



Dec 2, 2009

Letter of Transmittal for Recommended Peel Watershed Regional Land Use Plan

To: Governments of Yukon, Na-Cho Nyak Dun, Tr'ondëk Hwëch'in, Gwich'in Tribal Council and Vuntut Gwitchin

Dear Sirs:

I am pleased to submit to you the Recommended Peel Watershed Regional Land Use Plan in fulfillment of the Peel Watershed Planning Commission's terms of reference. Every effort has been made to provide a Plan with clear recommendations grounded in both scientific fact and traditional or local knowledge, shaped by thorough public consultation and formed into a practical framework for implementation. Considerable attention was directed at building upon the Draft Plan and the considerable response it generated.

I am confident that the full suite of recommendations and management directions presented by the Commission are well substantiated. Our team and our predecessors employed the highest possible standard of professional planning practice in the research, analysis, and documentation phases of the work. Particular attention was directed at understanding both the spirit and intent for regional land use planning as set out in Chapters 11 and 12 of the Umbrella Final Agreement, the individual First Nation Settlement Agreements, and the Gwich'in Comprehensive Land Claim Agreement. This included several consultations with staff of all affected Yukon Government departments, the Land Claims Implementation Secretariat and various First Nation land-use offices. While respecting the distinct jurisdictions regarding Settlement and Non-Settlement lands in the region, this Plan has strived to clarify linkages to other key chapters of the UFA affecting the allocation and management of common resources including water, fish and wildlife. In this way, I believe that it can guide sustainable resource use well into the future for the Peel region.

In my tenure as Senior Planner since last fall, we successfully engaged all major stakeholder interests in three sets of round-table consultations with the goal of creating a better understanding of Peel region resources, issues, opportunities and challenges. On three occasions, meetings were held with the Yukon Government's Internal Working Group to gain a better understanding of regulatory issues and domain expertise. We employed both our Technical Working Group and Senior Liaison Committee as needed for advice on development of the Draft and Recommended Plans. I am satisfied that the Commission and our planning team strived to fully consider all submissions, research findings, public and Party input within the limits of available resources and time. I take great satisfaction in the level of engagement in our process, and trust that the lessons learned from our work will serve future regional land-use planning efforts in the Yukon.

The Commission welcomes the formal written response by the Parties to the Plan, and we trust that the findings will be effectively communicated through the next stage of Party and public review.

Sincerely,

Reginald C Whiten, P. Ag, RPP, MCIP
Senior Planner, Peel Watershed Planning Commission

Acknowledgements

On behalf of the Peel Watershed Planning Commission I gratefully acknowledge the contributions of many individuals and organizations for their assistance and advice in preparing this recommended land use plan. First, I wish to thank our Chair Albert Genier, and Commissioners Dave Loeks, Ray Hayes, Steve Taylor, Peter Kaye and Marvin Frost for all their patience and guidance to the planning team in developing the Recommended Plan. Thanks also to Brian Johnston who undertook much of the essential ground work in recent years. Special thanks to our land-use planning staff Sam Skinner and Nadele Flynn, for their superb skills and wonderful collaboration in shaping the Plan. Thanks as well to Heidi Faulds, our office administrator, for all the attention to details in supporting the process.

The Commission extends appreciation for the assistance of key Plan partners including the Yukon Government, representatives of the Internal Working Group and other agency staff for their review of Commission outputs. We thank the First Nation governments of Na-Cho Nyak Dun (NND), Tr'ondëk Hwëch'in (TH), Gwich'in Tribal Council (GTC) and Vuntut Gwitchin (VG) for their continual involvement and contributions. Special thanks to the Chief and Councils, Elders and community members who gave of their time to provide guidance and input on our work. Thanks also to the Gwich'in Land Use Planning Board and the North Yukon Planning Commission for sharing their experience, insights and advice.

An important source of guidance in the Commission's work was provided through the PWPC's Senior Liaison Committee, and it wishes to acknowledge contributions from Albert Peters – Chair (NND), Angus Robertson (YG), Hugh Monaghan (VG), Tim Gerberding (TH), and Chief Wilbert Firth (GTC). Significant effort was also put forward in reviewing and coordinating response by the Technical Working Group, and the PWPC thanks the following for their assistance: Jen Meurer (YG), Jeff Hamm (YLUPC), Dawna Hope (NND), Renee Mayes (TH), Mardy Semmler (GTC), Shel Graupe and Lance Nukon (VG).

The Commission appreciates the contribution of colleagues within the Yukon Land Use Planning Council (Ron Cruikshank, Jeff Hamm, Gerald Isaac and Megan Schneider) in providing valuable support for financial administration, mapping, technical reviews, First Nation community liaison, and general advice. Thanks also to YLUPC Chair Doug Phillips, Ian Robertson and Steve Byck in their advisory roles in guiding the PWPC through from inception to delivery of the Recommended Plan.

Thanks goes also to the many individuals from stakeholder organizations who have kindly given of their time and energy in reviewing preliminary outputs, providing written comment and participating in meetings. Finally, the general public of the Yukon is gratefully acknowledged for their continual engagement through attendance at public meetings, direct enquiries and considerable written response to our draft outputs.

Personal thanks to new friends and colleagues whom I have met during my tenure with the Commission, and for making me feel so welcome, encouraged and inspired in this work and place. My sincere hope is to see that this exercise generates not only new capacity for land-use management in the Peel region but new working relationships, and new ways of thinking on carrying out regional planning in other parts of the Yukon.

R.C. Whiten, PWPC

Recommended Plan Highlights

The Commission began with the following premises:

- The origin and the foundation for this Plan is the Umbrella Final Agreement. The UFA makes plain that the point of land use planning is for society as a whole to agree on how lands, water, and resources should be managed and protected, while recognizing and promoting “the cultural values of Yukon Indian People”. The Commission therefore believes it is incumbent and proper to pay particular heed to the stated values and interests of all affected First Nations and their citizens.
- The UFA makes plain that it is an integrated document: that the Land Use Planning chapter should be understood in relation to other relevant chapters, including Development Assessment (12), Special Management Areas (10), Heritage (13), Water Management (14), and Fish and Wildlife (16). Therefore the Commission interprets its Terms of Reference broadly, as befits an integrating, synthesizing endeavor.
- The UFA’s definition of Sustainable Development is a cornerstone of the Plan. Its definition is clear that the proper approach is to accommodate various forms of renewable and non-renewable land uses only if consistent with sustaining ecosystems and social systems.

Findings

- 1) Affected First Nations have stated clearly that their resource-use interests and rights depend upon intact regional ecosystems and landscapes in the Peel region;
- 2) Affected First Nations emphasized that a conservative and precautionary approach is necessary in this Plan to sustain current uses while maintaining future resource-use options for their citizens;
- 3) Year-round monitoring of water quality and flows is a dominant management consideration and winter low flows are a major limiting factor that may affect certain forms of industrial development in the planning region;
- 4) Large segments of the Yukon public have identified values and interests that are congruent with those of the affected First Nations, namely that ecosystem integrity and intact landscapes are the priority land-use management consideration in the planning region;
- 5) While aerial access to mineral claims may have generally been a manageable land-use activity, predominant Yukon public opinion indicates that surface access is likely to undermine the region’s wilderness character outside of the immediate Dempster Highway Corridor; this wilderness character is considered essential to most renewable resource-use sectors in the planning region;
- 6) Current practices of consultation and site-level management for oil and gas development are considered adequate. However, the cumulative effects and their implications for this sector are not

yet understood by affected First Nations in the Tetlit Gwich'in Primary Use area;

- 7) The Plan cannot be viewed as a template for other future Yukon regional land-use planning processes. Its provisions result from the region's unique biophysical and socio-economic features and values.
- 8) The mechanisms provided in the UFA for evaluating conformity with the Plan (under Chapters 11 and 12) require that a Peel Regional Planning Commission is consulted to consider any Plan amendments and variances as part of YESAB's project review process;
- 9) Cumulative environmental and socio-economic effects are neither well understood nor evaluated in the current practice of project assessment in the Yukon;
- 10) Existing surface access routes, including off-trail ATV use, are impacting caribou populations. Existing voluntary conservation measures are not sufficient to sustain these herds.
- 11) Some resource conflicts are intractable and cannot be solved by on-site, management techniques.



Peel Watershed Planning Commission and staff:
(R-L) Ray Hayes, Chair Albert Genier, Senior Planner Reg Whiten,
Heidi Faulds, Administrator, Sam Skinner and Nadele Flynn, Land-Use Planners,
Dave Loeks, and Steve Taylor (absent Commission members Marvin Frost, Peter Kaye)

Key Recommendations

- A. The Plan provides direction to all resource-users. It is imperative that all Parties to the Plan develop and implement the policy and legislation required to regulate their citizens' use of planning region resources, as contained in the Plan's recommendations;
- B. The Plan Framework provides a well-substantiated foundation for ongoing land-use management, assessment and planning in the Peel Watershed region;
- C. Given the unique and sensitive ecosystems of the Peel Watershed, application of the UFA-based definition of sustainable development and other key Plan principles requires that special emphasis be placed on environmental protection throughout the entire planning region in both Special Management and Integrated Management Areas;
- D. Special Management Areas consist of Land Use Management Units where emphasis is placed on Heritage Management (2.1%), Fish and Wildlife Management (19.6%), Watershed Management (27.7%), and General Environmental Protection (31.2%);
- E. Areas proposed as Special Management Areas should be immediately withdrawn from staking. However, continued aerial access to, and development of, existing mineral claims in SMA's will be allowed subject to specific management conditions;
- F. New surface access development is prohibited within Special Management Areas. A Plan Amendment will be required to modify this recommendation;
- G. The proposed set of "Primary Regulatory Designations" set out in Section 4.2 are proposed for all Special Management Areas based upon ecosystem sustainability considerations, minimizing land-use conflicts, and optimizing socio-economic benefit based upon the desired future-state and rationale for each relevant SMA;
- H. Non renewable resource-use opportunities in Integrated Management Areas (19.4%) can be encouraged subject to key land-use and environmental management considerations, including enhanced community consultation where specified;
- I. A sub-regional Plan should be developed for the Dempster Highway Corridor to ensure sustainable and compatible management of all resource uses;
- J. The Wind River Trail should be no longer be classified as an access corridor to ensure compatibility with the management intent of this proposed SMA;
- K. A comprehensive Water Management Plan should be undertaken for the planning region.

Message from the Commission

The Peel Watershed Planning Commission respectfully recommends this plan to the people of the Yukon and to the Parties which appointed us. We are not professional planners; we are your neighbours who were appointed to study, research, listen, and learn as much as we could about the Peel Watershed. We have tried to detect the public interest and design a way to manage land use with this in mind. We understand that no plan will please all people because not all resource conflicts can be solved to everyone's satisfaction. We believe, however, that this plan reflects what is good for this region, good for the public interest, and is faithful to our Terms of Reference. We do not see this Plan as a template for other regions of the Yukon – each region is unique.

This Recommended Plan differs considerably from the Draft Plan that was presented in April, 2009. An explanation is in order.

Throughout our planning process we listened closely to what people had to say about their interests and needs and concerns. We considered carefully the research and analyses of Yukon and First Nation government agencies and specialists. We paid meticulous attention to the statements of First Nation chiefs and councils, citizens, and elders. We engaged stakeholders and their associations to understand how their different land uses and values affected the land, and how they interacted with each other. We read letters from the public and listened to them at meetings.

We heard that the Peel Watershed is unusual. Not just in the Yukon, but in Canada and in the world. Other places are beautiful, other places have animals, and other places have rivers and wetlands and mountains and tundra. Our planning area has these assets in abundance, but that's not what makes it so unique. The really important asset of the Peel country is that it is extensive, undeveloped, and largely devoid of roads. In short, it is beautiful, rich, and wild, and therefore both unusual and unusually valuable – *as it is*.

We also heard that the Peel country holds potential reserves of minerals, uranium, oil, and gas. And that developing these resources depends on open staking with the option to build roads to claims and leases. The stated belief is that industrial development and “opening the country” is best for society. Underlying this assumption is another, that economic worth (measured by dollars) is how lands and resources should be valued by society.

The Draft Plan attempted a compromise for balancing divergent values and interests, and for reducing conflicts, while respecting the convictions of First Nations. The Commission – and all concerned – knew that there was a conflict between preserving this unique landscape as it is, and industrial development. On one side were the cultural and spiritual values of First Nations, the wilderness business sectors, and people who valued wilderness. On the other side were the mining sector, the oil and gas sector, and people who believed that industrial development in this region was important. We knew that this conflict was undeniable. We hoped it was manageable.

Both “sides” have legitimate values. The Commission's conundrum was that nearly everyone who commented on the Draft Plan rejected compromise as fatal to their interests. The mining sector rejected limitations on staking and they rejected limitations on surface access along with the related restrictions proposed to manage potential adverse impacts or conflicts. First Nations governments and wilderness advocates insisted that the limitations on industry proposed in the Draft Plan were insufficient to protect their interests, and they maintained that in many areas, roads of any kind would destroy what they valued. As a Commission, we drew one important conclusion: not all resource conflicts are manageable by techniques – some conflicts are intractable.

The mining spokesmen assert that open staking and open access to minerals is a “right”. The problem is that by its very nature, exercising this right undermines what is valued by others: the wildness, the biological richness, the roadlessness of the country. The Commission did not make this up; we were told this repeatedly by Yukon people who are affected by development: Elders, First Nation governments, hunters, trappers, renewable resource users, wilderness guides, recreationists, scientists. Adequately protecting these interests apparently means limiting options for the mineral industry.

Reviewing the responses to the Draft Plan, we concluded that there were no compromise solutions acceptable to all. We were at a fork in the trail and had to choose to manage for one cluster of interests or the other. We were told this in so many words by industry, by the First Nations, by the wilderness advocates, by people in general, and by the logic of the situation. As a result, we devised what we believe is a conservative, cautious plan that preserves society’s future options.

As we were charged to do, this Plan focuses on “Sustainable Development”. The UFA definition is clear that it is ecosystems and social systems that are to be sustained, and development is fostered insofar as it doesn’t undermine them. We were also charged with recommending measures to minimize actual and potential land-use conflicts. And we were duty-bound to “recognize and promote the cultural values of Yukon Indian People” promote the well-being of Yukon Indian People, residents of the region, and the Yukon as a whole, and consider the interests of other Canadians. This Plan accomplishes these objectives.

What sets this region apart from other planning regions is its remoteness, and lack of development. The interests of the affected First Nations and the interests of many Yukoners in this landscape depend in large measure on this remoteness. So does the well-being of its fish and wildlife populations. At this stage of our history, opening the region to development is likely to undermine the qualities that are valued by much of society and that sustain the region’s ecosystems.

Looking at it strategically, a conservative, cautious plan preserves society’s options. We can always decide to develop in the future, but once this decision is made, we cannot return to a pristine ecosystem and landscape – not in our lifetimes and not in the lifetimes of our great-grandchildren. Better, in our view, to go slow. Going slow has many advantages, including the possibility that we may be able to do things better and with less expense in the future. Changes in techniques, knowledge, technology, and, perhaps, attitudes can open windows of opportunity for development. For example, in a few short years, Boeing will be commercially producing a dirigible designed to transport heavy loads (40 tons) for the mining industry and other users. If this is successful, the very need for roads (and their expense and permanent scars) may become obsolete. For this reason, to be cautious and to preserve options, the Commission did not call for existing claims to be extinguished.

We invite the Parties and the people of the Yukon to consider this plan as if they intended to explain their decisions to their grandchildren.

We thank you for the privilege of serving the Yukon.

The Peel Watershed Planning Commission

Albert Genier
Peter Kaye

Marvin Frost
Steve Taylor

Ray Hayes
David Loeks

December 2nd, 2009

*Recommended Peel Watershed Regional Land Use Plan (December 2, 2009)
(Revised January 8, 2010)*

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List of Acronyms

ANWR	Arctic National Wildlife Refuge
BMPs	Best Management Practices
CA	Community Area
COSEWIC	Committee on the Status of Endangered Wildlife in Canada
FNFA	First Nation Final Agreement
GLUPB	Gwich'in Land Use Planning Board
GYTA	Gwich'in Yukon Transboundary Agreement
IMA	Integrated Management Area
ISR	Inuvialuit Settlement Region
LMU	Landscape Management Unit
NND	First Nation of Na-Cho Nyak Dun
NYPC	North Yukon Planning Commission
NYRRC	North Yukon Renewable Resources Council
PA	Protected Area
PCMB	Porcupine Caribou Management Board
PWPC	Peel Watershed Planning Commission
PWPR	Peel Watershed Planning Region
PWRLUP	Peel Watershed Regional Land Use Plan
RLUP	Regional Land Use Plan
SARA	Species at Risk Act
SMA	Special Management Area
TG	Tetlit Gwich'in
TGFN	Tetlit Gwich'in First Nation
THFN	Tr'ondëk Hwëch'in First Nation
TH	Tr'ondëk Hwëch'in
UFA	Umbrella Final Agreement
VG	Vuntut Gwitchin
VGFN	Vuntut Gwitchin First Nation
VGG	Vuntut Gwitchin Government
YESAA	Yukon Environmental and Socio-Economic Assessment Act
YESAB	Yukon Environmental and Socio-Economic Assessment Board
YG	Yukon Government
YLUPC	Yukon Land Use Planning Council

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