

MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT made this 22nd day of Aug., 1990.

BETWEEN

Her Majesty the Queen in Right of Canada, acting and represented herein by the Minister of National Defence (hereinafter called "DND")

OF THE FIRST PART

AND

the Government of the Northwest Territories represented herein by the Commissioner of the Northwest Territories (hereinafter called "GNWT")

OF THE SECOND PART

WHEREAS by virtue of the Memorandum of Understanding signed by the Prime Minister of Canada and the President of the United States on 18 March 1985, Canada and the United States have entered into a joint agreement to update and modernize the North American Air Defence system;

and WHEREAS an integral part of this modernization program is the establishment of a Forward Operating Location at Yellowknife, Northwest Territories;

and WHEREAS it is in the national interest to establish and maintain effective and efficient air defence capabilities for all sovereign Canadian airspace, including over northern Canada;

and WHEREAS a portion of the land required to construct the facilities for the Forward Operating Location at Yellowknife is designated Commissioner's Lands, which are properties vested in Her Majesty in right of Canada pursuant to Part III, section 44 of the Northwest Territories Act, and are under the management, charge and direction of the GNWT, the Deputy Minister of National Defence and the Deputy Minister of Municipal and Community Affairs have been respectively authorized to enter into this Memorandum of Agreement, hereinafter referred to as the Agreement.

The Parties therefore agree as follows:

DEFINITIONS

1. In this Agreement,

- (a) "GNWT" means the Government of the Northwest Territories represented by the Commissioner of the Northwest Territories, and any person authorized in writing by the Commissioner to act on his behalf.
- (b) "DND" means the Department of National Defence.
- (c) "FOL" means the Forward Operating Location and "FOL Site" means the Forward Operating Location Site to be located at Yellowknife in support of North American Air Defence operations and includes all infrastructure constructed for this purpose.
- (d) "IEE" means the Initial Environmental Evaluation for the Yellowknife FOL prepared pursuant to the Federal Environmental Assessment and Review Process (EARP) Guidelines Order, and as submitted by DND to the Federal Environmental Assessment and Review Office (FEARO) on June 1, 1990.

- (e) "EPP" means the Environmental Protection Plan dated March 30, 1990 developed for FOL operations and for the construction and maintenance of FOL facilities, and any amendments thereto which may affect this Agreement, such amendments requiring formal mutual agreement.
- (f) "Low Level Flights" refers to flights below 300 metres above ground level, excluding arrival and departure procedures in the immediate vicinity of the airport, such as circuits, take offs and landings.

LANDS

- 2. Subject to the terms and conditions of this Agreement, the GNWT grants the use and occupancy to DND of the lands described as follows (hereinafter called "the Lands"):

All that certain parcel or tract of land lying and being in the City of Yellowknife in the Northwest Territories as shown outlined in red, on Annex "A" being the Ferguson, Simek and Clark Engineering drawing H-Y10-9901/2-603 dated January 31, 1990. Said parcel or tract of land is also further defined as that part of Lot 1048 which lies west of the west limit of Lot 833 as shown outlined in red on Annex "B", being Public Works Plan NWT 345 of Plan and Field Notes of Survey of Lots 1048 and 1049, Quad 85 J/8, Yellowknife Coordinated Survey Area, Yellowknife, Northwest Territories, as executed between October 24 and October 28, 1989 by Colin Blake Aird and sworn to by him November 29, 1989. The parcel herein described contains an area of 28.61 hectares as indicated on Public Works Canada Plan NWT 345 and along with drawing H-Y10-9901/2-603 forms part of this description.

TERM

- 3. The term for use and occupancy of the Lands shall be thirty (30) years commencing on the first day of July, 1990. If DND duly performs and observes all its covenants and agreements herein, the GNWT shall, at the expiration of the said term, and provided that DND wishes to renew the Agreement, grant to DND a new agreement for use and occupancy of the Lands for a further term of thirty (30) years, subject to the same covenants and agreements as are herein contained with the exception of this clause, or as agreed by the Parties.

AGREEMENT

- 4. In consideration of the covenants and agreements herein reserved and contained to be observed and performed by the Parties, and subject to the Commissioner's Land Act and the Commissioner's Land Regulations, the GNWT grants the use and occupancy to DND of the Lands.
- 5. The scope of the FOL project is to provide austere facilities to support up to six fighter aircraft and approximately 200 personnel on periodic deployments. There will be no changes to this scope, as generally described in the Initial Environmental Evaluation (IEE) for the Yellowknife FOL, and as amplified in section 6 below, without prior consultation with the GNWT.
- 6. DND shall have the right to make modifications to the FOL facilities, including extensions to buildings, and to construct additional new ancillary facilities, such as a warehouse, equipment shelter or similar storage facilities, where such ancillary facilities or modifications are required to conduct its current operations in a more efficient and effective manner.

7. Facilities will be designed and constructed in accordance with all applicable federal, territorial or municipal regulations, acts or by-laws, including development permits from the City of Yellowknife. The construction contractor will be bound by the EPP during construction and DND will operate and maintain the facilities in accordance with this plan.
8. Should the scope of work outlined above be underway (i.e. a construction contract has been awarded) but remains uncompleted by July 1, 1995, or as soon as it becomes known and mutually agreed that the scope of work outlined above cannot be completed by July, 1, 1995, this Agreement may be terminated.
9. The Parties agree in all respects to abide by and comply with all applicable lawful rules and regulations of the Federal Government and the Territorial Government that may affect the Lands. The Parties will use their best efforts to keep each other informed of proposed legislative or regulatory changes having a direct impact on the management and control of or operations on the Lands.

ACCESS

10. DND will have sole use and control of the Lands during the period of occupancy and shall have the right to enforce any and all DND regulations, including trespass regulations, on the Lands.

OPERATIONS

11. Operations and Maintenance activities shall be conducted by DND in accordance with the EPP (as may be amended), applicable airport regulations and DND regulations.

PROJECT DESCRIPTION

12. The Yellowknife FOL project involves construction of minimum essential, austere facilities to provide cost effective support during infrequent deployments of fighter aircraft for air defence operations purposes. The FOL is not designed for or capable of supporting continuous (year round) fighter aircraft operations. There is no plan to make this a military base.

LOW LEVEL FLIGHTS AND SUPERSONIC OPERATIONS

13. Air defence operations are essentially long range, medium and high-altitude interception of unidentified targets entering Canadian airspace. The FOL is not intended nor is it proposed to support low level tactical training of the type undertaken from Goose Bay. Interim FOL operations have been conducted from Yellowknife (and Inuvik and Iqaluit) since 1986. The FOL facilities will simply enable the military to conduct these existing activities in a more cost effective manner. There are no new low level flights or supersonic operations being introduced as a result of the FOL project. All DND aircraft will, as a minimum, adhere to Canadian Forces Flying Orders and Air Traffic Control rules and procedures as promulgated by Transport Canada.

CRUISE MISSILE TESTS AND IR920

14. Existing low level flights are not part of the FOL project.

NATIONAL DEFENCE ACT

15. Canada has the right and authority under its National Defence Act or the Emergencies Act, to terminate or suspend the rights or privileges granted under this Agreement or Defence Trespass

Regulations in times of emergency and to take possession, operation or management of any property installed on the Lands as may be necessary for defence purposes, subject to any right to compensation pursuant to the National Defence Act or the Emergencies Act.

ABANDONMENT AND RESTORATION

16. When the FOL facilities are no longer required for the purposes set out in this Agreement, the GNWT shall be notified in writing. Facilities on the Lands shall be disposed of as follows:
- (a) the surplus DND facilities will be offered initially to the Airport Authority, Transport Canada, for its purposes associated with the Yellowknife Airport. If Transport Canada accepts that offer and wishes to use any or all such facilities in situ, Transport Canada will be responsible for making suitable arrangements to use the applicable Lands. The GNWT will not unreasonably withhold agreement for such land usage;
 - (b) any or all surplus DND facilities not accepted by Transport Canada shall be offered to the GNWT for its use;
 - (c) any surplus facilities remaining after (a) and (b) above will be disposed of under terms of the Crown Assets Disposal Act in accordance with standard practices in effect at the time of disposal, but only on the condition that the facilities be removed from the Lands or the prospective buyer of such facility (or facilities) has obtained all necessary prior approvals to use the applicable Lands; and
 - (d) any remaining facilities will be dismantled and the balance of the Lands will be cleaned up within a reasonable time period, nominally three years, to environmental standards and legislation prevailing at the time. DND shall then deliver up possession of the Lands in a condition satisfactory to the GNWT, such condition being in accordance with such standards and legislation generally applicable to similar properties and usage.

LIABILITY

17. DND will at all times indemnify and save harmless the GNWT from and against all actions, claims, demands, costs and damages whatsoever that may be brought, made or sustained against the GNWT, arising out of or connected with the use of the Lands by DND defined in this Agreement.

RESOLUTION OF DISAGREEMENTS

18. Disputes regarding interpretation or application of this Agreement will be resolved through consultation between the Parties. In the event that any substantive issues cannot be resolved by the Parties, the matter may be referred to a third party acceptable to both Parties, and on mutually agreeable terms and conditions, for resolution.

NOTICES

19. All notices authorized or required to be given pursuant to this Agreement shall be in writing and either delivered by hand, mailed by registered or certified first class mail, postage prepaid, or sent by telecommunications as follows:

In the case of DND:

Director General Properties and Utilities
National Defence Headquarters
MGen George R. Pearkes Building
Ottawa, Ontario
K1A 0K2
(Facsimile: (613) 995-1031)

In the case of GNWT:

Deputy Minister
Municipal and Community Affairs
Government of the Northwest Territories
P.O. Box 1320
Yellowknife, N.W.T.
X1A 2L9
(Facsimile: (403) 873-0152)

or to any other address as either of the Parties may from time to time notify the other in writing in the manner hereinbefore provided. Notices shall be effective upon delivery (if delivered by hand), or on the day following the mailing of the notice (in all other instances).

RELEASE OF AGREEMENT

20. This Agreement shall not be released by DND to the public or any third party without the consent, in writing, of the GNWT.

PRECEDENT

21. This Agreement shall not be considered a precedent for any other DND land use in the Northwest Territories, current or future.

NON-COMPLIANCE

22. Where DND fails to perform or observe any of the covenants or agreements herein contained, and the GNWT may desire to re-enter and terminate this Agreement because of any breach of covenant or default by DND, notice of such intention shall be given in writing to DND allowing DND at least ninety (90) days to remedy the default or breach or to commence to remedy the default or breach if incapable of being completely remedied within the ninety (90) day period. In the event the default or breach is not remedied within the ninety (90) day period, or any extended period, (such extension of the ninety (90) day period shall not be unreasonably withheld) this Agreement shall be terminated at the expiry of the ninety (90) day or the extended period, whichever is later.

TERMINATION

23. Termination of this Agreement shall not prejudice the GNWT's right with respect to a breach of any covenant or agreement herein contained, nor prejudice the GNWT's right pursuant to Section 16.

WAIVER

24. Unless a waiver is given in writing by the GNWT, the GNWT shall not be deemed to have waived any breach by DND of any of the covenants or agreements herein contained, and a waiver relates only to the specific breach to which it refers.

APPLICABLE LAW

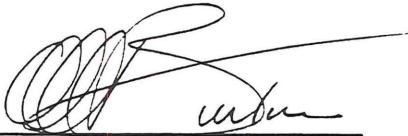
25. This Agreement shall be governed by the laws in force in the Northwest Territories from time to time.

SURVIVORSHIP

26. This Agreement enures to the benefit of and is binding upon the GNWT and its successors and assignees, and DND and its successors.

IN WITNESS WHEREOF this Agreement has been executed by the Deputy Minister of National Defence, on behalf of Her Majesty the Queen in right of Canada, and by the Deputy Minister of Municipal and Community Affairs on behalf of the Government of the Northwest Territories by the affixing hereto of their corporate seals attested by the hands of their officers duly authorized in that behalf,
this 22nd day of August, 1970.

Department of National Defence
Ottawa, Ontario



Witness

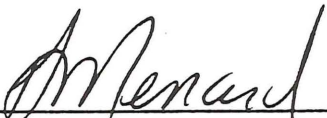


Deputy Minister
of National Defence

Government of the Northwest
Territories



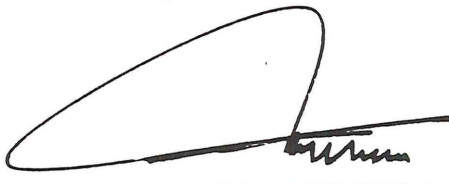
Witness



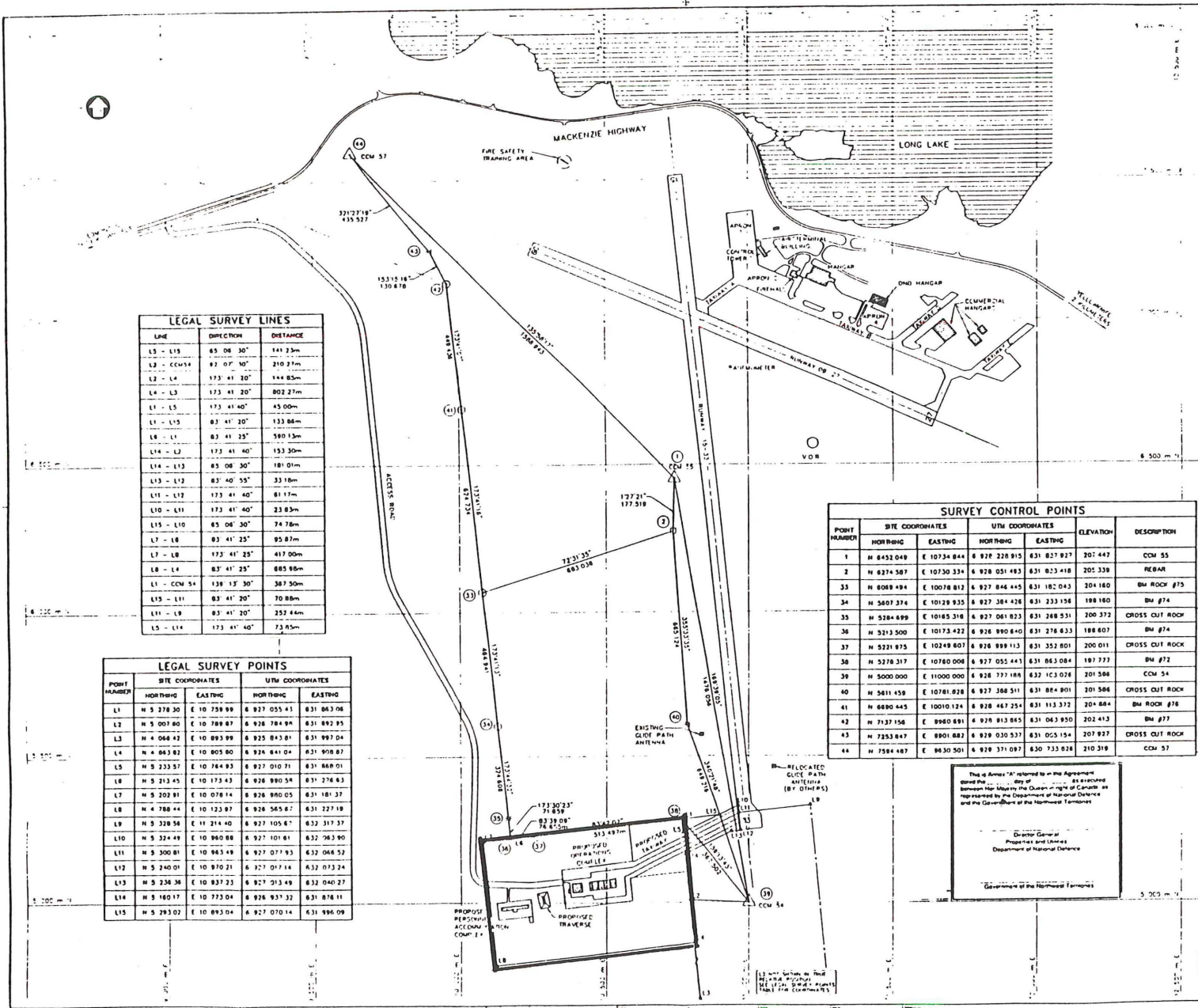
Deputy Minister of Municipal and
Community Affairs



Witness



Commissioner of the Northwest
Territories



LEGAL SURVEY LINES

LINE	DIRECTION	DISTANCE
L3 - L15	65 06' 30"	141.23m
L2 - CCM 54	82 07' 10"	210.27m
L2 - L4	173 41' 20"	144.85m
L4 - L3	173 41' 20"	802.27m
L1 - L5	173 41' 40"	45.00m
L1 - L15	83 41' 20"	133.86m
L8 - L1	83 41' 25"	580.13m
L14 - L2	173 41' 40"	153.30m
L14 - L13	85 06' 30"	181.01m
L13 - L12	83 40' 55"	33.18m
L11 - L12	173 41' 40"	81.17m
L10 - L11	173 41' 40"	23.85m
L15 - L10	65 06' 30"	74.78m
L7 - L8	83 41' 25"	95.87m
L7 - L8	173 41' 25"	417.00m
L8 - L4	83 41' 25"	885.95m
L1 - CCM 54	139 13' 30"	387.30m
L15 - L11	83 41' 20"	70.88m
L11 - L8	83 41' 20"	252.84m
L5 - L14	173 41' 40"	73.45m

LEGAL SURVEY POINTS

POINT NUMBER	SITE COORDINATES		UTM COORDINATES	
	NORTHING	EASTING	NORTHING	EASTING
L1	N 5 278.30	E 10 758.99	8 927 055.41	831 883.06
L2	N 5 007.80	E 10 789.87	8 928 784.94	831 892.95
L3	N 4 084.42	E 10 893.99	8 925 843.81	831 997.04
L4	N 4 843.82	E 10 805.80	8 924 841.04	831 908.87
L5	N 5 233.57	E 10 784.93	8 927 010.31	831 888.01
L8	N 5 213.45	E 10 173.43	8 928 980.54	831 274.83
L7	N 5 202.81	E 10 078.14	8 926 990.05	831 181.37
L8	N 4 788.44	E 10 123.97	8 926 565.87	831 227.19
L9	N 5 328.56	E 11 214.40	8 927 105.67	832 317.37
L10	N 5 324.49	E 10 980.88	8 927 101.61	832 263.90
L11	N 5 300.81	E 10 963.49	8 927 077.93	832 048.52
L12	N 5 240.01	E 10 870.21	8 927 017.14	832 073.24
L13	N 5 236.36	E 10 837.23	8 927 013.49	832 040.27
L14	N 5 180.17	E 10 723.04	8 926 937.32	831 876.11
L15	N 5 283.02	E 10 893.04	8 927 070.14	831 996.09

SURVEY CONTROL POINTS

POINT NUMBER	SITE COORDINATES		UTM COORDINATES		ELEVATION	DESCRIPTION
	NORTHING	EASTING	NORTHING	EASTING		
1	N 8432.048	E 10734.844	8 928 228.915	831 837.927	207.447	CCM 55
2	N 8274.587	E 10730.334	8 928 051.483	831 823.418	205.338	REBAR
33	N 8088.484	E 10078.812	8 927 846.445	831 182.043	204.180	BM ROCK #75
34	N 5807.374	E 10129.935	8 927 384.426	831 233.156	198.180	BM #74
35	N 5284.699	E 10185.318	8 927 061.823	831 268.531	200.372	CROSS CUT ROCK
36	N 5213.500	E 10173.422	8 926 990.840	831 278.633	198.807	BM #74
37	N 5221.975	E 10249.607	8 926 989.113	831 352.801	200.011	CROSS CUT ROCK
38	N 5278.317	E 10760.006	8 927 055.443	831 863.084	197.727	BM #72
39	N 5000.000	E 11000.000	8 928 777.188	832 123.024	201.584	CCM 54
40	N 5811.458	E 10781.828	8 927 388.511	831 884.801	201.584	CROSS CUT ROCK
41	N 6880.445	E 10010.124	8 928 467.254	831 113.372	204.884	BM ROCK #78
42	N 7537.156	E 9980.881	8 928 813.865	831 063.950	202.413	BM #77
43	N 7253.847	E 8901.882	8 928 030.537	831 053.154	207.927	CROSS CUT ROCK
44	N 7584.487	E 9830.501	8 928 371.087	830 733.826	210.318	CCM 57

National Défense nationale
Headquarters
Quartier général

FSC-SNC
Joint Venture

LEGEND

- PROPOSED FACILITIES
- POINT NUMBER
- CCM
- BEACH MARK
- CUT CROSS
- IRRAW
- LEGAL POINTS

NOTES

REFERENCE FOR CCM #54
A SITE COORDINATE SYSTEM
EASTING: 11007500
NORTHING: 5000000
ELEVATION: 201.588

B UTM COORDINATE SYSTEM
EASTING: 83210328
NORTHING: 8928737188
ELEVATION: 201.588
COMBINED CONVERSION FACTOR 0.999779

C ROCK POST 180m FROM SOUTH END OF (BLAST PAD) OF RUNWAY 33

ALL DIMENSIONS IN METRES UNLESS NOTED OTHERWISE

GRID SYSTEM SHOWN IS THAT OF THE SITE COORDINATE SYSTEM

LEGAL SURVEY FROM PRELIM PLAN & FIELD NOTES OF SURVEY OF LOTS 1048 & 1049, QUAD 85/78 BY PUBLIC WORKS CANADA.

DATE: _____ REVISION: _____

SCALE: 1:500

FOL - YELLOWKNIFE
NORTH AMERICAN AIR DEFENCE MODERNIZATION
FORWARD OPERATING LOCATION

YELLOWKNIFE: _____ MET
DATE: 1990-01-31

SURVEY CONTROLS

PRODUCTION: _____ COMMENCEMENT - RESUME/RENT:

DESIGNED BY: _____ DRAWN BY: _____ CHECKED BY: _____ COORDINATION: _____

H-YO-990172-603
Canada

This is Area "A" referred to in the Agreement between Her Majesty the Queen in Right of Canada and the Government of the Northwest Territories.

Director General
Properties and Lands
Department of National Defence
Government of the Northwest Territories

UTM COORDINATES NAD 27 - ZONE 11			
STATION	EASTING	NORTHING	HEIGHT
CCM 34	002677.00	621101.229	
CCM 34	002678.00	621101.229	
1	002679.00	621101.229	
2	002680.00	621101.229	
3	002681.00	621101.229	
4	002682.00	621101.229	
5	002683.00	621101.229	
6	002684.00	621101.229	
7	002685.00	621101.229	
8	002686.00	621101.229	
9	002687.00	621101.229	
10	002688.00	621101.229	
11	002689.00	621101.229	
12	002690.00	621101.229	
13	002691.00	621101.229	
14	002692.00	621101.229	
15	002693.00	621101.229	

PLAN AND FIELD NOTES
OF SURVEY OF
LOTS 1048 and 1049, QUAD 85 J/8
YELLOWKNIFE COORDINATED SURVEY AREA
YELLOWKNIFE
NORTHWEST TERRITORIES

SCALE - 1:2000

THIS SURVEY WAS EXECUTED BETWEEN OCTOBER 24 AND OCTOBER 28, 1989 BY C.B. AIRD, C.L.S.

THIS PLAN SUPERSEDES PART OF LOT 676-49 AND PART OF LOT 831, GROUP 884, PLAN 56735 C.L.S.R. 677 L.T.O. AND UNSURVEYED CROWN LANDS

LEGEND
Bearings are given derived from the line bearing 169°39'05" between CCM 34 and CCM 35, FB 83135 C.L.S.R. and are referred to the meridian of longitude 117° W.
To compute UTM coordinates, distances have been converted to one level and to the projection plane by applying a combined conversion factor of 0.999782.
Distances are in metres and decimetre thereof and are horizontal of general ground level.
Lands shown with the plan are bounded thus: ---
D.L.S. standard posts found: ---
C.L.S. short standard rock posts found: ---
C.L.S. 77 posts placed: ---
Geographic Control Monuments: ---
Traverse lines and station: ---
All measured distances have been checked.

I, COLIN BLAKE AIRD, of the City of Edmonton, Canada, Land Surveyor, make oath and say that I have in my own proper person, according to law and the instructions of the Surveyor General of Canada Lands, lawfully and correctly executed the survey shown in the plan and field notes, and that the said plan and field notes are correct and true to the best of my knowledge and belief.
SO HELP ME GOD.

Signed before me at Edmonton this 28th day of October, 1989
C.B. AIRD
Canada Lands Surveyor

Plan satisfactory pursuant to section 29 of the Canada Lands Survey Act
Dated this 30th day of October 1989
Secretary for the Commissioner of the NWT

Department of Transport
Dated this 30th day of October 1989
Secretary

This Agreement referred to in the Agreement dated the _____ day of _____, 1989, as executed between Her Majesty the Queen in right of Canada, as represented by the Department of National Defence, and the Government of the Northwest Territories
Director General
Properties and Utilities
Department of National Defence
Government of the Northwest Territories

Department of Energy Mines and Resources
Dated this 30th day of October 1989
Surveyor General

PUBLIC WORKS CANADA
REAL ESTATE DIVISION
DND - FOL
YELLOWKNIFE
NORTHWEST TERRITORIES
FILE 9530-12/133
09/11/08
SCALE 1:2000
NWT 345

