Legislation Applicable to Cat B Settlement Land

This summary is intended for the convenience of people working with this legislation on Category B Settlement Lands. CAFN Final Agreement (CAFNFA), Yukon Environmental and Socio-economic Assessment Act (YESAA), Yukon Quartz Mining Act (QMA), Yukon Placer Mining Act (PMA), CAFN Traditional Activities Protection Act (TAPA) and CAFN Lands Act have been excerpted. These excerpts are not intended to replace the original documents but rather to provide a quick reference. Users must rely on the original documents for the full context of the references and the complete legislative authority of CAFN.

CAFN Final Agreement Clauses:

General Provisions

- **2.6.2.2** Where there is any inconsistency or conflict between any federal, territorial or municipal Law and a Settlement Agreement, the Settlement Agreement shall prevail to the extent of the inconsistency or conflict.
- **2.6.7** Objectives in Settlement Agreements are statements of the intentions of the Parties to a Settlement Agreement and shall be used in the interpretation of doubtful or ambiguous expressions.

Definitions

Consult or Consultation means:

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

Mineral Right means any licence permit or other right to explore for, locate, develop, produce or transport any Minerals other than Specified Substances and to enter the land for those purposes.

Minerals means precious and base metals and non-living, naturally occurring substances, whether solid, liquid or gaseous, and includes coal, Petroleum and Specified Substances.

Right to Work includes the right to enter on, use and occupy the land or as much thereof and to such extent as may be necessary for the purposes of the working and extraction of Minerals.

Tenure and Management of Land

- **5.4.1** A YFN shall have by virtue of this chapter:
 - **5.4.1.2** for Category B Settlement Land (Cat B) the rights, obligations and liabilities equivalent to fee simple reserving therefrom the Mines and Minerals and the Right to Work the Mines and Minerals but including the Specified Substance Right.
- **5.4.2** The rights titles and interests described in 5.4.1 of a YFN in Settlement Land are subject to the following exceptions and reservations:
 - **5.4.2.1** any right, title or interest less than the entire fee simple therein existing at the date the land became Settlement Land:
 - **5.4.2.2** any licence, permit and other right issued by Government for the use of land or other resources existing at the date the land became Settlement Land;
 - **5.4.2.3** any renewal or replacement of a right, title or interest described in 5.4.2.1 or a licence, permit or other right described in 5.4.2.2.
 - **5.4.2.4** any new licence, permit or other right in respect of,
 - **(b)** Mines and Minerals which may be granted pursuant to the <u>Quartz Mining Act</u>, R.S.C., c. Y-4 or the <u>Yukon Placer Mining Act</u>, R.S.C. 1985, c. Y-3 to a Person holding a right, title or interest described in 5.4.2.1, 5.4.2.2 or 5.4.2.3.
- **5.5.1** Subject to its Settlement Agreement, each Yukon First Nation, as owner of Settlement Land, may exercise the following powers of management in relation to its Settlement Land:
 - **5.5.1.1** to enact bylaws for the use of and occupation of its Settlement Land;
 - **5.5.1.2** to develop and administer land management programs related to its Settlement Land;
 - **5.5.1.3** to charge rent or other fees for the use and occupation of its Settlement Land; and
 - **5.5.1.4** to establish a system to record interests in its Settlement Land.
- **5.6.1** For the purposes of 5.6.0, "Encumbering Right" means every licence, permit or other right, and every right, title or interest described in 5.4.2.
- **5.6.2** Subject to 6.3.6, Government shall continue to administer every Encumbering Right including granting renewals and replacements described in 5.4.2.3 ... in the public interest and in accordance with the Legislation which would apply if Settlement Land were Crown Land.
- **5.6.7** Government shall not have any fiduciary obligation to a YFN for the exercise of any discretionary or other power in relation to the administration of an Encumbering Right.
- **5.6.9** Government shall Consult with the Effected YFN before exercising any discretion to renew or replace an Encumbering Right, to issue a new Encumbering Right, or to set any Royalty, rent or fee described in 5.6.3, 5.6.4 and 5.6.6.

- **5.6.8** Government shall indemnify and forever save harmless the YFN from and against all suits and actions, causes of action, claims, demands, and damages by any Person arising from the continuing administration of the Encumbering Right by Government.
- **5.9.1** Upon and subsequent to the happening of any of the following events:
 - **5.9.1.1** the registration in the Land Titles Office of any interest in a Parcel of Settlement Land, less than the entire interest set out in ... 5.4.1.2;
 - **5.9.1.3** the granting of any interest in a Parcel of Settlement Land less than the entire interest in ... 5.4.1.2 to any Person not enrolled under that YFN Final Agreement, the interest registered ... shall take priority for all purposes over:
 - **5.9.1.5** any aboriginal claims, rights, titles and interests of the YFN and all Person's eligible to be YIP it represents and their heirs, descendants and successors, and
 - **5.9.1.6** the right to harvest described in 16.4.2...
- **5.6.11** Subject to the consent of the Minister, a YFN and the holder of an Encumbering Right may agree that the right be cancelled and replaced by an interest provided by the YFN.

Access

- **6.1.1** Laws of General Application in respect of access to land and use incidental thereto, of privately held land shall apply to Settlement Land, except as altered by a Settlement Agreement.
- **6.1.2** Government and an Effected YFN may agree ... to amend, revoke or reinstate a right of access provided by a Settlement Agreement to address a specific circumstance of a specific Parcel of Settlement Land.
- **6.1.3** A YFN owes the same duty of care to a Person exercising a right of access on Undeveloped Settlement Land pursuant to Settlement Agreements as the Crown owes to a Person on unoccupied Crown Land.
- **6.3.1** A person has a right of access, without the consent of the affected YFN, to enter, cross and make necessary stops on Undeveloped Settlement Land to reach adjacent Non-Settlement Land for commercial and non-commercial purposes if:
 - **6.3.1.1** the access is of a casual and insignificant nature; or
 - **6.3.1.2** the route used is generally recognized and was being used for access on a regular basis, whether year round or intermittently, either,
 - (a) prior to notification of the final land selection for that YFN's Final Agreement, or
 - (b) where the land became Settlement Land after the Effective Date for Yukon First Nation Final Agreement, on the date the land became
 - the Yukon First Nation Final Agreement, on the date the land became Settlement Land.
- **6.3.3** Where no right of access is provided by a Settlement Agreement, a Person has a

right of access to enter, cross and make necessary stops on Undeveloped Settlement Land to reach adjacent land for commercial and non-commercial purposes with the consent of the YFN or, failing consent, with an order of the Surface Rights Board setting out terms and conditions of access.

- **6.6.1** If a YFN wishes to establish terms and conditions for the exercise of a right of access provided by:
 - **6.6.1.1** ... 18.3.1, 18.4.1

the YFN and Government shall attempt to negotiate the terms and conditions.

- **6.6.2** Failing agreement pursuant to 6.6.1, the YFN may refer the matter to the Surface Rights Board. The Surface Rights Board may establish terms and conditions only for the exercise of a right of access which specify seasons, times, locations, method or manner of access.
- **6.6.3** Unless Government and the affected YFN otherwise agree, a condition established pursuant to 6.6.2 affecting the exercise of a right of access shall be established only to;
 - **6.6.3.1** protect the environment;
 - **6.6.3.2** protect Fish and Wildlife or their habitat;
 - **6.6.3.3** reduce conflicts with traditional and cultural uses of Settlement Land by the YFN or a YIP; or
 - **6.6.3.4** protect the use and peaceful enjoyment of land used for communities or residences.
- **6.6.4** A condition established pursuant to 6.6.2 affecting the exercise of a right of access shall not:
 - **6.6.4.1** restrict law enforcement or any inspection authorized by Law;
 - **6.6.4.2** impose a fee or charge for the exercise of that right of access; or
 - **6.6.4.3** unreasonably restrict the right of access.

Development Assessment

- **12.1.1** The objective of this chapter is to provide for a development assessment process that:
 - **12.1.1.1** recognizes and enhances, to the extent possible, the traditional economy of Yukon Indian People and their special relationship with the wilderness Environment;
 - **12.1.1.2** provides for guaranteed participation by Yukon Indian People and utilizes the knowledge of Yukon Indian People in the development assessment process;
 - **12.1.1.3** protects and promotes the well-being of Yukon Indian People and of their communities and of other Yukon residents and the interests of other Canadians;
 - **12.1.1.8** requires Project proponents to consider the environmental and socioeconomic effects of Projects and Project alternatives and to incorporate appropriate mitigative measures in the design of Projects.

- **12.4.2** YDAB and each Designated Office shall consider the following matters:
 - **12.4.2.1** the need to protect the special relationship between Yukon Indian Person (YIP) and the Yukon Wilderness Environment;
 - **12.4.2.2** the need to protect the cultures, traditions, health and lifestyles of YIP and other residents of the Yukon;
 - **12.4.2.6** measures of mitigation of and compensation for significant environmental and socio-economic effects.
- **12.8.1.4** YDAB shall upon request by Government, or with the consent of Government, upon request from a YFN,
 - (a) conduct a review;
 - **(b)** review a temporary shut down, abandonment, decommissioning or significant change;
 - (c) conduct an audit, or
 - (d) monitor effects

of a Project or Existing Project, as the case may be.

- **12.8.1.5** YDAB may review Plans which may have significant environmental or socioeconomic effects in the Yukon, upon request of Government or with the consent of Government, upon request from a YFN.
- **12.9.1** In accordance with YESAA, the Executive Committee shall, before exercising any of its functions relating to the screening or review of a Project, satisfy itself that the Project proponent has,
 - (a) Consulted with affected communities
 - (b) taken into account the matters identified in 12.4.2.
- **12.10.1** Where the Executive Committee determines that the primary significant adverse environmental or socio-economic effects of a Project are on Settlement Land, two thirds of the members of a panel shall be members nominated to YDAB by CYFN and one third of the members of the panel shall be members nominated to YDAB by Government.
- **12.13.1** Where a Project is located wholly or partially on Settlement Land, a Decision Document is required from:
 - **12.13.1.1** a YFN where the YFN is empowered by a YFN self government Legislation or Settlement Agreements to require its approval or other authorization, other than for access to Settlement Land as provided in Settlement Agreements; or
 - **12.13.1.2** a YFN, where the Project does not require a decision from Government; and
 - **12.13.1.3** Government, where the Project involves the Right to Work Mines and Minerals on Cat B or Fee Simple Settlement Land, or where the Project requires an approval or other authorization from Government.
- **12.13.3** Government and the YFN shall Consult with each other before issuing a Decision Document for a Project where Decision Documents for the Project are required from both

Decision Bodies.

- **12.13.4** Where a Decision Document is required from both Decision Bodies and the Project involves the Right to Mines and Minerals on Cat B or Fee Simple Settlement Land:
 - **12.13.4.1** the Decision Bodies shall endeavor to make the terms and conditions of their Decision Document conform;
 - **12.13.4.2** notwithstanding 12.6.3 and 12.12.1.3, the Decision Bodies may only reject or vary the terms and conditions contained in the recommendations of YDAB or a Designated Office on the grounds that, to accomplish the objectives this chapter, any of the terms and conditions are,
 - (a) insufficient to achieve an acceptable level of environmental and socioeconomic impact in the Yukon, or
 - **(b)** more onerous than necessary to achieve an acceptable level of environmental and socio-economic impact in the Yukon, or
 - (c) so onerous as to undermine the economic viability of the Project; and
- **12.13.4.3** where the terms and conditions of the Decision Documents conflict, Government and the YFN shall, subject to 12.14.8, exercise any discretion in granting an interest in, or authorizing the use of land, water, or other resources, in conformity with the terms and conditions of the Decision Document issued by Government.

Heritage

of

Heritage Resources includes Moveable Heritage Resources, Heritage Sites and Documentary Heritage Resources.

Heritage Site means an area of land which contains moveable Heritage Resources or which is of value for aesthetic or cultural reasons.

Yukon First Nation Burial Site means a place outside a recognized cemetery where the remains of a cultural ancestor of a Yukon Indian Person has been interred, cremated or otherwise placed.

- **13.3.1** Each YFN shall own and manage Moveable Heritage Resources and non-Moveable Heritage Resources and Non-Public Records, other than records which are the private property of any Person, found on its Settlement Land and on the Beds of water bodies owned by that YFN.
- **13.4.6.1** The heritage routes identified in Schedule A Heritage Routes, attached to this chapter, ... are recognized as having cultural and heritage significance to Champagne and Aishihik People and CAFN.
 - **1.** The Shakat Trail that goes from Aishihik Village to Nisling River to Onion Creek to Tincup Lake to Talbot Creek to Albert Creek to Aishik Village.
 - **2.** Isaac Creek Trail which goes from Aishihik Village to Thetchal Mun (Sekulmun Lake) to Isaac Creek to Gladstone Creek to Kluane Lake to Talbot Arm (Kluane Lake) to Talbot Creek where it meets with Route 1. Above.

- **3.** Hutshi trail that goes from Hutshi to Giltana lake to Thechal Mun (Sekelmun Lake) to Aishihik Village to Nisling River to Carmacks.
- **4**. Kloo Lake to Aishihik Village trail that goes from Kloo Lake to Dry Pass to Bear Lakes to Thetchal Mun (Sekulmun Lake) to Aishihik Village.
- **5.** Selkirk Lake trail that goes from Kusawa Lake (west side) to Takhini River to Klusha Creek to Nordenskiold River to Yukon River to Fort Selkirk (with a branch from Kusawa Lake to Klukshu Village.
- **13.4.7** Any granting of access to the public, third parties or Government to Settlement Land shall not divest the YFN of ownership or management of Heritage Resources on Settlement Land.
- **13.8.1.4** When requested by CAFN, Government shall consider protection within existing Legislation, for a period of time, of a Heritage Site directly related to the culture and heritage of Champagne and Aishihik People which is on Non-Settlement Land, Cat B land or Fee Simple Settlement Land within CAFN Traditional Territory, pending a decision of the Minister whether to designate the Heritage Site as a Designated Heritage Site.
- **13.8.7.1** A person who accidentally discovers a Heritage Resource on CAFN Settlement Land shall take such steps as are reasonable in all circumstances to safeguard the Heritage Resource and shall report as soon as practicable that discovery to the CAFN.
- **13.8.7.3** A Person described in 13.8.7.1 who is exercising a right of access or a right to use CAFN Settlement Land provided for in this Agreement shall not further disturb a Heritage Site or a Moveable Heritage Resource unless permitted by Laws of General Application, and that Person obtains:
 - (a) the consent of CAFN; or
 - (b) failing consent, an order of the Surface Rights Board setting out terms and conditions of further disturbing the Heritage Site or Moveable Heritage Resource.
- **13.9.1** Government and YFNs shall each establish procedures to manage and protect YFN Burial Sites which shall:
 - 13.9.1.1 restrict access to YFN Burial Sites to preserve the dignity of the YFN Burial Sites;
 - **13.9.3** provide that, subject to 13.9.2, where a YFN Burial Site is discovered, the YFN whose Traditional Territory the YFN Burial Site is located shall be informed, and the YFN Burial Site shall not be further disturbed.
- **13.9.2** Where a Person discovers a YFN Burial Site in the course of carrying on an activity authorized by Government or a YFN, as the case may be, that Person may carry on the activity with the agreement of the YFN in whose Traditional Territory the YFN Burial Site is located.

Water Management

14.3.1 The property in Water in the Yukon shall be determined by Laws of GA.

- **14.5.1** Subject to Laws of GA, a YIP shall have the right to use Water for a Traditional Use in the Yukon.
- **14.5.4** Notwithstanding 14.3.1, and subject to the provisions of the UFA, a YFN shall have the exclusive right to use water which is on or flowing through its Settlement Land when such water is on or flowing through its Settlement Land.
- **14.5.7** A YFN may Assign in whole or in part a right to use Water set out in 14.5.4 and an assignee's Use of water shall be subject to 14.5.5 and 14.5.6.
- **14.8.1** Subject to the rights of Water users authorized in accordance with this chapter and the Laws of GA, a YFN has the right to have water which is on or flowing through or adjacent to its Settlement Land remain substantially unaltered as to quality, quantity and rate of flow, including seasonal rate of flow.
- **14.8.3** The Board shall not grant a Licence that interferes with the rights provided in favour of a YFN in 14.8.1 unless:
 - **14.8.3.1** notice, in the form prescribed by the Board, of receipt of an application has been given to an affected YFN; and
 - **14.8.3.2** the Board is satisfied 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 interference.
- **14.8.4** In deciding whether to grant a Licence that interferes with the rights provided in favour of a YFN in 14.8.1, the Board shall consider:
 - **14.8.4.2** the effect of the Water Use on the YFN or a YIP enrolled pursuant to that YFN Final Agreement; and
 - **14.8.4.3** means of mitigating the interference.
- **14.8.5** If the Board grants a Licence that interferes with the rights provided in favour of a YFN in 14.8.1, the Board shall order the licencee to pay compensation for loss or damage to the affected YFN in accordance with 14.12.0.
- **14.8.8** A YFN has a cause of action against any Person in respect of any Use of Water in violation of the terms and conditions of a licence to Use Water or contrary to the Laws of GA, which violation or contrary use substantially alters the quality, quantity or rate of flow, including seasonal rate of flow, of Water which is on or flowing through or adjacent to its Settlement Land, with such remedies as if the YFN had riparian rights.
- **14.8.9** A YFN shall have standing at all times in a court of competent jurisdiction in the Yukon to seek a declaration as to whether any Person substantially altering the quality, quantity or rate of flow, including seasonal rate of flow, of Water in that YFN's Traditional Territory has lawful authority to do so.

- **14.8.10** In any civil court proceedings pursuant to 14.8.8 or 14.8.9, if the YFN proves the defendant who is in violation of a Water Licence is substantially altering the quality, quantity or rate of flow, including seasonal rate of flow, at the place in the body of Water where the defendant's Use of Water is taking place, then the onus shall rest on the defendant to prove that such Use of Water is not substantially altering the quality, quantity or rate of flow, including seasonal rate of flow, at any place downstream where the YFN has the exclusive right to Use Water...
- **14.9.1** Before granting a Licence in any drainage basin in the Yukon that causes substantial alteration in the quality, quantity or rate of flow, including seasonal rate of flow, of Water so as to adversely affect a Traditional Use by a Yukon Indian Person (YIP) in that YIP's Traditional Territory, the Board shall:
 - **14.9.1.1** give notice, in a form prescribed by the Board, of receipt of an application to the affected YFN; and
 - **14.9.1.2** upon request of an affected YFN, consider whether,
 - (a) there is an alternative which could reasonably satisfy the requirements of the applicant while avoiding any adverse effect on the Traditional Use, and
 - (b) there are reasonable measures whereby the applicant could avoid the adverse effect.
- **14.9.2** a licencee who substantially alters the quality, quantity or rate of flow, including seasonal rate of flow, of Water in violation of a Licence or contrary to Law in a manner which causes loss or damage arising from an interference with a Traditional Use by a YIP within that YIP's Traditional Territory shall be liable to pay compensation pursuant to 14.12.0 for such loss or damage thereby caused to that YIP.
- **14.11.1** A YFN may apply to the Board to determine whether:
 - **14.11.1.1** there is an alternative that will reasonably satisfy the requirements of a licencee without interfering with the right of the YFN to have Water which is on or flowing through or adjacent to its Settlement Land remain substantially unaltered...
 - **14.11.1.2** measures can be taken to avoid interference with Water rights referred to in 14.11.1.1 and Uses of Water of the YFN;
 - **14.11.1.3** the Water licencee is in compliance with the terms and conditions of the Licence;
 - **14.11.1.4** the terms and conditions of the Licence need to be reviewed due to unforeseen impacts on the YFN; or
 - **14.11.1.5** the YFN is entitled to compensation under the provisions of this chapter.
- **14.11.2** In addition to any other powers available to the Board on application being made to the Board under 14.11.1, the Board may make an order amending, suspending or canceling the Licence, or deciding the YFN is entitled to compensation by the licencee, or a combination of the foregoing.

- **14.11.3** Where an application under 14.11.1 is being considered by the Board and prior to the Board's decision thereon, the Board may make an interim order restraining the water licencee from exercising such rights with respect to water as are specified in an interim order and containing such terms and conditions as the Board may determine including the payment of interim compensation.
- **14.11.5** A YIP may apply to the Board to determine whether he is entitled to compensation pursuant to 14.9.2.

Fish and Wildlife

- **16.1.1** The objectives of the Fish and Wildlife Chapter are as follows:
 - **16.1.1.3** to preserve and enhance the culture, identity and values of Yukon Indian People;
 - **16.1.1.9** to honor the Harvesting and Fish and Wildlife management customs of YIP and to provide for YIP's ongoing needs for Fish and Wildlife.
- **16.4.2** YIP shall have the right to harvest for Subsistence within their Traditional Territory, ... all species of Fish and Wildlife for themselves and their families at all seasons of the year and in any numbers on Settlement Land..., subject only to limitations prescribed pursuant to Settlement Agreements.
- **16.5.3** A YFN shall have standing as an interested party to participate in public proceedings of any agency, board or commission on matters that effect the management and Conservation of Fish, Wildlife and their habitat in its Traditional Territory.
- **16.5.4** Government shall consult with a YFN prior to taking action on Fish and Wildlife matters which may affect the YFN's management responsibilities or the exercise of Harvesting rights under a Settlement Agreement of YIP enrolled under that YFN Final Agreement.
- **16.11.13** YIP holding traplines whose Furbearer Harvesting opportunities will be diminished due to other resource development activities shall be compensated. Government shall establish a process for compensation, including designating the Person responsible for compensation.
 - **16.11.13.1** Nothing in 16.11.13 shall be construed to effect a YIP's right to compensation pursuant to Law before the process in 16.11.13 is established.

Forest Resources

17.2.1 Subject to its Settlement Agreement, each YFN shall own, manage, allocate and Protect the Forest Resources on its Settlement Land.

Non-Renewable Resources

Specified Substance means any of carving stone, flint, limestone, marble, gypsum, shale, slate, clay, sand, gravel, construction stone, sodium chloride, volcanic ash, earth, soil,

diatomaceous earth, ochre, marl, peat.

Specified Substances Right means the right of a YFN to take and use, without payment of any royalty, a Specified Substance.

- **18.1.1** A YFN having a Specified Substance Right and a Person having a Mineral Right shall exercise those rights so far as practicable in a manner that the exercise of one right does not interfere with the exercise of the other right.
- **18.1.2** In the event there is a conflict between the exercise of the Specified Substance Right and the exercise of the Mineral Right, either the YFN or the Person having the Mineral Right may apply to the Surface Rights Board.
- **18.1.3** Subject to 18.1.4, on an application under 18.1.2, the Surface Rights Board shall make an order specifying the terms and conditions of either the Specified Substance Right or the Mineral Right or both so as to reduce interference as far as practicable and, to the extent that the Specified Substance Right cannot be avoided, The Board shall give priority to the Person having the Mineral Right subject only to the payment of compensation to the YFN for:
 - **18.1.3.1** interference with the exercise of the Specified Substance Right; and **18.1.3.2** loss of opportunity to exercise the Specified Substance Right, taking into account the associated production cost incurred by the Person holding the Mineral Right.
- **18.1.5** Subject to any order of the Surface Rights Board issued pursuant to 18.1.3, any Person exercising a Mineral Right has the right to take, use, encounter, damage or destroy any Specified Substance incidental to the exercise of that Mineral Right without compensation to a YFN.
- **18.1.6** Subject to 18.1.7, any Specified Substance taken, used, encountered, damaged or destroyed under 18.1.5 shall become the property of the Person exercising the Mineral Right.
- **18.1.7** A Person who has acquired a property interest in any Specified Substance pursuant to 18.1.6 is deemed to have forfeited all his proprietary rights therein upon expiry of termination of his Mineral Right, and thereafter the YFN shall have the right to take and use that Specified Substance without compensation to that Person.
- **18.4.1** Subject to 6.6.0, any Person having a New Mineral Right on Cat B or Fee Simple Settlement Land or on Non-Settlement Land has a right of access, for purposes of exercising that New Mineral Right, to cross and make necessary stops on Settlement Land without the consent of the affected YFN if:
 - **18.4.1.1** the access is of a casual and insignificant nature; or
 - **18.4.1.2** the route used is generally recognized and was being used for access on a regular basis, whether year round or intermittently, either,
 - (a) prior to public notification of the final land selection for that YFN's

Final Agreement, or

- (b) where the land becomes Settlement Land after the Effective Date of the YFN Final Agreement, on the date the land became Settlement Land on the condition that the exercise of the right of access does not result in a significant alteration being made to that route.
- **18.4.2** Subject to 6.6.0, any Person having a New Mineral Right on Cat B or Fee Simple Settlement Land has a right of access for purposes of exercising that New Mineral Right, to use that Parcel of Settlement Land without consent of the affected YFN if the exercise of the right of access does not require the use of heavy equipment or methods more disruptive or damaging to the land than hand methods.
- **18.4.3** Any Person having a New Mineral Right on Cat B or Fee Simple Settlement Land who does not have a right of access under 18.4.1 or 18.4.2, or a right of access included in the right described in 5.4.2, has a right of access, for purposes of exercising that New Mineral Right, to use, cross and make necessary stops on Settlement Land with the consent of the affected YFN or failing consent, with an order of the Surface Rights Board setting out terms and conditions of access.
- **18.6.1** The rights of access provided in 18.3.1 and 18.4.1 are subject to the conditions that there shall be no:
 - **18.6.1.1** significant damage to the Settlement Land or to improvements on the Settlement Land;
 - **18.6.1.2** mischief committed on the Settlement Land;
 - **18.6.1.3** significant interference with the use and peaceful enjoyment of the Settlement Land by the YFN;
 - **18.6.4** permanent structures erected on the Settlement Land;
 - **18.6.5** fee or charge payable to the affected YFN; or
 - **18.6.6** compensation for damage other than for significant damage.
- **18.6.2** The rights of access provided by 18.3.2 and 18.4.2 are subject to the condition that there shall be no:
 - **18.6.2.1** unnecessary damage to the Settlement Land or significant damage to improvements on the Settlement Land;
 - **18.6.2.2** mischief committed on the Settlement Land;
 - **18.6.2.3** unnecessary interference with the use and peaceful enjoyment of the Settlement Land by the YFN;
 - **18.6.2.4** fee or charge payable to the affected YFN; or
 - **18.6.2.5** compensation for damage other than unnecessary damage to the Settlement Land or for significant damage to improvements on the Settlement Land.
- **18.6.3** A Person who fails to comply with the conditions in 18.6.1.1, 18.6.1.2, 18.6.1.4, 18.6.2.1, 18.6.2.2, 18.6.2.3 shall be considered a trespasser with respect to that incident of access.

18.7.1 Nothing in this chapter shall be construed to prevent the holder of a Mineral Right from exercising a right of access pursuant to a Settlement Agreement.

Economic Development Measures Chapter 22 Schedule A, Part I,

- **2.2** Where the Yukon has the jurisdiction to issue a Decision Document for a Project in CAFN Traditional Territory which is reviewed by a panel of YDAB, the Yukon Minister may require in the Decision Document that the developer, CAFN and the Yukon negotiate a Project agreement.
- **2.3** Project agreements referred to in 2.2 may include:
 - **2.3.1** employment opportunities for Champagne and Aishihik people;
 - **2.3.2** business opportunities for CAFN, including contracts and the provision of goods and services;
 - 2.3.3 investment opportunities for CAFN including equity purchase; and
 - **2.3.4** other measures to mitigate negative socio-economic effects of the project on CAFN or Champagne and Aishihik people.
- **3.1** Government may enter into economic development agreements with CAFN which provide:
- **3.1.1** technical and financial assistance for economic development purposes to residents of the CAFN Traditional Territory and to organizations, businesses and corporations owned by those residents

Yukon Indian Self Government

- **24.1.2** Subject to negotiation of an agreement pursuant to 24.1.1 and in conformity with the Constitution of Canada, the powers of a YFN may include the powers to:
 - **24.1.2.1** enact laws and regulations of a local nature for the good government of its Settlement Land and the inhabitants of such land, and for the general welfare and development of the YFN;
 - 24.1.2.3 allocate, administer and manage Settlement Land;

CAFN Self Government Agreement Clauses:

- **13.3** The CAFN shall have the power to enact laws of a local or private nature on Settlement Land in relation to the following matters:
 - **13.3.1** use, management, administration, control and protection of Settlement Land;
 - **13.3.2** allocation or disposition of rights and interests in and to Settlement Land, including expropriation by CAFN for CAFN purposes;
 - **13.3.6** licensing and regulation of any person or entity carrying on any business, trade, profession or other occupation;
 - 13.3.8 control of the construction, maintenance, repair and demolition of

buildings or other structures;

- **13.3.10** control of the sanitary conditions of buildings or property;
- **13.3.13** control or prohibition of the operation or use of vehicles;
- **13.3.15** establishment, maintenance, provision, operation or regulation of local services or facilities;
- **13.3.20** control or prevention of pollution and protection of the environment;
- **13.3.21** control or prohibition of the possession or use of firearms, other weapons and explosives;
- **13.3.22** control or prohibition of the transportation of dangerous substances.

CAFN Traditional Activities Protection Act Clauses:

Application

- **4.** This act applies to the Settlement Land of CAFN.
- **5**. This Part does not apply to:
 - (a) persons engaged in activities in accordance with a right of access provided in the final agreement: or
 - (b) persons engaged in activities that are licensed or otherwise authorized to be undertaken by another enactment.
- **6**. Every person who undertakes a development on Settlement Land must do so in accordance with a permit.

Development is defined as:

any human project, industry, undertaking, enterprise, operation or any alteration or expansion of the same that involves the use of the surface of Settlement Land or resources found on the surface of Settlement Land unless exempt by regulations, but does not include traditional activities or activities undertaken in conjunction with traditional activities.

- **7.** (1) An application for a permit shall be made on a form provided by the Director and shall state
 - (a) name and the mailing address of the applicant;
 - (b) the location in which the applicant intends to undertake the development;
 - (c) the description of the development or be undertaken;
 - (d) the proposed dates the development is to occur
 - (e) the potential impact the development may have on traditional activities, the lifestyle and land use of citizens;
 - (f) the anticipated impact of the development on Settlement Land and resources, including fish and wildlife habitat;
 - (g) the action proposed to be undertaken to restore or rehabilitate Settlement Land or resources:
 - (h) alternatives to the development which may lessen the impact on Settlement Land, resources or citizens;

- (i) information detailing the need for development and the anticipated outcome of the development; and
- (k) any other information as required by the Director.
- **7. (2)** The Director may waive a portion of the information requested on the application form.
- **8.** The Director may with written reasons, request that an applicant provide information in addition to that required on the application form.
- **10. (1)** The Director may issue or renew a permit subject to any terms and conditions that the Director considers necessary to meet the purposes of this Act or the Director may refuse to issue a permit to the permittee (or applicant).
- **10.** (2) The Director may issue or renew a permit for a period not to exceed two years.
- **10.(3)** It is a condition of every permit that every permittee report the results of all activities under the authority of the permit on a form provided by the director as soon as practicable after the development occurs or at the end of every calendar year, whichever comes first.
- **10. (4)** Any development undertaken by the permittee must be carried out in a manner that shows respect to citizens, Settlement Land and resources.
- **12.** The Director may require, before a permit is issued, that an applicant enter into an agreement to compensate
 - (a) holders of Category 1 or Category 2 traplines or holders of other rights of a similar nature;
 - (b) citizens possessing improvements on Settlement Land;
 - (c) citizens engaging in traditional activities: or
 - (d) any other person that the Director identifies,

for any loss or damage resulting from development.

- **13.** The Director may require, before a permit is issued, that an applicant enter into a benefits agreement with the council to address
 - (a) employment and training opportunities;
 - **(b)** supply of goods and services for the permittee and any contractors of the permittee; and
 - (c) any related benefits to citizens.

Accidental Discoveries

21.(1) If a person accidentally finds, discovers or otherwise locates any object that is or may be a heritage resource or a yukon First Nation burial site, they shall take all necessary steps to safeguard the object and shall report the discovery as soon as practicable to the Director.

- **21.(2)** No person shall take any action that may jeopardize the safety or integrity of an object found as set out in subsection (1) or further disturb the area of Settlement Land which contains or contained the object, regardless of whether the activity was authorized by a permit or not, unless
 - (a) the person was engaged in an activity using Settlement Land in accordance with a right of access or use povided in the final agreement and they intend to resume the same activity, they have obtained a permit which contains terms and conditions respecting the object or the area of Settlement Land which contains the object, or if the Director refuses to issue this permit, an order of the Yukon Surface Rights Board ... or
 - (b) the person is engaged in an activity not described in paragraph (a), they have obtained a permit which contains terms and conditions respecting the object or the area of Settlement Land which contains the object.
- **21.**(3) A person who fails to safeguard an object or site as required by subsection (1) commits an offence.
- 23. No person shall take, remove or otherwise bring into their possession any moveable heritage resources, non-moveable heritage resources or non-public records found on Settlement Land and those beds of waterbodies owned by CAFN, other than records which are the private property of any person at the time this Act comes into effect, except as provided in a permit.

Fire Protection for land and Resources

- **24.**(1) There shall be a fire season in each year beginning on April 1 and ending on September 30, which may, by order, be extended or shortened by the Director.
- **24.(2)** During the fire season, the Director may, by order, restrict or prohibit the kindling or starting of a fire for some or all purposes.
- **24.(8)** When a fire is burning on Settlement Land, whether the fire is burning under the authority of a permit or not, the person responsible for the fire shall do their utmost to prevent the fire from spreading and to extinguish it if it does spread, and at the person's own expense, shall place their services and the services of their employees or contractors at the disposal of the officer for the purpose of preventing the fire from spreading and to extinguish the fire.

Closure and Use of Land

- **27.** For the purpose of conserving and protecting Settlement Land and resources, the Council may
 - (a) withdraw Settlement Land from use and occupation; and
 - (b) designate Settlement Land for certain uses consistent with the purposes of this Act, including designation of Settlement Land
 - (i) to protect and promote cultural, heritage, archeological or anthropological values of citizens;
 - (ii) to preserve and promote traditional activities, languages, beliefs and

oral histories including legends and the cultural knowledge of citizens; and,

(iii) to conserve and protect fish, wildlife and their habitats.

Penalties

- **52.(1)** Every person who violates a provision of this Act commits an offence and is liable upon summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both.
- **52.(2)** On a court's own initiative or on application by counsel for the prosecution, a court that convicts a person of an offense under this Act, in addition to any other penalty imposed by the court, may order the person to take all or part of the action necessary to prevent, decrease or eliminate the impact of the offence on Settlement Land or resources and to restore Settlement Land and resources within a period of time specified in the order.
- **52.**(3) An order under subsection (2) may contain other conditions relating to the circumstances of the offences and of the person that contributed to the offence as the court considers appropriate to prevent similar unlawful conduct or to contribute to rehabilitation.

CAFN Lands Act Clauses:

- **3**. The First Nation Council shall establish a committee to be called the Lands Committee.
- **4.(1)** The purpose of the committee is to encourage responsible and respectful land use and management.
- **4.(2)**Without restricting the generality of subsection (1), the committee shall make recommendations to the First Nations Council on all applications for dispositions and shall provide advice on any matters relating to land use and management as may be directed by the First Nations Council.

Leases

- 21.(1) The First Nation Council may lease land to
 - (b) any other person for residential use, commercial use, industrial use or agricultural use.
- **21.**(2) Prior to executing any lease, the First Nation Council must provide fourteen days notice of the proposed lease to citizens and invite their comments on the proposed lease.

Terr Lands Act for Coal? Audience is also CAFN staff for quick reference as well as users.

Yukon Environmental and Socio-economic Assessment Act

Clauses:

The CAFN Final Agreement provisions are supported by the Yukon Environmental and Socio-economic Assessment Act in the following clauses:

Decision Body, in relation to a Project, means

- (a) a first nation if the project is located wholly or partially on its Settlement Land and
 - (i) the first nation has the power under the *Yukon First Nations Self Government Act* or under its final agreement to issue an authorization that is required for the project to be undertaken, or
 - (ii) no decision document is required for the project from any federal agency or the territorial minister;
- (b) by the territorial minister, if any territorial agency, municipal government or territorial independent regulatory agency
 - (i) is responsible for the administration of mines and minerals in Cat B or fee simple Settlement Land
- **3.** Where, in relation to any matter, a reference is made in this Act to consultation, the duty to consult shall be exercised
 - (a) by providing, to the party to be consulted,
 - (i) notice of the matter in sufficient form and detail to allow the party to prepare its view on the matter,
 - (ii) a reasonable period for the party to prepare its views, and
 - (iii) an opportunity to present its views to the party having the duty to consult; and
 - (b) by considering, fully and fairly, any views it so presented.
- **5.(2)** The purposes of this Act are
 - (d) to protect and promote the well-being of YIPs and their societies and Yukon residents generally, as well as the interests of other Canadians;
- (f) to recognize and, to the extent practicable, enhance the traditional economy of YIPs and their special relationship with the wilderness environment;
 - (g) to guarantee opportunities for participation of YIPs and to use their knowledge and experience in the assessment process.

Rules and Bylaws

- **30.** (2) The Board may make rules with respect to
 - (a) the manner in which proponents of projects must consult with first nations and residents of communities for the purpose of subsection 50(3).
- **31.(1)** the Board shall make rules with respect to the conduct of evaluations of projects by designated offices, which may include rules providing for
 - (b) different types of evaluations for different categories of evaluation.

39. A designated office, the executive committee or a panel of the Board shall give full and fair consideration to scientific information, traditional knowledge and other information provided to it or obtained by it under this Act.

Assessment Process and Decision Documents

- **42.** (1) In conducting an assessment of a project or an existing project, a designated office, the executive committee or a panel of the Board shall take the following matters into consideration:
 - (g) the need to protect the rights of YIPs under final agreements, the special relationship between YIPs and the wilderness environment of Yukon, and the cultures, transitions, health and lifestyles of YIPs and other residents of Yukon,
 - (i) any matter that a Decision Body has asked it to take into consideration.
- **43.** A designated office, the executive committee or a panel of the Board may require a Proponent to provide any supplementary information that it considers necessary for its assessment, whether or not it has commenced the assessment.
- **47. (1)** The Governor in Council may make regulations
 - (a) listing activities that may be made subject to assessment; and
 - (b) making exceptions from activities so listed.
- **47.(2)** An activity listed under paragraph (1)(a) -- and not excepted under paragraph
- (1)(b) -- is subject to assessment if proposed to be undertaken in Yukon and if
 - (c) an authorization or the grant of an interest in land by ... a first nation is required for the activity to be undertaken;
- **48.** (1) Where an activity is listed under 47.(1)(a) but is exempted under 47(1)(b), a declaration that the activity is subject to assessment may nevertheless be made, in circumstances referred to in subsection (3) or (4), by
 - (d) a first nation that is the proponent of the activity or that has the power to issue an authorization or to grant an interest in land required for the activity to be undertaken.
- **48.** (3) A declaration that an activity is subject to assessment may be made by the ... first nation if they are of the opinion that the activity might
 - (a) have significant adverse environmental or socio-economic effects inside or outside Yukon; or
 - (b) contribute significantly to cumulative adverse environmental or socioeconomic effects in combination with projects for which proposals have been submitted under subsection 50(1) or with other activities known to them that are proposed, undertaken or completed in or outside Yukon.
- (4) A declaration that an activity is subject to assessment may also be made in respect of an activity if the activity is to be undertaken
 - (a) in an area that contains a heritage resource, other than a record only, or that is a heritage resource, and that is for that reason protected by federal,

territorial or first nation law

50. (3) Before submitting a proposal to the executive committee, the proponent of a project shall consult any first nation in whose territory, or resident of any community in which, the project will be located and might have significant environmental or socioeconomic effects.

Evaluation of Projects by Designated Offices

- **55.(1)** Where a proposal for a project is submitted to a designated office under 50(1) (b), the designated office shall
 - **(b)** determine whether the project will be located, or might have significant environmental or socio-economic effects, in the territory of a first nation.
- **55.** (4) Before making a recommendation under any of paragraph 56 (1), a designated office shall seek the views about the project, and information that it believes relevant to the evaluation, from any first nation identified under 55(1) (b) ... or first nation that has notified the designated office of its interest in the project or in projects of that kind.

Request for a Review

60. (1) A request for a review of a project may be made to the executive committee(c) by a first nation with the consent of the federal minister and, if the territorial minister is a decision body for the project, with the consent of the territorial minister.

Panels of the Board

- **65.(5)** A panel of the Board shall be constituted as follows:
- (a) if the executive committee concludes under subsection (3) that effects are likely to occur primarily on Settlement Land, two thirds of the members of the panel must be members nominated to the Board by CYFN and one third must be members, excluding the Chairperson of the Board, who are not so nominated.

Consideration of Recommendations and Issuance of a Decision Document

- **74.** (1) A decision body considering a recommendation in respect of a project shall give full and fair consideration to scientific knowledge, traditional knowledge and other information that is provided with the recommendation.
- 77. (3) Every decision body shall, within the period prescribed by the regulations, issue a decision document accepting, rejecting or varying the new recommendation, and that decision document replaces any previous decision document issued by it in respect of a project.
- **78.** (1) Where a decision document must be issued in relation to a project by more than one decision body, the decision bodies shall, before issuing the documents, consult one another in accordance with the regulations with a view to making their documents conform.

- **78.**(2) Any two or more decision bodies in respect of a project may agree to consolidate their decision documents.
- **79.** Notwithstanding sections 75 and 76, where a project involves a right to work mines and minerals situated in Cat B or fee simple Settlement Land, ..., and decision documents must be issued in relation to the project by a first nation as well as a federal decision body or the territorial minister, neither of those decision bodies may reject or vary any recommendation made in respect of a project except on the ground that a recommended term or condition is
- a) insufficient to prevent unacceptable environmental or socio-economic effects
 Yukon:
 - (b) more onerous than necessary to prevent such effects; or
 - (c) so onerous as to undermine the economic viability of the project.

Quartz Mining Act Clauses:

Right to acquire mineral claims

- **12.** Any individual eighteen years of age or over may enter, locate, prospect, and mine for minerals on
 - (a) any vacant territorial lands; and
- (b) any lands in respect of which the right to enter, prospect, and mine is under administration and control of the Commissioner.

Certificate of Improvement

- **70(1)** The lawful holder of a mineral claim is entitled to receive from the mining recorder a certificate of improvement... unless proceedings by a person claiming an adverse right under section 75 have been taken, whenever he or she has, to the satisfaction of the mining recorder,
 - (a) done or caused to be done work on the claim in developing a mine to the value of five hundred dollars, exclusive of the cost of all houses, buildings and other improvements, or made payment in lieu of work as provided in section 59...;
 - (b) found a lode or a vein within the limits of the claim;
 - (c) had the claim surveyed at his or her own expense in accordance with instructions from the Surveyor General, and had said survey duly approved;
 - (d) posted on a conspicuous part of the land embraced in the survey a copy of the plan of the claim signed and certified as accurate under oath by the surveyor...;
 - (e) inserted a copy of the notice in a Canadian newspaper...
 - **(f)** filed with the mining recorder a copy of the surveyor's original plan of the claim,,,; and
 - (g) filed with the mining recorder an affidavit of the holder of the claim, or their duly authorized agent, in Form 9 of Schedule 1.

When holder entitled to lease

74. The holder of a mineral claim for which a certificate of improvement has been granted and recorded is entitled to a lease of the claim on payment being made within

three months of the rental and fee prescribed by Schedule 2.

Holder's entitlement

78. (1) The holder of a mineral claim, by entry or by lease, located on vacant territorial lands is entitled to

(a) all minerals found in veins or loads, whether the minerals are found separate or in combination with each other in, on or under the lands included in the entry or lease, together with the right to enter on and use and occupy the surface of the claim or any portion of it and to such extent as the Minister may consider necessary, for the efficient and miner-like operation of the mines and minerals contained in the claim, but for no other purpose; and

(b) the right to cut free of dues such of the timber on the claim or such portion of

(b) the right to cut free of dues such of the timber on the claim or such portion of it as may be necessary for the working of the claim, but not for sale or traffic, except where the timber has been granted or disposed of prior to the date of entry.

Lease of Surface Rights

79. (1) The Minister may, on application, grant to the holder of a mineral claim in good standing, located on vacant territorial lands, and acquired by entry or by lease, a lease of **the whole or any portion of the available surface rights of the mineral claim** at a rental of one dollar an acre per annum, payable yearly in advance.

Effect when Prospecting rights reserved

81. A lease of a mineral claim located on lands the surface rights of which have been disposed of but the right to enter, prospect and mine for minerals has been reserved to the administration and control of the Commissioner conveys to the lessee the minerals found in the veins or lodes, whether the minerals are found separately or in combination with each other, that may be in, on or under the land described in the lease, **but conveys no right of entry on the surface.**

Reservation of timber

82. Where a mineral claim is located on land lawfully occupied under a timber license, the lease conveys the minerals found in veins and loads, subject to section 16, but reserves the timber.

When right to mine gold and silver reserved

83. A lease of a mineral claim located on lands the surface rights of which have been disposed of but the right to enter and mine gold and silver has been reserved to administration and control of the Commissioner conveys to the lessee the right to the gold and the silver found in veins or lodes that may be in, on or under the land described in the lease, but conveys no right of entry on the surface.

Water for Mining purposes

84. A lease of a mineral claim issued under this Part reserves to the Commissioner such right or right-of-way and of entry as may be required under any law or regulation in force on or after July 19, 1924 in connection with the construction, maintenance and use of works for the conveyance of water for mining purposes.

Form of lease

106. A lease of a mineral claim shall be in such form as may be determined by the Minister in accordance with this Part.

Permission necessary for entry

107. Where the surface rights of a mineral claim are covered by a timber license, by a petroleum, grazing, or coal mining lease, or by any other form of terminable grant, the lease shall not authorize entry on the claim without the permission of the Minister being first obtained; and that permission shall be given subject to such conditions for the protection of rights of the lessee and licensee as it may be considered necessary to impose.

Referral to Yukon Surface Rights Board

- **108.** (1) Where the surface rights of a mineral claim have been patented, or have been disposed of by the Crown under any Act or regulation that contemplates the earning of a patent for the surface rights, or have been disposed of by the Commissioner, and the holder or lessee of the mineral claim cannot make an arrangement with the owner or occupant of the surface rights... for the acquisition of such interest in the surface rights as may be necessary for the efficient and economical operation of the rights acquired under the record or lease, the holder or lessee may, ..., apply to the Minister for permission to refer the matter in dispute to the Surface Rights Board established by the *Yukon Surface Rights Board Act* (Canada).
- (2) On receiving written permission from the Minister, the holder or lessee may refer the matter in dispute to the Surface Rights Board.
 - (3) For greater certainty, (1) and (2) apply in respect of settlement land
- (5) Where the matter is referred to the Yukon Surface Rights Board pursuant to subsection (2), the Board shall, after taking into consideration the rights of the owner or occupant and the needs of the lessee, or holder of a mineral claim, make an order in accordance with the *Yukon Surface Rights Board Act* in respect of the matter determining the portion of the surface rights that the lessee or holder may reasonably require for the efficient and economical operation of the right s granted under the lease or record, the exact position thereof and the amount of compensation thereof to which the owner or occupant is entitled.

Placer Mining Act

Right of Grantee

- **48**(1) Every person who receives a grant of a claim or the permission to record a claim within the period not exceeding six months authorized by this Part,
 - (a) may during the continuance of their grant or permission fish and shoot for their own use subject to the provision of any law for the protection of fish and

game,

- (b) may cut timber not otherwise acquired for their own use and for any purpose incidental and necessary in the operation of their claim,
- (c) has the exclusive right to enter on their claim for the miner-like working of it and the construction and maintenance of structures, including a residence, that are required for the miner-like working of it and,
- (d) is entitled exclusively to all the proceeds realized from it...

Rights of Claim Owner to Water

54. Every person who owns a claim is entitled to the seepage water on their claim and to the use of so much of the water naturally flowing through or past their claim, and not already lawfully appropriated, as, in the opinion of the mining inspector, is necessary for the due working of the claim, and they are entitled to drain their own claim free of charge.

Lease to Prospect

- **92(1)** The Minister may grant a lease to prospect for the purposes of placer mining on lands that are under the administration and control of the Commissioner, or the mining rights of which are eligible for disposal under this Part, on receipt of an application accompanied by evidence satisfactory to the Minister of the applicant's financial ability and intention to incur the expenditures to thoroughly prospect the area described in the application.
- (4) The term of the lease granted under subsection (1) shall be one year, renewable for two additional periods of one year each...
- (6) The rental of the lands leased under this section shall be at the rate of twenty-five dollars a mile or fraction of a mile payable to the Minister ...