



THE
GORDON
FOUNDATION



6TH NATIONAL

TREATY SIMULATION

The Gordon Foundation &
Land Claims Agreements Coalition

2024

THIS IS A FRAGRANCE-FREE EVENT

Please refrain from wearing scented products such as perfumes/ colognes, hair products, cosmetics, and scented lotions while attending this event, and avoid using scented soaps, shampoos, and detergents prior to the event. These products can trigger serious health issues for those with fragrance allergies and/or chemical sensitivities. Thank you for your consideration for all members of our community.



LAND CLAIMS
AGREEMENTS COALITION



[The Gordon Foundation](https://gordonfoundation.ca/)¹ has been running Treaty Simulations in collaboration with communities, organizations, schools, governments, and Treaty experts since 2019. The Treaty Simulation model provides a hands-on learning experience to help participants understand treaties in Canada. Watch the animated [Treaty Simulation Explainer](https://understandingtreaties.ca/experience/e01/)² video to see how it all comes together.

The Gordon Foundation would like to thank the Land Claims Agreements Coalition and NVision for their partnership on this event.

¹ <https://gordonfoundation.ca/>

² <https://understandingtreaties.ca/experience/e01/>

Identity Terminology: Within this booklet many terms will be used. As a general rule, the terminology used during the time period or context being referenced will be used. For instance, the term “Aboriginal” is used in the context of legislation such as the section 35 of the *Constitution Act, 1982* while the term “Indian” is used in the context of section 91(24) of the *Constitution Act, 1867*.

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Logistics

CONTACTS

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Steven: steven@gordonfn.org | 416.601.4776 x242

LOCATION & TIMING

The event will take place at the Lord Elgin Hotel in Ottawa.

Please arrive at 8:30am for breakfast each day. Activities will end around 5:00pm, with dinner at 6:00pm.

Participants are asked to attend for the full event. Please contact us immediately if you are unable to attend all or part of the event.

ACCESSIBILITY

We are committed to making the Treaty Simulation inclusive and accessible, and will do whatever we can to ensure the full participation of all attendees. Please contact us with questions or requests regarding access.

WHAT TO BRING

Business casual (relaxed but professional) or Traditional/Cultural clothing is suggested, or whatever you already have that you think looks professional. You can bring a laptop or tablet to use during the Treaty Simulation, but it is not required.

WHAT TO EXPECT

Your participation in the Treaty Simulation will be active. There will be both independent and group tasks/activities. You will be part of a team with other participants, and you will share research, writing, and public speaking tasks with your teammates.

Agenda

SATURDAY, FEBRUARY 24

8:30am Breakfast & Opening

St. Laurent Meeting Room

9:30am Introductions & Panel

Macdonald Meeting Room

12:00pm Lunch

St. Laurent Meeting Room

1:00pm Team Prep

Board Rooms

2:30pm Snack

Board Rooms

4:40pm Regroup

Macdonald Meeting Room

5:00pm Break

6:00pm Dinner

St. Laurent Meeting Room

SUNDAY, FEBRUARY 25

8:30am Breakfast & Team Prep

St. Laurent Meeting Room

10:30am Negotiation

Macdonald Meeting Room

12:00pm Lunch

St. Laurent Meeting Room

1:00pm Negotiation

Macdonald Meeting Room

2:30pm Snack

St. Laurent Meeting Room

3:00pm Sharing Circle & Closing

Macdonald Meeting Room

5:00pm Break

6:00pm Dinner

Meet in hotel lobby, walk to Johnny Farina (216 Elgin st.)



Participant Pledge

This pledge is your commitment to participating in the Gordon Foundation's Treaty Simulation.

A Treaty Simulation is a hands-on learning event for you to experience the realities of negotiating or implementing part of a modern treaty. As part of the simulation, we will use fictional examples of how real-life agreements are negotiated and implemented.

As a participant in the Treaty Simulation, we ask you to step outside the box and approach the exercise with imagination. The Gordon Foundation is committed to creating a safe space for participants to share new ideas, practice skills, and learn from one another.



TO THE BEST OF MY ABILITY, I COMMIT TO:

Being punctual and fully attending each day of the Treaty Simulation;

Participating in the simulation exercise in good faith and in the spirit of teamwork, community and relationship building;

Respecting the privacy of what others share in the discussions and engaging with empathy; and,

Contributing to a positive learning environment.

SIGNATURE: _____

NAME: _____ DATE: _____

Treaty Simulation Scenario

The following information is based on a fictitious example for the Treaty Simulation which is focused on the implementation of Modern Treaties. Although the implementation aspects are fictitious, the scenario is based on real-life agreements with peoples, nations, organizations and different levels of governments.

Participants will be divided into three teams, with each team representing one of the **parties** in the negotiation scenario: a fictional Indigenous Nation, Yukon Government (territorial), and Government of Canada (federal).

The fictional Indigenous Nation is called Glacier Lake First Nation (GLFN). It is located in the Yukon and has a Modern Treaty (Comprehensive Land Claims Agreement). Wildlife in the **Settlement Land** is co-managed by the Indigenous Nation, territorial and federal governments through a **Wildlife Management Board** created through GLFN's Agreement.

Observations from citizens of the Indigenous Nation and a recent report from the territorial government, suggest that the Woodland Caribou in the Settlement Lands are declining rapidly. A federal government advisory group, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), recommended the Woodland Caribou be declared **threatened** due to multiple threats to the species. In response, the Indigenous Nation recommends that a Woodland Caribou Recovery Plan be developed with the Yukon Government and Government of Canada to address over-harvesting and to support the herd's population.

Parties are the groups participating in the negotiation.

Settlement Land is the land identified in the Modern Treaty as land of the Indigenous Nation.

Wildlife Management Boards are a co-management tool, where multiple parties come together to make recommendations on decisions that affect wildlife in the Land Claim Settlement Lands.

A '**threatened**' species is one that is likely to become endangered if populations decline or environmental factors are not addressed.

Your team will receive a **mandate letter** expressing what your team's government wants negotiated. With help from an experienced advisor, your team will write a **proposal** outlining what your party wants to see in the Woodland Caribou Recovery Plan.

The three teams will meet at the negotiation table, where each team will present their **opening statements**. Next, each team will present their party's proposal for the Recovery Plan. Teams will then negotiate until a **consensus** is reached on a final Recovery Plan.

Mandate letters are a set of instructions from the party your team represents.

A **proposal** is a formal recommendation for negotiators to present at the negotiation table.

An **opening statement** is to introduce your party.

Consensus is when parties come to a mutual agreement or compromise.



Readings

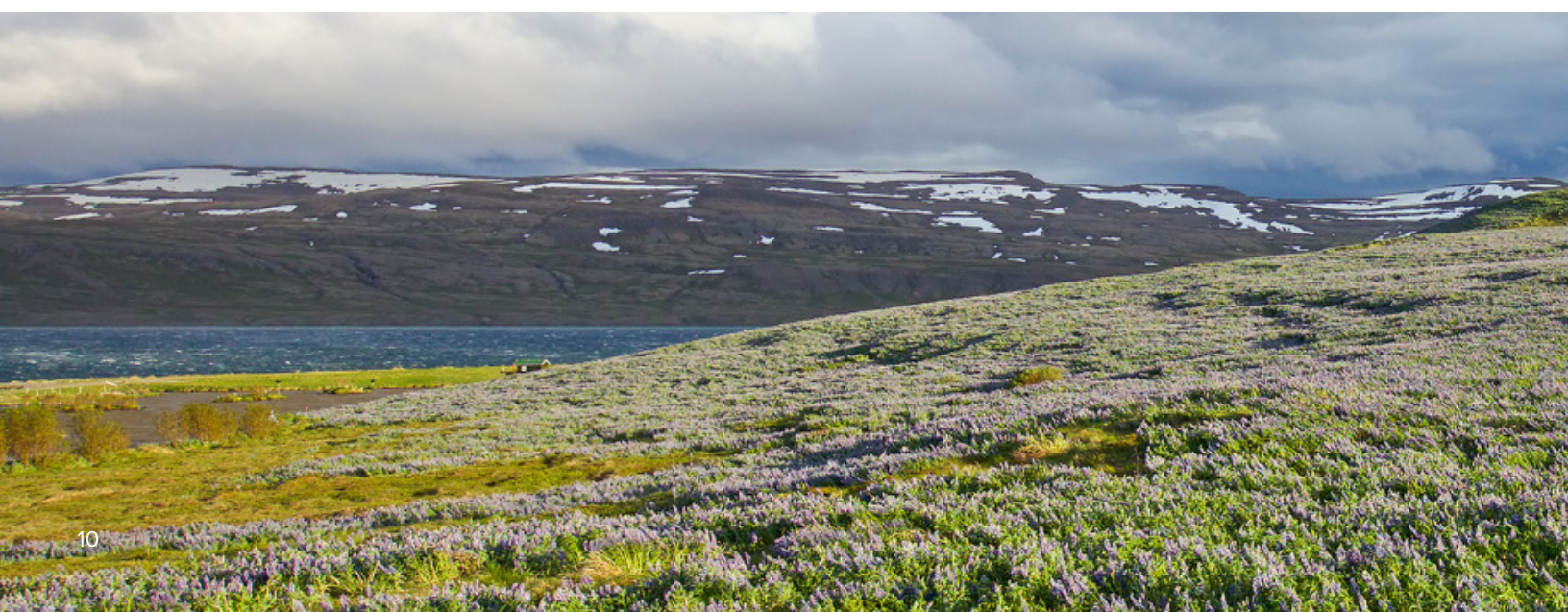
WHAT IS A TREATY?

In 1763, King George III of Great Britain issued The Royal Proclamation,¹ confirming the original occupancy of Indigenous peoples and paving the way for land agreements between the British Crown (government) and Indigenous peoples. The proclamation established how the British would manage land in North America following the Seven Years War.² It proclaimed that settlers could not live on the land until the Crown had signed treaties with the First Nations who occupied the territories.

Although many treaties were signed more than a century ago, treaty commitments remain valid today. The treaties set out continuing treaty rights and benefits that First Nations entered into with the British government, and later Canada. Treaty rights are protected by section 35(1) of the *Constitution Act, 1982*.³ It must be noted that ensuring the recognition of treaty rights is an on-going challenge that Indigenous peoples continue to face.

For this exercise we will be looking at Modern Treaties signed between Canada and Indigenous nations, governments, or organizations. In this context, the definition of a treaty is a legally binding agreement made between the Crown and an Indigenous nation, government, or organization. There are also many examples of historic treaties, including the Numbered Treaties.

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- 1 Aboriginal Affairs and Northern Development Canada (2013). Royal Proclamation of 1763: Relationships, Rights and Treaties. https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-PPLCOM/STAGING/texte-text/nahm_250_pt_1379596017260_eng.pdf
 - 2 Eccles and Marshall (2021). Seven Years' War. *The Canadian Encyclopedia*. <https://www.thecanadianencyclopedia.ca/en/article/seven-years-war>
 - 3 McIntosh and Azzi (2020). Constitution Act, 1982. *The Canadian Encyclopedia*. <https://www.thecanadianencyclopedia.ca/en/article/constitution-act-1982>



NUMBERED TREATIES

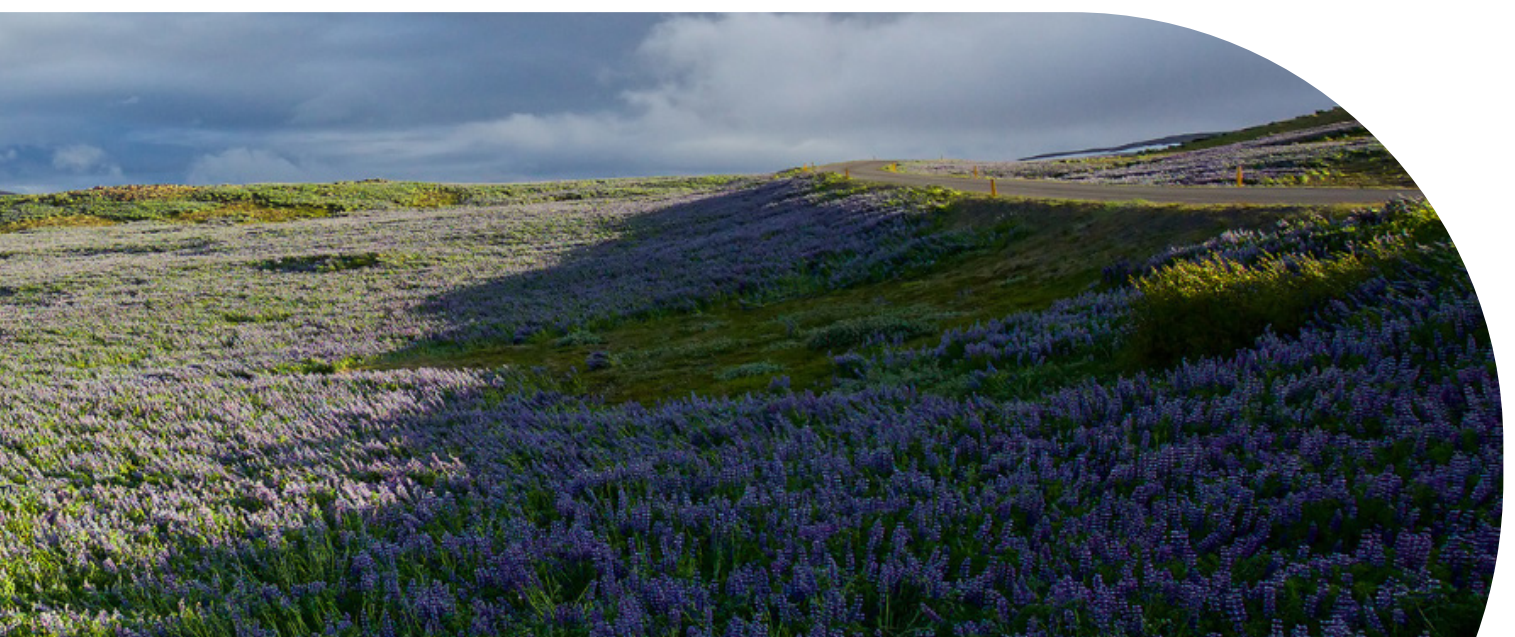
Numbered treaties were negotiated between 1871 to 1921. There were 11 numbered treaties that cover the territories from present-day Ontario to Alberta, as well as portions of the Northwest Territories (Treaty 8 and Treaty 11). These treaties were signed after Canada became a country and aimed at ensuring peace and prosperity for future generations. Numbered treaties were only signed with First Nations people, neither Inuit nor Métis people. See: <https://www.rcaanc-cirnac.gc.ca/eng/1360948213124/1544620003549>

See the *Historical Treaties in Canada* map illustrating the Pre-1975 Treaties of Canada: https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-TAG/STAGING/texte-text/htoc_1100100032308_eng.pdf

MODERN TREATIES

Also known as Comprehensive Land Claims Agreements, Modern Treaties are constitutionally protected agreements between Indigenous peoples, the federal government, and a provincial/territorial government that create a long-term relationship between the signing parties. While there are usually only three signatories to a Modern Treaty, there can be more. For example, the first Modern Treaty, the James Bay and Northern Quebec Agreement, had seven signatories. The relationship is outlined in the Treaty, defining rights and obligations for all signatories, governments, or parties.

First and foremost, Modern Treaties recognize and protect Indigenous rights and title to their land. Indigenous peoples have inherent rights that are affirmed in the Constitution. The Constitution did not create these inherent rights, but recognized and affirmed them. Indigenous peoples were and are inherently self-determining with or without Modern Treaties. Modern Treaties are tasked with reconciling, clarifying, and modifying these rights. See: <https://www.rcaanc-cirnac.gc.ca/eng/1100100028574/1529354437231#chp4>



INDIGENOUS SELF-GOVERNMENT¹

Indigenous peoples have always governed themselves according to their own laws, customs, and traditions. When Europeans came to Canada, they brought a very different system of government and laws, one that used formal legislative and constitutional processes. Despite great efforts, First Nation, Métis, and Inuit traditional ways of governance were suppressed while the federal government insisted on setting up European political structures. This suppression grew with the *Indian Act of 1876*, under which band councils had limited powers to govern themselves, and most decisions were made by the Minister of Indian Affairs.

The inherent right of self-government is based on the fact that Indigenous peoples have the right to govern themselves in relation to matters that are internal to their communities; integral to their unique cultures, identities, traditions, languages and systems; and with respect to their special relationship to their land and their resources. The right of self-government is an inherent right, meaning it is not created by any specific government legislation or act. Canada recognizes that Indigenous peoples have an inherent right of self-government, which is guaranteed in Section 35 of the *Constitution Act, 1982*. The Government of Canada's "Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government"² was launched in 1995 to guide self-government negotiations with Indigenous communities.

Negotiated agreements put decision-making power/jurisdiction back into the hands of Indigenous governments and organizations who make their own choices about how to deliver programs and services to their communities. Examples of their jurisdiction may include: decisions about their citizenship/membership, protecting their culture and language, educating their students, managing their lands, and developing new business partnerships that create jobs and other benefits for their citizens.

¹ Government of Canada (2020). Self-government. <https://www.rcaanc-cirnac.gc.ca/eng/1100100032275/1529354547314>

² Government of Canada (2023). The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government. <https://www.rcaanc-cirnac.gc.ca/eng/1100100031843/1539869205136>





HOW DOES SELF-GOVERNMENT WORK?

Negotiated agreements set out law-making authority in many areas, including governance (structure of the new Indigenous government or organization and its relationship with other governments), social and economic development, and how programs and services will be delivered to community members (such as education, health, lands and more). The law-making authority varies, depending on their unique needs, priorities and vision of self-determination. In some agreements, the Indigenous government or organization can initiate self-government powers or responsibility by “drawing down” on specific programs and services identified in their Final Agreement (Comprehensive Land Claims and/or Self-Government Agreement). The drawdown of programs and services enables the Indigenous government or organization to establish their own legislation and policies to guide the development and delivery of what have been territorial or provincial programs and services.

Different forms of self-government have been negotiated in Canada. It can be part of a Modern Treaty (Comprehensive Land Claims Agreement) and includes many different law-making powers. Self-government can also be negotiated as a stand-alone agreement outside of a Modern Treaty, which often happens where treaties already exist, e.g., Sioux Valley Dakota Nation (Manitoba). In other cases, law-making power is negotiated with an Indigenous government, organization, or nation in only one or two key areas, such as the Education Agreement in Nova Scotia and the Anishinabek Nation Education Agreement in Ontario.



WILDLIFE HARVESTING AND MANAGEMENT

Wildlife and their habitats are critical to Indigenous culture and way-of-life. Wildlife harvesting and management is often included in Modern Treaties as an entire chapter or multiple chapters and involves many items.

Examples:

- Chapter 12 of the Gwich'in Comprehensive Land Claim Agreement is "Wildlife Harvesting and Management."
- The Yukon Umbrella Final Agreement includes the management of fish, wildlife and their habitats.¹
- The Nuu-chah-nulth Agreement-in-Principle includes "rights to harvest wildlife and migratory birds for food, social and ceremonial purposes limited by conservation, public health and public safety."²

Fishing and hunting guidelines are an important part of the Wildlife Harvesting and Management Chapter. These guidelines "can be based upon traditional forms of conservation or modeled upon an existing structure such as the *Fish and Wildlife Conservation Act* or a combination of both."³ When negotiating wildlife management, other items such as national parks, migratory species, and international agreements on endangered species should be considered.

A Wildlife Harvesting and Management Chapter usually determines the management and regulation of wildlife and their habitats through the creation of long-term committees and boards. This chapter also explains how the committee or board is set up; its objectives; structures; procedures; powers; roles; responsibilities; staff and members; how staff/members are selected; and rules on decision-making.

Examples:

- The Nunavut Land Claims Agreement lays out the establishment of the Nunavut Wildlife Management Board. This Board's vision is conserving wildlife through the application of Inuit Qaujimajatuqangit (*khow-yee-ma-yat-too-khan-geet*) and scientific knowledge.⁴
- The The Kwanlin Dün First Nation Self-Government Agreement granted the

1 Umbrella Final Agreement. <https://cyfn.ca/agreements/umbrella-final-agreement/>

2 B.C. Treaty Commission. Land and Resources. <http://www.bctreaty.ca/land-and-resources>

3 Mease (2005). Wildlife Management in Canada. *University of Saskatchewan*. <http://scaa.usask.ca/gallery/northern/content?pg=ex12-2>

4 Nunavut Wildlife Management Board. Indigenous Guardians Toolkit. <https://www.nwmb.com/en/>

Kwanlin Dün First Nation new powers related to wildlife harvesting. The Kwanlin Dün First Nation's Department of Heritage, Lands and Resources was created to manage fish and wildlife among other areas. The goal of the department is to monitor natural resources, wildlife, fish, etc. and ensure the appropriate methods are being used when harvesting.¹

WILDLIFE MANAGEMENT BOARDS

The primary role of wildlife boards or committees is to integrate the interests of Indigenous land claim and self-government beneficiaries in wildlife and environmental management into the decision-making process of the federal and territorial/provincial governments. Members are usually appointed by the Indigenous land claim organization or government, and by the federal and territorial/provincial governments. Wildlife boards or committees use Traditional and local knowledge and scientific information to make recommendations to governments and/or organizations on management decisions affecting wildlife within the Land Claim Settlement Lands (lands created under Comprehensive Land Claims Process). Community consultation is an important part of their decision-making process.

A wildlife board or committee's powers/roles may include the following:

- Establishing policies and proposing regulations for the harvesting of wildlife by any person and for commercial activities relating to wildlife;
- Setting up a Total Allowable Harvest in their settlement area;
- Developing conservation education programs;
- Conducting studies/research (or hire others to do this); and,
- Other wildlife management matters.

WILDLIFE HARVESTING AND MANAGEMENT IN CANADA

Following the *Constitution Act, 1867*, the Government of Canada started creating and developing wildlife conservation and protection areas.

Examples:

- Banff National Park opened in 1885, and later became an animal conservation area.
- Wood Buffalo National Park opened in 1922 to protect dwindling wood bison herds. Shortly after the Park opened, Métis families were forcibly removed and excluded from activities in the Park.

¹ Kwanlin Dün First Nation's Department of Heritage, Lands and Resources. <https://www.kwanlindun.com/heritage-lands-and-resources/>

Overall, wildlife management falls under the jurisdiction of provinces and territories. The *Wildlife Act of the Northwest Territories* (January 2018)¹ is an example of wildlife legislation in a territory.

Wildlife management under the federal government’s mandate includes “fisheries, migratory birds and wildlife management laws that negatively impact Aboriginal rights and interests.”² The federal government oversees fisheries, including marine mammals and offshore fishing, but not inland freshwater fish. Other wildlife, including birds, land mammals, and reptiles are “conserved and managed primarily by provincial laws when wildlife is on provincial land, and by the federal *Canada Wildlife Act* when wildlife is on federal land.”³

Some of the most important federal wildlife legislation:

- *Canada Migratory Birds Convention Act, 1994* (S.C. 1994, c. 22)
- *Fisheries Act* (R.S.C., 1985, c. F-14)
- *Oceans Act* (S.C. 1996, c. 31)
- *Canada Wildlife Act* (R.S.C., 1985, c. W-9)
- *Canada National Parks Act* (S.C. 2000, c. 32)
- *Accord for the Protections of Species at Risk*
- *Species at Risk Act* (S.C. 2002, c. 29)



HISTORY OF INTERNATIONAL CONSERVATION AGREEMENTS

Canada is a signatory to several international wildlife conservation agreements that affect its domestic wildlife management laws and responsibilities, and come into play in negotiating Land Claims Agreements. In 1973, Canada signed the Agreement on the Conservation of Polar Bears and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The aim of CITES “is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.”⁴ In Canada, CITES is implemented through the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA) (S.C. 1992, c. 52).

1 Government of Northwest Territories (2018). *Wildlife Act for the Northwest Territories: Plain Language Version*. https://www.enr.gov.nt.ca/sites/enr/files/resources/wildlife_act_plain_language_summary_january_2018.pdf

2 Kerr and Kwasniak (2015). *Wildlife Conservation and Management*. *The Canadian Encyclopedia*. <https://www.thecanadianencyclopedia.ca/en/article/wildlife-conservation-and-management>

3 Ibid.

4 Convention on International Trade in Endangered Species of Wild Fauna and Flora. *What is CITES?* <https://www.cites.org/eng/disc/what.php>

Advisor Bios



MEEKA KAKUDLUK

Inuit Elder

Meeka Kakudluk is originally from Qikiqtarjuaq Nunavut. She has been living in Ottawa since 2013. Meeka is a retired teacher with 37 years of teaching experience, having taught in three Nunavut Communities. Meeka is one of Nunavut Sivuniksavut's Inuktitut instructors and counsellors. Meeka also works with TI as a part of their Allurianiq program as their Elder. Meeka is also a member of the NSRT (Nunavut Surface Rights Tribunal) committee, and she was recently appointed to the Healthcare Excellence in Canada.

Meeka has three grown children, ten grandkids and two great-grandkids.



DAVE JOE

Negotiator, Yukon Umbrella Agreement

Dave Joe is a citizen of Champagne and Aishihik First Nations. He is a distinguished lawyer who was called to the bar in 1977 in the Yukon and in 1999 in British Columbia. Dave has worked as chief negotiator for the Council of Yukon First Nations and a number of Canadian First Nations. In 1973, he was involved when Yukon First Nations convinced then Prime Minister Pierre Trudeau and then Indian Affairs Minister Jean Chretien to negotiate a modern-day treaty with Yukon First Nations. Mr. Joe was still involved 22 years later when the first four agreements became part of the Constitution of Canada on February 14, 1995. He still acts as legal advisor for Yukon and British Columbia First Nations.

Mr. Joe was named as an Officer of the Order of Canada in 2008 "for his leadership in building stronger communities and positive relations between native and non-native peoples and in negotiating final land claims agreements for several Yukon First Nations."



LISA HUTTON

Manager, Implementation and Negotiations, CIRNA Yukon Region

Lisa is a citizen of the Tr'ondëk Hwëch'in from Dawson City, Yukon. Following her maternal side, Lisa is from the wolf clan. Lisa has a bachelor's degree in an Indigenous Governance, a made in Yukon program from Yukon University.

Lisa has worked in implementation for 20 years, the last 17 with the federal government and prior to that with her own Self-Governing Yukon First Nation. Lisa is a life-long learner and believes that no matter how old or young you are - whether it is Traditional Knowledge, academia, trades or life lessons; learning is growing.

FRANK DRAGON

Negotiator, Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations (KCFN) Financial Fiscal Agreement, Maanulth Final Agreement

Frank is a member of the Gwich'in Nation, identifies Aklavik as his home community, and is enrolled as a member in the Gwich'in Comprehensive Land Claim Agreement, and the Gwich'in Land Act (Bill C-94). His life encompasses all aspects of his rich cultural heritage from his parents. Father of four, Grandfather of two.

Frank has provided advisory services in the areas of the constitution, law development, strategic planning, community development, community engagement, and governance capacity training. He is the KCFN's former representative at the Maa-nulth Fisheries Committee, Joint Technical Fisheries Committee, Joint Fisheries Committee, Finance Committee and Implementation Committee.

Frank has 20 plus years' experience in the Drug and Alcohol Addictions field, working specifically with First Nations Youth and Young Adults in the Downtown Eastside of Vancouver. As well, Frank has used his Pastoral schooling and contextualized his training to better suit the needs of First Nations families. In the past he has been involved on numerous Boards including the Vancouver Aboriginal Friendship Centre, Circle of Eagles Lodge, ACCESS Employment Centre, Greater Vancouver Homelessness Initiative, Greater Vancouver Aboriginal Homelessness Initiative, Hoy Creek Housing Co-operative, and Yes Campaign to Ward System on behalf of the then Mayor (Senator) Larry Campbell of Vancouver.

Frank has also been a part of the Self-Governing Indigenous Governments Collaborative Fiscal Policy team, which involves Fiscal Policy, Data and Gap Collection and their steering committee on Data Collection; Housing and Infrastructure; Culture, Lands and Heritage; Lands and Resources; and Governance. In past years has been appointed to Southern Resident Killer Whale Sanctuaries Committee and Canada's Halibut Advisory Board. Previously he was KCFN's Interim Lands and Resources Director.

Frank was the Chief Negotiator for KCFN's Financial Fiscal Agreement Negotiations on Maanulth Final Agreement. Currently he is the Senior Advisor to KCFN's Administration, Legislative Chief and Vice Chief. Actively involved in speaking engagements on Treaty and Implementation issues.

Frank's passion is working with the Legislative process of the KCFN's specific to the Constitution and Law Development. Frank's other passions are working with the Youth through the Jane Glasgow's Fellows and the Gordon Foundation as an expert to Youth Treaty Simulations.

As a result of his efforts, Frank was adopted by a Che:k'tles7et'h' Ha'wiih in accordance with Nuu-Chah-nulth custom, and given the name Chah Chim Wa Eek-“one who always says good words.” As a result of his efforts, Frank was adopted by a Che:k'tles7et'h' Ha'wiih in accordance with Nuu-Chah-nulth custom, and given the name Chah Chim Wa Eek-“one who always says good words.”



JOHN B ZOE









Negotiator, Tłıchǰ Agreement

Dr. John B. Zoe was the Chief Land Claims Negotiator for the former Treaty 11 Council of the NWT from 1992 until its conclusion with the establishment of the Tłıchǰ Government in 2005. John is now an advisor to the Tłıchǰ Government. He has an Honourary Doctor of Laws from the University of Alberta in recognition of his work in the development of the new government, as well as his contributions to involving Elders and youth in projects that are built upon a foundation of Tłıchǰ language, culture and way of life.





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