

# Tłıchǫ



Annual Report of the Tłıchǫ  
Implementation Committee  
2009-2010

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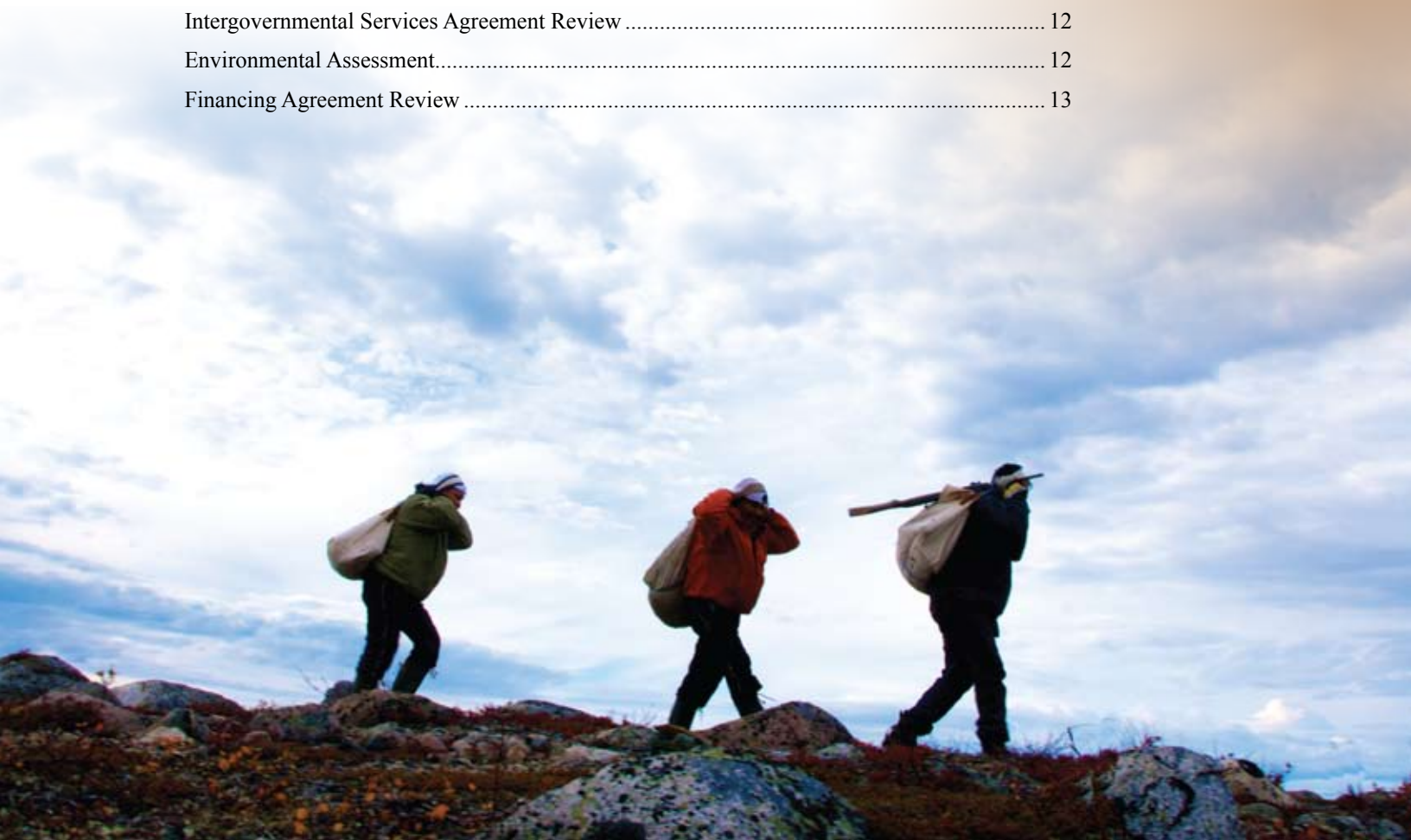
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# Abbreviations and Acronyms:

<b>AANDC</b>	Aboriginal Affairs and Northern Development Canada
<b>DAAIR</b>	Department of Aboriginal Affairs and Intergovernmental Relations
<b>DDRA</b>	Deputy Dispute Resolution Administrator
<b>DRA</b>	Dispute Resolution Administrator
<b>GNWT</b>	Government of the Northwest Territories
<b>IAB</b>	Indian Affairs Branch (AANDC)
<b>IBA</b>	Impact Benefit Agreements
<b>ISA</b>	Intergovernmental Services Agreement
<b>LTO</b>	Land Title Office
<b>MVEIRB</b>	Mackenzie Valley Environmental Impact Review Board
<b>NRCan</b>	Natural Resources Canada
<b>NWT</b>	Northwest Territories
<b>TCSA</b>	Tłıchǫ Community Services Agency
<b>TG</b>	Tłıchǫ Government
<b>WLWB</b>	Wek'èezhìi Land and Water Board
<b>WRRB</b>	Wek'èezhìi Renewable Resources Board.



## Chapter 1: Overview and Background

*The Tłı̨chǫ Land Claims and Self-government Agreement (Tłı̨chǫ Agreement) was negotiated by the Dogrib Treaty 11 Council, the Government of the Northwest Territories (GNWT), and the Government of Canada (Canada). The Tłı̨chǫ Agreement, which came into effect on August 4, 2005, is the first combined comprehensive land claim and self-government agreement in the Northwest Territories (NWT). The Tłı̨chǫ Agreement provides Tłı̨chǫ Citizens with rights and benefits to land, resources, and self-government.*



Through the Tłı̨chǫ Agreement, the Tłı̨chǫ gain the tools and resources needed to strengthen their economy through greater participation in the regional and territorial economy. The Tłı̨chǫ Agreement also enhances their ability to protect and promote Tłı̨chǫ culture, language, heritage, lands, and resources.

The following is a summary of provisions within the Tłı̨chǫ Agreement:

**Lands:** The Tłı̨chǫ Agreement provides the Tłı̨chǫ with approximately 39,000 square kilometres of land in a single block. The Tłı̨chǫ Agreement applies to four distinct geographical areas. The first and largest is Mǫwhì Gogha Dè Nı̨tłèè. It is the traditional territory of the Tłı̨chǫ, and where the communities of Behchokǫ (Rae-Edzo), Whatì (Lac la Martre), Gamètì (Rae Lakes), and Wekweètì (Snare Lake) are located. The Tłı̨chǫ can exercise the majority of the rights set out in the Tłı̨chǫ Agreement in this area. The second distinct area is called Wek’èezhì and is located within Mǫwhì Gogha Dè Nı̨tłèè. It is a resource management area bordered by the settlement areas and traditional lands of neighbouring Aboriginal groups. The third area, which is also within Mǫwhì Gogha Dè Nı̨tłèè, consists of “Tłı̨chǫ Lands” which are owned in fee simple.<sup>1</sup> Here, the Tłı̨chǫ own both the surface and mineral (subsurface) resources. The fourth area, called Ezǫdzìtì, is of historical and cultural importance. The Tłı̨chǫ do not own this land and do not exercise any additional harvesting or management rights. However, Ezǫdzìtì has been protected in the interest of preserving its historical and cultural importance to the Tłı̨chǫ people.

#### **Financial Compensation and Resource Revenue**

**Sharing:** The Tłı̨chǫ Agreement includes cash payments of approximately \$152 million over 14 years and a share of annual resource royalties arising from development in the Mackenzie Valley.

**Eligibility and Enrolment:** An Eligibility Committee and a registrar were established through the Tłı̨chǫ Agreement to enrol those who were entitled to be registered as Tłı̨chǫ Citizens as per the Tłı̨chǫ Agreement. The Eligibility Committee was composed of four representatives from Tłı̨chǫ and two from government. It was dissolved once the registrar was designated by the Tłı̨chǫ Government (TG).

**Economic Measures:** Under the Economic Measures Chapter of the Tłı̨chǫ Agreement, Canada and the GNWT are committed to promoting the economic

<sup>1</sup> This is the most extensive type of ownership of private property. Under Canadian law, almost all private property is held in fee simple and this is as close as one can get to absolute ownership at common law (i.e. the Canadian legal system).

interests of the Tłı̨chǫ, including support for the traditional economy, the development of businesses, the creation of training programs, and educational assistance to Tłı̨chǫ Citizens. Furthermore, when the GNWT and Canada propose economic development programs related to the objectives of this chapter, they must consult with the TG. The Tłı̨chǫ Agreement requires the governments to meet with the TG no less than once every three years to review the effectiveness of programs relating to the objectives of the Economic Measures chapter.

**Self-Government:** Under the Tłı̨chǫ Agreement's self-government provisions, the TG acquires the power to make laws over a wide range of matters affecting Tłı̨chǫ lands and Citizens. Through further agreements with the territorial and federal governments, the TG has the ability to also design and manage programs that respect and promote the Tłı̨chǫ language, culture and way of life.

The Tłı̨chǫ Agreement does not govern the internal affairs of the TG; Chapter 7 (Tłı̨chǫ Government) calls for the creation of a Tłı̨chǫ Constitution and sets out the structure of the TG. In keeping with the principle of equal representation, Chapter 7 specifies that the governing body must include the Grand Chief, the Chief from each community government, and at least one representative from each Tłı̨chǫ community.

**Wildlife and Environmental Co-management:** The Tłı̨chǫ Agreement provides for the establishment of two bodies to manage wildlife and the environment as institutions of public government. The Wek'èezhìi Land and Water Board (WLWB) has a mandate to regulate the use of land and water and the deposit of waste throughout Wek'èezhìi. The Wek'èezhìi Renewable Resources Board (WRRB) oversees the management of wildlife and habitat and makes

recommendations about wildlife, forest, and plant resources and commercial activities throughout Wek'èezhìi. The Tłı̨chǫ Agreement also provides for TG representation on the Mackenzie Valley Environmental Impact Review Board (MVEIRB). MVEIRB ensures that environmental impacts and the concerns of Aboriginal peoples and other members of the public are considered carefully during the assessment of proposed developments.

**Dispute Resolution:** The Tłı̨chǫ Agreement provides for the appointment of a Dispute Resolution Administrator (DRA) and a Deputy Dispute Resolution Administrator (DDRA). The DRA is responsible for maintaining a roster of mediators and arbitrators, appointing mediators and arbitrators, establishing rules for mediation and arbitration and maintaining a public record of arbitration decisions.

**New Approach to Certainty:** The Tłı̨chǫ Agreement provides certainty and clarity with respect to ownership and management of land and resources and to jurisdictional rights. This creates a more predictable decision-making environment and the potential to attract investment and economic growth. The TG has agreed that it will not exercise any rights outside of the Tłı̨chǫ Agreement. However, should the TG find that it is entitled to a non-land right, such as a self-government right that is not mentioned in the Tłı̨chǫ Agreement, the TG may approach government to negotiate for the exercise of that right.

**Implementing Bodies:** The Tłı̨chǫ Agreement provides for the establishment of a Tłı̨chǫ Implementation Committee made up of representatives from the TG, Canada and the GNWT. Its mandate is to oversee, manage, make recommendations, and report on the implementation of the Tłı̨chǫ Agreement, including funding levels identified in the Implementation Plan. The Financing Agreement that was signed between Canada and the TG establishes a Finance Committee. The Committee has the mandate to review the Financing Agreement and resolve any financial issues that may arise in relation to implementation.





## Chapter 2: Tłıchǵ Implementation Committee

*The Tłıchǵ Implementation Committee consists of one representative from each of the Parties to the Tłıchǵ Agreement.*

- **Tłıchǵ Government:** During the 2009-2010 fiscal year, Bertha Rabesca Zoe served as the TG's representative on the Implementation Committee.

The TG can be found online at [www.tlicho.ca](http://www.tlicho.ca)

- **Government of Canada:** The Government of Canada is represented on the Tłıchǵ Implementation Committee by Implementation Branch, Aboriginal Affairs and Northern Development Canada (AANDC). Implementation Branch serves as a liaison on implementation issues for management boards, the Tłıchǵ, territorial governments, and other federal departments. During 2009-2010, Kimberly Thompson, Director of the Implementation Management Directorate for NWT/Yukon within the Implementation Branch, represented AANDC on the Implementation Committee.

More information on the Government of Canada and its departments, programs, and services can be found online at [www.canada.gc.ca/home.html](http://www.canada.gc.ca/home.html)

More information about AANDC can be found online at [www.aadnc-aandc.gc.ca](http://www.aadnc-aandc.gc.ca)

- **Government of the Northwest Territories:** The Department of Aboriginal Affairs and Intergovernmental Relations (DAAIR) is responsible for coordinating the GNWT's implementation activities under the Tłıchǵ Agreement. It manages the allocation of implementation funds received from the Government of Canada and represents the GNWT on the Tłıchǵ Implementation Committee. Scott Alexander, Director of Implementation within DAAIR, represented the GNWT on the Implementation Committee during 2009-2010.

More information about the GNWT can be found online at [www.gov.nt.ca](http://www.gov.nt.ca)

More information about DAAIR can be found online at [www.daair.gov.nt.ca](http://www.daair.gov.nt.ca)



# Chapter 3: Reporting (2009-2010) and Implementation Priorities (2010-2011)

## Cultural Coordinator

Under Section 8 of the Intergovernmental Services Agreement (ISA), a Cultural Coordinator is to be appointed jointly by all Parties in order to advise them on how to use their respective powers in ways that respect and promote the Tłıchǰ language, culture, and way of life. Each Party is responsible for one-third of the Cultural Coordinator's budget which, according to 2010-2011 funding allocations, will total \$69,326.00 each.

### Activities: 2009-2010

After receiving applications for the position, the TG recommended a candidate to Canada and the GNWT for appointment. In March of 2010, the Implementation Committee appointed a Cultural Coordinator for a term to December 31, 2013.

### Next Steps

The Cultural Coordinator and Implementation Committee members must enter into the funding agreement process for 2010-2011.

## Dispute Resolution Administrators

Pursuant to the Tłıchǰ Agreement (section 6.2.1), a Dispute Resolution Administrator (DRA) and Deputy Dispute Resolution Administrator (DDRA) are to be appointed jointly by all Parties. The DRA and DDRA are to assist in facilitating mediation and arbitration between the Parties in accordance with the Tłıchǰ Agreement. Nomination for the DRA appointment was approved in March 2009. The DDRA nominee was approved by the TG and GNWT and was awaiting approval by Canada. The term of appointment of the DRA and the DDRA shall be six years, with both being able to be reappointed.

### Activities: 2009-2010

All Parties met the newly appointed DRA in June 2009 to discuss the position's mandate, annual retainer, work plan, the budget, and the preparation of rules and guidelines. The Parties received a draft work plan and budget from the DRA and they accepted a revised submission during their December 2009 meeting.

### Next Steps

The DRA and the Implementation Committee members must enter into the funding agreement process for 2010-2011. The DRA will begin to draft the Rules and Guidelines for Mediation and Arbitration as stated in the Tłıchǰ Agreement. The DRA will also invite Parties to submit candidates for the DRA's roster of arbitrators and mediators. Finally, the Implementation Committee must complete the selection and the appointment of the DDRA.

## Eligibility Committee

The Tłıchǰ Agreement (section 3.2.2) stipulates that at the end of the initial enrolment period, the TG must designate a person or group of persons as the Registrar. The Registrar is required to maintain an up to date list of eligible Tłıchǰ Citizens as well as provide publicly available information regarding enrolment eligibility.

### Activities: 2009-2010

The TG designated the Tłıchǰ Executive Officer as Registrar. In September 2009, the Implementation Committee agreed that this activity was complete.

## Impact Benefit Agreement

Pursuant to the Tłıchǰ Agreement (section 23.4.1), proponents of major mining projects that will have an impact on Tłıchǰ Citizens must negotiate an agreement with the TG to conclude an agreement relating to the project.



**Activities: 2009-2010**

AANDC hired a contractor to develop a report on Impact Benefit Agreements (IBAs) for major mining projects. The first phase of the initiative involved discussions with stakeholders and industry; the second involved a draft policy framework with comments from all three levels of government. The final phase will involve developing guidelines on IBAs that account for AANDC Headquarters' initiative on IBA policy.

**Next Steps**

The consultant will work with AANDC's Mineral and Petroleum Resources Development Directorate to review the work to date and to draft the document which will then be presented to the Implementation Committee for review and consideration.



### Tłıchǫ Assembly / Cultural Centre Status of Land

The current status of the land on which the Tłıchǫ Assembly/Cultural Centre is situated does not reflect the intent of the Parties. During the negotiation of the Tłıchǫ Agreement, the lands for the Assembly/Cultural Centre in Behchokǫ were to be designated as Tłıchǫ lands. However, when the Tłıchǫ Agreement was ratified, the parcel was included as Tłıchǫ community lands.

### Activities: 2009-2010

All Parties agreed that the Cultural Centre lands were intended to be Tłıchǫ lands and not Behchokǫ community lands. Canada and the GNWT have verified that lots 15 and 16, Land Titles Office (LTO) plan 2181, Behchokǫ, are incorrectly identified as community lands in the Tłıchǫ Agreement. Canada distributed a letter to the Implementation Committee describing the specific issues being examined and required

next steps. The Parties agreed to have their legal representatives work together to produce options for the Implementation Committee to consider.

#### **Next Steps**

Once a mechanism has been determined by the three Parties, they will begin the process required to make an amendment to the Tłı̨chǫ Agreement.

### **Health Canada Program Transfer**

The TG has requested a change in the funding process for the delivery of Health Canada programs, such as Brighter Futures, Aboriginal Head Start and Prenatal Nutrition. The TG has indicated that it would prefer to receive funding directly from Health Canada for programming for its Citizens as opposed to the current funding arrangement which flows funding through the GNWT. Discussions between the TG and Canada have not been successful.

#### **Activities: 2009-2010**

The TG has indicated an ongoing interest in negotiating this program transfer.

#### **Next Steps**

A meeting between the TG and Canada will be arranged at the request of the TG to discuss this issue further.

### **Board Funding and Appointments**

The purpose of the WLWB is to regulate the use of land and water and the deposit of waste throughout Wek'èezhìi as described and legislated by the Tłı̨chǫ Agreement and other related acts and regulations. The WRRB is the authority established to oversee the management of wildlife and habitat and to make recommendations on wildlife, forest and plant resources, as well as on commercial activities.

The MVEIRB conducts environmental assessments and reviews of development projects in the Mackenzie Valley. Each board is expected to prepare an annual budget, and board members are appointed on behalf of Canada, the GNWT, and the TG. In the case of MVEIRB, the Board also includes representatives from the Gwich'in, Sahtu, and Dehcho First Nations.

#### **Activities: 2009-2010**

The WLWB received funding for core operations as well as supplementary funding to initiate and hold public hearings. The WRRB also received funding for core operations, as well as supplementary funding to initiate and hold public hearings. This funding assists the boards in fulfilling their mandates within the Tłı̨chǫ Agreement. The Boards have expressed their concerns to the Implementation Committee, however, that their funding is not sufficient in order for them to fulfill their mandates.

During the reporting period, the terms of WLWB and WRRB Board positions expired and the Parties undertook the task of appointing new members. The TG expressed concern that because its membership on MVEIRB has been vacant since November 2008, its interests have not been adequately addressed. All Parties agreed that appointing the TG nominee was a priority and the appointment was made by the Minister of AANDC.

#### **Next Steps**

The Implementation Committee is to ensure that the WLWB and WRRB enter into the funding process for 2010-2011 fiscal year, and that all appointments are up to date.

### **Tłı̨chǫ Mapping Issues**

In September 2009, it was found that metes and bounds description of the Mǫwǫhì Gogha Dè Nı̨tlèè boundary, as it appears in the Tłı̨chǫ Agreement and the illustrative map of the same boundary do not match.



There are significant differences. Canada asked that this issue be addressed by all Parties as quickly as possible to achieve the clarity and certainty intended by the Tłı̨chų Agreement.

**Activities: 2009-2010**

Natural Resources Canada (NRCan) examined the differences between the metes and bound description of the M̄owhì Gogha Dè Nı̨tłèè boundary as it appears in the Tłı̨chų Agreement and the illustrative map of the same boundary. In addition to officially confirming that the illustration and metes and bounds description do not match, NRCan found potential technical issues with the metes and bounds.

At the beginning of March 2010, Canada met with the TG’s Grand Chief and other representatives to provide an update on the examination of the discrepancy

between the metes and bounds description and maps in the Tłı̨chų Agreement.

**Next Steps**

A report, produced by NRCan, outlining the metes and bounds of the M̄owhì Gogha Dè Nı̨tłèè boundary as it appears in the Tłı̨chų Agreement, will be provided to the Parties for their review. The report will also compare the metes and bounds description of the M̄owhì Gogha Dè Nı̨tłèè with the illustrative map of the same boundary as it appears in the Tłı̨chų Agreement.

Canada will work with the TG to resolve the issues as identified by NRCan.

## Overlap of M̄owhì Gogha Dè N̄ı̄tlèè and the Sahtu Settlement Area

In 2009, the Sahtu Secretariat Inc. (SSI) raised concerns with Canada regarding the overlap of the traditional territory of the T̄ı̄ch̄q̄ as recognized in the T̄ı̄ch̄q̄ Agreement (M̄owhì Gogha Dè N̄ı̄tlèè) and their settlement area as recognized by the Sahtu Dene and Métis Comprehensive Land Claim Agreement.

### Activities: 2009-2010

Canada has encouraged discussions between the TG and the SSI towards the conclusion of an overlap agreement.

Informal discussions were initiated between the TG and the SSI.

### Next Steps

Canada will continue to promote discussion between the TG and the SSI regarding the pursuit of an overlap agreement.

## Intergovernmental Services Agreement Review

The ISA<sup>2</sup> is an agreement between the TG, the GNWT, and Canada that establishes the T̄ı̄ch̄q̄ Community Services Agency (TCSA). The TCSA is intended to be an interim step in the development of self-government and is expected to evolve over time as the TG makes decisions about drawing down programs and services from the GNWT. The TCSA performs functions related to the delivery of education, health, and social services to non-T̄ı̄ch̄q̄ Citizens on T̄ı̄ch̄q̄ lands or in a T̄ı̄ch̄q̄ community and to T̄ı̄ch̄q̄ Citizens.

### Activities: 2009-2010

The Implementation Committee began discussions with the TCSA on the second joint two-year ISA review process. A requirement of the ISA, the review

is to identify possible actions to strengthen the implementation of the ISA. A meeting was held to discuss the Terms of Reference for the review and a draft was later prepared by the TCSA. In February 2010, the GNWT advised that it had initiated a study on intergovernmental services agreements generally, which could inform the ISA review process.

### Next Steps

Once the GNWT's study has been concluded, it will share the results with the Implementation Committee and a decision will be made as to what issues should be examined through the second two-year ISA review.

## Environmental Assessment

There are still Indian Affairs Branch (IAB) lands in the Behchok̄q̄ area that need to be transferred from Canada to the Behchok̄q̄ Community Government. An environmental assessment is required in order to have the land legally transferred.

### Activities: 2009-2010

During the December 2009 Implementation Committee meeting, Canada provided a status update about the environmental assessment required before the IAB lands can be transferred. Canada reported that AANDC Regional office representatives who are required to conduct environmental assessments within the T̄ı̄ch̄q̄ region have not been able to access the lands. TG agreed to follow up on this matter with the Behchok̄q̄ Lands Officer and will identify who should be contacted for access.

### Next Steps

The Behchok̄q̄ Lands Officer will meet with the Indian and Inuit Services Officer responsible for managing IAB lots to discuss the environmental assessments in the community.

<sup>2</sup> A copy of the T̄ı̄ch̄q̄ Intergovernmental Services Agreement can be found on the T̄ı̄ch̄q̄ Website: [www.tlcho.ca/tlichogoverment/publications](http://www.tlcho.ca/tlichogoverment/publications)



## Financing Agreement Review

A Financing Agreement was signed between Canada and the TG that establishes a Finance Committee.<sup>3</sup> It has the mandate to review the Financing Agreement and resolve any financial issues that may arise in relation to implementation. In 2009-2010, the Financing Agreement was scheduled for review.

A Financing Agreement was signed between Canada and the TG which sets out the arrangement by which self-government funding will be provided. The Agreement also establishes a Finance Committee, which is mandated to review the Financing Agreement and resolve any financial issues that may arise in

relation to implementation. In 2009/2010, the Financing Agreement was scheduled for review.

### **Activities: 2009-2010**

In March 2010, Canada and the TG initiated the review process. The first activity was the completion of the Terms of Reference. The Parties met to discuss issues and started a rolling draft of the final report.

### **Next Steps**

Canada and the TG are to conduct regular meetings to discuss and complete the review process. Once the report has been finalized, the process to get a mandate to negotiate a new fiscal arrangement will start.

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<sup>3</sup> A copy of the Tłıchǵ Financial Agreement can be found on the Tłıchǵ Website: <http://www.tlcho.ca/tlichogoverment/publications>





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