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TERRITORIAL PARKS

Reservation, Transfer and Establishment of Parks

**Andrea Booth
Parks Researcher
June 23, 1989**

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1 . 0 BACKGROUND

There are three stages necessary to properly designate land as a Territorial Park.

The stages are:

- * create a Park Reserve;
- * obtain a transfer of land from the Department of Indian and Northern Affairs (DINA);
- * establish the Park legally under the Territorial Parks Act by order of the Minister of Economic Development and Tourism (ED & T).

In order for Parks to be established under the the Territorial Parks Act, they must first be reserved and transferred.

ED & T presently operates Territorial Parks which are at different stages in this process, though each stage has different rights and obligations attached to it.

The best situation in terms of security and authority for the Territorial Government is to have Territorial Parks reserved, transferred to the Commissioner and established under the Territorial Parks Act, by order of the Minister.

The only stage where consultation with local people is required by Legislation is the Park proposal stage. The Minister is required by the Territorial Parks Act to consult local people when a new Park is proposed. In practice though, ED & T may end up doing consultations three times: prior to creating a reserve, prior to obtaining a transfer, and prior to establishing the Park in the Regulations, especially if several years go by between each stage.

* This report assumes suitable sites for Park development have already been identified in preparation for the creation of a reserve, and does not discuss how to select sites or manage them, or how to conduct public consultations.

2.0 INTRODUCTION

In order to facilitate this Department's contribution to the resolution of landclaims, we need to know which government has jurisdiction over each Territorial Park, which lands the Parks occupy, and which stage of development they are in.

This report describes the process for reserving, transferring and establishing Territorial Parks, assesses which stage of development each Park is at, and recommends steps to take so that the Territorial Parks Act can legally be enforced in each Park.

This report was prepared with assistance from the following:

| | |
|---------------------|--|
| Ed Hornby | Lands Administrator, DINA |
| John Murray | Legal Council, Justice |
| Giuseppa Bentivegna | Director, Legislation Division, Justice |
| Keith Thompson | Research Co-ordinator ED & T |
| Dan Linkert | Manager, Land Operations MACA |
| Leslie Huget | Lands Officer, MACA |
| Brenda Becker | " |
| Albert Whitehead | " |
| Bev Stevens-Tanner | " |
| Buddy Williams | " |
| Marlene Villebrun | " |

3.0 RESERVATIONS

Reserving lands is an administrative process whereby ED & T can indicate an interest in a particular parcel of land. There are two types of reservations.

3.1 Park Reserves on Federal Lands

Under the Territorial Lands Act (a Federal Act) DINA may reserve lands for Park purposes in the name of the GNWT, Department of Economic Development and Tourism. The reserve consists of a notation in DINA's records that GNWT has an interest in that land. Having a reserve gives GNWT the right to enter on lands and do Park-related development and maintenance without obtaining a land use permit.

Reserves are a non-binding arrangement. Having a reserve does not protect that land from other future uses. DINA may cancel Park Reserves at any time by simply consulting with and/or informing the Lands Division at MACA prior to rescinding the reserve or transferring rights to another party.

In practice though, GNWT has been operating Parks on Reserves on Federal Lands, and making capital improvements. Given the untested and unclear rights and obligations GNWT has with respect to reserves, ED & T should not proceed with establishing any more Parks on Park Reserves.

Park Reserves on Federal Lands should not be established as Parks under the Territorial Parks Act. The Act is not enforceable on reserves of Federal Lands. Under section 46 of the Northwest Territories Act, GNWT is permitted to legislate, regulate, or zone certain lands, but reserves are not mentioned.

It is not clear what recourse GNWT would have if DINA did cancel a Park Reserve where capital improvements have been made. There is no specific appeal process outlined in the Territorial Lands Act. So far, DINA has never cancelled a Park Reserve against the wishes of GNWT. However if this did ever happen, the Minister would have to resort to political appeals, or obtaining compensation.

3.1.1 How to reserve Federal Lands

ED & T writes a letter to Dan Linkert at the Lands Division of MACA asking him to apply to DINA on our behalf for a reserve for Park purposes, as provided for in the Territorial Lands Act. The letter includes the purpose of the reserve, and describes the parcel of land by legal survey, metes and bounds, or a sketch.

Public consultation is not automatically necessary when applying for a reserve, but DINA may require consultation if the size of the reserve is large.

DINA informs MACA of any existing conflicts or alienations of land. If there are any conflicts ED & T negotiates through MACA to resolve them. If resolution isn't possible, the reserve is not created and the process ends.

If the reserve may proceed, DINA reserves the land by way of a notation to MACA. MACA in turn notifies ED & T.

3.2 Park Reserves on Commissioner's Lands

Park Reserves on Commissioner's Lands are provided for under the Commissioner's Land Act. They consist of a notation in MACA's records. Commissioner's Land is land for which administration has been transferred to the jurisdiction of GNWT.

Having a Park Reserve on Commissioner's Lands protects the Park from other applications for use of that land. MACA informs ED & T of any applications for use of that reserve for other purposes.

3.2.1 How to reserve Commissioner's Lands

ED & T applies by letter to Dan Linkert at the Lands Division at MACA, for a Park Reserve. The letter describes the parcel of land by legal survey, by metes and bounds, or by a sketch.

MACA informs us of any conflicts or alienations. Consultations may be necessary to resolve these conflicts. If necessary ED & T does consultations with local people (for instance, if a new park is being created, or the parcel of land is large).

The reserve is created by way of a notation in MACA's records. They in turn notify ED & T.

Since 1988 MACA has assigned a reserve number to each reserve on Commissioner's Land. Reserves created prior to that are not numbered.

4 . 0 T R A N S F E R S

Under the Territorial Lands Act (a Federal Act) the Privy Council may by order transfer administration of lands to the Commissioner.

ED & T obtains the transfer through DINA. Documentation of local native and/or community support for the transfer is required. This is not required by the Territorial Lands Act but is a policy of DINA.

Some of the more recent transfers include Hidden Lake (Outdoor Recreation) Park and Blackstone (Outdoor Recreation) Park. In both cases extensive local consultation was required before the transfer was granted.

This situation differs from the Campbell Hills Park proposal in the Inuvik area. In Inuvik, extensive local consultation is being done prior to creating the reserve.

4.1 How to obtain a transfer of Federal Lands

ED & T writes a letter to Dan Linkert at the Lands Division at MACA requesting the transfer. The letter must include documentation of consultation and local/native support for the transfer.

A legal survey of the land is necessary to facilitate the transfer.

MACA in turn applies to DINA on our behalf.

When the transfer is done by order of the Privy Council, DINA notifies MACA, which in turn advises ED & T.

5.0 ESTABLISHING TERRITORIAL PARKS

Until 1987, establishing Parks was an administrative process whereby new Parks were simply listed in the Regulations under the Territorial Parks Act.

Now the establishment of Parks is a political process. The Minister establishes Parks by order. They do not have to be listed in the Regulations to be considered Parks. So far, no Parks have been established by order.

Section 6 of the Territorial Parks Act provides for the establishment of "Wayside", "Community" and "Historic" Parks "by order" of the Minister. "Outdoor Recreation" Parks and "Natural Environment Recreation" Parks are established by order of the Minister, upon the recommendation of the Legislative Assembly.

The Act does not specify what the status of the land must be before it can be established as a Park. However it is probably not good practice to establish Parks on lands where GNWT does not have jurisdiction (ie. on reserves). (See Appendix K and L). Parks should only be established on transferred lands.

5.1 How to Establish Parks

The Minister of ED & T establishes "Community," "Historic," and "Wayside" Parks by order. For "Outdoor Recreation" Parks, establishment is by order upon the recommendation of the Legislative Assembly.

5.2 Requirements under the Act

The Territorial Parks Act spells out certain conditions which must be met in order to establish Parks.

5.2.1 Public Consultation

The Minister is required under Section 5 of the Act to consult people living near proposed Parks who may be affected.

If consultations have already been done in order to obtain a transfer of land from the Federal Government, this is sufficient to satisfy the requirements of the Act and the consultations need not be repeated. However ED & T should at least notify community and/or native groups of the actual establishment of the Park.

The Minister also may appoint a "Parks Consultative Committee" for the proposed Park, under section 5 of the Act.

5.2.2 Signage

If the Park is a Community Park, the Park Superintendent is required by the Act to erect a sign at the Park entrance showing the name of the Park.

A sign is not required for the other classes of Parks.

5.2.3 Accessibility

The Act states that Historic Parks must be accessible to the public.

It is questionable whether two of our existing Historic Park Reserves could meet this requirement. Fort Enterprise is on Willow Lake near Snare Lakes. Fort Confidence is on Great Bear Lake near Port Radium.

Another existing Historic Reserve, Old Fort Providence, is located on Great Slave Lake about twenty kilometers from Detah, and so could be considered accessible.

5.2.4 Other Requirements

At the minimum the Park description must be by metes and bounds. A sketch is not acceptable (though it is sufficient to obtain a reserve). A legal survey is best for legislation because boundaries of a survey are much more difficult to dispute (ie. in the case of a legal case or dispute over land use).

6.0 OUR PRESENT SITUATION

Our present situation is disorderly.

ED & T operates Parks which are reserves, Parks which are transferred to the Commissioner, Parks which are established under the Regulations and Parks which are not, as if they were all the same. They're not. Each stage of development has different rights and obligations associated with it.

This disorder appears to exist because the policies and practices of both DINA and this Department have evolved through the years, and because of ammendments to the Territorial Parks Act.

For instance, GNWT used to be able to obtain a Park Reserve from the Federal Government without consulting local people. Now consultation is often required for a reserve. Certainly for a transfer of land, now ED & T must provide documentation of support from local native and/or community groups.

Another example is that in 1987 the Act was ammended, changing the establishment of Parks from an administrative process to a political one.

Fortunately we can straighten up things considerably without interfering in Landclaims Negotiations and land selections, and without unnecessarily stirring up apprehensions in people who live near these Parks.

The primary step we can take is to properly establish Parks which exist on Commissioner's Lands, by order of the Minister, as required by the Territorial Parks Act. Many of the existing Parks established under the Regulations before the Act was ammended in 1987 require a change to their description anyway, and this can be corrected by order as well, rather than by ammending the Regulations.

6.1 Mishmash

Here is a summary of where we are with respect to the status of Parks:

- * 24 Parks are reserved, transferred and established under the Regulations;
 - * 14 of these require an update to their legal description;
 - * just 10 Parks are in perfect order and require no action;
- * 7 Parks are reserved and transferred, but not established under the Regulations;
- * 3 Parks are reserved and established, but not transferred to the Commissioner;
- * 9 Parks are reserved, but not transferred or established;
- * 5 of the Parks established under the Regulations no longer exist and should be deleted from the Regulations;
- * at least 9 sites are operated as Parks but have not been reserved or established as Parks.

Appendix A summarizes the situation for each Region with respect to reserves and transfers. It includes whether the Park has been established in the Regulations or requires an update in the Regulations, and whether a legal survey has been done.

6.2 How to straighten things out

ED & T can take steps to update records and move individual Parks as far ahead in the process of reserving, transferring, and establishing as is possible.

6.2.1 Establish Parks existing on Commissioner's Lands

Some Parks have been reserved, transferred and operated as Parks for years but have never been established under the Regulations. In most cases consultations have already been done as a condition of getting the transfer.

For instance, land for Blackstone Park was transferred to the Commissioner in 1987 after extensive local consultations, but Blackstone Park has not been formally established in the Regulations. This consultation will still be fresh in people's minds and is sufficient to satisfy the requirements under section 5 of the Act. Since Blackstone is an Outdoor Recreation Park, establishing it requires a recommendation from the Legislative Assembly as well as a Ministerial Order.

Another example is McKinnon Park, a Community Park in Norman Wells. It was transferred to the Commissioner in 1973, and reserved for Park purposes in 1976, but it has never been established under the Regulations.

More examples of reserved and transferred Parks which should be established are found in Appendix E. A draft letter from the Deputy Minister to the Minister explaining the need for establishing transferred Parks by order, and a list of the correct legal descriptions, is in Appendix D.

6.2.2 Update legal descriptions of existing established Parks

Fourteen of the established Parks require an update to their description in the Schedule under the Regulations.

Updates are required usually for one or more of these reasons:

- * the boundaries of the Park have changed since it was established;
- * a legal survey has been done to replace the metes and bounds description;
- * the metes and bounds has been converted to metric measurements.

Parks that require an update to their description in the Schedules are listed in Appendix F. The correct legal descriptions are found in Appendix D.

Another aspect that should be looked at is the classification of some of the Parks. Some are designated "Community" Parks, when in fact they were created for the use of travellers and are used mainly by travellers.

6.2.3 Delete Parks which no longer exist

Four of the Parks listed in the Regulations are no longer operated as Parks.

Galena Park near Pine Point is no longer open. Boundary Creek Park no longer exists. Arctic Red River Park and Inuvik Park were reserves which have been cancelled due to selection of new sites.

The deletion of Parks can occur when existing established Parks are updated by establishing by order. The deleted Parks will not be included in the new schedules, and the old schedules in the Regulations will be deleted. See Appendix H.

6.2.4 Delete from the Regulations Parks established on reserved lands

When the Minister establishes the existing Parks properly by order, some of the Parks presently established now in the Regulations should be left out of the new schedules. The reason is that these Parks exist on reserves, not on Commissioner's Lands.

The Park Reserves which should be removed from the schedules are Salt Mountain, Powder Point and Whittaker Falls.

6.2.5 Apply to reserve lands we already use

ED & T should apply to reserve Parks which are presently operating on unreserved Federal Lands.

DINA may require consultations with local and/or native groups before creating these reserves. Even if the consultations cannot be concluded in some cases, because of landclaims for instance, at least DINA and local people will be informed of our interest in the land through the application and consultations.

An example of a Park operating on unreserved Federal Lands is the picnic area at Mount Pelly near Cambridge Bay. The site will likely be within Cambridge Bay's future block land transfer to the Commissioner, which MACA is presently negotiating with the Federal Government.

Appendix B contains a list of sites where parks are operated on unreserved lands. Some are on Federal Lands. Some are on Commissioner's Lands.

6.2.6 Apply for transfers

It may be worthwhile to apply for transfers of existing Park Reserves.

Obviously the actual transfer could only follow documentation of community/native support for such a move. Because of landclaims and land selections, this support may be difficult to obtain at this time.

However, applying for transfers will put us on record as being interested in continuing to develop these sites as Parks, and as such could actually complement the land selection process, by clarifying our interests. This would certainly be appropriate where Parks have been operated on reserves for some time.

Appendix C lists existing reserves where no application for transfer has been submitted.

APPENDIX A

Summary of Status of Parks by Region

FORT SMITH

| Park | Class | Size (ha) | Reserved for Park Purposes | Transferred to GNWT | Established in Regulations | Legal Survey |
|----------------------|-------|--------------|----------------------------------|------------------------------|-------------------------------|------------------|
| Little Buffalo Falls | W | 32.82 | 1972 | 1984 | Yes | Done |
| Galena | C | 12.26 | 1974 | Yes | Yes. Should be rescinded | Done |
| Chan Lake | W | 1.08 | 1974 | 1984 | Yes. Requires update | Done |
| Dory Point | W | 4.17 | 1974 | 1984 | Yes. Requires update. | Done |
| 60th Parallel | W | 15.84 | Yes | 1984 | Yes. Requires update | Metes and bounds |
| Salt Mountain | W | 13.769 | 1973 | No | Yes | Metes and bounds |
| Louise Falls | W | 73.248 | 1974 | 1973 | Yes | Done |
| Lady Evelyn Falls | W | 1353.82 | 1986 | Yes | Yes. Requires update | Partly surveyed |
| Kakisa River Bridge | W | 14 | 1986 | No | No | Partly surveyed |
| Hay River | C | 11.01 | 1969 | 1973 | Yes. Requires update. | Done |
| Fort Smith | C | 37.62 | 1974 | 1971 | Yes. Requires update. | Done |
| Escarpment Creek | W | 31.889 | 1974 | 1973 | Yes | Done |
| Alexandra Falls | W | 11.007 | 1974 | 1973 | Yes | Done |
| Total Parks = 13 | | | Total Reserved = 13 | Total Transferred = 11 | Total Established = 12 | |

NORTH SLAVE

| Park | Class | Size (ha) | Reserved for Park Purposes | Transferred to GNWT | Established in Regulations | Legal Survey |
|------------------------|-------|-----------|----------------------------|---------------------|----------------------------------|------------------|
| Yellowknife River | W | 1.825 | 1970 | 1970 | Yes. Requires update | Done |
| Roid Lake | W | 67.4 | 1969 | 1986 | Yes. Requires update | Done |
| Prosperous Lake | W | .652 | 1867 | 1970 | Yes | Done |
| Hidden Lake | OR | 1950 | 1986 | 1987 | No. Legislative proposal in 1987 | Done |
| Prelude Lake | W | 95.39 | 1974 | 1986 | Yes. Requires update | Done |
| Powder Point | W | 1700 | 1969 | No | Yes. Requires update | Metes and bounds |
| Pontoon Lake | W | 1906 | 1983 | 1984 | Yes. Requires update | Done |
| Cameron River Crossing | W | 51.8 | 1978 | No | No | Metes and bounds |
| North Arm | W | 4.532 | 1974 | 1970 | Yes | Done |
| Madeline Lake | W | 1.42 | 1971 | 1984 | Yes. Requires update | Done |
| Fred Henne Park | C | 16.592 | Yes | 1970 and 1986 | Yes. Requires update | Metes and bounds |
| Edzo | C | 1.376 | 1973 | 1970 | Yes | Done |
| Fort Enterprise | W | 776.7 | 1985 | No | No | Metes and bounds |
| Old Fort Providence | W | 2718 | 1985 | No | No | Metes and bounds |

Total Parks = 14

Total Reserved = 14

Total Transferred = 10

Total Established = 10

DEH CHO

| Park | Class | Size (ha) | Reserved for Park Purposes | Transferred to GNWT | Established in Regulations | Legal Survey |
|-----------------------------|-------|-----------|----------------------------|-----------------------|----------------------------------|--------------|
| Camsell Bend Ferry Crossing | W | 100 | 1985 | Pending legal survey | No | No |
| Blackstone | OR | 1430 | 1981 | 1987 | No. Legislative proposal in 1987 | Done |
| Fort Simpson | C | 17.174 | 1974 | 1971 and 1986 | Yes | Done |
| Fort Providence | W | 9.591 | 1971 | 1971 | Yes | Done |
| Whittaker Falls | W | 574.7 | 1970 | Pending Consultation | Yes | Done |
| Liard River Ferry Crossing | W | 3.02 | 1983 | 1971 | No | Done |
| Total Parks = 6 | | | Total Reserved = 6 | Total Transferred = 4 | Total Established = 3 | |

INUVIK

| Park | Class | Size (ha) | Reserved for Park Purposes | Transferred to GNWT | Established in Regulations | Legal Survey |
|--------------------------|-------|-----------|----------------------------|-----------------------|---|------------------|
| Fort Franklin | H | < 1 | 1974 | 1974 | No. Local people not informed | Metes and bounds |
| Chuk Park | W | 48.7 | 1985 | 1985 | No. Previous reserve appears in regulations | Done |
| McKinnon | C | 4.2 | 1876 | 1973 | No. | Done |
| Nutuiliue | W | 100 | 1979 | 1973 | No. | Done |
| Fort Confidence | W | 2050 | 1985 | No | No. Local people not informed | Metes and bounds |
| Arctic Red River Lookout | W | 1 | 1988 | No | No | No |
| Total Parks = 6 | | | Total Reserved = 6 | Total Transferred = 4 | Total Established = 0 | |

BAFFIN

| Park | Class | Size (ha) | Reserved for Park Purposes | Transferred to GNWT | Established in Regulations | Legal Survey |
|-------------------|-------|--------------|----------------------------------|------------------------|-------------------------------------|--------------------|
| Sylvia Grinnel | C | 148.115 | 1974 | 1971 | Yes. Requires update | Done |
| Kekerten | H | 1285 | 1986 | No | No. Legislative proposal in 1986 | Metes and bounds |
| Pitsutina Tugavik | C | 22.25 | 1985 | 1985 | Yes | Provisional survey |
| Qaumaarviit | H | 24.5 | 1984 | No | No | Metes and bounds |

Total Parks = 4

Total
Reserved
= 4

Total
Transferred
= 2

Total
Established
= 2

KITIRMEOT

| Park | Class | Size (ha) | Reserved for Park Purposes | Transferred to GNWT | Established in Regulations | Legal Survey |
|-------------------|-------|--------------|----------------------------------|---------------------------|---|------------------|
| Bloody Falls | H | 1554 | 1969 | No | No. Deleted from regulations in 1986 | Metes and bounds |
| Northwest Passage | H | ? | No | 1985 | No | No |
| Cambridge Bay | C | ? | No | No | No | No |
| Cambridge Bay | H | ? | No | No | No | No |
| Coppermine | C | ? | No | No | No | No |
| Total Parks = 5 | | | Total Reserved = 1 | Total Transferred = | Total Established = 0 | |

APPENDIX B

Unreserved Lands where ED & T operates Parks

APPENDIX B

Unreserved lands where ED & T operates Parks

The following sites should be considered for designation as Park Reserves. They are already being operated as Parks, and/or capital investments have been made.

| REGION | PARK NAME | CLASS | SIZE | COMMENTS |
|----------|---------------------------------|-------|-------|---|
| Kitik. | Cambridge Bay (Mount Pelly) | C | small | Site will likely be within future block land transfer. Consists of picnic area on Federal Land near community. |
| | Cambridge Bay (old townsite) | H | small | Site includes rebuilt stone church, cemetery and Amundsen's ship. All on Federal Lands. Likely within future block land transfer. |
| | Northwest Passage | H | small | Historic trail and small campground within Gjoa Haven block land transfer. |
| Keewat. | Baker Lake | C | 1 ha | Picnic and information site since 1986. |
| N. Slave | Mosquito Creek | W | 10 ha | Existing facilities include picnic tables and garbage cans. Boundaries of nearby North Arm Park could be expanded to include this site. |
| | Cameron Rapids | W | ? | GNWT spends money on picnic sites and maintenance, to control deterioration due to high number of users. |
| | Tibbett Lake | W | small | GNWT spends money to maintain site in clean condition. |
| D. Cho | Nahanni Butte | W | small | Community runs campground on Federal Lands, for river travellers. Facilities such as outhouses washed away in flood in 1989. Community searching for a better location. |
| | Hay Lake | C | small | GNWT paid for facilities built by band (picnic tables, outhouses, parking lot, dock, changerooms). |

APPENDIX C

Reserves for which there is no application to transfer

APPENDIX C

Reserves for which there is no application for transfer

This appendix lists existing Park Reserves for which ED & T has never applied for a transfer.

Consultations and a legal survey are necessary to obtain a transfer. The tables indicate whether community and/or native consultations are complete (yes or no), and whether a legal survey is complete (done or no).

| Region | Park Name | Class | Size (ha) | Reserve Date | Established In Regs. | Consultation Complete | Legal Survey |
|-------------|-----------------------------|-------|--------------|-----------------|-------------------------|--------------------------|-----------------|
| Fort Smith | Salt Mountain | W | 13.796 | 1973 | Yes | No | No |
| | Kakisa River Bridge | W | 14 | 1986 | No | No | No |
| North Slave | Powder Point | W | 1700 | 1969 | Yes | No | No |
| | Cameron River Crossing | W | 51.8 | 1978 | No | No | No |
| | Fort Enterprise | H | 776.7 | 1985 | No | No | No |
| | Old Fort Providence | H | 2718 | 1985 | No | No | No |
| Deh Cho | Camsell Bend Ferry Crossing | W | 100 | 1985 | No | No | No |
| | Whittaker Falls | W | 574.7 | 1970 | Yes | No | Done |
| Inuvik | Arctic Red River Lookout | W | 1 | 1988 | NO | No | No |
| | Fort Confidence | H | 2050 | 1985 | No | No | No |
| Baffin | Kekerten | H | 1285 | 1986 | No | No | No |
| | Qaurmaarviit | H | 24.5 | 1984 | No | No | No |

APPENDIX D

Draft letter to the Minister explaining the need
to establish Parks by order, with attachment

DRAFT

June 26, 1989

Gordon Wray
Minister
Department of Economic Development and Tourism

Proper establishment of existing Territorial Parks:

In 1987 the Territorial Parks Act was amended to change the establishment of Parks from an administrative process to a political one.

In the past, Parks were established by simply listing them in the Regulations under the Act. Now Parks are established by order of the Minister, or in some cases, by order of the Minister upon the recommendation of the Legislative Assembly.

The amendment to the Act was a step forward. However, since the amendment, no Parks have been established. In fact, many of the Parks we presently operate have not ever been properly established under the Act. The Department of Justice has informed us that the Territorial Parks Act is not enforceable on lands which are not established as Parks under the Act. For this reason we must properly establish these Parks by order as quickly as possible.

In addition, many of the Parks which were established in the past by listing them in the Regulations now require a change to their legal description. Changes include changes to Park boundaries, the conversion of metes and bounds descriptions to legal surveys, and the elimination of some Parks. Eliminations of Parks may be due to closure of the Park (ie. Galena Park at Pine Point), or may be because the lands are not Commissioner's Lands. The Department of Justice has recommended that we not establish Park Reserves as Parks, because GNWT does not have jurisdiction over reserves.

The problems of operating Parks which aren't established and/or have incorrect descriptions listed in the Regulations can be dealt with together. The Department of Justice Legal Council has recommended we delete the old Schedules from the Regulations which list Parks, and establish all Parks on Commissioner's Lands properly, with correct descriptions, by order.

Please find attached a complete listing of the revised schedules to date. Revised descriptions and classifications are marked with an (*). Parks which have not been previously established are marked with (**).

The two Parks listed in Schedule D as Outdoor Recreation Parks, Hidden Lake and Blackstone, require a recommendation from the Legislative Assembly, prior to their establishment by order.

The classification of one of the existing established Parks, Meliadine Esker, has been changed from a community classification to an historic one, to more closely reflect the definitions given in the Act.

The deletion of the existing Schedules of Parks in the Regulations is an administrative process, requiring a letter from me to the Deputy Minister of Justice.

Dwight Noseworthy
Deputy Minister

DRAFT

cc. Giuseppa Bentivegna
Director, Legislation Division
Justice Department

Richard Ashton
Director of Lands
Municipal and Community Affairs

**REVISED SCHEDULE A
WAYSIDE PARKS**

1. 60th Parallel

Lot 1, Group 763, Plan 50789 CLSR, 255 L.T.O.,
Lot 2, Group 763, Plan 51734 CLSR, 333 L.T.O.,
and an unsurveyed parcel of land bounded as follows:

commencing at the southeast corner of Lot 2, Group 763;
thence northerly along the boundary of Lot 2 to the
northeasterly corner thereof;
thence easterly perpendicular to the northerly boundary
of Lot 1, Group 763 to the highwater mark of the left
bank of the Hay River;
thence westerly along the northerly boundary of Lot 1
to the southeast corner of Lot 2, Group 763, being the
point of commencement;
the whole containing a total of 16.956 ha and being
located adjacent to km 0 of Northwest Territories
Highway No. 1.

2. Louise Falls

Lot 9, Group 813, Plan 56748 CLSR, 682 L.T.O.,
comprising a total of 73.248 ha and being located
adjacent to km 74.029 Northwest Territories Highway
No. 1.

*** 3. Lady Evelyn Falls**

Lot 1, Group 863, Plan 50786 CLSR, 257 L.T.O., and an
adjacent unsurveyed parcel, comprising a total of
1353.82 ha and being located southerly approximately
6.437 km from km 170.108 of Northwest Territories
Highway No. 1.

* 4. **North Arm**

Lot 1, Group 963, Plan 52193 CLSR, 378 L.T.),, comprising a total of 4.532 ha and being located adjacent to km 233.355 of Northwest Territories Highway No. 3.

5. **Pontoon Lake**

Lot 877, Group 964, Plan 55361 CLSR, 489 L.T.O., comprising a total of 1.906 ha and being located adjacent to km 27.359 of Northwest Territories Highway No. 4

* 6. **Prelude Lake**

The whole of:
Lots 2, 17, 26, 27, 31, 36, 43, Plan 53317 CLSR, 435 L.T.O.; and
Lots 1100, 1102, 1104, and 1105, Quad 85 I/12, Plan 70015 CLSR, 1762 L.T.O.;
the whole comprising 95.39 ha more or less and being located northerly approximately 1.6 km from Northwest Territories Highway No. 4.

* 7. **Reid Lake**

Lot 1017, Quad 85 I/6, Plan 68644 CLSR, 1568 L.T.O., comprising a total of 67.4 ha more or less and being located adjacent to km 60.35 of Northwest Territories Highway No. 4.

8. **Little Buffalo Falls**

Lot 15, Group 765, Plan 56873 CLSR, 692 L.T.O. comprising a total of 32.82 ha and being located adjacent to km 214.043 of Northwest Territories Highway No. 5

9. **Alexandra Falls**

Lot 8, Group 813, Plan 56747 CLSR, 681 L.T.O., comprising a total of 11.007 ha and being located adjacent to km 72.42 of Northwest Territories Highway No. 1.

10. **Escarpment Creek**

Lot 10, Group 813, Plan 56749 CLSR, 683 L.T.O., comprising a total of 31.889 ha and being located adjacent to km 77.249 of Northwest Territories Highway No. 1.

* 11. **Dory Point**

Lot 5, Group 863, Plan 53613 CLSR, 663 L.T.O., comprising a total of 4.17 ha and being located adjacent to km 20.921 of Northwest Territories Highway No. 3.

* 12. **Yellowknife River**

Lots 944 and 945, Group 964, Plan CLSR, 990 L.T.O., comprising a total of 1.825 ha and being located adjacent to km 8.047 of Northwest Territories Highway No. 4

13. **Prosperous Lake**

Lot 879, Group 964, Plan 55517 CLSR, 667 L.T.O., comprising a total of 0.652 ha and being located adjacent to km 19.312 of Northwest Territories Highway No. 4.

* 14. **Madeline Lake**

Lot 930, Group 964, Plan 67579 CLSR, 1433 L.T.O., comprising a total of 1.42 ha and being located adjacent to Northwest Territories Highway No. 4.

* 15. **Chan Lake**

Lot 1, Group 913, Plan 53854 CLSR, 668 L.T.O., comprising a total of 1.081 ha and being located adjacent to km 121.505 of Northwest Territories Highway No. 3.

** 16. **Liard River Ferry Crossing**

Lot 1000, Quad 95 H/11, Plan 69904 CLSR, 1740 L.T.O., comprising 3.02 ha more or less and being located adjacent to Northwest Territories Highway No.1.

** 17. **Nutuiliuie**

Lot 1003, Quad 106 M/7, Plan CLSR, 1730 L.T.O., comprising 100 ha more or less and being located within the Settlement of Fort McPherson.

** 18. **Chuk Park**

Lot 1003, Quad 107 B/7, Plan 68814 CLSR, 1589 L.T.O., comprising 48.7 ha more or less and being located within the Town of Inuvik.

NOTE: Boundary Creek should be deleted from the Schedule because it has been closed down. Powder Point, Whittaker Falls and Salt Mountain have been deleted because they are Parks on reserved land, not Commissioner's Land. (Parks should not be established until after the land is transferred).

**REVISED SCHEDULE B
COMMUNITY PARKS**

1. Fort Simpson

Lots 1, 2, 3, Plan 40146 CLSR, 44 L.T.O., containing a total of 17.174 ha and being located within the Village of Fort Simpson.

*** 2. Hay River**

Lots 227 to 279, except Lot 255, Plan 51388 CLSR, 311 L.T.O., comprising a total of 11.01 ha more or less and being located within the Town of Hay River.

*** 3. Fort Providence**

Lot 16, Group 863, Plan 59594 CLSR, 1093 L.T.O., containing 9.591 ha and being located within the Settlement of Fort Providence.

4. Edzo

Lot 99, Plan 56051 CLSR, 584 L.T.O., comprising a total of 1.376 ha and being located within the Hamlet of Rae-Edzo.

* 5. **Fred Henne**

Lot 676-45, Group 964, Plan 53629 CLSR, 664 L.T.O.; plus a parcel commencing at a point on the highwater mark of the shoreline of Long Lake, 62 29' North, 114 26' West, said point being located north 28 45' east 147.218 m of the northeasterly-most corner of said Lot 676-45, Group 964; thence south 45 05' east approximately 794 m to the northerly right-of-way of Northwest Territories Highway No. 3; thence westerly approximately 493.78 m along the said highway right-of-way to the southeasterly corner of Lot 676-45, Group 964; thence north 37 west 431.325 m along the northeasterly boundary of Lot 676-45 to the northeasterly corner of the said Lot being a point on the highwater mark of Long Lake; thence northerly along the said highwater mark to the point of commencement, comprising a total of approximately 16.592 ha and being located within the City of Yellowknife.

* 6. **Fort Smith**

Lot 925, Plan 60021 CLSR, 1055 L.T.O., comprising a total of 37.62 ha and being located within the Town of Fort Smith.

* 7. **Sylvia Grinnel**

Lot 1, Group 1087, Plan 43152 CLSR, 184 L.T.O.; containing approximately 148.115 ha and being located within the Village of Iqaluit.

* 8. **Pitsutinu Tugavik**

Lot 1000, Quad 26 I/4, Plan 71475 CLSR, 1961 L.T.O.; the whole containing approximately 22.25 ha and being

**** 9. McKinnon Park**

Lot 157, Group 1158, Plan 58651 CLSR, 1211 L.T.O.,
being comprised of 4.2 ha more or less and being located
within the Village of Norman Wells.

NOTE: Galena Park is no longer in operation and should not appear in this Schedule B. Inuvik Park has been relinquished and a new site selected, Chuk Park, which appears in Schedule A. Arctic Red River Park Reserve has been rescinded and should not appear in Schedule B. A new reserve for a lookout tower has been created, but not yet transferred. Meliadine Esker is an Historic Park, not a Community Park. It should not appear in this Schedule B, but be added to a new Schedule C for Historic Parks (see attached Schedule C).

**NEW SCHEDULE C
HISTORIC PARKS**

1. Meliadine Esker

Commencing at a point on the highwater mark of the right bank of the Meliadine River, Northwest Territories, said point being the intersection of 62 54'48" North and 92 12'21" West; thence south 45 West approximately 161.54 m; thence north 45 West approximately 1005.84 m to the highwater mark of Lower Meliadine Lake; thence southeasterly along the said highwater mark of Lower Meliadine Lake and Meliadine River to the point of commencement; containing approximately 25.09 ha and being located 16.093 km west of Rankin Inlet.

**** 2. Fort Franklin**

Commencing at the southeast corner of Lot 2, Group 1160, a distance of 280 feet in an easterly direction, hence in a northerly direction for 360 feet, hence in a westerly direction for 280 feet to the northeast corner of Lot 2, Group 1160, hence in southwesterly direction to the point of commencement, and being located within the Hamlet of Fort Franklin.

**NEW SCHEDULE D
OUTDOOR RECREATION PARKS**

**** 1. Blackstone**

Lots 1000 to 1007 (inclusive), Quad 95 G/2, Plan 70389 CLSR, 1821 L.T.O., being comprised of 1430 ha more and less and being located adjacent to Northwest Territories Highway No. 7.

**** 2. Hidden Lake**

Commencing at the point of intersection of Latitude 62 31'57" North and Longitude 113 44'47" West;
thence northerly in a straight line to the intersection of Latitude 62 32'46" North and Longitude 113 44'47" West;
thence easterly in a straight line to the point of intersection of Latitude 62 32'46" North and Longitude 113 40'35" West;
thence northerly in a straight line to the point of intersection of Latitude 62 34'00" North and Longitude 113 40'32" West;
thence easterly in a straight line to the point of intersection of Latitude 62 34'06" and Longitude 113 35'51" West;
thence southerly in a straight line to the point of intersection of Latitude 62 31'58" North and Longitude 113 35'46" West;
thence south-westerly in a straight line to a point on the northerly limit of Northwest Territories Highway No. 4, said point being 400 meters easterly, along the northern limit of Northwest Territories Highway No. 4, from the point of intersection of Longitude 113 42'06" West and the northern limit of Northwest Territories Highway No. 4;
thence westerly along the northern limit of Northwest Territories Highway No. 4 to the point of intersection of Longitude 113 42' 06" West and the northern limit of said highway;
thence northerly in a straight line to the point of intersection of Latitude 62 31'57" North and Longitude 113 42'06" West;
thence westerly in a straight line to the point of commencement, the whole containing a total of 1950 ha more or less.

APPENDIX E

Transferred Parks to Establish in the Regulations

APPENDIX E

Transferred Parks to establish in the Regulations

Community, Wayside and Historic Parks

The following Community, Wayside and Historic Parks should be established under the Territorial Parks Act by order of the Minister as per section 6(2) of the Act.

| REGION | PARK NAME | CLASS | SIZE | STATUS |
|---------|-------------------------------|-------|------|-----------------------------------|
| Deh Cho | Liard River Ferry Crossing | W | 3.02 | Reserved 1983 Transferred 1971 |
| Inuvik | Nutuiluie | W | 100 | Reserved 1979 Transferred 1973 |
| | Fort Franklin | H | <1 | Reserved 1974 Transferred 1974 |
| | McKinnon | C | 4.2 | Reserved 1976 Transferred 1973 |
| | Chuk Park | W | 48.7 | Reserved 1985 Transferred 1985 |

These are existing transferred Parks. With the exception of Fort Franklin Historic Park, consultations have been done with local people in order to obtain the transfer, as required by DINA. Therefore section 5 of the Act, the requirement for consultation, has already been satisfied.

It will be likely be necessary, however, to document this consultation by obtaining letters of support from nearby and/or native groups. In some cases new concerns may have arisen since the consultations were done. The notifications of local people should mention how long the Park has existed, so that people don't think it's a new Park proposal. The notifications should also describe the need to have the Park established (ie. the Territorial Parks Act is not enforceable unless the Park is properly established by the Minister).

When "Community" Parks are established by order, the Superintendent is required by section 3(4) of the Territorial Parks Act to erect a sign showing the name of the Park. For "Wayside" Parks the Superintendent may erect a sign. Under the Act it is not necessary to have a sign, though it may be desirable to provide a sign in order to protect the site.

Outdoor Recreation Parks

The following Outdoor Recreation Parks should be established under the Territorial Parks Act by order of the Minister, upon the recommendation of the Legislative Assembly, as per section 6(1) of the Act.

These are existing transferred Parks. Administration of the lands was transferred in 1987. Extensive local consultations were done in order to obtain the transfers. That year a legislative proposal was submitted to have both Parks added to the Regulations. However the Act was amended that year as well, requiring the Park to be created through the Legislative Assembly. This was never done, so Blackstone and Hidden Lake were never properly established.

| REGION | PARK NAME | SIZE | STATUS |
|-------------|-------------|------|-----------------------------------|
| Deh Cho | Blackstone | 1430 | Reserved 1981 Transferred 1987 |
| North Slave | Hidden Lake | 1950 | Reserved 1986 Transferred 1987 |

APPENDIX F

Established Parks which require an update
to their description in the Regulations

APPENDIX F

Established Parks which require an update in the Regulations

The following Parks are established in the Regulations under the Territorial Parks Act, but require an update in the description listed in the Schedules.

An up-to-date description, supported by documentation here and at MACA, may be found in Appendix I: "Critical Details for Each Park."

| REGION | PARK NAME | CLASS |
|-------------|-------------------|-------|
| Fort Smith | Chan Lake | W |
| | Dory Point | W |
| | 60th Parallel | W |
| | Lady Evelyn Falls | W |
| | Hay River | C |
| | Fort Smith | C |
| North Slave | Yellowknife River | W |
| | Reid Lake | W |
| | Prelude Lake | W |
| | Powder Point | W |
| | Pontoon Lake | W |
| | Madeline Lake | W |
| | Fred Henne | C |
| Baffin | Sylvia Grinnel | C |

APPENDIX G

Parks which should be reclassified
to more closely meet the definitions given in the Regulations

APPENDIX G

Parks which should be reclassified to more closely meet the definitions given in the Regulations

There is just one Park which appears to be wrongly classified in the Regulations at this time.

Meliadine Esker is presently listed as a Community Park. It is not. The whole rationale for it's creation was to preserve and enhance an historic site, not to provide Community recreation opportunities. (See Meliadine Esker Park under Baffin Region, in Appendix I).

As there is no schedule for Historic Parks, the Minister may create one when the Park is properly established by order.

Here is how the various classes of parks are described in section 4 of the Territorial Parks Act.

* Natural Environment Recreation Parks (are) to preserve the natural environment within those parks for the benefit, education and enjoyment of the public.

* Outdoor Recreation Parks (are) to provide opportunities of outdoor recreational activities to the public.

* Community Parks (are) to provide outdoor recreational opportunities for the benefit of particular communities.

* Wayside Parks (are) to provide for the enjoyment, convenience and comfort of the travelling public.

* Historic Parks (are) to provide for the designation and commemoration of historic and archeological sites and their lands for the education and enjoyment of the public.

APPENDIX H

Parks which should be deleted from the Regulations

APPENDIX H

The following Territorial Parks should be removed from the schedules in the Regulations under the Territorial Parks Act.

Reasons for the deletion of these Parks are given below.

| REGION | PARK NAME | CLASS | SIZE (ha) | REASON FOR REMOVAL |
|-----------|-----------------|-------|--------------|---|
| Ft. Smith | Galena | C | 12.26 | No longer operated as a campground since the closure of Pine Point. |
| N. Slave | Boundary Creek | W | .692 | No longer operated as a campground due to deterioration and closure of the site. |
| Inuvik | Arctic R. River | W | 105.57 | The old reserve was rescinded and a new reserve created in a new location, for a lookout tower. |
| Inuvik | Inuvik Park | C | 18.211 | The old reserve was rescinded and a new reserve created in a new location (Chuk Park). |

APPENDIX I

Critical Details for each Park

REGION: Deh Cho

PARK NAME: Whittaker Falls

SIZE: 574.7

LOCATION: 61°09'N 119°51'W

STATUS: Reserved 1970 #1632

COMMENTS: Interim reservation 1968. Transfer application #85E/4-6-4 (1986) pending further community consultations. Established in regulations in 1975.

LEGAL DESCRIPTION: Lots 1000 and 1001, Quad 85 E/4, Plan 69992 CLSR 1757 L.T.O., the whole containing 574 ha more or less and being located adjacent to km 328.306 of Northwest Territories Highway No. 1.

REGION: Deh Cho

PARK NAME: Camsell Bend Ferry Crossing

SIZE: 100 ha

LOCATION: 62°07'N, 122°26'W

STATUS: Reserved 1985, 95J/1-10-2

COMMENTS: Transfer pending completion of legal survey and notification of DIAND. Not established in regulations.

LEGAL DESCRIPTION: Parcel of land 1000 m x 1000 m between N.W.T. Highway No. 1, approximately km 549, and the Mackenzie River.

REGION: Deh Cho

PARK NAME: Liard River Ferry Crossing

SIZE: 3.02

LOCATION: 61°44'N, 121°13'W

STATUS: Reserved 1983
Transferred P.C. 1971-2477

COMMENTS: Within Fort Simpson block land transfer. Park reserve requested by community in 1982. Does not appear in regulations.

LEGAL DESCRIPTION: Lot 1000, Quad 95H/11, Plan 69904 CLSR, 1740 L.T.O., comprising 3.02 ha more or less and being located adjacent to Northwest Territories Highway No. 1.

REGION: Deh Cho

PARK NAME: Fort Providence

SIZE: 9.591

LOCATION: 61°21'N 117°39'W

STATUS: Reserved 1971
Trasferred PC 1971-2477

COMMENTS: Within Fort Providence block land transfer. Established in regulations.

LEGAL DESCRIPTION: Lot 16, Group 863, Plan 59594 CLSR, 1093 L.T.O. containing 9.59 ha and being located within the Settlement of Fort Providence.

REGION: Deh Cho

PARK NAME: Nahanni butte

SIZE:

LOCATION: 61°02'N, 123°23'W

STATUS: Federal Crown Land

COMMENTS: Community operates small campground as service to people finishing canoe trips down the Nahanni River. Campground flooded out in 1989. Community searching for alternate locatin. There is no block land transfer. Site should be reserved.

LEGAL DESCRIPTION:

APPENDIX J

**Procedures for reserving and transferring Territorial Parks
(written opinion of Ed Hornby, Lands Administrator at DINA)**

APPENDIX J

Ed Hornby will forward a written opinion to the questions Andrea Booth raised in the memo. In discussing the main points over the phone, Hornby stressed the following (DINA's point of view):

- reserves don't amount to much, but neither do Commissioner's Lands
- Hornby says there isn't any big advantage to getting transfers of land
- GNWT only gets surface rights with Commissioner's Lands, mining could still happen or the land could be expropriated
- Canada doesn't have much in the way of property rights
- section 13 of the Northwest Territories Act spells out the powers of the Commissioner
- Hornby thinks the Act doesn't specifically mention establishing Parks
- ED & T should check into section 13(z) of the NWT ACT to see if the Governor-in-Council has ever given the Commissioner the power to establish Parks
- if not, that means GNWT cannot establish Parks, whether it's Commissioner's Lands or Reserves

PLEASE NOTE:

- John Murray doesn't agree with this analysis
- Murray says even if Parks aren't specifically mentioned in section 13(z), Parks probably do fall under some other category such as property (section 13(h))
- under section 46 the Commissioner can hold land for which administration has been transferred, so there is definitely no problem legislating for Parks on Commissioner's Lands even if establishing Parks is not listed as one of the powers of the Commissioner

Ed Hornby
Lands Administrator
D.I.A.N.D.
YELLOWKNIFE, N.W.T.

June 8, 1989

RE: STATUS OF TERRITORIAL PARKS

Your assistance is requested in confirming the status of reserves and transfers of some of our Territorial Parks. We require this information to facilitate our contribution to the resolution of landclaims negotiations.

Attached is a list of Parks with the information as I understand it after checking records at the Lands Division of Municipal and Community Affairs. There appears to be some confusion or missing documentation with respect to some of the records. I request your search of records to confirm the following reserves and/or transfers, with the pertinent dates and registration numbers. Any additional specific questions are included in the list.

As well, would it be possible to include a listing of all outstanding applications for reserves or transfers of Federal Crown Lands for Park Purposes? It would be helpful if the listing includes the date of the application, and some identifying information such as the name of the proposed Park or the co-ordinates. Economic Development may prefer to withdraw some of these outstanding applications if they are no longer considered suitable additions to the Parks system.

I realize this may involve considerable effort and I am willing to assist with this task if necessary. I thank you for your co-operation.

Yours Truly,

Andrea Booth
Parks Researcher

REGION: Fort Smith
PARK NAME: 60th Parallel
LOCATION: 60 N 116 59'W

STATUS: Reserved
Transferred P.C. 1984-2716
Established in Regulations

LEGAL DESCRIPTION:

Lot 1, Group 763, Plan 50789 CLSR 255 L.T.O.,
Lot 2, Group 763, Plan 51734 CLSR 333 L.T.O.,
and an unsurveyed parcel of land bounded as follows:
Commencing at the southeast corner of Lot 2, Group 763;
thence northerly along the boundary of Lot 2 to the
northeasterly corner thereof; thence easterly perpendicularly
to the northerly boundary of Lot 1, Group 763 to the high
water mark of the left bank of the Hay River; thence
southerly along the said high water mark to the intersection
of the easterly boundary of the northerly boundary of Lot
1, Group 763; thence westerly along the northerly boundary
of Lot 1 to the southeast corner of Lot 2, Group 763, being
the point of commencement; the whole containing a total of
16.956 ha and being located adjacent to km 0 of Northwest
Territories Highway No. 1.

QUESTIONS: In what year was the reserve created? Is the
correct number of hectares 16.956 or 15.847?

REGION: Fort Smith
PARK NAME: Fort Smith
LOCATION: 60 01'N 111 53'W

STATUS: Reserved 1974
Transferred P.C. 1971-2477
Established in Regulations

LEGAL DESCRIPTION: Lot 925, Plan _____ CLSR, 1055 L.T.O.,
comprising a total of 37.62 ha and being located within the
Town of Fort Smith

QUESTIONS: Is this Community Campground Park the same
reserve as the one created for "historic purposes", or are
these two separate reserves? If there are two separate
reserves in Fort Smith could I have the years and reserve
numbers of each? MACA has no record of an historic reserve.

REGION: Fort Smith
PARK NAME: Lady Evelyn Falls
LOCATION: 60 57'N 117 20'W

STATUS: Reserved #1532

Established in Regulations

LEGAL DESCRIPTION: Lot 1, Group 863, Plan 50786 CLSR 257 L.T.O., and an adjacent unsurveyed parcel, comprising a total of 1353.82 ha and being located southerly approximately 6.437 km from km 170.108 of Northwest Territories Highway No. 1.

QUESTIONS: There was an increase to this reserve in 1986. Could I have the year for the previous reserve and the # (if any) for the 1986 reserve. Is there an outstanding application to transfer?

REGION: North Slave
PARK NAME: Fred Henne
LOCATION: 62 28'N 114 26'W

STATUS: Reserved
Transferred P.C. 1970-1221 (unsurveyed parcel)
P.C. 1986-1573 (Lot from M.O.T.)
Established in Regulations

LEGAL DESCRIPTION: Lot 676-45, Group 964, Plan 53629 CLSR 664 L.T.O., plus a parcel commencing at a point on the highwater mark of the shoreline of Long Lake ...

QUESTIONS: What year was the original reserve created?

REGION: North Slave
PARK NAME: Prelude Lake
LOCATION: 62 34'N 113 58'W

STATUS: Reserved 1974
Transferred P.C. 1986-1892
Established in Regulations

(Prelude Lake continued)

LEGAL DESCRIPTION: The whole of:
Lots 2, 17, 26, 27, 31, 36, 43, Plan 53317 CLSR 43 L.T.O.;
Lots 1100, 1102, 1104, and 1105, Quad 85 I/12, Plan 70015
CLSR 172 L.T.O.; the whole comprising 95.39 ha more or less
and being located northerly approximately 1.6 km from
Northwest Territories Highway No. 4.

QUESTIONS: Was lot 43 included in the transfer?

REGION: Deh Cho
PARK NAME: Whittaker Falls
LOCATION: 61 09'N 119 51'W

STATUS: Reserved 1970 #1632
Transfer application #85E/4-6-4
Established in Regulations

LEGAL DESCRIPTION: Lots 1000 and 1001, Quad 85E/4, Plan
69992 CLSR 1757 L.T.O., the whole containing 574 ha more or
less and being located adjacent to Northwest Territories
Highway No. 1.

QUESTIONS: Transfer pending further community consultation?

REGION: Deh Cho
PARK NAME: Camsell Bend Ferry Crossing
LOCATION: 62 07'N 122 26'W

STATUS: Reserved 1985, #95J/1-10-2
Transfer application

LEGAL DESCRIPTION: Survey required

QUESTIONS: What is number of transfer application? Is
transfer still pending completion of legal survey?

REGION: Inuvik
PARK NAME: Arctic Red River Lookout
LOCATION: 67 28'N 133 45'W

STATUS: Reserved 1988 #2134

LEGAL DESCRIPTION: At km 141.2 of Northwest Territories
Dempster Highway.

QUESTIONS: Has old reserve #1878 been rescinded?

REGION: Inuvik
PARK NAME: Campbell Hills/Chitsi Park
LOCATION: 68 N 133 20'W

STATUS: Reserve Application 1983, #107B/2-13-1

LEGAL DESCRIPTION: ?

QUESTIONS: Do you have a legal description of area in application or is there just a sketch?

REGION: Baffin
PARK NAME: Sylvia Grinnel
LOCATION: 63 44'N 68 33'W

STATUS: Reserved 1974
Transferred P.C. 1971-1523
Established in Regulations

LEGAL DESCRIPTION: Lot 1, Group 1087, Plan 43152 CLSR 184
L.T.O.

QUESTIONS: Lands Division file says transfer pending of a portion of this lot since 1985, due to a conflict with the Department of Transport. Could you tell me which lands have been transferred to the Commissioner in P.C. 1971-1523, and which lands for this park remain to be transferred?

REGION: Keewatin
PARK NAME: Marble Island
LOCATION: 62 41'N 91 08'W

STATUS: Reserved 1973

LEGAL DESCRIPTION: ?

QUESTIONS: This was a small reserve created for the purpose of erecting an historic monument. A larger reserve has been proposed since by GNWT but rejected by the community. Does the original small reserve still exist? How is it described?

MEMO TO: Ed Hornby
LOCATION: DIAND, Bellanca Building

FROM: Andrea Booth, Parks Researcher (873-7272)
LOCATION: Northern United Place
c/o Eric Val, Parks Specialist

DATE: June 15, 1989

SUBJECT:
Procedures for reserving and transferring Territorial Parks

This is the way I understand this process. Can you confirm that I have it right, and answer the questions included?

I would appreciate a written response. If you think it's appropriate we could meet to discuss this. My term here ends June 23rd. If you can't get to this before then, please direct your comments to Eric Val at 920-6167.

I thank you for your help.

Andrea

CREATING A PARK RESERVE:

If the land is Federal Crown Land;

- through MACA, ED & T applies to DIAND for a Park Reserve under the Territorial Lands Act,
- an application for a reserve consists of letter to MACA, asking for a reserve for GNWT Park purposes, and describing the parcel of land by legal survey, metes and bounds, or a sketch
- consultations with local people not required at this stage (OF ARE THEY?)
- DIAND informs us of any land alienations, such as a fire-fighting reserve or some other lease or interest
- consultations with leaseholders or reserve holders are held if necessary to resolve conflicts
- if conflicts cannot be resolved, the Reserve is not created and process ends
- if the Reserve proceeds, DIAND reserves Federal Land for Park purposes by way of a notation to MACA
- land still belongs to DIAND, not GNWT
- a reserve is a non-binding arrangement and DIAND can cancel at any time even if there have been capital improvements to the park
- what happens to capital improvements to site if the reserve is cancelled?
- how likely is it that DIAND would cancel reserve?
- the advantage to having a Reserve is ED & T can regulate, zone, and legislate Federal Lands under the NWT ACT,
- ie. the Territorial Government legislates on Federal Lands through the Planning Act and the Area Development Act, and the Territorial Parks Act is enforceable on Park Reserves
- therefore Parks can be established by order of the Minister on Federal Reserves, and we could include all our existing (Federal) Park Reserves in the Regulations under the Territorial Parks Act (many of our reserves presently are not regulated)
- why, when ED & T has only indicated an interest in lands by reserving them, are we permitted to operate parks on them?

If the land is Commissioner's Land, (IE. within a community block land transfer);

through MACA, we apply for a Park Reserve under the Commissioner's Land Act,

- MACA informs us of any alienations/conflicts
- consultations are held if necessary to resolve conflicts or process ends here
- if no conflicts MACA reserves Commissioner's Lands for park purposes which protects that land from other applications for use of that land
- MACA began assigning a number to each Reserve within a block land transfer last year, so most reserves on Commissioner's Land don't have a Reserve # yet

TRANSFERS

- ED & T applies to DIAND through MACA for a transfer under the Territorial Lands Act
- the support of local residents is not required by the Act, but it is required by DIAND (policy) before proceeding, especially considering landclaims (DIAND requires the consent of native body before transfer will be granted)
- a legal survey is required to define park boundaries for legal/legislative/regulatory purposes and facilitate transfer (boundaries could be disputed if not surveyed)
- transfer is done by order of the Privy Council
- any appeal of a denial of transfer would have to be dealt with politically, there is no specific appeal process provided in the Act (GNWT could take to court if we satisfied the requirements of the Act and DIAND still wouldn't transfer)

- why do we bother with transferring land? (we can reserve, consult local people and establish a Park without transferring)
- what are rights and advantages of transfer compared to reserves

OTHER ISSUES

- can we transfer unsurveyed parcels? (some have been in the past)
- do we need to have legal surveys changed to metric for transfers

APPENDIX K

Rights of GNWT on Park Reserves, and requirements under the Act
(written opinion of John Murray, Legal Council, with Justice)

APPENDIX K

* This Appendix is not complete until John Murray submits his written opinion. This Appendix does, however, note Murray's verbal comments regarding matters raised in the memo found in Appendix M.

Murray will submit a written opinion once Eric Val makes a written request in July. These notes and/or the memo may be attached to the request.

Jurisdiction of GNWT over Park Reserves on Federal Lands

RESERVES:

Murray's opinion is that having a reserve on Federal Lands is not sufficient for GNWT to legislate for that land. GNWT does not have any jurisdiction over reserves on Federal Lands. Therefore it is probably not legal to establish Parks on Federal Reserves. The establishment of a Park on a reserve could be challenged in court. Section 46 of the Northwest Territories Act describes which lands GNWT has jurisdiction of and may legislate for. Reserves are not one of the categories of land.

CONSULTATION:

The Territorial Parks Act states that consultations are required before establishing a Park. The key word in section 5 is 'proposed.' There was a concern that ED & T would have to do consultations three times: when obtaining a reserve, when obtaining a transfer and when establishing the Park by order. It appears that the consultations necessary for establishing a Park are to be done when the Park is proposed, ie. at the reserve or transfer stage, and it is not necessary to repeat the consultations at the actual time the Park is being established.

REGULATIONS:

Under the old Territorial Parks Act, Parks were established by listing them in the Regulations. Since the Act was amended in 1987, the creation of Parks is a political process, whereby Parks are established by order of the Minister. Parks no longer have to be listed in the Regulations to be considered Parks.

Murray recommends we delete the old Schedules in the Regulations which list Parks (most of the descriptions require an update anyway), and formally establish the existing Parks by order of the Minister. He says it is easier to do a Minister's order than amend the old Regulations, and could be done at the same time as we establish the Parks that haven't been listed in the Schedules before. Then all the established Parks would be in the same situation, rather than having some listed in the Regulations, and some established by order of the Minister.

MEMO TO: John Murray, Legal Council
LOCATION: Legal Division
4th Floor, Courthouse

FROM: Andrea Booth, Parks Researcher, ED & T
LOCATION: Second Floor, Northern United Place
(c/o Eric Val, Parks Advisor)

DATE: June 09, 1989

SUBJECT: Reserving, Transferring and Establishing Territorial Parks

Thank you for meeting with me to discuss this subject. I look forward to receiving your written opinion on the following matters:

RESERVES: Whether GNWT has any kind of jurisdiction over Federal Lands reserved for park purposes? Whether the Territorial Parks Act applies to park reserves? Whether GNWT has any rights/obligations on reserves? Whether the Federal Government is likely to cancel reserves?

CONSULTATION: Whether local consultations required by the Federal Government in order to obtain a transfer of land are sufficient to satisfy Section 5(1) of the Territorial Parks Act (ie. is the Minister required to repeat the consultations in order to establish the Park in the Regulations?).

REGULATIONS: Whether Parks have to be in the Regulations under the Territorial Parks Act in order to be considered Parks (ie. does the Territorial Parks Act apply to reserved and transferred parks that do not appear in the Regulations?)

Please find attached the legal opinion of Bernard Funston of your Department's Constitutional Division, samples of the notations of reserves and transfers ED & T receives from MACA, and a listing of the status of Territorial Parks.

You will note on the last item that some parks are fully reserved, transferred and established, (ie. Little Buffalo Falls in the Fort Smith Region). Others are reserved and transferred, but not established, (ie. the Liard River Ferry Campground in the Deh Cho Region). Others are reserved and established under the Regulations, but not transferred (Salt Mountain in the Fort Smith Region). Some are simply reserved, and some parks (not listed) are sited on Federal Lands without a reserve.

Sorry but I don't yet have a type-written version of this table of information. I hope you find it helpful in understanding the Status of our Parks.

I thank you for your trouble in this matter.

Yours Truly,

Andrea Booth

APPENDIX L

Jurisdiction of GNWT over Federal Lands
(written opinion of Bernard Funston,
Constitutional Division, Justice)

APPENDIX L

Jurisdiction of GNWT over reserves on Federal Lands

Written opinion of Bernard Funston, Chief, Constitutional Division of the Department of Justice, in a letter to Mr. Patrick Orr, dated November 12, 1986, File No. 2020-1-5.

" ... reservation of lands in the administrative records of DIAND cannot serve to expand the legislative jurisdiction of the Commissioner-in-Council ... (and is) not considered to be 'setting aside' or 'withdrawing' lands pursuant to any of the subsections of section 19 of the Territorial Lands Act."

APPENDIX M

Procedures for reserving and transferring Territorial Parks
(written opinion of Dan Linkert, Lands Division at MACA)

Start of Item 1.

Subject: TERRITORIAL PARK RESERVES

Creator: Dan LINKERT / MACA/00

Dated: 06/20/89 at 1516.

TO: ANDREA BOOTH, PARKS RESEARCHER
TOURISM AND PARKS
ECONOMIC DEVELOPMENT & TOURISM

AFTER REVIEWING YOUR NOTES ON OUR DISCUSSION, I HAVE THE FOLLOWING COMMENTS FOR INFO AND OR ADDITIONAL CLARIFICATION:

1. PARK RESERVES ON FEDERAL LAND
 - A. IF DIAND CREATES A PARK RESERVE ON FEDERAL LAND, THE NOTATION IS IN THE NAME OF THE GOV'T OF THE NWT, DEPT OF ECON DEV AND TOURISM.
 - B. THE RESERVE IS BINDING ON DIAND'S PART IN THAT GNWT HAS THE SAME STATUS AS ANY FEDERAL DEPT. DIAND WOULD LAY THEMSELVES OPEN TO ALL SORTS OF POLITICAL REPERCUSSIONS IF RESERVE WAS TERMINATED WITHOUT CONCURRENCE OF GNWT.
 - C. THE RESERVE GIVES THE GNWT (E.D.&T.) THE RIGHT TO ENTER ON THE PARCEL AND CARRY OUT PARK RELATED DEVELOPMENT AND MAINTAINANCE WITHOUT THE NECESSITY OF OBTAINING A LAND USE PERMIT. JUSTICE WOULD HAVE TO CONFIRM AS TO HOW APPLICABLE PRRK REGULATIONS ARE TO SUCH LANDS.
 - D. THE DEPARTMENT SHOULD APPLY FOR RESERVES ON PARCELS SUCH AS THE PELLY MOUNTAIN PICNIC AREA NEAR CAMBRIDGE BAY THAT LIE WITHIN A PROPOSED BLOCK LAND TRANSFER AREA. IF AND WHEN THE TRANSFER TOOK PLACE, THE PARCEL WOULD COME TO OUR CONTROL WITH THE RESERVE IN PLACE AND IT WOULD BE MAINTAINED.
2. PARK RESERVES ON COMMISSIONER'S LAND
 - A. I WOULD ASSUME THAT MACA WOULD ONLY CANCEL AN ESTABLISHED PARK RESERVE ON COMMISSIONER'S LAND UNDER MINISTERIAL OR CABINET DIRECTION, WITHOUT THE PRIOR KNOWLEDGE AND/OR CO-OPERATION OF ECON. DEV. AND TOURISM.
3. TRANSFERS OF FEDERAL LAND TO GNWT
 - A. THE MAIN REASON FOR HAVING LANDS TRANSFERRED TO THE COMMISSIONER IS TO PROVIDE CERTAINTY OF CONTROL. THERE IS APPARENTLY SOME QUESTION AS TO THE LEGALITY OF CAMPSITE PERMITS OR SEASONAL LEASES BEING ISSUED BY THE GNWT ON SITES THAT REMAIN ON FEDERAL LANDS.
4. ESTABLISHING PARKS
 - A. NO COMMENT
5. PINE POINT
 - A. NO COMMENT
6. LEGAL SURVEYS
 - A. THERE STILL SEEMS TO BE SOME MISUNDERSTANDING AS TO THE REQUIREMENT FOR LEGAL SURVEYS AND THEM BEING DONE IN THE METRIC FORMAT. WHERE THERE ARE EXISTING SURVEYS OF A PARK SHOWING IMPERIAL MEASUREMENTS AND THERE IS NO REQUIREMENT TO ALTER OR CHANGE THE EXISTING BOUNDARIES, A NEW SURVEY IS NOT REQUIRED TO DESCRIBE THE PARK IN THE REGULATIONS OR TO HAVE IT TRANSFERRED TO THIS GOVERNMENT. A NEW METRIC SURVEY IS ONLY REQUIRED TO DESCRIBE A NEW PARK OR ADJUST THE BOUNDARIES OF AN EXISTING PARK.

IF YOU HAVE ANY FURTHER QUESTIONS OR REQUIRE ANY FURTHER CLARIFICATION,

PLEASE FEEL FREE TO CALL ME.

DAN LINKERT (7575)
ASSISTANT DIRECTOR
LANDS DIVISION

MEMO TO: Dan Linkert
LOCATION: Lands Division, MACA
4th Floor, YK Centre

FROM: Andrea Booth, Parks Researcher
LOCATION: 2nd Floor, Northern United Place
c/o Eric Val, Parks Specialist

DATE: June 11, 1989

SUBJECT: Procedures for reserving and transferring Territorial Parks

Thank you for discussing this process with me. I have summarized the main points as I remember them. Would you mind checking through the attachment to ensure I have your point-of-view correctly? In addition I have included several questions which didn't come up when we met.

Thanks again.

PARK RESERVES ON FEDERAL LAND:

- if the land is Federal Crown Land we apply to DIAND through MACA for a reserve under the Territorial Lands Act
- the application consists of a letter to MACA asking for a reserve for park purposes, with a description of the parcel of land which may be a legal survey, a metes and bounds description or a sketch
- consultations with local people are not required at this stage
- DIAND informs MACA of any alienations such as existing leases or reserves
- consultations may be held to resolve these sorts of conflicts
- if the conflicts cannot be resolved the process ends here and no reserve is created
- if the reserve proceeds, DIAND reserves the land for park purposes by way of a notation to MACA
- the land still belongs to DIAND (not GNWT)
- the reserve is non-binding on DIAND's part, requiring DIAND only to consult with MACA prior to rescinding the reserve or transferring rights
- reserve status is adequate for the GNWT to develop and operate parks
- the advantage to having a reserve is we can legislate/regulate/zone the Federal Lands under the NWT Act
- i.e. GNWT legislates on Federal Lands through the Planning Act and the Area Development Act
- therefore the Territorial Parks Act is also enforceable on Federal Lands reserved for GNWT Parks
- parks may be established in the Regulations by order of the Minister
- some of our existing Federal Park Reserves presently are not established in the Regulations
- we could include all our existing Federal Park Reserves in the Regulations under the Territorial Parks Act

QUESTIONS: Does DIAND ever rescind reserves against the wishes of GNWT? How secure are reserves? What are our rights with respect to reserves? Should we apply for reserves on lands which are under discussion for block land transfers (i.e. Felly Mountain picnic area near Cambridge Bay)?

PARK RESERVES ON COMMISSIONER'S LAND:

- If the land is Commissioner's Land, within a block land transfer, ED & T applies to MACA for a park reserve under the Commissioner's Land Act
- MACA informs us of any alienations/conflicts
- if consultations fail to remove conflicts then reserve is not created
- otherwise MACA proceeds to reserve Commissioner's Lands for park purposes
- having a reserve protects the park from other applications for use of that land

QUESTION: What are ED & T's rights with respect to park reserves on Commissioner's Land? How likely is it that MACA would cancel a park reserve on Commissioner's Land without the consent of ED & T?

TRANSFERS OF FEDERAL LAND TO COMMISSIONER:

- ED & T applies to DIAND through MACA for a transfer under the Territorial Lands Act
- the support of local residents is not required by the Act, but is required by DIAND (policy) before proceeding
- DIAND requires the consent of native body before a transfer is granted
- a legal survey is also required to define park boundaries for legal/legislative/regulatory purposes and facilitate transfer
- transfer is done by order of the Privy Council
- any appeal of a denial of transfer would have to be done politically as there is no specific provision for appeals in the Territorial Lands Act

QUESTION: Why do we bother arranging for transfer of the land when we can create a park by reserving land and establishing the park in the Regulations? Is there a big advantage to having a transfer?

ESTABLISHING PARKS:

- in order for the Territorial Parks Act to apply to park reserves or transfers, that park must be named and described in a schedule in the Regulations

APPENDIX N

Legislative Proposals
for Blackstone Park and Hidden Lake Park

APPENDIX N

Legislative Proposals for Blackstone Park and Hidden Lake Park

In 1986 Keith Thompson submitted a proposal to the Department of Justice to create legislation to establish Hidden Lake Outdoor Recreation Park and Hidden Lake Outdoor Recreation Park. Then in 1987 the Act was amended, requiring Outdoor Recreation Parks to be created by order of the Minister upon the recommendation of the Legislative Assembly.

Therefore the original proposal was never followed through and should be resubmitted. Though the original proposal can serve as a draft, it will require some revisions, to reflect the new procedures.

See Appendix E for more details.

LEGISLATIVE PROPOSAL

TITLE:

Hidden Lake Territorial Park Act (N)

PURPOSE OF LEGISLATION

The proposed act will establish Hidden Lake Territorial (Outdoor Recreation) Park in accordance with Section 6.1 of the Territorial Parks Act (copy attached).

The proposed twenty three square kilometre park is located about twenty five miles east of Yellowknife adjacent to the Ingraham Trail, and the park encompasses the western arms of Hidden Lake.

The park is intended to serve the outdoor recreation needs of visitors and residents of the NWT.

ORIGIN OF REQUEST FOR LEGISLATION

The Department of Economic Development and Tourism.

POLICY BASE

The lands for this park have been set aside under the Territorial Lands Act as per reserve number 85K/5-23-2. The Indian and Northern Affairs advice memo is attached.

This proposal is based on one of the Department of Economic Development and Tourism's approved policy objectives to: "Develop territorial parks to assist in meeting outdoor recreational needs, while assisting local residents in realizing park-related training, employment and business opportunities".

As Hidden Lake would be one of the NWT's first parks in the Outdoor Recreation class, and the largest territorial park to date, it would further the Department's approved strategy to "provide a diversified system of all types and sizes of parks".

An abridged copy of the Department Goals, Objectives and Strategies is attached.

CONSULTATION

Consultations were held with several parties and in all cases the park proposal is regarded favourably (documented):

.../2

- City of Yellowknife
- Yellowknife Chamber of Commerce
- Northern Frontier Visitors Association
- NWT Chamber of Mines
- Yellowknife B Band
- several private individuals

IMPLEMENTATION

Establishment of this park will require additional funds and manpower, both of which are provided for in the existing budget of the Department of Economic Development and Tourism.

Following the Act's passage, a legal description of the park will be inserted in a schedule of the Territorial Parks Regulations.

SCHEDULING

This legislation should be introduced at the winter 1987 session of the Legislative Assembly.

The Act should be effective as of June 18, 1986, the date of reservation of the lands.

Tagak Curley, Minister
Economic Development & Tourism

Date

LEGISLATIVE PROPOSAL

TITLE:

Blackstone Territorial Park Act (N)

PURPOSE OF LEGISLATION

The proposed act will establish Blackstone Territorial (Outdoor Recreation) Park in accordance with section 6.1 of the Territorial Parks Act (copy attached).

The proposed 1430-hectare park is located along the Liard Highway and Liard River about midway between Ft. Liard and Ft. Simpson; and, it is intended to serve the camping accommodation and outdoor recreation needs of visitors and residents of the NWT.

ORIGIN OF REQUEST FOR LEGISLATION

The Department of Economic Development and Tourism.

POLICY BASE

The lands for this park have been set aside under the Territorial Lands Act as per Reserve number 1975. The Indian and Northern Affairs advice memo is attached.

This proposal is based on one of the Department of Economic Development and Tourism's approved policy objectives to: "Develop territorial parks to assist in meeting outdoor recreational needs, while assisting local residents in realizing park-related training, employment and business opportunities".

As Blackstone would be one of the NWT's first parks in the Outdoor Recreation class, and the second largest territorial park to date, it would further the Department's approved strategy to "provide a diversified system of all types and sizes of parks".

An abridged copy of the Department Goals, Objectives and Strategies is attached.

CONSULTATION

Its establishment would benefit all NWT residents. Being far removed from communities, this park would have little affect on any specific NWT communities. Nonetheless consultations were held with the Ft. Simpson and Ft. Liard councils as well as two families living nearby; they all agreed to a park.

IMPLEMENTATION

Establishment of this park will require additional funds and manpower, both of which are provided for in the existing budget of the Department of Economic Development and Tourism.

Blackstone Territorial park should be legally described as follows:

 Lots 1000 to 1007 (inclusive)
 Quad 95 G/2

Following the Act's passage, a legal description of the Park will be inserted in a schedule of the Territorial Parks Regulations.

SCHEDULING

This legislation should be introduced at the winter 1987 session of the Legislative Assembly.

The Act should be effective as of July 28, 1981 the date of reservation of the lands.

Tagak Curley, Minister
Economic Development & Tourism

Date