

16.11.0 Trapline Management and Use

- 16.11.1 Yukon First Nation Final Agreements shall set out the manner in which Government, Councils, the Board and Yukon First Nations participate in the regulation, management and Use of Furbearers, including the manner in which local bylaws approved by the Council will be implemented.

Specific Provision

- 16.11.1.1 The participation of Government, Councils, the Board and the Carcross/Tagish First Nation in the regulation, management and Use of Furbearers is set out in 16.5.1, 16.6.10, 16.7.12 and 16.11.0.

General Guidelines for the Councils

- 16.11.2 In establishing local criteria for the management and Use of Furbearers in accordance with 16.6.10.6 and 16.6.10.7, the Councils shall provide for:
- 16.11.2.1 the maintenance and enhancement of the Yukon's wild fur industry and the Conservation of the fur resource; and
 - 16.11.2.2 the maintenance of the integrity of the management system based upon individual trapline identity, including individual traplines within group trapping areas.

Trapline Allocation Formula

- 16.11.3 Subject to 16.11.4, the overall allocation of traplines in each Yukon First Nation's Traditional Territory shall be approximately 70 percent held by Yukon Indian People and aboriginal people who are beneficiaries of Transboundary Agreements and approximately 30 percent held by other Yukon residents.
- 16.11.3.1 Subject to 16.11.3.2, 16.11.3.3 and 16.11.3.4, where the realization of the overall allocation in a Yukon First Nation's Traditional Territory pursuant to 16.11.3 would require that more traplines be allocated to Yukon Indian People, the acquisition of those additional traplines shall be completed within 25 years of the Effective Date of that Yukon First Nation's Final Agreement, unless the parties to the Yukon First Nation's Final Agreement otherwise agree.
 - 16.11.3.2 Nothing in 16.11.3 shall be construed to require a person holding a trapline to sell or relinquish the trapline.

- 16.11.3.3 Nothing in 16.11.3 shall be construed to prevent a person holding a trapline, at the Effective Date of the Yukon First Nation Final Agreement of that Yukon First Nation in whose Traditional Territory the trapline is located, from transferring such trapline to a qualified member of the trapper's immediate family.
- 16.11.3.4 The Renewable Resources Council established for the Traditional Territory of a Yukon First Nation described in 16.11.3 shall establish additional criteria for the process by which the transition to the target set out in 16.11.3 is to be achieved, including transfers of traplines other than those pursuant to 16.11.3.3, which also may be permitted notwithstanding 16.11.3.1.
- 16.11.4 The Yukon First Nation Final Agreements for the Vuntut Gwitchin First Nation, the Champagne and Aishihik First Nations, the Teslin Tlingit Council, the Kluane First Nation, the Little Salmon/Carmacks First Nation and the Ross River Dena Council shall set out the overall allocation of traplines including their designation as Category 1 or Category 2 in those Yukon First Nations' Traditional Territories.
- 16.11.5 Except as provided in 16.11.4, where, in a Yukon First Nation's Traditional Territory, the overall percentage of traplines held by Yukon Indian People and aboriginal people who are beneficiaries of Transboundary Agreements is less than 70, that Yukon First Nation's Final Agreement shall set out the process by which the Yukon First Nation or a Yukon Indian Person enrolled under that Yukon First Nation's Final Agreement may acquire additional traplines in order to raise the overall percentage to 70.
- 16.11.6 Up to 70 percent of the traplines in the Traditional Territory of a Yukon First Nation may be designated as Category 1 Traplines.
- 16.11.7 Category 1 Traplines shall be identified in a schedule to the Yukon First Nation's Final Agreement.

Specific Provision

- 16.11.7.1 Category 1 Traplines in the Traditional Territory of the Carcross/Tagish First Nation are identified in Schedule D - Category 1 Traplines, attached to this chapter.

- 16.11.8 A trapline shall be designated Category 1 only with the written consent of the registered holder of that trapline.

- 16.11.9 Where less than 70 percent of the traplines within a Yukon First Nation's Traditional Territory are designated as Category 1 pursuant to 16.11.7, that Yukon First Nation's Final Agreement shall set out the process by which additional traplines may be designated as Category 1 Traplines.

Specific Provision

- 16.11.9.1 The process required by 16.11.9 is that the Carcross/Tagish First Nation shall provide Government with proof of the consent required by 16.11.8 and shall provide Government and the Council with notice that it has designated the trapline to be a Category 1 Trapline.

Trapline Allocation Process

- 16.11.10 The Council shall regularly review the use of traplines and make recommendations to the Minister and Yukon First Nations on the assignment and reassignment of all new, vacant and under-utilized traplines pursuant to criteria that it establishes in accordance with 16.6.10.6 and 16.6.10.7, as follows:
- 16.11.10.1 new and vacant traplines shall be assigned with regard to criteria established by the Council and, to the extent possible, in accordance with 16.11.3;
 - 16.11.10.2 additional criteria for the allocation of Category 1 Traplines may be established by a Yukon First Nation;
 - 16.11.10.3 Category 1 Traplines may be temporarily assigned to other qualified Yukon residents, but such assignment shall not alter the Category 1 status of the trapline;
 - 16.11.10.4 upon mutual agreement between the trappers concerned, and with the approval of the Council, the Yukon First Nation and the Minister, a trade may be arranged between Category 1 and Category 2 Traplines, with consequent re-designation of the status of the traplines;
 - 16.11.10.5 the Yukon and the Council shall maintain a register of Category 1 and Category 2 Traplines, and the Yukon First Nation shall also maintain a register of Category 1 Traplines;
 - 16.11.10.6 for Category 1 Traplines, the final allocation authority shall rest with the Yukon First Nation;
 - 16.11.10.7 for Category 2 Traplines, the final allocation authority shall rest with the Minister;

- 16.11.10.8 a Yukon First Nation, Government or any affected Person may refer any dispute arising out of 16.11.10 to the dispute resolution process under 26.4.0; and
- 16.11.10.9 a Yukon First Nation Final Agreement may set out additional provisions for trading Category 1 and Category 2 Traplines.

Interim Protection

- 16.11.11 The parties to the Umbrella Final Agreement agree not to reduce the number of traplines currently held by Yukon Indian People in a Yukon First Nation's Traditional Territory until the Effective Date of the Yukon First Nation Final Agreement, provided the Yukon First Nation Final Agreement is ratified before May 29, 1994 or within 24 months of commencement of negotiation of that Yukon First Nation Final Agreement, whichever comes sooner.

Trapline Development

- 16.11.12 Subject to 6.6.0 and Laws of General Application, holders, other than Yukon Indian People, of traplines on Settlement Land may construct and occupy, on Settlement Land, such cabins as are necessary for the reasonable use and enjoyment of traplines, and may cut necessary trails on their traplines.

Compensation

- 16.11.13 Yukon Indian People holding traplines whose Furbearer Harvesting opportunities will be diminished due to other resource development activities shall be compensated. Government shall establish a process following the Effective Date of the Yukon First Nation's Final Agreement for compensation, including designation of the Persons responsible for compensation.

- 16.11.13.1 Nothing in 16.11.13 shall be construed to affect a Yukon Indian Person's right to compensation pursuant to Law before the process in 16.11.13 is established.

Government Access

- 16.11.14 The designation of a trapline as Category 1 shall not restrict access by Government, in accordance with the provisions of the Umbrella Final Agreement, to that trapline to handle or collect animals for scientific or management reasons.

16.12.0 Access for Wildlife Harvesting on Settlement Land

- 16.12.1 Any trapper whose trapline is wholly or partially on Settlement Land shall continue to exercise all rights as a trapper to his or her existing trapline without fee in accordance with Settlement Agreements and Laws of General Application and bylaws established by the Council.
- 16.12.2 Where a Category 2 Trapline lies wholly or in part on Settlement Land, the holder of the trapline shall elect either to:
- 16.12.2.1 retain that portion of the trapline on Settlement Land and exercise the rights pursuant to 16.12.1;
 - 16.12.2.2 make the trapline available for exchange for another trapline; or
 - 16.12.2.3 sell that portion of the trapline on Settlement Land to the affected Yukon First Nation.
- 16.12.3 Subject to 16.12.4 and 16.12.10, any Person has a right of access to enter and stay on Undeveloped Category B Settlement Land without the consent of the affected Yukon First Nation for the purpose of non-commercial Harvesting of Fish and Wildlife, if permitted by, and in accordance with Laws which apply to lands under the administration and control of the Commissioner.
- 16.12.4 The Minister of the Yukon responsible for Fish and Wildlife may, on his own initiative or at the request of a person or entity holding title to any Parcel which is or was Category B Settlement Land from which the Public Access for Wildlife Harvesting is reserved, release and discharge the Public Access for Wildlife Harvesting in respect of that Parcel in whole or in part on such terms and conditions as he decides.
- 16.12.5 Subject to Settlement Agreements, and notwithstanding a Yukon First Nation's ownership of the Bed of waterbodies set out in Chapter 5 - Tenure and Management of Settlement Lands, Government reserves the right to manage the fishery and to determine who may fish in those waterbodies which are adjacent to a Waterfront Right-of-Way.
- 16.12.6 Where a Yukon First Nation owns the Bed of a waterbody and there is no adjacent Waterfront Right-of-Way, that Yukon First Nation has an exclusive right to fish in that portion of the Bed of the waterbody owned by the Yukon First Nation unless otherwise agreed in Settlement Agreements.

- 16.12.7 An outfitting concession holder has the right of access to cross and to make necessary stops on Settlement Land to reach that outfitting area without the consent of the affected Yukon First Nation. The outfitting concession holder's right of access shall include the right to erect temporary camps and to graze horses incidental to such access, and to travel over the land with employees and clients and their equipment but shall not include the right to hunt thereon or to erect any permanent camp thereon.
- 16.12.8 Yukon First Nations whose final land selections may adversely affect existing outfitting concessions shall negotiate with the outfitting concession holder to determine terms and conditions that can be established to mitigate any impact on the outfitting concession.
- 16.12.9 To the extent the impact of final land selections on existing outfitting concessions cannot be resolved through negotiations between the outfitting concession holder and a Yukon First Nation, Government will compensate the outfitting concession holder for provable loss caused by the concession holder's inability to use Settlement Land within that concession area for outfitting. Provable loss shall be defined prior to the enactment of Settlement Legislation.
- 16.12.10 The rights of access provided by 16.12.3 and 16.12.7 are subject to the conditions that there shall be no:
- 16.12.10.1 significant damage to Settlement Land or to improvements on Settlement Land;
 - 16.12.10.2 mischief committed on Settlement Land;
 - 16.12.10.3 significant interference with the use and peaceful enjoyment of its Settlement Land by the Yukon First Nation;
 - 16.12.10.4 fee or charge payable to the affected Yukon First Nation other than that provided for in 16.5.1.13 and 16.5.1.14; or
 - 16.12.10.5 compensation for damage other than significant damage.
- 16.12.11 A Person who fails to comply with the conditions in 16.12.10.1, 16.12.10.2 or 16.12.10.3 shall be considered a trespasser with respect to that incident of access.