

Modern Treaty Training Workshop

February 26 – 27, 2014
Ottawa, Ontario



Introduction

Grand Chief Massie from Council of Yukon First Nations representing 9 Self Governing Yukon First Nations (SGYFN)

- ♦ Indian name is Monglutt from Ta'an Kwäch'än Council

Overview of Yukon Land Claims agreements:

- ♦ Context for how they were envisioned and formed;
- ♦ Explain what an early Yukon First Nations negotiator hoped to achieve; and
- ♦ Explain some of the implementation challenges we face today.



The beginnings of Yukon Land Claims: Chief Jim Boss

The first attempt to initiate land claims began when Hereditary Chief Jim Boss wrote a letter in 1902 to Ottawa stating: "tell the King very hard, we want something for our Indians because they take our land." Thousands of gold miners were traveling to the Dawson City gold fields through the Yukon River corridor.

Ottawa sent a reply to Chief Jim Boss stating "the Northwest Mounted Police would not let his people starve."

Elijah Smith, President of the Yukon Native Brotherhood

Presented “Together Today for our Children Tomorrow” to Prime Minister Trudeau following the Calder decision in 1973.

“The only way we feel we can have a future is to settle our land claim ... that will return to us our lost pride, self-respect and economic independence. We are not here for a handout. We are here with a plan.” Excerpt from Elijah Smith’s speech to Prime Minister Pierre Elliott Trudeau.

On Valentines Day 1973, Prime Minister agreed to negotiate a land claim with Yukon First Nations.





1973 – 1993: Land Claims Negotiations

- Council of Yukon First Nations signed the Umbrella Final Agreement (UFA) with Governments of Canada and Yukon in 1993.
- The UFA sets the foundation for the SGYFN Final and Self Government Agreements:
 - Provides 8.5% of the land mass or 41,595 square kilometres of the Yukon for SGYFNs
 - 25,899 square kilometres is Category A Settlement Lands in which SGYFNs have full surface and subsurface rights
 - YFNs receive \$242.6 million (1989 dollars, divided by 14 YFNs as per chapter 19, schedule A) over 15 years as financial compensation (minus negotiation costs which had been borrowed from the government, see schedule C.
 - Sets up Yukon wide management structures for heritage, wildlife, lands and resources
 - Commits to negotiate land claims agreements

1993 – 2006: 11 SGYFNs sign their Land Claim Agreements

In 1995, Champagne & Aishihik First Nations, Nacho Nyak Dun First Nations, Teslin Tlingit Council and Vuntut Gwitchin First Nations sign their Final and Self Government Agreements.

Since 1995, Carcross Tagish First Nation, Kluane First Nation, Kwanlin Dun First Nation, Little Salmon Carmacks First Nation, Selkirk First Nation, Ta'an Kwach'an Council, Tr'ondek Hwechin have signed.





Final Agreements

- Contains all 28 chapters of the UFA + specific provisions that cover matters such as lands and resources, land use planning, special management areas, harvesting, health and social, economic development and financial compensation.
- Exchange of undefined Aboriginal rights for defined treaty rights;
- SGYFNs are to be consulted and accommodated on all matters including development within their traditional territory;
- Provides for the co-management of Yukon resources;
- Constitutionally recognized and protected by section 35 of the Constitution Act, 1982; and
- Accompanied by an implementation plan that identifies activities, time frames, resources and responsibilities for implementation

Self Government Agreements

Replaces the Indian Act with First Nations governments

Requires SGYFNs to develop constitutions that provide them with jurisdiction, powers and responsibilities to:

- ♦ Enter into contracts;
- ♦ Acquire, hold and sell properties;
- ♦ Invest, borrow and spend monies;
- ♦ Form corporations and other bodies; and
- ♦ Sue or be sued.

Self Government Agreements

Establishes a framework or relationships with other orders of governments

Creates orders of government with provincial type powers whose legislation and jurisdiction is paramount over territorial jurisdiction

Establish laws on Settlement Lands

Establishes 5 year fiscal transfer agreements

Outlines a process for the transfer of certain programs and services from other levels of governments

Looking to the future while respecting the past

Today, SGYFNs continue to honour past traditions while adapting to the challenges and opportunities.

Various ways, SGYFNs incorporate culture and languages into governance and political structures:

- ♦ Carcross Tagish First Nation child welfare legislation based on the Tlingit world views;
- ♦ Teslin Tlingit Council uses their Tlingit Charter to frame their administration of justice agreement and laws;
- ♦ Selkirk First Nation created posters for fish camp and the handling of fish based on a adooli. The posters were used to assist their Citizens in understanding their past traditions;
- ♦ SGYFNs have preserved recordings of their stories, songs, dance and language for future use.

Chief James Allen, Champagne & Aishihik First Nations says "how do we keep one hand on the computer and one foot on the land?"

Implementation Challenges



Dave Joe is an early land claims negotiator who is able to articulate what he understood to be the vision of the early Chiefs and their hopes for a new kind of society when they presented "Together Today for Our Children Tomorrow." His role now, along with the other early negotiators, is "to facilitate and begin to put his own understanding of what he heard from the late Elijah Smith and others in terms of their dreams, their values." He is placed into their shoes, expressing what their dreams were.

"Its not enough to pass a law to occupy the field and ensure your law is paramount to those of both Yukon and Canada. You need the resources, the cash, the people to run those programs based upon the laws you draft. Both Canada and ... Yukon are used to the fact that they've always controlled the purse strings." Dave Joe, 2012

Implementation Issues

Federal, territorial and First Nations staff turnovers = lack of corporate knowledge

Chapter 28 of Final Agreement - dispute resolution process is not used adequately

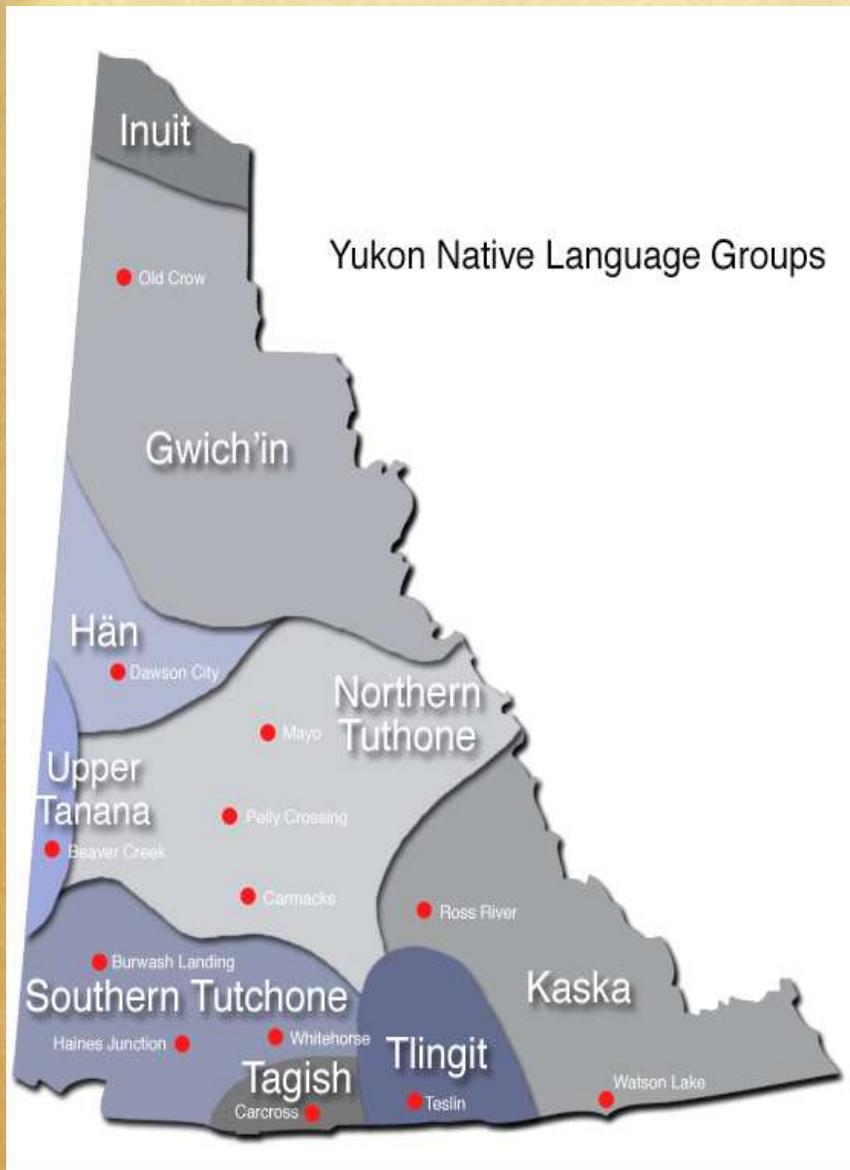
Attempt to replace negotiated fiscal transfer agreements with fiscal harmonization initiative

Chapter 22 of Final Agreement – representative public service work force?

Lack of consultation and accommodation → court cases

Land use planning → Peel River Plan court case

Confusion over Status Indian lists and Beneficiary lists



- ◆ Mähsi' choo (Gwich'in)
- ◆ Mähsi' cho (Hän)
- ◆ Máhsin cho (Northern Tutchone)
- ◆ Tsin'jj choh (Upper Tanana)
- ◆ Sógá sénlá' (Kaska)
- ◆ Shäh níthän (Southern Tutchone)
- ◆ Gunałchîsh (Tlingit)
- ◆ Gùnèłchîsh (Tagish)
- ◆ Thank you & Merci



Together Today... For Our Children Tomorrow

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