 of the Appendix or that is a renewal or replacement thereof granted by government, has the right to take, use, damage or destroy specified substances in those lands, incidentally in the course of exercising that mining right, but shall, where practicable, exercise such rights so as to minimize interference with the right of the Dogrib First Nation Government to work specified substances.
- 18.2.2 No compensation shall be paid to the Dogrib First Nation Government in respect of any specified substances taken, used, damaged or destroyed in accordance with 18.2.1.
- 18.2.3 Any specified substances taken, used, damaged or destroyed in accordance with 18.2.1 shall be the property of the holder of the mining right referred to in 18.2.1, except that the specified substances that are still on the land that is subject to that mining right when the right terminates become the property of the Dogrib First Nation Government.
- 18.3 HAZARDOUS WASTE SITES
- 18.3.1 Where government undertakes any program respecting the clean-up of hazardous waste sites on Crown lands in the settlement area, the program shall apply to such sites on Dogrib lands that are listed in Part 3 of the Appendix. Criteria to establish any priorities among hazardous waste sites shall not include whether the land is Crown land or Dogrib lands. After the effective date, Part 3 of the Appendix shall be amended to include any site that the Parties agree existed on the effective date or that is confirmed in accordance with chapter 6 to have existed on that date.
- 18.3.2 Any dispute as to whether a hazardous waste site existed on the effective date may be referred for resolution in accordance with chapter 6 by a Party.
- 18.3.3 Government shall be responsible for the costs associated with any clean-up under 18.3.1 on Dogrib lands. This provision shall not prevent government from recovering any costs associated with the clean-up from a person who is liable for these costs.
- 18.3.4 There shall be no compensation payable for damage which may be caused to Dogrib lands as a result of the clean-up of Dogrib lands under 18.3.1.
- 18.3.5 Government shall not be liable for any loss or damage to a Dogrib Citizen, to the Dogrib First Nation or to the Dogrib First Nation Government from hazardous waste sites on Dogrib lands whether or not they are known on the effective date. This provision does not affect any obligation of government under 18.3.1 and 18.3.3.

18.4 BOUNDARIES AND SURVEYS

- 18.4.1 The boundaries of Dogrib lands may be defined by existing surveys and natural and artificial features, including rights of way, but shall, where appropriate, be defined by existing boundary surveys and recorded field notes or by reference to natural features, as shown on NTS map sheets at 1:50,000 scale, or with reference to latitude and longitude based upon North American Datum 1983.
- 18.4.2 The descriptions in Part 1 of the Appendix may specify natural or artificial features to be enclosed within or excluded from Dogrib lands. The subsequent survey of the lands under 18.4.3 shall enclose or exclude, as the case may be, any feature so specified.
- 18.4.3 The Government of Canada shall survey the boundaries of Dogrib lands in accordance with the instructions of the Surveyor General and the *Canada Lands Survey Act* within the time specified in the Implementation Plan.
- 18.4.4 The Government of Canada shall be responsible for the cost of the survey conducted under 18.4.3.
- 18.4.5 During the survey conducted under 18.4.3,
- (a) those portions of seismic lines and other artificial features used as reference points for the boundaries of Dogrib lands shall be monumented by government sufficiently, as determined by the Surveyor General, to define their location; and
  - (b) natural features used as reference points for boundaries of Dogrib lands shall be photographed by government.
- 18.4.6 Where a boundary of Dogrib lands that is defined by reference to natural features is found, during the survey conducted under 18.4.3, to be not well defined, the Surveyor General shall have the authority to place a series of monuments, approximating the mean position of the natural features, and the line joining the monuments shall replace the previous description of the boundary, as of the effective date, upon the registration of the surveyed description of that line.
- 18.4.7 The Dogrib First Nation Government shall be responsible for the cost of surveys associated with the leasing and subdivision of Dogrib lands.
- 18.4.8 Boundaries of Dogrib lands that are defined by reference to natural features shall change with the movements of the natural features as long as these movements are gradual and imperceptible from moment to moment.
- 18.4.9 Where there is a dispute respecting the boundary of a right or interest described in Part 2 of the Appendix or that is a renewal or replacement thereof granted by government between the holder of that right or interest and the holder of an adjacent right or interest granted by the Dogrib First Nation Government, either holder may refer the dispute to the designated representative of the institution from which it received that right or interest. Where the representative to whom the dispute was referred and the other designated representative agree, a survey shall be conducted. The surveyed description replaces any other description of the boundary. The costs of the survey shall be borne equally by the institutions that granted the rights or interests, each of which may recover its costs from the holder of the right or interest it granted.

18.5 REGISTRATION<sup>38</sup>

- 18.5.1 As soon as possible after the boundaries of Dogrib lands have been surveyed, the Dogrib First Nation Government shall request the Registrar of Land Titles to register title to Dogrib lands in the Northwest Territories Land Titles Office.
- 18.5.2 The Dogrib First Nation Government has a right to obtain a certificate of title upon registration following a request under 18.5.1.
- 18.5.3 The surveyed boundaries of Dogrib lands replace the description set out in Part 1 of the Appendix, as of the effective date, upon their registration.

18.6 ADMINISTRATION OF EXISTING RIGHTS AND INTERESTS

- 18.6.1<sup>39</sup> Government shall continue to administer the rights and interests described in Part 2 of the Appendix and any renewals or replacements thereof granted under legislation, as if the lands had not become Dogrib lands. Government shall have the power to grant renewals, replacements, transfers or extensions of term for those rights and interests under that legislation, as if the lands had not become Dogrib lands, except that, in the case of a right or interest that is not a mining right, this power does not extend to a renewal or replacement that would authorize an activity of a type or in a location not authorized by the right or interest renewed or replaced. For greater certainty, any dispute resolution process in the Crown lands legislation continues to apply to rights and interests described in Part 2 of the Appendix and their renewals and replacements.
- 18.6.2 Subject to 18.6.4 and 25.2, government may make discretionary decisions respecting a right or interest described in Part 2 of the Appendix and to any renewals or replacements thereof granted by government on the basis of government's resource management policy, including those respecting royalties, rents and other charges.
- 18.6.3 Government shall be under no fiduciary obligation to the Dogrib First Nation or to the Dogrib First Nation Government in the administration under 18.6.1 or in the decision-making under 18.6.2.
- 18.6.4 In relation to rights and interests referred to in 18.6.2, government shall consult the Dogrib First Nation Government before
- (a) changing the legislation under which they were granted; or
  - (b) making any change in those rights or interests, including a change to the royalties, rents or other charges that apply to them.
- 18.6.5 Nothing in 18.1.1 or 18.6.1 shall prevent the holder of a right or interest referred to in 18.6.2 and the Dogrib First Nation Government from agreeing to the termination of the right or interest, with or without a replacement arrangement between the holder and the Dogrib First Nation Government.

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<sup>38</sup> 18.5 will be re-visited and further developed before the date of the initialling of the Agreement.

<sup>39</sup> 18.6.1 is subject to confirmation by government, in respect of the potential cost of government continuing to administer the rights and interests referred to in 18.6.1, once Dogrib lands have been identified and existing rights and interests determined.

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18.7 ROYALTIES AND NON-REFUNDED RENTS

- 18.7.1 Any royalties or non-refunded rents received by government, in respect of the period between the date of the Agreement and the effective date, for a right or interest described in Part 2 of the Appendix, shall be accounted for by government and an equal amount paid to the Dogrib First Nation Government as soon as practicable after the effective date.<sup>40</sup>
- 18.7.2 Any royalties or non-refunded rents received by government in respect of the period after the effective date for a right or interest described in Part 2 of the Appendix or for any replacement thereof shall be accounted for by government and an equal amount paid to the Dogrib First Nation Government as soon as practicable after each calendar year quarter.
- 18.7.3 Amounts payable by government under 18.7.1 and 18.7.2 and amounts payable to another Aboriginal people under any similar provision in another comprehensive land claim agreement in the Mackenzie Valley shall not be considered as amounts received by government for the purpose of 25.1.2.

18.8 REVENUES FROM DOGRIB MINERALS

- 18.8.1<sup>41</sup> Before the date of the initialling of the Agreement, the Dogrib Treaty 11 Council and the Government of Canada will develop a provision, for inclusion in the Agreement, confirming that when the Dogrib First Nation Government receives revenues from minerals on Dogrib lands, other than specified substances, exceeding an amount determined in accordance with that provision, the Dogrib First Nation Government will, as determined in accordance with that provision, share that excess with government and with any other Dene and Metis group with a comprehensive land claim settlement agreement in the Mackenzie Valley.

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<sup>40</sup> 18.7.1 is subject to a review by government of the cost of administering the rights and interests referred to in 18.7.1, once Dogrib lands have been identified and existing rights and interests determined.

<sup>41</sup> 18.8.1 will not be included in the Agreement.



**APPENDIX TO CHAPTER 18** <sup>42</sup>

PART 1 DESCRIPTION OF DOGRIB LANDS (18.1.1)

PART 2 EXISTING RIGHTS AND INTERESTS (9.2.1; 18.1.1; 18.6.1; 18.6.2; 19.3.1)

PART 3 HAZARDOUS WASTE SITES (18.3.1)

PART 4 PROCESS TO IDENTIFY DOGRIB LANDS (Footnote to 18.1.1)<sup>43</sup>

1 CRITERIA FOR IDENTIFICATION OF DOGRIB LANDS

1.1 Dogrib lands shall be identified in one large block outside, but adjacent to, the community boundaries of the Dogrib communities.

1.2 Except in exceptional circumstances, land held in fee simple or subject to an agreement for sale shall not be identified as Dogrib lands.

1.3 Except in exceptional circumstances, certain federal and Commissioner's land including the following land shall not be identified as Dogrib lands:

(a) land, the administration of which is with a department or agency of the federal or territorial government, other than the Department of Indian Affairs and Northern Development (DIAND), and

(b) land reserved by DIAND or the Commissioner in the name of any department or agency of the federal or territorial government.

1.4 Producing mines and mineral properties at an advanced stage of exploration shall not be identified as Dogrib lands. "Advanced stage of exploration" means mineral resource definition drilling on a grid or surface or underground bulk sampling for bench test work or grade and tonnage calculations.

1.5 Except in exceptional circumstances, land with known or suspected hazardous waste sites shall not be identified as Dogrib lands.

1.6 Dogrib lands shall not be identified within 31 metres of the boundary of the settlement area, unless otherwise agreed.

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<sup>42</sup> Appendix to be completed before the date of the initialling of the Agreement.

<sup>43</sup> Part 4 will not be included in the Agreement.

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2 BOUNDARY DETERMINATION OF DOGRIB COMMUNITIES

2.1 Prior to the commencement of land identification negotiations, the Dogrib Treaty 11 Council, government and the community leaders of the four Dogrib communities shall review the community boundaries of the Dogrib communities to confirm or adjust them and to address access to the beds of water bodies adjacent to any waterfront community lands for community purposes.

3 PROVISION OF INFORMATION

3.1 Prior to the commencement of land identification negotiations, the Dogrib Treaty 11 Council and government shall

- (a) identify an area of land surrounding the four Dogrib communities in which the identification of Dogrib lands may occur;
- (b) for the area referred to in (a), provide Dogrib place names and information relating to
  - (i) surface leases, recorded mining rights, fee simple grants, agreements for sale, applications for lease, rights-of-way, easements, federal or Commissioner's land described in 1.2, land use permits and other land use authorizations, licences, quarrying permits and leases, commercial fishing licences and quotas, timber permits, outfitters and lodge licences, proposed national or territorial parks and other protected areas,
  - (ii) known or suspected hazardous waste sites,
  - (iii) public routes, airstrips and trails, and
  - (iv) Dogrib cabins and burial sites;
- (c) provide map sheets, at 1:250,000 scale, of the area referred to in (a), using English and Dogrib place names and identifying, to the extent feasible, the location of everything on which the information in (b) is provided; and
- (d) following review of the information and maps under (b) and (c), prepare composite maps at 1:250,000 scale.

4 LAND IDENTIFICATION NEGOTIATIONS

4.1 A copy of each of the composite maps at the same scale shall be posted at all land identification negotiations and land identification negotiations shall occur using these copies.

4.2 The boundaries of Dogrib lands may be defined by existing surveys and natural and artificial features, including rights of way, but shall, where appropriate, be defined by existing boundary surveys and recorded field notes or by reference to natural features such as rivers and lakes. Only in exceptional circumstances, shall Dogrib lands include the bed of a water body where the bank of that water body is used as a boundary of Dogrib lands.

4.3 The Dogrib Treaty 11 Council and government shall prepare lists which describe, for the lands identified,

- (a) any existing rights or interests;
- (b) the routes identified for the purpose of 19.2.4;
- (c) any locations of the type described in 19.4.1(b) or (c) where the rights of access under 19.4.1 and 19.4.4 do not apply; and
- (d) any known hazardous waste sites.

- 4.4 When the identification of Dogrib lands has been completed, the negotiators shall initial the original composite maps and the lists.
- 5 LAND WITHDRAWAL
- 5.1 As soon as possible after the initialling of the composite maps and lists under 4.4, government shall withdraw the identified lands from disposition under the *Territorial Lands Act* and the *Commissioner's Land Act* and take any other necessary actions to prevent on the identified lands, subject to 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7,
- (a) the execution of new agreements for the sale or lease of land;
  - (b) the issuance of dredging leases under the *Territorial Dredging Regulations*;
  - (c) the recording of new mining claims under the *Canada Mining Regulations*;
  - (d) the granting of new permits, licences or leases under the *Territorial Coal Regulations*;
  - (e) the issuance of new rights under the *Territorial Quarrying Regulations*;
  - (f) the issuance of new rights under the *Forest Management Act*; and
  - (g) the issuance of new interests under the *Canada Petroleum Resources Act*.
- 5.2 A surface lease may be issued under section 8 of the *Territorial Lands Act* or under the *Territorial Lands Regulations* for the purpose of exercising the rights under a located or recorded mineral claim or mineral lease or an interest under the *Canada Petroleum Resources Act*.
- 5.3 A mining claim may be recorded under the *Canada Mining Regulations* where that claim was located prior to the date of the withdrawal order.
- 5.4 A new permit may be issued under the *Territorial Quarrying Regulations* or the *Commissioner's Land Regulations* in respect of sources of construction materials in the following circumstances:
- (a) for quarrying sites which were in use prior to the date of the withdrawal order;
  - (b) where, after consultation with the Dogrib Treaty 11 Council, the government land administrator concludes there is no alternative source of supply reasonably available in the surrounding area and the materials are required for essential community construction purposes; or
  - (c) with the consent of the Dogrib Treaty 11 Council.
- 5.5 A new timber permit or licence may be issued under the *Forest Management Act* in the following circumstances:
- (a) for less than 500 cubic metres of wood;
  - (b) with the consent of the Dogrib Treaty 11 Council; or
  - (c) where, after consultation with the Dogrib Treaty 11 Council, the Minister concludes the permit or licence should be issued because of overriding public interest.
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- 5.6 A new interest may be created under the *Canada Petroleum Resources Act* if it replaces an existing interest.
- 5.7 The withdrawal of land or other preventative action under 5.1 shall not have the effect of preventing the renewal, extension of term, amendment, replacement or transfer of any existing right or interest provided that, in the case of an amendment or replacement, it does not involve a significant change in the terms and conditions.
- 5.8 The withdrawal or other preventative action under 5.1 may be revoked in respect of all or part of the land where, after consultation with the Dogrib Treaty 11 Council, the Minister concludes it should be revoked because of overriding public interest.
- 5.9 The Dogrib Treaty 11 Council will be given notice by government of any renewal, extension of term, amendment, replacement, transfer or any other change of an existing right or interest, and of the issuance of any new rights referred to in 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7 and of any revocation under 5.8.

## 6 PUBLIC REVIEW

- 6.1 Prior to the date of land withdrawal, the Dogrib Treaty 11 Council and government shall develop a joint communications plan for the release of information, including the location of the withdrawn lands and the affected third party interests, to the public.
- 6.2 Following the date of land withdrawal, a holder of a right or interest in the withdrawn land shall be advised by government that the land has been identified as Dogrib lands and that the lands have been withdrawn.
- 6.3 Following the date of land withdrawal, the Dogrib Treaty 11 Council and government shall have 60 days to conduct a public review and consultation concerning the withdrawn lands.
- 6.4 Upon completion of the review period under 6.3, the maps and lists referred to in 4.4 and land withdrawal order and other preventative actions taken under 5.1 shall be amended, if necessary.
- 6.5 “date of land withdrawal” means the date the order withdrawing the land from disposition comes onto force.

## 7 FINAL DESCRIPTIONS OF DOGRIB LANDS

- 7.1 From the maps and lists referred to in 4.4, including any amendment under 6.4, government shall prepare, in final format,
- (a) maps, on 1:50,000 scale NTS map sheets, identifying the boundaries of Dogrib lands,
  - (b) descriptions, including the approximate area in square kilometres, of the block of Dogrib land identified in (a), and
  - (c) descriptions of everything on the lists.
- 7.2 Upon approval of the maps and descriptions referred to in 7.1 by the chief negotiators, the maps and descriptions shall be initialled by the chief negotiators.
- 7.3 The initialled descriptions referred to in 7.1 (b) and (c) shall form the appendices to chapters 18 and 19.

## CHAPTER 19

### ACCESS TO DOGRIB LANDS

#### 19.1 GENERAL

- 19.1.1 Except as provided in this chapter, persons who are not Dogrib Citizens may only enter, cross or stay on Dogrib lands and waters overlying such lands with the agreement of the Dogrib First Nation Government. Any person, other than a person exercising rights under 19.5.1 or 19.5.4, who contravenes any provision of this chapter shall be considered to be a trespasser.
- 19.1.2 Unless otherwise provided in an agreement with the Dogrib First Nation Government, persons exercising a right of access to Dogrib lands and waters overlying such lands do so at their own risk and have no right of action against the Dogrib First Nation Government, the Dogrib First Nation or a Dogrib Citizen for loss suffered or damage arising therefrom, except where such loss or damage results from a danger negligently created by the Dogrib First Nation Government, the Dogrib First Nation or any Dogrib Citizen.
- 19.1.3 Where a person has a right of access under more than one provision in this chapter, that person may have access pursuant to the least restrictive applicable provision.
- 19.1.4 The rights provided in this chapter are subject to any restrictions or prohibitions established by or under legislation or by or under Dogrib laws imposing conditions agreed to by government in accordance with 19.1.9, conditions allowed by 19.2.3 or conditions established in accordance with chapter 6 where that process is expressly provided for by this chapter.
- 19.1.5 Subject to restrictions that may be imposed under the Agreement or legislation, a person may exercise a right of access by any mode of transport.
- 19.1.6 Unless otherwise provided in an agreement with the Dogrib First Nation Government, the exercise of the rights of access under 19.2.1, 19.4.1, 19.4.6 and 19.5.1 is subject to the condition that the person exercising the right of access
- (a) does not cause any significant damage to Dogrib lands, and is responsible for any such damage;
  - (b) does not commit any mischief on Dogrib lands; and
  - (c) does not significantly interfere with the use and peaceable enjoyment of Dogrib lands by a Dogrib Citizen or the Dogrib First Nation.
- 19.1.7 Except for compensation payable for significant damage under 19.1.6(a), and unless otherwise provided by legislation enacted after consultation with the Dogrib First Nation Government, there shall be no rental, fee, charge or other compensation payable for the exercise of the rights of access under 19.2.1, 19.3.1, 19.4.1, 19.4.6, 19.5.1, 19.5.3, 19.5.4 and 19.5.6, or for any cost incurred by the Dogrib First Nation Government in relation to the access.

- 19.1.8 The Dogrib First Nation Government may not establish conditions for the exercise of access rights under this chapter, except conditions agreed to by government in accordance with 19.1.9, conditions allowed by 19.2.3 or conditions established in accordance with chapter 6 where that process is expressly provided for by this chapter. This provision is not intended to restrict the establishment of any conditions agreed to by a person to whom such conditions would apply.
- 19.1.9 Subject to 19.1.10 and 19.1.11, the Dogrib First Nation Government may establish conditions for the exercise of access rights under 19.2.1, 19.4.1, 19.4.6 or 19.5.1 that are agreed to by government or, failing such agreement, that are established in accordance with chapter 6.
- 19.1.10 Conditions established in accordance with 19.1.9, whether through agreement with government or the process set out in chapter 6, may only consist of
- (a) the identification of specific areas or locations, seasons of the year or times of the day in respect of which the access rights may not be exercised in order to
    - (i) protect the environment,
    - (ii) avoid conflict with harvesting by the Dogrib Citizens or with other uses of the land by the Dogrib Citizens,
    - (iii) conserve wildlife or wildlife habitat, or
    - (iv) protect Dogrib communities or camps; or
  - (b) requirements for notice or registration by persons exercising the access rights.
- 19.1.11 Conditions may not be established in accordance with 19.1.9, whether through agreement with government or the process set out in chapter 6, for the exercise of access rights in relation to law enforcement or inspections authorized by legislation.
- 19.2 NON-COMMERCIAL ACCESS
- 19.2.1 Subject to 19.1.6, 19.1.9 and 19.2.2 to 19.2.6, any person has a right of access to Dogrib lands and waters overlying such lands.
- 19.2.2 The right of access under 19.2.1 does not include the right to engage in any commercial activity or to establish any permanent or seasonal camp or structure on Dogrib lands.
- 19.2.3 Subject to 10.1.1(b), to Dogrib laws that also apply to Dogrib Citizens and to legislation, a person exercising the right of access under 19.2.1 may harvest wildlife, trees and plants.
- 19.2.4 Except where 19.2.6 applies, if the right of access under 19.2.1 is exercised for the purpose of reaching adjacent lands or waters to exercise a right, interest or privilege on those adjacent lands or waters, such as to go to or from a place of work or to or from a place of recreation, it shall,
- (a) where practicable, take place upon prior notice to the Dogrib First Nation Government or on routes identified in Part 1 of the Appendix; and
  - (b) if exercised on any such route, be exercised in accordance with any restrictions noted in Part 1 of the Appendix.
- 19.2.5 Additional routes shall be added to Part 1 of the Appendix after the effective date upon written notification from the Dogrib First Nation Government to government.

19.2.6 Where, in the course of exercising the right of access under 19.2.1, a person enters or leaves a Dogrib community, that person shall, to the extent possible, use a route that is being used for such access on a regular basis, whether year round or intermittently, and shall not cause significant alteration in the use of the route.

19.2.7 Any person may access Dogrib lands and waters overlying such lands without prior notice in an emergency.

### 19.3 EXISTING RIGHTS AND INTERESTS

19.3.1 Subject to 19.3.2, the holder of a right or interest described in Part 2 of the Appendix to chapter 18, including a renewal, replacement, transfer or extension thereof granted under legislation, has a right of access to Dogrib lands and waters overlying such lands to allow the exercise of that right or interest.

19.3.2 Where the exercise of the right of access under 19.3.1 involves any activity of a type or in a location not authorized at the effective date, the exercise of that right of access is subject to the agreement of the Dogrib First Nation Government or, failing such agreement, to conditions established in accordance with chapter 6.

19.3.3 The rights of access under 19.3.1 extend to any employee, client or guest of the holder of the right or interest.

### 19.4 COMMERCIAL ACCESS

19.4.1 Subject to 19.1.6, 19.1.9, 19.4.2, 19.4.3 and 19.4.5, any person has, for travel by water in the course of conducting a commercial activity, a right of access to

- (a) any navigable river that overlies Dogrib lands and any other navigable water body that overlies Dogrib lands where the other water body can be entered from a navigable river;
- (b) portages on Dogrib lands associated with a navigable river or other navigable water body that can be entered from a navigable river; and
- (c) Dogrib lands that are waterfront lands.

19.4.2 The right of access under 19.4.1 must be exercised using the most direct route and by minimizing use of the portages and waterfront lands.

19.4.3 The right of access under 19.4.1 to portages on Dogrib lands and to Dogrib lands that are waterfront lands

- (a) is subject to prior notice being given to the Dogrib First Nation Government; and
- (b) does not include the right to engage in any commercial activity, other than an activity that is necessarily incidental to travel, or to establishing any permanent or seasonal camp or structure.

19.4.4 Subject to 19.4.5, where a person is unable to comply with the conditions set out in 19.1.6, 19.4.2 and 19.4.3, that person has a right of access to the places listed in 19.4.1 for the purpose of travelling by water in the course of conducting a commercial activity, with the agreement of the Dogrib First Nation Government or, failing such agreement, on conditions established in accordance with chapter 6.

- 19.4.5 The right of access under 19.4.1 or 19.4.4 to portages on Dogrib lands and to Dogrib lands that are waterfront lands does not apply in any locations set out in Part 2 of the Appendix.<sup>44</sup>
- 19.4.6 Subject to 19.1.6 and 19.1.9, any person who requires access to Dogrib lands or to waters overlying such lands to reach adjacent lands or waters for commercial purposes has a right to such access provided that
- (a) the access is of a casual and insignificant nature and prior notice is given to the Dogrib First Nation Government; or
  - (b) the route is being used for such access on a regular basis, whether year round or intermittently and the exercise of such access does not result in a significant alteration in the use of the route.
- 19.4.7 Subject to 19.4.8 and 19.4.9, where a person is unable to comply with the conditions set out in 19.4.6, that person has a right of access to Dogrib lands or to waters overlying such lands to reach adjacent lands or waters for a commercial purpose with the agreement of the Dogrib First Nation Government or, failing such agreement, on conditions established in accordance with chapter 6.
- 19.4.8 Failing agreement with the Dogrib First Nation Government, a person shall not exercise the right of access under 19.4.7 unless that access has been established in accordance with chapter 6 as being reasonably required.
- 19.4.9 Any conditions for access under 19.4.7 established in accordance with chapter 6 shall ensure that such access is by a suitable route least harmful to the Dogrib First Nation and Dogrib Citizens.
- 19.5 GOVERNMENT ACCESS
- 19.5.1 Subject to 19.1.6, 19.1.9 and 19.5.2, agents, employees, contractors of government and members of the Canadian Forces have a right of access to Dogrib lands and waters overlying such lands and to use natural resources incidental to such access to deliver and manage government programs and services, to carry out inspections under legislation, to enforce legislation and to respond to emergencies. Government shall give prior notice of such access to the Dogrib First Nation Government when it is reasonable to do so.
- 19.5.2 Except as provided by 19.5.3, if government requires the continuous use or occupancy of Dogrib lands for more than two years, the Dogrib First Nation Government may require government to acquire an interest in the lands for that purpose by agreement or under chapter 20.
- 19.5.3 Government may establish, on Dogrib lands, after consultation with the Dogrib First Nation Government prior to the start of a navigation season, navigational aids and safety devices along the shorelines of navigable waters provided that the area occupied by each such navigational aid or safety device does not exceed
- (a) two hectares, for range markers and buoy transits; or
  - (b) 0.1 hectare, for single beacons.

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<sup>44</sup> If no such locations are confirmed, 19.4.5 will not be included in the Agreement.

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- 19.5.4 The Department of National Defence and the Canadian Forces have a right of access to Dogrib lands and waters overlying such lands for military manoeuvres with the agreement of the Dogrib First Nation Government or, failing agreement, on conditions established in accordance with chapter 6.
- 19.5.5 Nothing in 19.5.4 is intended to limit the authority of the Minister of National Defence under section 257 of the *National Defence Act.*, R.S. 1985, c. N-5.
- 19.5.6 Any person authorized under legislation to provide to the public electrical power, telecommunications services or similar public utilities, other than pipelines for the transmission of hydrocarbons, shall have a right of access to Dogrib lands and waters overlying such lands to carry out assessments, surveys and studies in relation to the proposed services, provided they consult with the Dogrib First Nation Government prior to exercising such right.
- 19.5.7 Unless otherwise provided in an agreement with the Dogrib First Nation Government, where access under 19.5.6 results in damage to Dogrib lands or interference with the use of and peaceable enjoyment of Dogrib lands by the Dogrib First Nation or a Dogrib Citizen, the person exercising the right shall, notwithstanding 19.1.7, compensate the Dogrib First Nation Government, in the case of damage to Dogrib lands, or the Dogrib Citizens whose use or peaceable enjoyment has been interfered with in an amount agreed to by the Dogrib First Nation Government or that person or, failing such agreement, in an amount determined in accordance with chapter 6.
- 19.6 ACCESS TO CLEAN UP HAZARDOUS WASTE SITES
- 19.6.1 Where the clean-up under 18.3.1 of a site on or surrounded by Dogrib lands is conducted by government or by a person, including the Dogrib First Nation Government, under contract with or funded by government, the government or person conducting the clean-up shall, for that purpose, have a right of access to the Dogrib lands and waters overlying such lands and a right to use specified substances or other natural resources on Dogrib lands to the extent necessary to conduct the clean-up.
- 19.6.2 There shall be no rental, fee, charge or other compensation payable for the exercise of the right of access or for the use of resources under 19.6.1 or for any cost incurred by the Dogrib First Nation Government in relation to the resources or access.
- 19.7 ACCESS TO CONSTRUCTION MATERIALS
- 19.7.1 Subject to 19.7.2, the Dogrib First Nation Government shall provide, to any person, government or a Dogrib community government, supplies of, and permit access to, sand, gravel, clay and other like construction materials on Dogrib lands and shall permit that person or government access to Dogrib lands for the purpose of obtaining such supplies.
- 19.7.2 The Dogrib First Nation Government is not obliged to supply materials under 19.7.1 where the materials are to be used on lands other than Dogrib lands unless there is no alternative source of supply reasonably available in an area closer to those other lands.
- 19.7.3 Subject to 19.7.4, the Dogrib First Nation Government is entitled to be paid for the value of materials supplied under 19.7.1 and for the exercise of access under that provision.
- 19.7.4 The Dogrib First Nation Government is not entitled to be paid for materials supplied or the exercise of access under 19.7.1 or for any cost incurred by the Dogrib First Nation Government in relation to those materials or for the access if the materials are to be used, for a public purpose, on Dogrib lands or within a Dogrib community or for a public road bordering Dogrib lands or a Dogrib community.
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- 19.7.5 If the government or the person seeking the supply of the materials under 19.7.1 and the Dogrib First Nation Government do not agree on a condition respecting the supply of, or access to, the materials or on the application of 19.7.2 or 19.7.4, the government or person may refer the matter for resolution in accordance with chapter 6.
- 19.7.6 Any conflict between the use of construction materials by a person, government or Dogrib community government under 19.7.1 and the use of construction materials by the Dogrib First Nation Government or Dogrib Citizens, may be referred for resolution in accordance with chapter 6.

**APPENDIX TO CHAPTER 19** <sup>45</sup>

PART 1 EXISTING ROUTES (19.2.4; 19.2.5)

PART 2 RESTRICTIONS ON ACCESS TO CERTAIN PORTAGES AND  
WATERFRONT LANDS (19.4.5)

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<sup>45</sup> Appendix to be completed before the date of the initialling of the Agreement.

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## CHAPTER 20

### EXPROPRIATION OF DOGRIB LANDS

#### 20.1 GENERAL PRINCIPLE

20.1.1 It is of fundamental importance to maintain the quantum and integrity of Dogrib lands. Therefore, as a general principle, such lands shall not be expropriated, but if expropriation is necessary, the minimum interest required shall be taken.

#### 20.2 GENERAL

20.2.1 Before proceeding with expropriation of Dogrib lands, an expropriating authority shall discuss with the Dogrib First Nation Government the need for expropriation and shall attempt to negotiate with it an agreement for the transfer of the required interest, including its location, extent and nature.

20.2.2 Dogrib lands may be expropriated by an expropriating authority in accordance with legislation as modified by the provisions of this chapter.

20.2.3 Nothing in this chapter is intended to eliminate or duplicate any legislative requirement for a public hearing or inquiry into the necessity of an expropriation.

#### 20.3 CONSENT

20.3.1 Expropriation of Dogrib lands shall require the consent of the Governor in Council where expropriation is under an Act of Parliament, or the Executive Council of the Government of the Northwest Territories where expropriation is under an Act of the Northwest Territories. The Governor in Council and the Executive Council shall consider the principle in 20.1.1 and shall not give such consent unless the Governor in Council or the Executive Council, as the case may be, is satisfied that there is no other reasonable alternative to the expropriation.

20.3.2 Notice of the intention of an expropriating authority to seek the consent of the Governor in Council or the Executive Council, as the case may be, shall be given to the Dogrib First Nation Government by the expropriating authority.

#### 20.4 COMPENSATION

20.4.1 An expropriating authority shall offer, as compensation for Dogrib lands, alternative lands in the settlement area that are of equivalent significance and value as the expropriated lands, that are available and that are adjacent to Dogrib lands.

20.4.2 Subject to 20.4.3, to the extent the expropriating authority has no alternative lands as described in 20.4.1 or the Dogrib First Nation Government does not accept the offer of such lands, compensation shall be in money. Compensation may be a combination of such lands and money.

20.4.3 Where an expropriating authority has no alternative lands as described in 20.4.1, government shall provide lands to the expropriating authority by sale or otherwise providing that government has lands that are in the settlement area, that are available and that are adjacent to Dogrib lands.

- 20.4.4 For the purpose of 20.4.1, land is not available to be provided as alternative lands if it is
- (a) subject to an agreement for sale or a lease unless the expropriating authority and the person holding that interest consent;
  - (b) occupied or used by the expropriating authority or a Dogrib community government or required for such future occupation or use;
  - (c) part of a public road;
  - (d) within 31 metres of a boundary of the settlement area; or
  - (e) for any other reason considered unavailable by an arbitrator under 6.5 or arbitration committee under 6.8.
- 20.4.5 For the purpose of 20.4.3, land held by government is not available to be provided as alternative lands if it is
- (a) subject to an agreement for sale or a lease unless government and the person holding that interest consent,
  - (b) occupied or used by government or a Dogrib community government or required for such future occupation or use; or
  - (c) land described in 20.4.4(c), (d) or (e).
- 20.4.6 In determining the value of Dogrib lands for the purpose of compensation or the value of alternative lands, the value of the lands for the purpose of harvesting of wildlife and the cultural or other special value to the Dogrib First Nation shall be taken into account.
- 20.4.7 In the event the Dogrib First Nation Government and the expropriating authority do not agree on compensation for Dogrib lands, the matter shall be referred for resolution in accordance with chapter 6.
- 20.4.8 The arbitrator under 6.5 or the arbitration committee under 6.8 may make an award of alternative land described in 20.4.1 if accepted by the Dogrib First Nation Government, of money or of any combination thereof and, where appropriate, of costs and interest.
- 20.4.9 Any lands which are expropriated under this chapter shall no longer be Dogrib lands. Alternative lands, the fee simple title to which is acquired by the Dogrib First Nation Government under these provisions, if the lands are adjacent to Dogrib lands, become Dogrib lands.
- 20.4.10 Where Dogrib lands which have been expropriated are, in the opinion of the expropriating authority, no longer required, the Dogrib First Nation Government may reacquire such lands at a price to be established by the expropriating authority. The expropriating authority may not dispose of the lands for a price less than that offered first to the Dogrib First Nation Government.
- 20.4.11 Lands reacquired by the Dogrib First Nation Government under 20.4.10 shall, if government agrees, become Dogrib lands.
- 20.4.12 Where government and the Dogrib First Nation Government agree, the payment of compensation for expropriated land may be deferred, and the Dogrib First Nation Government may later obtain compensation from the expropriating authority based on the value of the expropriated land determined when it was expropriated.
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## CHAPTER 21

### WATER RIGHTS AND MANAGEMENT

#### 21.1 GENERAL

21.1.1 Use of water in the settlement area is subject to legislation.

21.1.2 The property in water in the settlement area may be determined by legislation, and nothing in the Agreement shall be construed as granting the Dogrib First Nation Government, a Dogrib Citizen or the Dogrib First Nation property rights in respect of water.

#### 21.2 RIGHTS OF DOGRIB FIRST NATION

21.2.1 Subject to the other provisions of the Agreement, the Dogrib First Nation has the exclusive right to use waters which are on or flow through Dogrib lands when such waters are on or flowing through Dogrib lands.

21.2.2 Subject to any activity or use of water authorized by law, including by a licence or other permit issued by the North Slave Land and Water Board or by another competent water authority, the Dogrib First Nation has the right to have waters which are on or flow through or are adjacent to Dogrib lands remain substantially unaltered as to quality, quantity and rate of flow when such waters are on or flow through or are adjacent to Dogrib lands.

21.2.3 Subject to legislation of general application and Dogrib laws, a Dogrib Citizen has the right to use water in the settlement area, without licence or permit, for the harvesting of wildlife under 10.1.1, including transportation relating thereto, or for Dogrib heritage, cultural or spiritual purposes.

21.2.4 The Dogrib First Nation Government has a cause of action against any person in respect of any activity or use of water not authorized by law which substantially alters the quality, quantity or rate of flow of waters which are on or flow through or are adjacent to Dogrib lands, with such remedies as if the Dogrib First Nation Government had riparian rights.

21.2.5 The Dogrib First Nation Government shall have standing at all times in a court of competent jurisdiction to seek a declaration of the authority of any person to alter the quality, quantity or rate of flow of water in the settlement area.

#### 21.3 RIGHTS OF GOVERNMENT AND OTHERS

21.3.1 Subject to the other provisions of the Agreement except 21.2.1, government and persons who are not Dogrib Citizens having a right or interest in respect of Dogrib lands the exercise of which requires the use of water, shall have the right to use the water which is on or flowing through Dogrib lands when such water is on or flowing through Dogrib lands.

- 21.3.2 Notwithstanding the ownership of beds of certain water bodies by the Dogrib First Nation Government and 21.2.1, government retains the right to use water for fighting fires and to protect and manage water and beds of water bodies, and to use water in connection with such right, for public purposes including
- (a) protection of wildlife and wildlife habitat;
  - (b) protection of water supplies including community water supplies from contamination and degradation;
  - (c) research with respect to water quality and water quantity; and
  - (d) taking measures, including dredging, for flood control and protection of navigation and transportation.
- 21.3.3 Unless otherwise provided for in legislation, the rights of the Dogrib First Nation under 21.2.1 shall not interfere with or take away from
- (a) rights of navigation and passage on water;
  - (b) use of water for emergency purposes; or
  - (c) any right of access provided for in the Agreement.
- 21.3.4 Nothing in the Agreement shall derogate from the ability of any person to use water for domestic uses under legislation.

#### 21.4 INTERJURISDICTIONAL AGREEMENTS

- 21.4.1 Government shall use its best efforts to negotiate agreements with territorial or provincial governments which manage drainage basins any part of which are in the settlement area for the management of water in the drainage basin.
- 21.4.2 Government shall consult with the Dogrib First Nation Government with respect to the formulation of government positions on the management of water in a drainage basin before negotiating an agreement under 21.4.1.

#### 21.5 LICENSING

- 21.5.1 The North Slave Land and Water Board shall not grant a licence, permit or other authorization for a use of land or water that, in its opinion, is likely to alter substantially the quality, quantity or rate of flow of waters on or flowing through or adjacent to Dogrib lands, when such waters are on or flowing through or adjacent to Dogrib lands, unless the Board considers that
- (a) there is no alternative which could reasonably satisfy the requirements of the applicant; and
  - (b) there are no reasonable measures whereby the applicant could avoid the alteration.
- 21.5.2 The North Slave Land and Water Board shall not authorize a water use anywhere in the settlement area which, in its opinion, will likely substantially alter the quality, quantity or rate of flow of waters on or flowing through or adjacent to Dogrib lands, when such waters are on or flowing through or adjacent to Dogrib lands, unless the applicant for the authorization has entered into an agreement with the Dogrib First Nation Government to compensate the Dogrib First Nation for loss or damage which may be caused by such alteration, or the Board has made an order for compensation under 21.5.4.

- 21.5.3 Where a water use is proposed outside the settlement area, but within the Northwest Territories or Nunavut, which, in the opinion of the North Slave Land and Water Board, will likely substantially alter the quality, quantity or rate of flow of water on or flowing through or adjacent to Dogrib lands, when such waters are on or flowing through or are adjacent to Dogrib lands, the water use shall not be authorized by the competent water authority unless the applicant for the water use has entered into an agreement with the Dogrib First Nation Government to compensate the Dogrib First Nation for loss or damage which may be caused by such alteration, or the Board has made an order for compensation under 21.5.4.
- 21.5.4 If the Dogrib First Nation Government and the applicant for a water use authorization described in 21.5.2 or 21.5.3 do not reach an agreement on compensation within the time limit established by the North Slave Land and Water Board, either party may refer the matter of compensation to the Board and it shall determine compensation.
- 21.5.5 Notwithstanding 21.5.2 and 21.5.3, the North Slave Land and Water Board may authorize a water use described in 21.5.2 and the competent water authority may authorize a water use described in 21.5.3 prior to the Board making an order under 21.5.4.
- 21.5.6 Compensation determined under 21.5.4 may be in the form of a lump sum or periodic cash payment or non-monetary compensation such as replacement or substitution of damaged or lost property or equipment or relocation or transportation of Dogrib Citizens or equipment to a different harvesting locale or a combination of such forms of compensation.
- 21.5.7 In determining the amount of compensation payable to the Dogrib First Nation Government in respect of a water use described in 21.5.2 or 21.5.3, the North Slave Land and Water Board shall consider
- (a) the effect of the water use on the use by Dogrib Citizens of water on or adjacent to Dogrib lands;
  - (b) the effect of the water use on Dogrib lands, taking into account any cultural or special value of the lands to the Dogrib First Nation;
  - (c) the nuisance, inconvenience and noise caused by the water use to Dogrib Citizens on Dogrib lands;
  - (d) the effect of the water use on the harvesting of wildlife by Dogrib Citizens; and
  - (e) subject to legislation, such other factors as the Board may consider relevant.



## CHAPTER 22

### LAND AND WATER REGULATION

#### 22.1 GENERAL

22.1.1 The following principles apply to this chapter:

- (a) an integrated system of land and water management should apply to the Mackenzie Valley; and
- (b) the regulation of land and water in the settlement area and in adjacent areas should be co-ordinated.

22.1.2 Before enacting legislation regulating land or water use that applies to any part of the settlement area or any amendments to such legislation or giving any policy direction to the North Slave Land and Water Board, government shall consult with the Dogrib First Nation Government. Before giving any policy direction to the North Slave Land and Water Board, the Dogrib First Nation Government shall consult with government.

22.1.3 Legislation shall require the Review Board, the North Slave Land and Water Board and any land use planning body for the settlement area or part thereof to co-ordinate their activities with each other and with the following bodies: any body managing national parks, including any national park management committee, Parks Canada in relation to the management of national historic sites administered by it, any management committee or similar structure established for a protected area, the North Slave Renewable Resources Board and any Surface Rights Board.

22.1.4 The costs of the Review Board and the North Slave Land and Water Board incurred in accordance with their approved budgets shall be a charge on government. Each board shall prepare an annual budget and submit it to government. Government may approve the budget as submitted or vary it and approve it as varied. The budget shall provide for funds reasonably required to fulfill the mandate of each Board and shall be in accordance with the Government of Canada's Treasury Board guidelines.

22.1.5 The budget of the Board may include

- (a) remuneration and travel expenses for attendance of Board members at board and committee meetings;
- (b) the expenses of public hearings and meetings; and
- (c) the expenses of staff, advisors and consultants and of the operation and maintenance of the office.

22.1.6 Legislation may provide for the reallocation of functions among the Review Board, the North Slave Land and Water Board and any land use planning body for the settlement area, provided that environmental assessment and review shall remain with the Review Board as set out in 22.2.

22.1.7 The Review Board and the North Slave Land and Water Board may establish their own rules of procedure in accordance with legislation.

- 22.1.8 In exercising their powers, the Review Board and the North Slave Land and Water Board shall consider traditional knowledge as well as other scientific information where such knowledge or information is made available to the Boards.
- 22.1.9 The Review Board and the North Slave Land and Water Board shall have, subject to their approved budgets, such staff, professional and technical advisors and consultants as are necessary for the proper conduct of their affairs and the boards may share such staff or advisors between themselves.
- 22.1.10 All information in the possession of a government department or agency or the Dogrib First Nation Government relevant to a matter before the Review Board or the North Slave Land and Water Board shall be provided, upon request, to such board.
- 22.1.11 Subject to any quorum requirements set out in legislation, vacancies in the membership of the Review Board or the North Slave Land and Water Board shall not prevent the remaining members from acting.
- 22.1.12 The legislation implementing the provisions of this chapter shall provide for a method of monitoring the cumulative impact of land and water uses on the environment in the Mackenzie Valley, and for periodic, independent, environmental audits which shall be made public.
- 22.1.13 If any body is established by legislation to carry out the monitoring and audit functions under 22.1.12 in the settlement area, the Dogrib First Nation Government shall be entitled to a meaningful role in such body and such role shall be set out in legislation.
- 22.1.14 If the monitoring or audit functions referred to in 22.1.12 are carried out in the settlement area by a department of government, the department shall do so in consultation with the Dogrib First Nation Government.
- 22.1.15 Where the Review Board or the North Slave Land and Water Board has the authority to enter into contracts or similar arrangements, the Dogrib First Nation Government shall not be disqualified from entering into such contracts or arrangements with the Boards solely because nominees or appointees of the Dogrib First Nation Government are members of such boards.
- 22.1.16 Notwithstanding 22.2.3 and 22.3.3, where the Review Board or the North Slave Land and Water Board is required to make a decision which may affect an area in Nunavut or the Northwest Territories that is adjacent to the area over which that Board has jurisdiction and that is being used by a group of Aboriginal persons who are party to a comprehensive land claim agreement under which that area is within its settlement area, that Aboriginal party shall have the right to have representation on the Board. Subject to 22.2.4 and the requirement of 22.3.3 that at least one member of the North Slave Land and Water Board be appointed by government, the boards shall determine how to implement this provision provided that the proportion of government nominees, not including nominees of the Dogrib First Nation Government, on the Board shall be at least 25 per cent. Subject to the provisions of this section, the Review Board or the North Slave Land and Water Board shall be provided with the necessary information to enable it to make a decision which may affect an area in Nunavut or the Northwest Territories that is adjacent to the area over which that Board has jurisdiction and that is being used by a group of Aboriginal persons who are party to a comprehensive land claim agreement under which that area is within its settlement area, that Aboriginal party shall have the right to have representation on the Board. Subject to 22.2.4 and the requirement of 22.3.3 that at least one member of the North Slave Land and Water Board be appointed by government, the boards shall determine how to implement this provision provided that the proportion of government nominees, not including nominees of the Dogrib First Nation Government, on the Board shall be at least 25 per cent.

- 22.2.2 The Environmental Impact Review Board established by legislation to implement the environmental impact assessment and review provisions of the Gwich'in comprehensive land claim agreement between Her Majesty the Queen in right of Canada and the Gwich'in signed on April 22, 1992 shall be the Review Board referred to in the Agreement.
- 22.2.3 50 percent of the members of the Review Board, excluding the chairperson, shall be nominees of Aboriginal peoples of the Mackenzie Valley and 50 percent shall be nominees of government.
- 22.2.4 At least one member of the Review Board shall be a nominee of the Dogrib First Nation Government.
- 22.2.5 No licence, permit or approval that would have the effect of permitting a project proposal to proceed shall be issued in respect of the proposal until any assessment required under 22.2.9 and any review required under 22.2.14 or 22.2.17 have been completed.
- 22.2.6 Legislation may provide
- (a) for project proposals or classes thereof which are exempt from the process of environmental impact assessment and for the amendment of any such exemptions; and
  - (b) for a preliminary screening of project proposals by any government department or board in order to determine whether any assessment is required.
- 22.2.7 Legislation shall provide that a project proposal which would otherwise be exempt from assessment may be assessed by the Review Board if, in the opinion of the Review Board, it is considered to be of special environmental concern by reason of its cumulative effects or otherwise.
- 22.2.8 A project proposal that is in the settlement area or may impact upon the settlement area may be referred for assessment to the Review Board by the Dogrib First Nation Government or any governmental authority, or by the Review Board on its own motion.
- 22.2.9 Subject to 22.2.6, a project proposal shall be assessed by the Review Board in order to determine whether it will likely have a significant adverse impact on the environment or will likely be a cause of significant public concern.
- 22.2.10 Before completing its assessment of a project on Dogrib lands, the Review Board shall consult with the Dogrib First Nation Government.
- 22.2.11 As a result of its assessment, the Review Board shall determine
- (a) that the project proposal is not likely to have a significant adverse impact on the environment and is not likely to be a cause of significant public concern and that therefore an environmental impact review is not required; or
  - (b) that the project proposal is likely to have a significant adverse impact on the environment or is likely to be a cause of significant public concern and that therefore an environmental impact review is required.
- 22.2.12 The Review Board, when making a determination under 22.2.11(a), may make that determination contingent upon the imposition, on the proposed project, of terms and conditions which the Board recommends for the prevention of a significant adverse impact on the environment.
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- 22.2.13 Notwithstanding a determination by the Review Board that an environmental impact review is not required, the Minister may direct that such a review be conducted. The Minister shall consult the Dogrib First Nation Government before making such a decision if the project is on Dogrib lands.
- 22.2.14 Subject to 22.2.17, an environmental impact review shall be conducted by a panel of the Review Board where, in respect of a project proposal determined by the Board to be wholly within the Mackenzie Valley,
- (a) the Board has determined under 22.2.11(b) that a review is required;
  - (b) a Minister or independent regulatory agency rejects any terms or conditions recommended by the Board under 22.2.12; or
  - (c) a Minister directs a review be conducted under 22.2.13.
- 22.2.15 The Review Board panel may include, in addition to members of the Board, persons appointed by the Review Board because of their special expertise.
- 22.2.16 When the Review Board panel conducts a review under 22.2.14, the Dogrib First Nation Government shall be entitled to nominate members of the panel as follows:
- (a) where the Review Board has determined that the likely significant adverse impact or likely cause of significant public concern is wholly within the Dogrib primary use area, 50 percent of the members, not including the chairperson;
  - (b) where the Review Board has determined that the likely significant adverse impact or likely cause of significant public concern is predominantly but not wholly within the Dogrib primary use area, that number which together with the number of members, if any, entitled to be nominated by any other Aboriginal group under comprehensive land claim agreements, constitutes 50 percent of the members, not including the chairperson, provided that the Dogrib First Nation Government is entitled to nominate at least two members; or
  - (c) where the Review Board has determined that the impact of a project proposal is partially but not wholly or predominantly within the Dogrib primary use area, at least one member.
- 22.2.17 Where a public review of a project proposal wholly within the Mackenzie Valley is to be conducted under the *Canadian Environmental Assessment Act*, the Minister of the Environment and the Review Board shall consult and shall establish a joint review panel in place of separate review panels.
- 22.2.18 When it is reviewing, under 22.2.14 or 22.2.17, a project on Dogrib lands, a panel shall consult the Dogrib First Nation Government.
- 22.2.19 Where a public review of a project proposal that is not wholly within the Mackenzie Valley is to be conducted by a review panel under the *Canadian Environmental Assessment Act*,
- (a) at least one member of the panel shall be a nominee of the Dogrib First Nation Government, where the proposal is partly in the Dogrib primary use area or may impact in the Dogrib primary use area; and
  - (b) nominees put forward by the Dogrib First Nation Government and any other relevant Aboriginal group or groups, shall compose at least one quarter of the members of the panel, not including the chairperson, where the proposal is partly in the settlement area and partly in an area adjacent to the Mackenzie Valley.
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- 22.2.20 Where a public review of a project proposal that is partly in or may have an impact in the settlement area is to be conducted by a review panel under the *Canadian Environmental Assessment Act*, the Canadian Environmental Assessment Agency shall consult the Dogrib First Nation Government throughout the review.
- 22.2.21 The members of the Review Board and of any review panel referred to in 22.2.14, 22.2.17 or 22.2.19 shall be free of any conflict of interest relative to the project proposal, except that no member shall be disqualified solely on the ground of being a Dogrib Citizen.
- 22.2.22 Legislation shall provide the Review Board with the power to subpoena witnesses and documents in carrying out its responsibilities.
- 22.2.23 An environmental impact review conducted by a review panel referred to in 22.2.14, 22.2.17 or 22.2.19 shall have regard to
- (a) the protection of the existing and future economic, social and cultural well-being of the residents and communities in the Mackenzie Valley;
  - (b) the protection of the environment from significant adverse impact from the proposed project;
  - (c) in cases where the proposed project will likely result in a significant adverse impact on the environment, the need for mitigative or remedial measures; and
  - (d) the importance, to the Dogrib First Nation well-being and way of life, of the conservation of the lands, waters and wildlife of the settlement area.
- 22.2.24 An environmental impact review conducted by a review panel referred to in 22.2.14, 22.2.17 or 22.2.19 shall include
- (a) the submission by the proponent of an impact statement in accordance with any guidelines established by the Review Board or the panel;
  - (b) such analysis by the Review Board or the panel as is considered appropriate;
  - (c) public consultation or hearings in affected communities; and
  - (d) a report resulting from the review to each Minister and independent regulatory agency and, where the project is to be located on Dogrib lands, to the Dogrib First Nation Government with a recommendation that the project proposal be approved, with or without conditions, or rejected.
- 22.2.25 A copy of the report from a review panel referred to in 22.2.14, 22.2.17 or 22.2.19 shall be provided, on request, to any member of the public, upon payment of any reasonable fee imposed under legislation to cover the cost of providing the copy.
- 22.2.26 Each Minister and independent regulatory agency shall consider a recommendation of the Review Board under 22.2.12 and each Minister and independent regulatory agency and, where the project is to be located on Dogrib lands, the Dogrib First Nation Government shall consider the report of a review panel referred to in 22.2.14 or 22.2.17.
- 22.2.27 In the case of a recommendation of the Review Board under 22.2.12 or of a panel referred to in 22.2.14, a Minister, the Dogrib First Nation Government or an independent regulatory agency may accept the recommendation, may refer the recommendation back for further consideration or, after consulting with the Review Board or the panel, as the case may be, accept with modifications or reject the recommendation.
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- 22.2.28 In the case of the recommendation of a panel referred to in 22.2.17, a Minister, the Dogrib First Nation Government or an independent regulatory agency may accept the recommendation, accept it with modifications or reject the recommendation.
- 22.2.29 In making its decision under 22.2.27 or 22.2.28 in relation to a project that is wholly or partly in or may have an impact on the settlement area, each Minister, the Dogrib First Nation Government and each independent regulatory agency shall take into account the importance of the conservation of the lands, waters and wildlife of the settlement area.
- 22.2.30 In considering a recommendation of the Review Board under 22.2.12 or of a panel referred to in 22.2.14 or 22.2.17, a Minister, the Dogrib First Nation Government or an independent regulatory agency may consider information not before the Review Board or panel, as the case may be, and matters of public interest not considered by it. Any new facts bearing on the environmental impact of the project proposal considered by a Minister, the Dogrib First Nation Government or an independent regulatory agency shall be identified by it in consultation with the Review Board.
- 22.2.31 Subject to 22.2.32, any decision of a Minister, the Dogrib First Nation Government or an independent regulatory agency under 22.2.27 or 22.2.28 shall be implemented by it and by each department or agency for which it is responsible, to the extent of its authority under legislation or Dogrib laws.
- 22.2.32 For greater certainty, an independent regulatory agency is not bound by any decision of the Minister responsible for it under 22.2.27 or 22.2.28.
- 22.2.33 Written reasons, which shall be public, shall be given for all decisions and recommendations under 22.2.
- 22.2.34 All parts of the process under 22.2 shall be carried out in a timely manner.

### 22.3 NORTH SLAVE LAND AND WATER BOARD

- 22.3.1 In 22.3, “land” means the surface of land.
- 22.3.2 A single board, to be called the North Slave Land and Water Board, shall be established, on the effective date, by legislation, as an institution of public government, to regulate land use and water use throughout the settlement area except in a national park or a national historic park or site administered by Parks Canada. To the extent a community government has and exercises any power to regulate land use, the Board shall not have authority to regulate land use within the boundaries of that community. The legislation may provide for any matter not specified in this chapter in a manner consistent with this chapter.
- 22.3.3 Excluding the chairperson, 50 percent of the members on the North Slave Land and Water Board shall be nominated by government and 50 percent of the members shall be nominated by the Dogrib First Nation Government and any other Aboriginal groups in the settlement area entitled to nominate members under legislation or an agreement with Her Majesty. At least one member on the North Slave Land and Water Board shall be appointed by the Dogrib First Nation Government. Legislation shall determine who makes the other appointments. The bodies making these nominations and appointments shall consult with each other before making the nominations and appointments.
- 22.3.4 A quorum of the Board shall consist of three members, including one of the members appointed on the nomination of the Dogrib First Nation Government or other Aboriginal group and one member appointed on the nomination of government other than the chairperson. Subject to this quorum, vacancies shall not prevent the remaining members from acting, and the Board, when first established, may start to operate as soon as a quorum has been appointed.
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- 22.3.5 The objective of the North Slave Land and Water Board is to provide for conservation, development and utilization of the land and water resources of the settlement area in a manner that will provide the optimum benefit therefrom generally for all Canadians but in particular for present and future residents of the settlement area. In exercising its powers, the Board shall take into account the importance, to the Dogrib First Nation well-being and way of life, of the conservation of the lands, waters and wildlife of the settlement area.
- 22.3.6 To the extent provided by legislation, the decisions of the North Slave Land and Water Board are subject to policy directions from the Minister and, in relation to water use, the approval of the Minister. Legislation shall provide that, in relation to land use on Dogrib lands, the decisions of the North Slave Land and Water Board are subject to policy directions from the Dogrib First Nation Government, to the extent compliance with those directions do not require the Board to exceed its approved budget. The policy directions from the Minister and the Dogrib First Nation Government will not apply to applications pending when the directions are given. If there is a conflict between a policy direction from the Dogrib First Nation Government and one from the Minister, the policy direction from the Minister prevails except where it provides less environmental protection than the policy direction of the Dogrib First Nation Government, in which case the policy direction from the Dogrib First Nation Government prevails. Any dispute as to whether the policy direction from the Minister provides less environmental protection shall be referred for resolution in accordance with chapter 6.
- 22.3.7 Legislation applicable to the Board prevails over any conflicting policy direction from the Minister or the Dogrib First Nation Government, except where that policy direction provides a greater degree of protection for lands or waters than that provided by legislation.
- 22.3.8 Legislation shall provide the North Slave Land and Water Board with the power to subpoena witnesses and documents in carrying out its responsibilities.
- 22.3.9 The North Slave Land and Water Board shall have the power to
- (a) issue, amend or renew licences, permits and approvals and the terms and conditions attaching thereto for all uses of land and water, including those uses incidental to the exercise of subsurface rights;
  - (b) oversee compliance with its decisions through inspections or otherwise, provided there shall be no duplication of the compliance system as between the North Slave Land and Water Board and other government agencies or departments;
  - (c) enforce or secure compliance with its decisions by the suspension or cancellation of licences, permits and approvals and such other methods as may be provided by legislation;
  - (d) establish policies and guidelines applicable to its licences, permits and approvals;
  - (e) hold public consultations and hearings in communities in relation to any matter within its jurisdiction;
  - (f) establish procedures for the conduct of its business, including public hearings;
  - (g) propose changes to legislation in respect of land or water use to the Minister, and be consulted by the Minister on any proposed such legislation; and
  - (h) establish rules and procedures, including reasonable fixed time limits, for the negotiation of agreements under 21.5.2.
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- 22.3.10 The Board and government must exercise any discretionary powers relating to land use that they may have under legislation in a manner consistent with any Dogrib laws made under 7.4.2 including any conditions on the use of Dogrib lands provided in a land use plan or otherwise.
- 22.3.11 Subject to any Dogrib laws made under 7.4.2 in respect of the use of Dogrib lands, legislation may provide for the exemption from any requirement for a licence, permit or approval from the North Slave Land and Water Board of particular uses of land or water.
- 22.3.12 Legislation shall provide for reasonable notice to affected communities and to the Dogrib First Nation Government of any application to the North Slave Land and Water Board for a licence, permit or approval for a land or water use in the settlement area.
- 22.3.13 The North Slave Land and Water Board shall consult with the Dogrib First Nation Government before issuing, amending or renewing any licence, permit or approval in relation to Dogrib lands or waters overlying those lands.
- 22.3.14 Legislation may provide for the co-ordination of the activities of the North Slave Land and Water Board with other governmental bodies with responsibilities for the regulation of land and water use.

#### 22.4 LAND AND WATER BOARD FOR LARGER AREA

- 22.4.1 Where legislation establishes any other land and water board with jurisdiction in an area larger than but including the settlement area (“the larger board”), it shall assume the powers and responsibilities of the North Slave Land and Water Board. The provisions of the Agreement applicable to the North Slave Land and Water Board apply to the larger board except
- (a) 22.3.3 does not apply; and
  - (b) 22.3.5 applies only when the larger board is exercising a power that would have been exercised by the North Slave Land and Water Board.
- 22.4.2 At least one member of the larger board shall be an appointee of the Dogrib First Nation Government.
- 22.4.3 Where legislation provides for regional panels of the larger board, the legislation shall provide for a regional panel for the settlement area with a structure, including the number of members, and functions at least equivalent to a regional panel established for the Gwich'in or Sahtu settlement area.

#### 22.5 LAND USE PLANNING

- 22.5.1 Government may establish a mechanism for the preparation, approval and implementation of a land use plan for the settlement area, other than Dogrib lands, established national parks and lands within community boundaries.
- 22.5.2 Government, the Dogrib First Nation Government and the Dogrib community governments shall consult with each other during the preparation of land use plans for any part of the settlement area with a view to sharing information and harmonizing their plans.
- 22.5.3 The Parties may, by agreement, establish a land use planning body and a mechanism for the preparation, approval and implementation of a land use plan for all of the settlement area, other than established national parks.



- 22.5.4 Upon the approval of a land use plan applicable to any part of the settlement area, government, the Dogrib First Nation Government and the Dogrib community governments and their departments and agencies, including the North Slave Land and Water Board, shall exercise their powers in accordance with the plan.

## CHAPTER 23

### SUBSURFACE RESOURCES

#### 23.1 DEFINITIONS

##### 23.1.1 The following definitions apply in this chapter.

"development" means the stage after a decision to go into production has been made, but before actual production commences.

"major mining project" means a project, in the Dogrib primary use area, related to the development or production of minerals, other than specified substances, oil or gas, that will employ an average of at least 50 persons annually for the first five years in the Dogrib primary use area and for which more than \$50 million (1998\$) will be expended in capital costs.

"production" means the removal and taking ownership of minerals, other than specified substances, but does not include removal for assay or testing purposes.

"proponent" means a developer engaged in a major mining project.

#### 23.2 CONSULTATION

##### 23.2.1 Any person who, in relation to Crown land in the settlement area or Dogrib lands subject to a mining right administered by government under 18.6.1, proposes to

- (a) explore for or produce or conduct an activity related to the development of minerals, other than specified substances, oil and gas, if a permit, licence or approval for the use of land or water is required from the North Slave Land and Water Board to conduct these activities; or
- (b) explore for or produce or conduct an activity related to the development of oil or gas,

shall consult the Dogrib First Nation Government.

##### 23.2.2 The consultations conducted under 23.2.1 shall include

- (a) environmental impact of the activity and mitigative measures;
  - (b) impact on wildlife harvesting and mitigative measures;
  - (c) location of camps and facilities and other related site specific planning concerns;
  - (d) maintenance of public order including liquor and drug control;
  - (e) employment of Dogrib Citizens, business opportunities and contracts, training orientation and counselling for employees who are Dogrib Citizens, working conditions and terms of employment;
  - (f) expansion or termination of activities;
  - (g) a process for future consultations; and
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- (h) any other matter agreed to by the Dogrib First Nation Government and the person consulting that government.
- 23.2.3 The consultations conducted under 23.2.1 are not intended to result in any obligations in addition to those required by legislation.
- 23.2.4 No consultation is required under 23.2.1 where negotiations have been conducted in accordance with 23.4.1.
- 23.3 OIL AND GAS EXPLORATION RIGHTS
- 23.3.1 Prior to opening any lands in the settlement area for oil and gas exploration, government shall consult the Dogrib First Nation Government on matters related to that exploration, including benefits plans and other terms and conditions to be attached to rights issuance.
- 23.4 MAJOR MINING PROJECTS
- 23.4.1 Government shall ensure that the proponent of a major mining project that requires any authorization from government and that will impact on Dogrib Citizens is required to enter into negotiations with the Dogrib First Nation Government for the purpose of concluding an agreement relating to the project. In consultation with the Dogrib Treaty 11 Council or the Dogrib First Nation Government, government shall, no later than one year after the effective date, develop the measures it will take to fulfill this obligation, including the details as to the timing of such negotiations in relation to any governmental authorization for the project.
- 23.4.2 The Dogrib First Nation Government and the proponent may agree that negotiation of an agreement under 23.4.1 is not required.
- 23.4.3 Negotiation of an agreement under 23.4.1 shall be guided by the principles that its provisions will
- (a) be consistent with and promote the cultural goals of the Dogrib First Nation;
  - (b) be related to the impacts of the project on Dogrib Citizens;
  - (c) not place an excessive burden on the proponent and undermine the viability of the project; and
  - (d) avoid duplication of matters included in a licence, permit or approval for the project.
- 23.4.4 An agreement concluded under 23.4.1 may include any matter connected with the project that could have an adverse impact on Dogrib lands or Dogrib Citizens or that could reasonably confer a benefit on Dogrib Citizens in the Dogrib primary use area. Without limiting the generality of the foregoing, the following matters, in addition to those listed in 23.2.2, shall be considered appropriate for negotiation and inclusion in an agreement:
- (a) safety, health and hygiene;
  - (b) language of the workplace;
  - (c) access, by Dogrib Citizens, to facilities constructed for the project such as airstrip and roads; and
  - (d) implementation and enforceability.
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23.5 DEVOLUTION OF MINERALS

23.5.1 The Government of the Northwest Territories shall involve the Dogrib First Nation Government in the development and implementation of any Northern Accord on oil and gas development in the Northwest Territories which is negotiated in accordance with the enabling agreement, dated September 5, 1988, between the Government of Canada and the Government of the Northwest Territories, or any other agreement under which jurisdiction over minerals, other than specified substances, may be transferred from the Government of Canada to the Government of the Northwest Territories.

23.6 LEGISLATION

23.6.1 Government shall consult the Dogrib First Nation Government in relation to any proposed legislation which

- (a) regulates the exploration, development or production of minerals, other than specified substances, in the settlement area; or
- (b) establishes requirements for issuance of mining rights in the settlement area.

## CHAPTER 24

### FINANCIAL PAYMENTS

#### 24.1 CAPITAL TRANSFER PAYMENTS

24.1.1 The Government of Canada shall make capital transfer payments to the Dogrib First Nation Government in accordance with the Capital Transfer Payments Schedule set out in Part 1 of the Appendix.

24.1.2<sup>46</sup> The Government of Canada is discharged from all undertakings and obligations, if any, to the Dogrib First Nation in respect of the Norman Wells proven area described in schedule A to the agreement respecting this area dated July 21, 1944 between Imperial Oil Limited and His Majesty in Right of Canada, as amended and renewed from time to time.

#### 24.2 NEGOTIATION LOANS REPAYMENTS

24.2.1 The Dogrib First Nation Government shall make negotiation loan repayments to the Government of Canada in accordance with the Negotiation Loans Repayments Schedule set out in Part 2 of the Appendix.

24.2.2 The Government of Canada will set off and deduct from a payment made under 24.1.1 the amount of a repayment to be made under 24.2.1 on the same date.

#### 24.3 LOANS AGAINST CAPITAL TRANSFER

24.3.1 At any time after the third anniversary of the effective date, the Dogrib First Nation Government may request a loan from the Government of Canada against the then unpaid balance of the capital transfer under 24.1.1.

24.3.2 The Government of Canada, as represented by the Minister of Finance, may decide, at its discretion, whether to grant a request, under 24.3.1, for a loan. The Minister may negotiate the terms and conditions of a loan subject to the requirements in 24.3.3 to 24.3.6.

24.3.3 The Dogrib First Nation Government shall pay, at the time of a loan under 24.3.2, an amount on any outstanding balance of negotiation loans referred to in 24.2.1 which will reduce the outstanding balance of those loans by the same proportion as the amount loaned under 24.3.2 bears to the unpaid balance of the capital transfer amounts payable under 24.1.1.

24.3.4 The amount paid by the Dogrib First Nation Government under 24.3.3 shall be credited to the last payments set out in Part 2 of the Appendix.

24.3.5 The repayment schedule for a loan granted under 24.3.2 shall be sufficient to ensure that the unpaid balance of the capital transfer under 24.1.1, at the time of the loan request or at anytime thereafter, is no less than the total of the unpaid balances of the loans referred to in 24.2.1 and the loans granted under 24.3.2 and any administrative fees and interest payable.

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<sup>46</sup> Need to review 24.1.2 in light of completion of definition of “mineral royalty”, before date of the initialling of the Agreement.

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24.3.6 The Government of Canada may set off and deduct from a payment to be made under 24.1.1 the amount of a repayment due on the same date from the Dogrib First Nation Government in relation to a loan granted under 24.3.2.

**APPENDIX TO CHAPTER 24**

**PART 1 CAPITAL TRANSFER PAYMENTS SCHEDULE (24.1.1)**

Note: The Capital Transfer Payments Schedule will be finalized by the effective date in accordance with the instructions hereunder.

<u>Date</u>	<u>Payment</u>
Effective date	\$P <sup>47</sup>
First anniversary of the effective date	\$P x 2
Second anniversary of the effective date	\$P x 3
.....	\$
.....	\$
.....	\$
.....	\$
.....	\$
.....	\$
.....	\$
.....	\$
.....	\$
14th anniversary of the effective date	\$P x 15

Instructions for finalizing Part 1 of the Appendix: Capital Transfer Payments Schedule

1. In these Instructions,

“FDDIPI” means the Final Domestic Demand Implicit Price Index for Canada, series D15613, published regularly by Statistics Canada.

“provisional calculation date” means the date confirmed as such by the chief negotiators which is intended to be 14 days before the date of the initialling of the Agreement.<sup>48</sup>

“final calculation date” means the date confirmed as such by the chief negotiators, by the date of the initialling of the Agreement. The final calculation date is intended to be 14 days before the effective date.

“transition date” means the date which is 15 months after the final calculation date.

2. Before the date of the initialling of the Agreement, the Parties will

(a) agree on the provisional amount of each payment; and

(b) insert in the schedule the provisional amount of each payment.<sup>49</sup>

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<sup>47</sup> “P” means the provisional amount of the payment.

<sup>48</sup> The definition “provisional calculation date” will not be included in the Agreement.

<sup>49</sup> Section 2 of the Instructions will not be included in the Agreement.

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3. The provisional amount of each payment will be calculated on the provisional calculation date so as to yield a net present value, as at the date of the first payment, of \$90 million multiplied by the latest available quarterly FDDIPI at the provisional calculation date and divided by the FDDIPI for 1997 using as the discount rate the 14 year amortized Consolidated Revenue Fund lending rate that is available immediately before the provisional calculation date, less 0.125 percent.<sup>50</sup>
4. On the final calculation date, each provisional amount entered in the Schedule by the date of the initialling of the Agreement will be adjusted by
- (a) multiplying it by the latest available quarterly FDDIPI at the final calculation date and dividing the product by the latest available quarterly FDDIPI on the date the provisional amount was calculated; and
- (b) if, the period between the date of the Agreement and the effective date exceeds 15 months, multiplying the amount resulting from (a) by

$$(1 + DR)^Y \times (1 + [DR \times d/365])$$

where "DR" is [the discount rate described in 3]<sup>51</sup>,

where "Y" is the number of complete years between the transition date and the final calculation date, and

where "d" is the number of days remaining in the period between the transition date and the final calculation date, after deducting the complete years in that period that have been taken into account in the determination of "Y".

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<sup>50</sup> Section 3 of the Instructions will not be included in the Agreement.

<sup>51</sup> Bracketed words to be replaced by the actual rate before the date of the initialling of the Agreement.

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PART 2            NEGOTIATION LOANS REPAYMENTS SCHEDULE (24.2.1; 24.3.4)

Note:            The Negotiation Loans Repayments Schedule will be finalized by the effective date in accordance with the instructions hereunder.

<u>Date</u>	<u>Repayment</u>
Effective date	\$
First anniversary of the effective date	\$
Second anniversary of the effective date	\$
.....	\$
.....	\$
.....	\$
.....	\$

Instructions for finalizing Part 2 of the Appendix: Negotiation Loans Repayments Schedule

1. In these Instructions,

“final Total” means the Total set out in 2 increased by the amount of interest accrued between the date when the provisional amounts of the payments under 24.1.1 are calculated and the effective date.

“final calculation date” has the same meaning as in Part 1 of the Appendix.

2. The amounts of the negotiation loans (principal plus accrued interest) to be repaid under 24.2.1, as at the date when the provisional amounts of the payments under 24.1.1 are calculated, are as follows:

Dogrib Treaty 11 Council negotiation loans	\$ _____
Dene Nation negotiation loans (portion being 20.858 percent)	\$ _____
Metis Association negotiation loans (portion being 20.858 percent)	\$ _____
Total	\$ _____

3. By the effective date, the amount of each repayment will be inserted in this schedule, having been calculated on the basis of the following:

- (a) a repayment shall be made on the effective date and on each anniversary thereof until the net present value of the repayments equals the final Total;
- (b) each repayment other than the final repayment shall be equal to the amount of the payment to be made under 24.1.1 on the same date, and the last repayment shall be equal to the amount needed to retire the loans but not greater than the amount of the payment to be made under 24.1.1 on the same date; and
- (c) the discount rate used in calculating the net present value in (a) shall be the rate described as “DR” in 4(b) of the Instructions to Part 1 of the Appendix.

## CHAPTER 25

### MINERAL ROYALTIES

#### 25.1 SHARE OF MINERAL ROYALTIES

25.1.1 Government shall pay to the Dogrib First Nation Government, in relation to each calendar year, an amount equal to

- (a) 10.429 percent of the first \$2.0 million of mineral royalties<sup>52</sup> received by government in that year; and
- (b) 2.086 percent of any additional mineral royalties received by government in that year.

25.1.2 Amounts payable by government under this chapter shall be calculated on the basis of amounts due to and received by government in respect of minerals produced after the date of the Agreement.

25.1.3 Payments remitted to the Dogrib First Nation Government shall be in quarterly instalments.

25.1.4 Government shall annually provide to the Dogrib First Nation Government a statement indicating the basis on which mineral royalties were calculated for the preceding year.

25.1.5 On the request of the Dogrib First Nation Government, government shall request the Auditor General to verify the accuracy of the information in the annual statements.

#### 25.2 CONSULTATION

25.2.1 Government shall consult with the Dogrib First Nation Government on any proposal specifically to alter by legislation the mineral royalty payable to government.

25.2.2 Where government consults outside government on any proposed changes to the fiscal regime which will affect the mineral royalty payable to government, it shall also consult with the Dogrib First Nation Government.

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<sup>52</sup> “mineral royalty” to be defined before the date of the initialling of the Agreement.

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## CHAPTER 26

### ECONOMIC MEASURES

#### 26.1 PROGRAMS FOR ECONOMIC DEVELOPMENT

26.1.1 Government economic development programs in the settlement area shall take into account the following objectives:

- (a) that the traditional economy of the Dogrib First Nation should be maintained and strengthened; and
- (b) that the Dogrib First Nation should be economically self-sufficient.

26.1.2 To achieve the objectives in 26.1.1, government shall take such measures as it considers reasonable, in light of its fiscal responsibility and economic objectives, including:

- (a) support of the traditional economy of the Dogrib First Nation and of individual harvesters and promotion of the marketing of renewable resource products and native manufactured goods;
- (b) assistance in the development of commercially viable businesses and enterprises of the Dogrib Citizens, and when necessary, identification of possible sources of financial assistance;
- (c) provision of business and economic training and educational assistance to Dogrib Citizens so that they may be able to participate more effectively in the northern economy; and
- (d) encouragement of the employment of Dogrib Citizens in the settlement area, including employment in major projects and developments, in the public service and in public agencies. Accordingly, government shall prepare plans for the training and employment of Dogrib Citizens, including the development of measures to recognize the special need of Dogrib Citizens for pre-employment training in basic skills. Government shall review job qualifications and recruitment procedures to remove inappropriate requirements in respect of cultural factors, experience, or education.

26.1.3 Where government proposes economic development programs related to the objectives in 26.1.1, government shall consult with the Dogrib First Nation Government.

26.1.4 Government shall meet with the Dogrib First Nation Government not less than once every three years to review the effectiveness of programs relating to the objectives in 26.1.1 and the measures in 26.1.2.

#### 26.2 GOVERNMENT EMPLOYMENT AND CONTRACTS

26.2.1 Where government carries out public activities in the Dogrib primary use area which give rise to employment or other economic opportunities and government elects to enter into contracts with respect to those activities,

- (a) the Government of Canada shall follow its contracting procedures and approaches intended to maximize local, regional and Aboriginal employment and business opportunities, including the provision of opportunities for potential contractors to become familiar with bidding systems; and

- (b) the Government of the Northwest Territories shall follow its preferential contracting policies, procedures and approaches intended to maximize local, regional and northern employment and business opportunities.
- 26.2.2 The Government of the Northwest Territories shall consult with the Dogrib First Nation Government when developing modifications to its preferential contracting policies, procedures and approaches.
- 26.2.3 When the Government of the Northwest Territories intends to carry out activities on Dogrib lands or in Dogrib communities which give rise to employment or other economic opportunities and elects to enter into contracts with respect to those activities without going to public tender, Dogrib Citizens shall be given the first opportunity to negotiate such contracts, provided they satisfy all criteria including any qualifications particular to the contract, and price.
- 26.3 GENERAL
- 26.3.1 It is intended that this chapter be implemented through programs and policies which are in place from time to time without imposing any additional financial obligation on government.

## CHAPTER 27

### TAXATION

#### 27.1 DEFINITIONS

27.1.1 The following definitions apply in this chapter.

"designated improvement" means, in relation to Dogrib lands,

- (a) a residence of a Dogrib Citizen;
- (b) an improvement, all or substantially all of which is used for a public purpose or a purpose ancillary or incidental to the public purpose including, but not limited to,
  - (i) a public governance or administration building, public meeting building, public hall, public school or other public educational institution, teacher's residence, public library, public health facility, public care facility, public seniors home, public museum, place of public worship, manse, fire hall, police facility, court, correction facility, public recreation facility, public park or an improvement used for Dogrib cultural or spiritual purposes, or
  - (ii) a work of public convenience constructed or operated for the benefit of the Dogrib First Nation Government, occupiers of Dogrib lands or persons visiting or in transit through Dogrib lands, including a public utility work, a public work used to treat or deliver water or as part of a public sewer system, a public road, a public bridge, a public drainage ditch, traffic signals, street lights, a public sidewalk, and a public parking lot; and
- (c) an improvement that is used primarily for the management, protection or enhancement of a natural resource, other than an improvement that is used primarily in harvesting or processing a natural resource for profit.

"Dogrib capital" means <sup>53</sup>

- (a) the capital transfer payments made under 24.1.1;
- (b) any money loaned under 24.3;
- (c) payments made under 25.1.1 up to an aggregate maximum of \$4.172 million;
- (d) implementation payments<sup>54</sup> made under the Implementation Plan; and
- (e) payments for training<sup>55</sup> made under 5.3.

"federal *Income Tax Act*" means the *Income Tax Act*, R.S. 1985 (5<sup>th</sup> *supp*), c. 1.

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<sup>53</sup> Before the date of the initialling of the Agreement, need to determine if the list in the definition of "Dogrib capital" in 27.1.1 should be replaced by more general wording.

<sup>54</sup> Until the Implementation Plan is completed, cannot confirm whether implementation payments will be tax-free.

<sup>55</sup> Until 5.3 is completed, cannot confirm whether training payments under that chapter will be tax-free.

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"*Income Tax Act*" means the federal *Income Tax Act* and the territorial *Income Tax Act*, R.S.N.W.T. 1988, c.I-1.

27.1.2 In the definition of "designated improvement" in 27.1.1, "public" does not include the provision of property or services primarily for the purpose of profit.

27.1.3 Subject to 27.1.2, in the definition of "designated improvement" in 27.1.1, "public" includes a purpose related solely to the Dogrib First Nation or the Dogrib First Nation Government.

## 27.2 LEGISLATION

27.2.1 Nothing in the Agreement, the settlement legislation or in any legislation that gives effect to a taxation agreement under 27.4 limits any entitlement of the Dogrib First Nation Government to any benefit available to it under any other legislation.

## 27.3 DOGRIB LANDS AND DOGRIB CAPITAL

27.3.1 No tax or other similar charge is payable by the Dogrib First Nation Government in relation to

(a) the recognition of ownership of Dogrib lands by the Dogrib First Nation Government under 18.1.1 or the acquisition by it of lands that, upon acquisition, become Dogrib lands; or

(b) the receipt by the Dogrib First Nation Government of Dogrib capital.

27.3.2 No tax or other similar charge is payable by the Dogrib First Nation Government in respect of its interest in Dogrib lands on which there is no improvement or on which there is no improvement other than a designated improvement.

27.3.3 27.3.2 does not affect the taxation of a person, other than the Dogrib First Nation Government, in respect of an interest in Dogrib lands.

27.3.4 No capital gains tax applies in respect of compensation received by the Dogrib First Nation Government for Dogrib lands expropriated in accordance with chapter 20 or conveyed under 18.1.4(b).

27.3.5 For the purpose of the *Income Tax Act*, Dogrib land will be deemed to have been acquired by the Dogrib First Nation Government on the date the land became Dogrib land, at a cost equal to its fair market value on that date.

## 27.4 TAXATION AGREEMENTS

27.4.1<sup>56</sup> Before the date of the initialling of the Agreement, government and the Dogrib Treaty 11 Council will enter into a taxation agreement confirming the principles set out in Parts 1 to 3 of the Appendix.

27.4.2<sup>57</sup> Before the date of the initialling of the Agreement, government and the Dogrib Treaty 11 Council will enter into negotiations and attempt to reach an agreement in relation to the matters set out in Part 4 of the Appendix.

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<sup>56</sup> 27.4.1 will not be included in the Agreement.

<sup>57</sup> 27.4.2 will not be included in the Agreement.

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- 27.4.3<sup>58</sup> The taxation agreements under 27.4.1 and 27.4.2 will not come into effect until the effective date and will bind the Dogrib First Nation Government as a party.
- 27.4.4 From time to time, at the request of the Dogrib First Nation Government, government may enter into negotiations and attempt to reach an agreement with the Dogrib First Nation Government in relation to the matters set out in Part 4 of the Appendix.
- 27.4.5 It is an objective that, in negotiating a taxation agreement, the Parties be guided by their commitment to an effective central government in the Northwest Territories with the ability
- (a) to continue to deliver its programs and services to all residents of the Northwest Territories; and
  - (b) to effect economic and fiscal policies on a territory-wide basis.
- 27.4.6 The Government of Canada and the Government of the Northwest Territories will recommend to Parliament and the Legislature of the Northwest Territories, respectively, that the provisions of a taxation agreement under 27.4 be given effect under legislation. A taxation agreement does not come into effect until that legislation comes into effect.
- 27.4.7 A taxation agreement does not form part of the Agreement.

## 27.5 AGREEMENTS FOR EQUIVALENT BENEFITS

- 27.5.1 Where government provides, in legislation or in or under a land claims agreement or a self-government agreement, tax powers or exemptions to another Aboriginal group in the Northwest Territories that are of greater benefit to that group than those provided to the Dogrib First Nation or the Dogrib First Nation Government by this chapter or by chapter 7 or by a taxation agreement referred to in 27.4, government, at the request of the Dogrib First Nation Government, will negotiate and make best efforts to reach an agreement with the Dogrib First Nation Government to provide equivalent benefits for the Dogrib First Nation, taking into account the particular circumstances of the other Aboriginal group.

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<sup>58</sup> 27.4.3 will not be included in the Agreement.

**APPENDIX TO CHAPTER 27** <sup>59</sup>

**PART 1 TAXATION STATUS OF DOGRIB FIRST NATION GOVERNMENT (27.4.1)**

1. The Dogrib First Nation Government will be
  - (a) for purposes of paragraph 149(1)(c) of the federal *Income Tax Act*, deemed to be a public body performing a function of government in Canada; and
  - (b) for purposes of paragraphs 149(1)(d) to 149(1)(d.6) and subsections 149(1.1) to 149(1.3) of the federal *Income Tax Act*, deemed to be a Canadian municipality the geographic boundaries of which include Dogrib lands and the lands within Dogrib communities.
2. Donations to the Dogrib First Nation Government will have the same tax treatment as donations to a charity registered under the *Income Tax Act*.
3. The Dogrib First Nation Government will be treated as a public authority designated under subsection 32(2) of the *Cultural Property Export and Import Act*, subject to the availability of a facility for long term storage and display of donated cultural artifacts that
  - (a) is operated by the Dogrib First Nation Government and meets accepted standards of Canadian museums; or
  - (b) is operated by an institution or public authority designated under subsection 32(2) of the *Cultural Property Export and Import Act* which has entered into a long term agreement between the Dogrib First Nation Government.

**PART 2 EXCISE TAX ACT (27.4.1)**

1. The following definitions apply in this Part.

“claimant” means

  - (a) the Dogrib First Nation Government; or
  - (b) a person, other than a financial institution, that is
    - (i) a trust, board, commission, tribunal or similar body, established by the Dogrib First Nation Government, or
    - (ii) an eligible corporation incorporated under legislation.

“eligible corporation” means

  - (a) a corporation, all of the shares of which, except director’s qualifying shares, are owned by the Dogrib First Nation Government; or
  - (b) a corporation, all of the shares of which, except director’s qualifying shares, are owned by
    - (i) the Dogrib First Nation Government,
    - (ii) a corporation defined by (b), or
    - (iii) any combination of the persons referred to in (i) and (ii).

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<sup>59</sup> Parts 1 to 3 of the Appendix will not be included in the Agreement.

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“*Excise Tax Act*” means the *Excise Tax Act* or any other act of Parliament which imposes a tax to replace or succeed any tax imposed under the *Excise Tax Act*.

“permanent establishment” of a claimant means

- (a) a fixed place of business of the claimant including
  - (i) a place of management, a branch, an office, a factory, a workshop or other site, or
  - (ii) a mine, an oil or gas well, a quarry, timberland or any other place of extraction of a natural resource;
- (b) a fixed place of business of another person (other than a broker, general commission agent or other independent agent acting in the ordinary course of business or any person established by the claimant) who is acting on behalf of the claimant;
- (c) a place at which the claimant uses substantial machinery or equipment; or
- (d) any real property owned, or supplied on a regular or continuous basis, by the claimant.

“specified activity” of a claimant in 2 and 4 means

- (a) a business or other activity that has the primary purpose of providing property or services to Dogrib Citizens, the Dogrib First Nation Government, eligible corporations, individuals resident on Dogrib lands or Dogrib community lands, Dogrib community governments or any combination of those persons; or
  - (b) any other business or activity that the Government of Canada and the Dogrib First Nation Government agree is included under this definition.
2. Unless otherwise defined in the Agreement and subject to 3, words used in this Part have the same meaning as in Part IX of the *Excise Tax Act*.
3. The definition of “government” in subsection 123(1) of the *Excise Tax Act* does not apply to this Part.
4. A claimant who acquires or imports property or a service in respect of which it pays tax under subsection 165(1) or section 212 or 218 of the *Excise Tax Act* is entitled to a refund of that portion of the tax that is not recoverable as an input tax credit under Part IX of that Act and is not otherwise recovered under any law, if
- (a) the property or service was not acquired or imported for consumption, use or supply in the course of a business or other activity, other than a specified activity, engaged in by the claimant for profit or gain;
  - (b) the property or service was acquired or imported for consumption, use or supply in the course of performing a function of government under the Agreement or a subsequent agreement between or among government and the Dogrib First Nation Government; and
  - (c) the property or service
    - (i) is a capital property of the claimant acquired or imported for consumption, use or supply, at any place, primarily in the course of engaging, on Dogrib land or in a Dogrib community, in a business or other activity of the claimant,
    - (ii) is a service in respect of capital property referred to in (i) or is property supplied in conjunction with a service in respect of capital property referred to in (i), or
    - (iii) in the case of property or a service referred to in neither (i) nor (ii), was acquired or imported for consumption, use or supply, at any place, exclusively in the course of engaging, on Dogrib land or in a Dogrib community, in a business or other activity of the claimant.

5. For the purposes of 4 (c), where a claimant is engaging in a business or other activity partly on Dogrib land or partly in a Dogrib community and partly at or through one or more permanent establishments of the claimant that are not located on Dogrib land or in a Dogrib community, the claimant is deemed not to be engaging, on Dogrib land or in a Dogrib community, in the business or activity
  - (a) in the case of a business or activity that involved the making of supplies of real property on a regular basis by way of lease, licence or similar arrangement, if the property is not, and is not intended to be, located on Dogrib land or in a Dogrib community; and
  - (b) in any other case, to the extent to which the claimant is engaging in the business or activity at or through one or more permanent establishments of the claimant that are not located on Dogrib land or in a Dogrib community.
6. Despite paragraph 141.1(1)(b), subsection 200(3), section 1 of Part V.1 of Schedule V and sections 2 and 25 of Part VI of Schedule V of the *Excise Tax Act*, and 27.2.1, if a claimant makes a supply by way of sale of property that is capital property of the claimant and in respect of which the claimant was entitled to receive a refund under 4, the supply is deemed, for the purposes of Part IX of that Act, to be made in the course of a commercial activity of the claimant.
7. A refund of tax under 4 will not be paid unless an application for the refund is filed with the Minister of National Revenue within four years after the tax was paid.
8. The provision of Part IX of the *Excise Tax Act* apply, with such modifications as the circumstances require, in respect of claims under 4 and in respect of amounts paid or payable as a refund under 4, as though such refund were a rebate provided for under Division VI of that Part.

### PART 3 DOGRIB CAPITAL TRUSTS (27.4.1)

1. The following definitions apply in this Part.

“Dogrib capital trust” means any trust having the following characteristics:

  - (a) the trust is resident in Canada;
  - (b) the beneficiaries of the trust are limited to the following:
    - (i) the Dogrib First Nation Government,
    - (ii) the Dogrib First Nation,
    - (iii) another Dogrib capital trust, and
    - (iv) any registered charity or non-profit organization, within the meaning of the federal *Income Tax Act*, that in the reasonable opinion of the trustees directly or indirectly benefits at least one Dogrib Citizen, the Dogrib First Nation Government, the Dogrib First Nation or a Dogrib capital trust;
  - (c) investment of its funds is restricted to
    - (i) investment instruments that are described as qualified investments for a trust governed by a registered retirement savings plan within the meaning of section 146 of the federal *Income Tax Act* or in any other investments identified in an agreement between the Dogrib First Nation Government and the Government of Canada,
    - (ii) loans to Dogrib Citizens, the Dogrib First Nation Government or Dogrib First Nation Government corporations, at a rate of interest equal to the rate prescribed under Regulation 4301(c) of the federal *Income Tax Act* in effect at the time the loan was made or last renewed,

- (iii) investments in a share of a Dogrib First Nation Government corporation where the average annual rate of dividends on the share over any five year period cannot exceed the rate prescribed under Regulation 4301(c) of the federal *Income Tax Act* at the beginning of the five year period, and on condition that the amount receivable on redemption of the share or on liquidation of the company is limited to the amount of the consideration for which the share was originally issued, and
- (iv) loans, that are interest free or at rates of interest less than that referred to in (ii), to Dogrib Citizens, or partnerships or trusts in which no persons other than Dogrib Citizens hold the interests as partners or beneficiaries where, at the time the loan was made, arrangements were made for repayment of the loan and where the purpose of the loan is to assist the borrower, or where the borrower is a partnership or a trust, to assist a partner or a beneficiary, to
  - (A) acquire, construct or renovate a residential property in the Northwest Territories for his or her own habitation,
  - (B) attend courses to further his or her own education, technical or vocational skills, or attend courses in native studies, culture or language programs,
  - (C) acquire funding for purposes of carrying on a business within Dogrib lands, Dogrib community lands or protected areas in the Dogrib primary use area where the borrower is unable to borrow from ordinary commercial lenders at normal commercial rates, or
  - (D) exercise rights of wildlife harvesting under 10.1.1 of the Agreement or participate in wildlife harvesting activities that are not commercial;
- (d) the trust is not permitted to carry on a business as a proprietor or member of a partnership, or acquire any beneficial interest in a trust engaged in a business where one or more of the Dogrib First Nation Government, Dogrib First Nation Government corporations, Dogrib capital trusts or Dogrib Citizens, either alone or in combination, hold more than 10 percent of all of the beneficial interests in the trust;
- (e) the trust does not borrow money except as required to finance the acquisition of its investments or to carry out its operations;
- (f) contributions to the trust are limited to contributions by the Dogrib First Nation Government from the payments described in (a), (b) and (c) of the definition of Dogrib capital or amounts contributed by another Dogrib capital trust where all or substantially all of the funds of that contributing trust reasonably can be considered to have been derived from a contribution to a Dogrib capital trust by the Dogrib First Nation Government from Dogrib capital and income and gains derived therefrom; and
- (g) the trust is not permitted to make any distributions other than to one or more beneficiaries under the trust, or to another Dogrib capital trust.

“Dogrib First Nation Government corporation” means a corporation all the shares (except directors’ qualifying shares) or capital of which belong to the Dogrib First Nation Government or a Dogrib capital trust.

2. A Dogrib capital trust, beneficial interests in a Dogrib capital trust, and any amount contributed to a Dogrib capital trust or distributed as income or capital by a Dogrib capital trust to a beneficiary shall not be taxable except that
  - (a) any amount of income or capital distributed in a particular year to a Dogrib Citizen shall be deemed for purposes of subsection 104(13) of the federal *Income Tax Act* to be income of the trust that was payable to the Dogrib Citizen in the particular year;

- (b) a Dogrib capital trust shall be subject to the provisions of Part XI of the federal *Income Tax Act*, as if that Part was stated to be specifically applicable to Dogrib capital trusts and was amended as required to take into account the investments referred to in (c) of the definition of “Dogrib capital trust”;
  - (c) a Dogrib capital trust shall be subject to tax under Parts I and I.1 of the federal *Income Tax Act* and for that purpose its taxable income will be calculated as the total of
    - (i) the amount of any income derived during the year from a property, including any taxable capital gain from the disposition of the property, that is not a qualified investment for the Dogrib capital trust or that is not acquired in the course of carrying on a permitted activity of the Dogrib capital trust, and
    - (ii) any amount contributed to the Dogrib capital trust that is not permitted under the terms of the Dogrib capital trust; and
  - (d) goods and services tax or similar taxes may be imposed on goods or services consumed by the Dogrib capital trust or the trustee.
3. Where the Minister of National Revenue is of the opinion that a Dogrib capital trust has failed to comply with the provisions of 2 or any of the terms set out in the definition of “Dogrib capital trust”, the Minister may notify the Dogrib capital trust in writing and if the Dogrib capital trust does not address the default to the satisfaction of the Minister within 100 days after the registered mailing of the notice, the Minister may revoke the status of the Dogrib capital trust as a Dogrib capital trust subject to the same right of appeal as applies to a revocation of the registration of a registered charity under the federal *Income Tax Act*.<sup>60</sup>
  4. If the Minister of National Revenue revokes the status of a Dogrib capital trust, the taxation year of the trust that would otherwise have included the time of revocation shall be deemed to end immediately before the time of the revocation, and the Dogrib capital trust shall be deemed to dispose of all its assets immediately before that time for proceeds equal to their fair market value, and to re-acquire those assets at the time at a cost equal to their fair market value, and for the purposes of calculating the taxable income of the Dogrib capital trust referred to in 2(c), an amount equal to the amount by which their fair market value exceeds the cost amount of the assets of the Dogrib capital trust shall be deemed to be a capital gain from the disposition of property that is not a qualified investment for the Dogrib capital trust.
  5. For purposes of 2, the distribution by a Dogrib capital trust of any amount to a beneficiary of the Dogrib capital trust in respect of the beneficiary’s interest in the Dogrib capital trust shall not be considered to be cause for the revocation of the status of the Dogrib capital trust.
  6. The rule against perpetuities does not apply to a Dogrib capital trust.

PART 4 DOGRIB TAXATION LAWS AND TAXATION REVENUE SHARING  
(27.4.2; 27.4.4)

1. The manner in which taxation by the Dogrib First Nation Government will be coordinated with existing federal and territorial tax systems.
2. Sharing, with the Dogrib First Nation Government, of government revenues from the direct taxation of Dogrib Citizens within Dogrib communities.

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<sup>60</sup> The definition of “Dogrib capital trust” does not allow less than 100 percent compliance. Need to confirm whether there is a problem and how to address it before the date of the initialling of the Agreement.

3. The extent to which the Dogrib First Nation Government may enact laws for the direct taxation of persons on Dogrib lands who are not Dogrib Citizens.<sup>61</sup>

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<sup>61</sup> The issue as to whether the Dogrib First Nation Government will have the power to make laws for the direct taxation of Dogrib Citizens within Dogrib communities and whether such a power would be provided by chapter 7 or a taxation agreement under 27.4 will be dealt with before the date of the initialling of the Agreement.

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