

First Nation of Na-Cho Nyak Dun

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July 28, 2009

Albert Genier

Chair

Peel Watershed Planning Commission

201-307 Jarvis Street

Whitehorse, YT Y1A 2H3

Fax: 867-667-4624

RE: Peel Watershed Draft Land Use Plan- NNDFN Comments

Dear Mr. Genier,

The First Nation of Na-Cho Nyak Dun (NND) would like to provide comments regarding the Peel Watershed Draft Land Use Plan. Our first fundamental issue is that we are in full support of complete protection within the Peel Watershed planning region to ensure the sustainability and future of our culture and traditional economy based on a healthy environment and our people's connection with the land.

As identified in *1.6 Key Land-Use Management Issues*, First Nation's (Yukon and Northwest Territories) people have long utilized the water, wildlife, fish and plant resources from pre-contact to modern day, and intend to utilize the Peel Watershed planning region far into the future for generations to come. ALL First Nation sites and areas identified are connected to hunting, fishing and used for subsistence, traditional, or cultural purposes.

Concerns:

- **OVERALL:**
 - The plan is very difficult to use and follow. There is a lot of flipping back and forth within the document which could cause confusion and important details may be overlooked.
 - There is a concern for the people that are not familiar with the 'technicalities' within the plan. It is suggested that a more user friendly approach be taken with the format of the plan and/or the inclusion of a 'Plain Language Summary' of the final version of the Peel Watershed Land Use Plan.
 - Colours on maps are difficult to decipher.
 - Labels are difficult to read.

- Some of the data may be hidden beneath other layers therefore not accurately represented.
- Some maps (i.e. economic development map) are too ‘busy’ with an overabundance of information making the maps very difficult to read.
- Although NNDFN supports the recommendation/Best Management Practices/research sections, they should be taken out of the body of the plan and put in the back with appendixes.
- ***Category A, Category B, Site Specific and fee simple lands***
 - NNDFN Cat. A- Surface and sub-surface rights of ownership.
 - NNDFN Cat. B- Surface rights of ownership only.
 - Site Specific- fee simple

*These lands have been already planned for through the land claims/self-governing process. The Land Use Planning process as laid out in the Umbrella Final Agreements must respect those land claim agreements and constitutional rights of First Nations affected with or without Self-governing agreements.
- ***Section 2-3, 2.3- Ft. McPherson and NNDFN ‘overland’ has inhabited these lands for many, many years. It is only over the past few years that the First Nations have not partaken in the overland journey due to the uncontrollable, unpredictability of ‘climate change’- the winters have not been the winters they used to be. Every year both NNDFN and Ft McPherson plan the overland journey and will continue in hopes that the up-coming winters will permit this ‘traditional meeting’.***
- ***Tier I- Ecosystem Protection- complete withdrawal of ALL land dispositions***
 - Section 3-6, Remote Access Lakes- How can strict management condition regulation in regards to private and public access be enforced? The ‘airs’ are open for flight access to everyone- how is this going to be ‘controlled’?
- ***Tier II- General Conservation Zones- withdrawal of subsurface land dispositions with intentions for review and reassessment to change to Tier I status in the future-*** what about cabins and structures etc., which are permitted to occur in Tier II status? Surface land dispositions are permitted under Tier II status, but not under Tier I status.
- ***NNDFN respects all current and potential Overlap/Transboundary agreements with TH, TG and recently with Sahtu First Nations.***
- ***Access-***
 - All Season Access Roads- At this time, NND does not support any new or otherwise all season access roads, other than the current Dempster Highway all season road. The Wind River Trail is a winter access road only and should only be accessed on a temporary as needed basis, as is the winter road to Old Crow. The Wind River Trail contains extensive boggy

areas and extensive permafrost throughout the planning region which make travel and stream crossing difficult along the route in ‘thaw’ conditions.

- NND does not support any type of new and/or permanent river-crossing structures anywhere within the Peel Watershed planning region.
- **“Presence of fish in streams”**- According to the new Placer regime released by the Yukon Placer Secretariat, all waters are ‘assumed’ to contain fish- except those waters known to have ‘absolute’ complete natural barricades restricting fish access. Waters with these types of blockages/barricades seem to be well known and have been identified by Yukon Placer Secretariat.
 - Section 5-13, 2.7 “maintain significant fish over-wintering and spawning habitat”- this is greatly unknown. How can this be maintained and monitored with such little knowledge or data collected in this regard?
- **Section 5- General Management Direction**
 - NND supports the framework for the GMD section to include Best Management Practices, Policy Recommendation, and especially the Research Recommendation direction. With this said, it is with caution to identify between BMP and a Policy direction as it does not ‘clearly’ define how this process will take place. Some BMP recommendations such waste water, withdrawal of water, etc. should potentially be policies with repercussions when not abided- stronger than just BMP. It is also very difficult to make policy in regards to climate change, as climate change is difficult to accurately ‘predict’ for the future. Research Recommendations are essential in the plan as there is very little knowledge or data collected about the Peel Watershed region. Base line data is critical when assessing ‘cumulative impacts’ of human disturbances.
 - Objectives 2.3- strategy is to avoid ‘large-scale industrial and or infrastructure projects’- over abundance of small-scale industrial and/or infrastructure projects can be just as much of a disturbance as a large-scale. There needs to be a threshold limit on small scale as well.
 - Section 5-14 BMP- regarding activities ‘should’ be carried out during the winter. In the Peel region, water is very limited- with very little known in regards to fish over-wintering and spawning areas, additional water withdrawals/use could be devastating to local wild fish stocks and their habitats.
 - BMP- suggests that activities and disturbance should not result in diminished water quality, quantity or flow. This is a very measureable indicator that can be monitored. This should be more than a BMP with consequences/fines/penalties for infractions causing changes in water quality, quantity or flow.
 - Section 5-22- 5.4.2.1 Porcupine Caribou- states that there is no evidence that the herds decline is not reversing. At this time, this is only an

assumption based on computer modeling. An actual census/count has not been conducted on this herd since 2001. Over the past couple/few years, efforts have been more consistent in ‘planning’ to complete a full census but ‘nature’ has not permitted this census to occur.

- Section 5-52- 5.8.1 First Nations Traditional Economy and Community Development- NND fully agrees with the primary paragraph in regards to the Peel Watershed region as an important area tied to culture and community well being for all First Nations within the planning region. We would like to add that we demand complete protection of the Peel Watershed particularly for these reasons. As it becomes more challenging to practice subsistence lifestyle, in the face of potential future hard times, the Peel Watershed region is our ‘bread basket’ and in a conserved state the land would provide sustainability to our people to sustain themselves through those hard times.
- Section 5-53 BMP- in regards to direct hire/contracting policies. NNDFN has completed and implemented two documents: *Cooperative Engagement Process for Economic Activities Proposed I the Traditional Territory of the First Nation of Na Cho Nyak Dun*; and, *Guiding Principles Towards Best Practice Codes For Mineral Interests Within Na Cho Nyak Dun First Nations Traditional Territory*.
- Section 5-59 Policy Recommendation- use of off-road vehicles over large areas. Currently this has not been supported by YG at Pilot Mountain. Over the past year or two, there has been studies conducted at Pilot Mountain in regards to the sheep herds that are there and the increased accessibility from off-road vehicles having ‘huge’ impacts on wildlife population numbers. Results from this study were just released and found that there was no increase of hunting pressure in regards to off-road vehicle use and population numbers of sheep in this area are constant- they are not in danger or concerned for them becoming in danger in this regard. As such, this can only be a potential BMP.
- Section 5-63 Policy Recommendations- NNDFN fully supports extensive and significant consultation with ALL Yukon residents and especially residents of effected communities PRIOR to any development of uranium deposits.
- Section 5-66 Policy Recommendations- NNDFN fully supports extensive and significant consultation with ALL Yukon residents and especially residents of effected communities PRIOR to any development of coal-bed methane deposits.
- **Section 7.1 Plan Implementation Responsibilities-** in regards to ‘until an agreement between parties, implementation roles and responsibilities are uncertain.
 - There are many aspects to the current draft land use plan to include extensive research recommendations in regards to collecting, maintaining

and monitoring data collection within the Peel Watershed planning region. Details into how this plan will be implemented require further discussions between parties.

- This is potentially a huge project in a huge area, and funding will be a concern as to implementing roles and responsibilities. These issues must be discussed and laid out in order for each party to get an understanding as to their roles and the certainty in the roles of others. Without roles and responsibilities identified and knowing what all parties are agreeing to, there is great potential that the land use plan may lose momentum and although full of good intentions, it would only end up on the shelf.
- ***NNDFN is currently in the process of ‘renewing’ family connections across the entire region of our Traditional Territory*** (on both sides of the Yukon/NWT border) which includes: Trondek Hwech’in, Tetlit Gwich’in, and the K’asho Got’ine (Sahtu). With this renewal, research is continually being conducted within the area and new knowledge in historical details are becoming more evident in regards to cultural connections between First Nations, traditional/historical travel routes and meeting places, and family connections.
 - It is NNDFN full intention that with this renewal there is the potential for renewal of travel routes and meeting places, including required infrastructure at meeting places and along travel routes.
 - Many of our ancestors have been buried all over the Traditional Territory. NNDFN plans to continue to work with neighbouring First Nations to identify additional places of importance for cultural, traditional and subsistence purposes as they unfold.
- ***Three Rivers- Snake, Wind and Bonnet Plume***
 - NNDFN has always been in full support of complete protection of the Three Rivers. It is areas like this that require the utmost protection and could potentially be recommended for park status.

- ***Canadian Heritage River Status designation of the Bonnet Plume River-***
 - NNDFN feels that because it is not easy to become a heritage river with its rigorous and lengthy process, it is essential to protect the natural values, cultural/historical importance and recreational potential that have been identified and demonstrated to be of utmost importance not only by NND, but the public. Increasing economic and recreational activities interests within the area could potentially effect nomination values and provide a threat to the Canadian Heritage River Status designation of the Bonnet Plume River. Because of this, we feel that within the Peel River Watershed Land Use Plan, there is the requirement for recommendation to conduct a full review and re-examination of the Bonnet Plume Heritage River Management Plan to update the plan up to current standards, and re-evaluate the immediate requirement for full protection status. It is areas like this that require the utmost protection and could potentially be recommended for park status.

- ***Land Management Units- Thirteen major LMU's, subdivided further into forty-six sub-LMU's***
 - NNDFN is concerned about several of the identified LMU's- 1d, 7b, 12b, 13-1, 13-5, and 13-6. They are tiny areas of land which we feel have the potential to be cut off from 'whole ecosystems', as well as, the intended land designation purpose that the land use plan represents.
 - We feel that ALL areas within the Peel Watershed planning region should be placed under protection under Tier I or Tier II status to ensure protection for wildlife and their habitats, cultural resources, and water-quality, as well as, quantity and flow from the headwaters through the entire course of the watershed.
 - 1a- There is extensive wetland and high water bird habitat areas which are critical ecosystem filters which require protection. Although there are identified concentrated pockets of caribou, these caribou migrate over large areas around their entire range and footprint disturbance and linear features which could cut off migration areas- fragmenting critical caribou habitats within their range (this has been the experience in the 1002 lands- oil and gas linear features caused caribou to avoid those areas for many years before they were 'comfortable' enough to return to the area). This LMU straddles the Snake River- the lower reaches of the Snake River which drain into the Peel River are only protected by RCZ- 'Clean waters downstream' is of utmost importance, not only to NNDFN but all communities downstream and across the transboundary region that rely on the watershed to supply their communities with fresh waters for drinking and other uses. We need to protect the waters in its entirety from the headwaters all the way down the course of the watershed drainage. There are many people, fish, and wildlife that depend on this 'life source'.

- 1b-There are critical wetlands and high water bird habitat identified in this LMU that are completely unprotected. The Snake River has a branched off arm with no protection in the Crest deposit region- there is concern of getting cut off with development surrounding the RCZ small arm. There is also critical sheep habitat that is completely unprotected- these are critical areas such as licks and lambing areas which are extremely sensitive to human disturbance. NND site specific S-188 adjacent to this LMU, is extremely important to NNDFN as this area is a very unique area with high subsistence and cultural significance.
- 1d- Although identified for a 'highest level' of protection, this area is far too small. It is isolated within a development area on all sides. This area is identified for high First Nation traditional and cultural uses which includes the potential at anytime for infrastructure or development depending on the scenario. Tetlit Gwich'in First Nations maintain this R-block with fee simple lands, as well as, areas of surface rights of ownership. On NWT side of the border, there is a block in which Tetlit Gwich'in block is reserved for both surface and subsurface rights of ownership which butt up to this highly protected LMU. Additionally, other than this block, oil and gas resource has been identified surrounding the remaining area.
- RAL- complete withdrawal- What does this mean for past/current/potential cabins in these areas? Many of these areas have been identified as 'general harvesting areas'. If at some point in the future when First Nations in the area begin to utilize the area more, there is potential for needing infrastructures such as hunting cabins, etc.
- 3a- NNDFN has concerns that the Wind River 'all season' road is identified to run right through the middle of protected areas. At this time, NNDFN does not support any all season access into the Peel Watershed planning region.
- 3b- Identified as 'green' on the map as GCZ, section 6-28 identifies the area as IMZ Zone 1.
- 3d- Nash Creek- NNDFN maintains sole ownership of both surface and subsurface rights through land claims agreements. These lands have been planned for already through the Land Claims process. Land claims and Self-government agreements must be respected. Rights of ownership will not be relinquished.
- 4b- there is concern that LMU 5a development area butting up to this LMU as it has the potential of cutting of caribou migration and/or movements within the Hart River caribou range- for which this LMU is recommended for as a higher level of protection.

- 5a-This zone contains extremely sensitive areas. There is potential of disturbing/cutting off Porcupine Caribou migrations route. This is a high use area for the Trondek Hwech'in. There is critical fish spawning and overwintering areas throughout the entire Blackstone River. There are extensive areas identified for general harvesting. Because of the current levels of development already permitted in this area, there is requirement for protection and monitoring to ensure that the area is not affected by increasing activities that may have cumulative effects.
- 5b- This unit is far too small, it is even difficult to find on the overall map. This unit is recommended for the highest protection, yet it is surrounded by development except for the RCZ on the west side of the LMU.
- 6a- this LMU contains sensitive areas such as extensive high use areas for Trondek Hwech'in and Tetlit Gwich'in First Nations. There are extensive areas critical to Dall sheep and their habitats including breeding, lambing and wintering areas. There is potential for cutting up caribou migration routes.
- 6b- Although there are only concentrated areas for Porcupine Caribou identified, there is high potential for disrupting migration routes on a whole. In the southern end of the LMU, there are culturally sensitive and important areas identified by Trondek Hwech'in.
- 7a- this LMU is snuggled within a CLZ high protection area. This is a high use area for Tetlit Gwich'in including community trap lines and trap line trails. Although trap line are identified as dotted lines on the map, for a sustainable successful trap line, there must be space required for wildlife habitat areas. It is understood that the intention for this LMU is to allow access for all season roads- NND does not support any new road access within the Peel planning region.
- 8a- although this area is recommended for complete protection, there is concern of directional drilling and its effects on this critical wetland and sensitive water bird habitat area.
- 9a- NND does not support 'all-season roads access' anywhere within the Peel planning region. Although there are critical 'concentrated' winter areas identified for the Porcupine Caribou herd, they are migrating animals and their migration route to critical areas such as the concentrated areas could potentially be cut off.
- 10a- Tributary waters run into the Peel River which supplies water, a life source, to communities downstream. It is critical that these waters remain clean and free from any kind of contaminants that

may have detrimental effects to the watershed on a whole. There are critical wetlands within this LMU which have completely no protection at all. Wetlands are critical filters to maintain clean water sources throughout the Peel region.

- 10b- there are critical wetlands and high water bird habitat which runs through the middle of the LMU. There is potential to disrupt and cut off migration routes for caribou. There are traditional travel routes for both the Trondek Hwech'in and Tetlit Gwich'in with cultural important areas identified throughout. Travel routes were also used for hunting/general use areas and may contain important cultural areas that have not yet been identified such as additional grave sites. This LMU which is recommended for development does not conform on the North Yukon side which explicitly identifies areas for higher protection.
- 11f- this CLZ is very small and narrow. There is high protection recommended for this area but 10a and 10b (higher level development) drain into this LMU from the north
- 12a- this area is highly used for cultural importance and community trap lines area. There is extensive wetlands and high water bird habitat with completely no protection. The area is extensively used for travel, archeology and culturally important areas for Tetlit Gwich'in, Trondek Hwech'in and Vuntut Gwich'in First Nations.
- 12b- this CLZ is far too small. It is recommended for highest level protection but is surrounded by development. With such a small size, there is potential for complete isolation and all importance requiring protection could be negatively affected.
- River Corridor Zones (RCZ) - RCZ are very narrow bands of highest level protection. What about their tributaries- important fish areas for over wintering and spawning/rearing habitats?

NNDFN supports perspectives and recommendation of land use in overlapping areas and FULLY respect traditional land use of other First Nations users within the Peel Watershed region including Tetlit Gwich'in, Trondek Hwech'in, Vuntut Gwich'in, and K'asho Got'ine First Nations. We will continue to work together to protect the Peel Watershed and our rights as First Nations as users of the area- sustainably- now and for generations to come.

Thank you for your time and consideration into this matter.

Sincerely,

Dennis Buyck- NND Lands Director

CC: NND- Chief and Council
Yukon Land Use Planning Council
Senior Liaison Committee- Albert Peter (Chair)
Trondek Hwech'in
Gwich'in Tribal Council
Vuntut Gwich'in
Kasho Got'ine
Mayo District Renewable Resources Council