

LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
8TH ASSEMBLY, 64TH SESSION

TABLED DOCUMENT NO. 21-64

TABLED ON Feb. 8, 1978

- (7) the potential for flood damage and the costs to Canada, the Commissioner and the public for such damage can be reduced by control of the uses made of areas prone to flooding;
- (8) wide public awareness of the risks and costs involved in occupying areas prone to flooding is likely to result in support for the control of the uses made of such areas;
- (9) comprehensive river basin planning and management programmes, where such are in effect, also provide a suitable approach to reducing potential flood damage;
- (10) the Minister of the Environment and the Minister of Indian Affairs and Northern Development have agreed to carry out a flood-risk mapping program for the Northwest Territories as set forth in a Memorandum of Understanding appended to this Agreement;
- (11) by Order-in-Council no. _____ made the _____ day of _____ the Governor in Council has authorized the Minister of the Environment for Canada and Minister of Indian Affairs and Northern Development to enter into this agreement on behalf of Canada; and
- (12) by Order-in-Council no. _____ made the _____ day of _____ and by territorial Ordinance entitled _____ enacted the _____ day of _____, 19____ the Commissioner has pursuant to section 15 of the Northwest Territories Act been authorized to enter into this agreement.

IT IS THEREFORE AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

Definitions

1. In this Agreement,
 - (a) "flood proofing" means,
 - i) with respect to existing structures or other undertakings, the modification or alteration thereof, and
 - ii) with respect to new structures or other undertakings, the design manner of construction, or the siting thereoffor the purpose of preventing damage to such structure or other undertaking by a flood of a specified magnitude;
 - (b) "floodway" means floodway as defined in Schedule B of the appended Memorandum of Understanding;
 - (c) "Ministers" means the Minister of the Environment and the Minister of Indian Affairs and Northern Development, for Canada;
 - (d) "undertaking" includes
 - i) the construction, erection, extension or alteration of any structure other than
 - A) a structure for agricultural use,

- B) an open-air building for recreational use, or
 - C) any structure, other than a building, for recreational use; and
- ii) the use of land, whether surface or subterranean use, for any purpose other than agriculture or recreation; and
- (e) "zoning authority" means the regional or municipal government or any other body or agency which has the authority to impose zoning restrictions on land use.

Basic Approach for Reducing Potential

Flood Damage

- 2(1) The best results in reducing potential flood damage in the Northwest Territories shall be achieved if
- (a) consideration is given, in each case where measures are proposed, to all practicable structural and non-structural alternatives, including the alternative of allowing some flooding to occur, so that the best choice on the basis of effectiveness, cost, corollary benefits and environmental impact is made; and
 - (b) preference is given, subject to paragraph (a), in areas determined to be flood risk areas, to measures that prevent or make subject to requirements for flood proofing all undertakings vulnerable to flood damage.
- (2) The principle stated in sub-clause (1) shall be given effect by means of the Agreements and policies hereinafter described.

Agreements

3. The Parties may from time to time enter into other agreements, including agreements respecting
- (a) any studies, research or surveys that may be necessary to give effect to the principle stated in sub-clause 2(1);
 - (b) flood forecasting systems;
 - (c) flood warning systems;
 - (d) Flood proofing techniques;
 - (e) land use planning in flood risk areas;
 - (f) works to control flows and levels of waters; or
 - (g) acquisition of property or easements by the Parties to reduce flood damage potential.

Policies Respecting Government
Undertakings and Programmes

4(1) Upon the designation of a flood risk area pursuant to clause 8,

(a) each Party shall ensure that, subject to sub-clause (3),

i) its departments and agencies do not engage in any further undertakings in the designated area which are vulnerable to flood damage, and

ii) its programmes of financial assistance to third parties are administered so that no assistance is given to any further undertakings in the designated area which are vulnerable to flood damage and, without limiting the generality of the foregoing,

A) The Department of Indian Affairs and Northern Development shall not provide grants, incentives, loans or loan guarantees with respect to any further undertakings in the designated area that are vulnerable to flood damage, and

B) the Central Mortgage and Housing Corporation shall not extend financial guarantee, insurance or otherwise, under the National Housing Act with respect to any further undertakings in the designated area that are vulnerable to flood damage, and

C) The Commissioner shall not, ^{by} territorial Ordinance undertake the construction of flood vulnerable facilities nor provide financial assistance to third parties with respect to any facility which is or is to be located in the designated area, and

(b) each Party shall, subject to sub-clause (2),

i) undertake zoning of its own lands, and encourage the zoning authorities under its legislative jurisdiction to impose zoning restrictions that shall prohibit or, where appropriate, make subject to requirements for adequate flood proofing all further undertakings in the designated area that are vulnerable to flood damage, and

ii) ensure that where zoning restrictions as described in sub-paragraph (i) are imposed, its departments and agencies comply therewith.

(2) Paragraph (1)(b) is discretionary where the designation is an interim designation.

(3) Where a floodway is designated pursuant to clause 8 sub-clause (1) shall not apply with respect to

- (a) any undertaking that is adequately flood proofed and located in that part of the designated area outside the designated floodway; or
- (b) any assistance to a third party
 - i) for an undertaking in that part of the designated area outside the designated floodway, and
 - ii) made subject to a requirement that such undertaking be adequately flood proofed.

5(1) Subject to sub-clause (2) and (3), assistance under any federal or territorial disaster assistance programme shall not extend to costs and losses incurred, as a result of a flood, with respect to

- (a) any undertaking commenced; or
- (b) any moveable placed

within an area after its designation or interim designation as a flood risk area.

(2) Sub-clause (1) does not affect the applicability of the federal Disaster Assistance Programme, in those circumstances where the prerequisites for assistance are met, to costs and losses incurred

- (a) where a floodway has been designated, with respect to an undertaking that is adequately flood proofed and located in that part of the designated flood risk area outside such floodway;
- (b) with respect to an undertaking commenced or moveable placed within an area prior to its designation as a flood risk area;
- (c) with respect to an undertaking or moveable located outside the designated flood risk area; or
- (d) as a result of a disaster other than a flood.

(3) Where the Governor-in-Council decides that extraordinary circumstances in a particular case warrant it, Canada may provide assistance, according to the terms of its Disaster Assistance Programme, with respect to cost or losses described in sub-clause (1).

Flood Risk Mapping and Publication

6. Canada shall, in accordance with the provisions of section 10 of the appended Memorandum of Understanding,

- (a) provide the Commissioner with maps, showing at each place listed in Schedule A of the Memorandum of Understanding the location and extent of
 - i) the areas that are prone to flooding, by, and
 - ii) where specified, the floodways forthe body(ies) of water named in the said Schedule with respect to such places;

- (b) make information about the designated flood risk areas and floodways available, in maps, reports and such other forms as are appropriate, to zoning authorities and to persons, including governments and agencies thereof, and the Commissioner, who may be considering at any time an undertaking, at or near a place named in the aforementioned Schedule A; and
- (c) carry out a public information programme to inform the public about the purpose of the flood risk mapping to be undertaken, the progress thereof and the information obtained.

7. Canada may provide similar maps for additional places in the Northwest Territories during the Life of this Agreement, as mutually agreed to by the Parties, and shall inform the Commissioner of any changes to the mapping program.

Designation

- 8(1) The Commissioner and the Ministers shall, upon receipt of a map with a recommendation to designate flood risk areas and, where applicable, floodways made pursuant to the provisions of Section II of the appended Memorandum of Understanding, determine whether such recommendation should be accepted and upon acceptance, designate the flood risk areas and, where applicable, the floodways shown on the map.
 - (2) Where a map already published by either Party showing an area referred to in paragraph 6(a) does not meet, in every respect, the specifications set out in Schedules B and C of the Memorandum of Understanding, the Ministers and the Commissioner may, if they consider the map nevertheless adequate for the purpose, make an interim designation of the flood risk areas and, where applicable, floodways shown therein and such designation shall have effect until replaced by a designation pursuant to sub-clause (1).
 - (3) Where, within six months after a recommendation is made, pursuant to the provisions of Section 10(e) (i) of the appended Memorandum of Understanding, that the flood risk areas and any floodway shown in a map may be designated, the Ministers and Commissioner having received a recommendation that the designation be made, fail to make it, either Party may implement the policies described in sub-clause 4(1) in the flood risk areas shown in such map, notwithstanding that the other Party may not have undertaken or undertake such implementation.
- 9(1) This Agreement shall terminate on the _____ day of 1987 unless before that date a new termination date is agreed to by the Parties.
- (2) Upon written request of one Party and with the approval of the Governor General in Council and the Commissioner this Agreement may be revised or amended.

10.

No member of the Parliament of Canada or of the Northwest Territorial Council shall hold, enjoy, or be admitted to any share, part or benefit from this Agreement or any agreement, contract or benefit arising therefrom.

IN WITNESS WHEREOF the Honourable J. Hugh Faulkner, Minister of Indian Affairs and Northern Development, and the Honourable Roméo LeBlanc, Minister of Fisheries and the Environment, have hereunto set their hands on behalf of Canada and S.M. Hodgson Commissioner has hereunto set his hand on behalf of the Northwest Territories.

Signed on behalf of Canada by the Honourable Roméo LeBlanc in the presence of

Signed on behalf of Canada by the Honourable J. Hugh Faulkner in the presence of

Signed on behalf of the Northwest Territories by S.M. Hodgson in the presence of

Signed by the Honourable André Ouellet, Minister of State for Urban Affairs of Canada in the presence of
