

Dawson Regional Planning Commission
Regular Board Meeting Minutes - ADDENDUM
Meeting #16 (2014/2015)
April 15-17, 2014
Alpine Bakery (Whitehorse)

Prepared by: Monica Krieger, Acting Senior Planner

GUEST SPEAKER: ALISON PERRIN (Climate Change Information Analyst – Northern Climate ExChange, Yukon Research Centre, Yukon College)

Overview

Alison was invited to speak to the Commission about climate change considerations, and gave a **Power Point presentation (available on DRPC website)** describing:

- Northern Climate ExChange (NCE)'s mandate since 2000 as an independent (non-government) source of information about climate change science, impacts, projections, mitigation and adaptation strategies, and policy considerations
- NCE priorities: promoting research in the north for the north, and “mainstreaming” (providing decision makers with tools for incorporating climate change considerations into their planning and projects)
- Differences between adaptation (knowing that climate change is happening and preparing for the impacts, e.g. landscape hazards mapping projects throughout Yukon) and mitigation (curbing the effects of climate change, e.g. by reducing greenhouse gas emissions)
- Climate change projections for the Dawson planning region and the Dawson Climate Change Adaptation Plan (2011)
- How land use planning decisions can incorporate potential climate change considerations (e.g. recognizing there may be ecosystem and habitat changes, planning on a watershed basis, developing effective monitoring systems, recognizing uncertainty, and creating flexible management options)

Discussion

Alison stated that Yukon climate change projections for temperature and precipitation are adapted from the Intergovernmental Panel on Climate Change (IPCC) models, which are very complex and on a global scale. In general in the last 100 years, temperature globally has risen about 1.7°C, while in the north it is closer to 3°C. Also, the majority of the world is expected to receive less precipitation, but the north is expected to receive more (and mostly in the winter season). She was asked how this compares to long-term global climate change cycles, and replied that carbon dioxide emissions over millennia have always remained less than a maximum number of parts per million despite the oscillations with the Ice Ages. In the last century, however, we have surpassed that maximum.

For the Dawson region, projections to 2030 and 2050 show increased annual average precipitation (no major differences between seasons), increased number of growing season days, earlier thaw, later freeze, and an expected higher frequency of extreme events such as forest fires. The region has extensive ice-rich permafrost, and thawing will lead to increased subsidence and slumping, and potential impacts to water quality. Also, the Dawson area is noted for its temperature inversions, so you could see permafrost thaw at higher elevations and cooler temperatures in the valleys (there has been some modelling done on this). Scott noted at Casino where he has been working, a test hole for the airstrip found there was 18m of solid ice. The Dawson Climate Change Adaptation Plan (2011) also notes that wildlife habitat shifts are likely, moving north and higher up in elevation. Longer, warmer summer seasons could mean more opportunities for the tourism, agriculture and mining industries.

Ron Cruikshank (YLUPC) was asked how other Commissions have dealt with the issue of climate change. He replied some strategies have included

recognizing that protected areas may need to be more flexible or mobile (e.g. caribou calving areas now may not be suitable habitat in 20-30 years), or that developing coal resources would lead to increased carbon dioxide levels. He also described how Shawn Francis (Senior Planner for North Yukon plan) tried using a computer program called ALCES (A Landscape Cumulative Effects Simulator) to model vegetation cover into the future. It showed that potential climate change would alter vegetation in the region far more than oil and gas development or any other industries.

Alison thanked the Commission for the opportunity to speak with them, and encouraged them to contact her anytime if they have questions or need more information. She also noted that the NCE offers a “Climate Change for Decision Makers” course a couple times a year in Whitehorse, and they are also planning one in Dawson this fall.

GUEST SPEAKERS: MICHAEL DRAPER AND BRENDA SPROULE (Land Management Branch, YG-Energy Mines & Resources)

Overview

Michael introduced himself as the Manager of Program Support for the Land Management Branch. Brenda is the Manager of Land Use. They were invited to speak to the Commission about the existing legislation and regulatory regime for land use permitting and access management, new legislation and regulations for off-road vehicles and resource access roads, and other topics related to access planning.

Michael described that land uses are authorized through the issuance of tenure (leases, agreements for sale, or land title e.g. spot land applications or lots within planned subdivisions) and/or through a permitting process (e.g. quarry permits to access gravel resources, land use permits for construction of roads. Most land use applications are subject to YESAB screening with the opportunity for public feedback, and on Crown land YG-EMR is the decision body that gives final approval.

Land use permits issued for roads deal with their construction and closure. Ongoing maintenance and enforcement during operations is an issue, as roads built for mining or oil & gas activities often become public roads (designated public roads are the responsibility of YG-Highways & Public Works). New regulations are being developed to deal with roads throughout their lifetime, and looking at possibilities such as companies' ability to keep roads private during operations (using signage and gating), remediation of roads when no longer required, and opportunities for companies to share roads (e.g. proponent A builds the road, but proponent B could negotiate a user agreement instead of building a new road for themselves). The **“Resource Access Road Regulation Discussion Paper”** will go out for public consultation throughout the summer, and will be followed by a What We Heard report and development of the new regulations. This is a follow-up to the **“Resource Access Roads Framework”** which was released in February 2013 as a guiding document and discussed in the Commission’s Resource Assessment Report.

For enforcement of gated roads, the terms and conditions regarding gating, signage, and patrolling would be part of the permitting process, and enforcing those conditions would likely mean that companies/proponents and YG-EMR Natural Resource Officers would need additional resources. There are safety/liability issues so companies generally prefer to keep roads private. Most of the examples of private roads in the Yukon are for very large projects, but the new regulation could apply to any new roads. Closing a road that is recognized as a public road through the *Highways Act* would be an issue, as many people use these roads for hunting, firewood, recreation, harvesting, access to settlement land parcels, and other traditional use activities. Will asked whether designated private roads going through First Nations settlement land would also mean no access for First Nations users. Michael replied that the question would be whether there was a road or trail there before (if not, are you denying access?) or whether it is creation of a new route. The regulations would also give the proponent the ability to negotiate joint access agreements with First Nations or with trappers, firewood harvesters, etc. in the area. Michael noted that these regulations would only apply to the mining (mostly quartz but also larger placer operations) and oil & gas sectors. Roads on mining claim blocks would still be covered under the Mining Land Use Permits, so these new regulations would apply only to roads in off-claim areas.

Forestry and agriculture are governed by other policies and regulations, and the tourism industry does not typically create large-scale resource access roads. Currently there is no move towards harmonizing the different legislation.

Brenda discussed the recent developments around off-road vehicle (ORV) legislation and regulations. In 2011, the YG Select Committee established to discuss the safe operation and use of ORVs released 14 recommendations. Those within EMR jurisdiction included mitigation of environmental impacts, restrictions (and potentially prohibitions) on trail networks in sensitive areas, and the creation of designated access routes. New legislation regarding ORV use was approved last December as the “**Act to Amend the Territorial Lands (Yukon) Act, SY 2013 c.13**”. It includes the ability to issue a ministerial order for 90-day restrictions on ORV use, and the development of broader ORV management areas.

Development of the new regulations is the next step, and a discussion paper will be released this summer for public consultation. The regulations are not a “blanket” for the entire Yukon – they will be essentially “complaint driven”. Proposals for restrictions in certain areas could be submitted to YG by individuals, organizations or via recommendations from regional planning Commissions (e.g. the Hart River Road was noted by the Peel Commission). Restrictions would only apply to Crown land, not settlement land or privately titled property. They could involve seasonal closures or the development of a management plan. ORV use by outfitters would be assessed on a case-by-base basis. Michael stressed that these regulations are not to deal with the issue of user conflicts, they are meant to address maintenance of ecological balance in sensitive areas of the landscape.

All documents noted in **bold** in this section are available on the DRPC website as well as the YG-EMR website.

Discussion

Q: When does a road become a “resource road”? A: When a proponent applies to upgrade an existing public road, or to create a new road, for the purposes of accessing a resource such as minerals or oil & gas.

There are not a lot of gated roads in the Yukon currently. Will said it was his understanding that mining claims only grant sub-surface rights, so miners can’t deny access or gate off a road. Forestry and quarries are currently the only situations where they can be granted authority to do this. He also asked about spot land and agricultural applications vs. planned subdivisions. Are there minimum or maximum sizes for applications? Are there only certain allowed uses for spot land applications (e.g. rural residential, commercial, trapping, big game outfitting, etc.)? Michael replied that other terms and conditions typically include compliance with building provisions (especially in those areas subject to local area planning), and for rural residential they encourage access that is within one kilometer of a maintained road. Terms are somewhat different for trapping and big game outfitting.

Michael and Brenda thanked the Commission for the opportunity to speak with them, and encouraged them to contact the department anytime if they have questions or need more information.

GUEST SPEAKERS: ROB THOMSON (Compliance, Monitoring & Inspections Branch, YG-Energy Mines & Resources)

Overview

Rob introduced himself as the Director of the Compliance, Monitoring & Inspections (CMI) Branch. He was invited to speak to the Commission about the existing legislation and regulatory regime, management tools and strategies, monitoring and reporting requirements for land use activities, enforcement capacity in the Dawson region, and suggestions for the Dawson land use plan.

Rob gave a **Power Point presentation (available on DRPC website)** describing:

- Organization of CMI internally and in relation to rest of EMR branches

- CMI's mandate for client support services, inspections, monitoring and enforcement
- History of legislation and regulations that CMI is responsible for enforcing, including some federal Acts
- Compliance monitoring and enforcement policy (Education, Encouragement and Enforcement)
- Tools and strategies employed by CMI for risk assessment and management
- Methodology for classification of watershed sensitivity and fish habitat suitability
- Water quality objectives and sediment management standards
- Adaptive management, traditional knowledge, and effects monitoring

CMI is the field services arm of EMR and provides services to other YG departments as well as Fisheries and Oceans Canada. There are 29 officers in 8 communities throughout the Yukon, and they average about 1200 inspections per year. Under the *Northern Inland Waters Act* (1970s), only principal offences (deposit of waste) were enforceable, and there were no regulations of land use that were not related to fish habitat or water use. Unreclaimed tailings in the Dawson region are a legacy of this unregulated era. NIWA eventually changed to become the Yukon Waters Act, now called the Waters Act. Sixteen watershed-based authorizations are also now in place under the Fish Habitat Management System (2008). An amendment to the Fisheries Act in late 2013 also gave inspectors a broader range of tools to work with industry.

The enforcement policy promotes education first, and 80% of the time this is effective. Voluntary compliance is achieved in almost all cases by working with operators, and making sure they understand the regulations. Inspectors appreciate the challenges with short working seasons – frequent visits, involving operators in developing solutions, and effective communications are key to developing a good rapport. CMI has inter-agency agreements (e.g. inspection agreement with Fisheries and Oceans Canada since 1998), and since 2006 has been responsible for all inspections under the Environment Act. They are also working to improve compliance related to heritage resources, especially paleontological and archaeological discoveries.

The risk assessment policy involves a “risk assessment jury” – it is always an odd number of people, including someone from Fisheries and Oceans if it's a placer operation or from Forest Resources if it's a timber harvest operation. The jury reviews and adjusts proposed inspection plans, and there is a pyramid of priorities for monitoring and enforcement (i.e. the highest risk sites get budgetary priority). CMI finds this does work successfully, and it provides justification for needed budget amounts.

Under the Yukon Placer Authorization and Fish Habitat Management System, watershed sensitivity classification is related to aquatic habitat, but the focus is on Chinook salmon (most significant species for First Nations subsistence and commercial fisheries, and the most at risk). Spawning occurs when water flows are lowest and when placer operations are in full swing. The classification also focuses on the main stem of the watershed, not so much on the tributaries. For the fish habitat suitability classification, gradient was key. Shallow streams had the greatest diversity and abundance of species. Areas of special consideration came out of traditional knowledge workshops. There were about six reports that documented areas with cultural and/or ecological importance, and placer operations in these areas are subject to different rules. Fisheries and Oceans issues these authorizations on a site-specific basis – they are not covered by the watershed authorizations. Areas already developed by placer mining have less stringent rules. Restoration work has to be done to the highest standard, and after that the “previous development” designation is removed (and it never goes back to that again). Overall, this system and associated policies helps achieve a net gain in fish habitat throughout the Yukon. It was intended to be a consistent and integrated regulatory regime across the Fisheries Act, Waters Act, Placer Mining Act, and Yukon Environmental and Socio-economic Assessment Act.

If water quality objectives are achieved, it is a strong indicator that aquatic life is protected. Design targets mean proponents are expected to build the best settling facility the site can accommodate. Settling ponds typically use an “action level” approach, where a miner is required to start doing maintenance before water quality deteriorates too much. CMI is developing a database where annual summaries of inspection and monitoring results for placer mining

operations would be available to anyone interested.

Discussion

Rob said a major improvement with the Fisheries Act is that ministerial authorizations were not previously enforceable on an immediate basis (reports had to be submitted) but now they are, and there are new requirements for reporting discharge or deposit of waste. For example, a bulldozer in a riparian area – in the past, you could charge them but you couldn't order them to remove the bulldozer (now you can). Chris McLeod asked if statistics were collected on enforcement actions. Rob said they are making improvements to their reporting. A typical year involves about a dozen enforcement actions for the placer industry, and about the same for hard rock.

YG-developed legislation such as the Forest Resources Act has provisions where summary convictions can be issued, but legislation such as the Quartz Mining Act, Placer Mining Act, and Waters Act (federally mirrored legislation handed down through devolution) do not. Rob said he strongly supports changing this – summary convictions are an intermediate step when there is non-compliance but it is not worth going to court. Politicians may be worried about enforcers becoming “ticket happy”, but discretion can be used.

Scott thanked Rob for his presentation and wealth of information. He stated that water, access and mining are the three big issues in the Dawson planning region and asked whether CMI is involved in monitoring sediment levels and water chemistry. Rob replied that YG does have about 40 sites throughout the Yukon as part of the aquatic health monitoring program, costing about \$12,000 per year, and the Water Resources Branch also does snowpack monitoring. The amount of sampling is adequate for placer mining, but probably not sufficient overall. The Yukon only has sample preparation labs, for analysis they have to be sent south. Environment Canada used to do the analysis as an in-kind service, but recent federal cutbacks have eliminated this. Rob noted they have been doing intensive monitoring for about 10 years now, but it's very important to keep doing consistent and long-term data collection and analysis. This is an absolute requirement if adaptive management systems are to be effective.

Discussion about the model being developed by YG-Heritage Resources to indicate areas with higher potential for heritage resources to be found. Rob said he's heard there are some issues with the model, that it lacks resolution on elevation and slopes. CMI is working to provide Heritage Resources with pictures and actual data, and encouraging operators to provide information (could result in changes to areas designated as “high potential”).

Discussion about how often individual operations are inspected. Rob said a typical inspection agreement with Fisheries and Oceans would involve one inspection yearly when sluicing, and one when reclamation work is happening. Three times a year is normal (before season starts, during operations, and after season ends). There was severe attrition in the Dawson office for Natural Resource Officers at one point, and some sites were missed. Some sites are visited more frequently if they are “passing by” or if there is a history of non-compliance. They have found with settling ponds that many operators had already built better facilities than required in permits. They have used some automated samplers at fixed water quality monitoring stations, but it is more difficult to tell where the issue is coming from (e.g. days when the settling pond is discharging vs. recirculating). The greatest issues have been with “legacy sites” and their instability. The Yukon Placer Authorization now has much higher standards for engineering considerations, including consideration of rare events (i.e. those that might only occur every 50 years).

Rob thanked the Commission for the opportunity to speak with them, and encouraged them to contact him anytime if they have questions or need more information.

GUEST SPEAKERS: RANDY LAMB (Corporate Policy & Planning, YG-Energy Mines & Resources) AND ROSA BROWN (Vuntut Gwitchin Government)

Overview

Randy introduced himself as a Senior Land Use Planner with YG, who works directly with VGG on implementation of the North Yukon Regional Land Use Plan. Rosa is the VGG Technical Working Group member for the Dawson regional land use plan. Randy and Rosa were invited to speak to the Commission about implementation of the North Yukon Regional Land Use Plan, approved in 2009, particularly in regards to management tools/strategies that were recommended and the use of cumulative effects indicators and levels. As well, they were asked to provide any suggestions for improving implementation based on their experience so far.

Randy gave a **Power Point presentation (available on DRPC website)** describing:

- Annual processes and reporting required under the approved North Yukon Regional Land Use Plan
- Cumulative effects tracking and refinement
- Improvements for implementation that are being undertaken

Randy described there are quarterly Director-level reviews, progress checks, and frequent contact between the Parties to share information, and joint decisions are made at annual meetings. Provisions for implementing the approved plan are detailed in a Memorandum of Understanding between YG and VGG, and annual reports are written (these are now available on the EMR website).

For cumulative effects monitoring and reporting, new projects are assessed through YESAB. Conformity checks are currently conducted by Sam Skinner at YLUPC (determines whether the proposed new project conforms to the zoning and management intent for the area, as outlined in the land use plan, and estimates the amount of new linear and surface disturbance that the project will add to the landscape). Some of the work has involved reconfirming the amount of historical disturbances (in the North Yukon, especially in some Landscape Management Units, there are a lot of historic seismic lines). An important step is agreement between the Parties on when disturbances are considered reclaimed or recovered (and subtracted from the total disturbance figure). Kirstie Simpson is currently conducting a research project using study plots to look at recovery times for different types of vegetation.

Randy described that in 2013, Northern Cross applied to conduct 3-D seismic work (oil and gas exploration) in the Eagle Plains area. This was the first major activity in the North Yukon region since the plan was approved in 2009 – the rest has been mostly related to community activities around Old Crow. The YLUPC conformity check showed that, using the company's estimates for the amount of additional linear and surface disturbance required to complete the project; it would surpass the cumulative effects thresholds that had been set for those Landscape Management Units (LMUs) in the plan. YG-Oil & Gas Resources met with the proponent and requested more data about equipment to be used, possibilities of using old access routes instead of building new ones, and using the narrowest seismic lines possible. The result: using winter access only and some old routes, and making some exceptions to what is considered "disturbance", the project was approved to proceed with terms and conditions. Randy said it showed that conformity checks and setting action levels (where additional things have to take place before a project proceeds) does work. Frequent inspections are being conducted (issues while project is underway, such as non-compliance, are a regulatory responsibility and not undertaken by his department). The proponent is openly sharing information, and regular progress reports are required.

Randy felt this was a good example of relationship building and inter-agency cooperation. It also showed there were some process improvements needed (e.g. standardizing procedures and reporting timeframes). There is also currently a different definition of "recovery" in the North Yukon and Peel land use plans – Kirstie Simpson's work has shown that about 1/3 to 2/3 of sites could now be considered recovered, but this needs to be jointly agreed upon by the Parties. Cumulative effects indicators and levels are based upon a model with assumptions. Satellite collar data for caribou is helping confirm these assumptions (e.g. what is caribou behavior when in the vicinity of old seismic lines?), as are motion sensor cameras to see whether wildlife are using the seismic lines.

Rosa provided a VGG perspective on North Yukon plan implementation using the Northern Cross 3D seismic project as an example. The North Yukon region doesn't have a lot of development - the main projects have been the winter road and the Northern Cross project. The land use plan should provide as much certainty for industry, First Nations and conservation interests as possible. LMU #9 is zoned Integrated Management Area-IV, allowing for the highest level of development; concentrated use areas for caribou were identified within this LMU. Some of the YESAB recommendations regarding caribou were included in the land use permits issued to NCY and this made them enforceable (e.g. if there was a "substantial abundance" of caribou in the area, Northern Cross were to abandon or relocate the project). The Northern Cross proposal also committed to a Porcupine caribou herd protection and monitoring plan, which included establishment of a technical working group that included VGG. The working group was established but caribou survey flights did not happen as recommended by the TWG because the company felt it was unnecessary. The TWG and NCY also disagreed about the definition of "significant numbers". These key management tools arising from the YESAB assessment were not enforceable because they were not explicitly described on permits. VGG feels that the regulatory regime let them down, and the opportunity to build relationships and trust was lost. Even though the land use plan stated that the Porcupine caribou herd was the most important resource in the region and recommended numerous best management practices, many commitments made by the proponent during the YESAB assessment did not become terms and conditions of the permits/licenses (and were therefore unenforceable).

Rosa noted a potential improvement for the Dawson plan: list recommended best management practices by individual LMU. Having them listed in one big section for the entire region could result in important recommendations getting "lost" or not picked up on right away by the assessors.

Discussion

Bill Kendrick noted that new technology such as drones can get up to 2 cm resolution of a project area, and could be a more cost-effective way of analyzing new disturbance. Randy agreed there are future opportunities using new technology, including satellite imagery that is vastly improving, as well as more opportunities for different YG departments to coordinate their activities. Scott added that regulatory changes, evolving best management practices, and improved technologies (e.g. drills which require less water) are all helping to reduce the impact on the landscape.

Bill said that the Northern Cross project was approved on the basis that certain things would occur, whether they were part of the enforceable terms and conditions or not. Chris McLeod added that TH has had numerous experiences where proponents are relied upon to live up to commitments that are not legally binding, and when they don't follow through it has created an untrustworthy environment. There are also concerns with companies doing their own monitoring vs. an independent contractor.

Monica said that in a conversation with Mike Sutor (YG Regional Biologist for the Dawson area), he had noted several issues with the Northern Cross project in relation to caribou. He felt that conditions telling a company to cease operations or relocate a project if caribou are in the area are often unrealistic. Caribou don't just pass through for a few days and then they're gone - they can stay in the same area for months, which would drastically impact the economic viability of projects (especially those with only seasonal operations).

Randy thanked the Commission for the opportunity to speak with them, and encouraged them to contact him anytime if they have questions or need more information. Rosa continues to work closely with the Commission through the Technical Working Group.

GUEST SPEAKER: JIM BELL (Manager, Regional Land Use Planning - Corporate Policy & Planning, YG-Energy Mines & Resources)

Overview

Jim was invited to speak to the Commission about the Restricted Use Wilderness Area (RUWA) zone used in the Peel Watershed Regional Land Use Plan (the YG-approved version) - the zone's purpose and intent, management tools unique to this zone, and how it will be implemented.

Jim provided an **information sheet (available on DRPC website)** detailing the various land use designations used in the North Yukon and Peel Regional Land Use Plans. It includes information on the management intent of different zones, allowable activities, and any cumulative effects indicators that are used (including cautionary and critical threshold levels). He also provided the Commission with a large map showing the Dawson planning region and its individual Landscape Management Units (LMUs) in relation to the adjacent regions and how LMUs were zoned.

Jim agreed with Rosa in the previous presentation, that building best management practices into each LMU is very important. Improvements are expected as the regional planning process evolves (e.g. there are limited Special Management Considerations in the North Yukon plan vs. the Peel plan). YESAB and regulators will look at them, use them, and make recommendations based upon what the plan says.

When the Dawson land use plan is finished, planning in the northern part of the Yukon will be almost complete. Jim stressed that colors do matter! Similarity and consistency in zoning between planning regions is important to provide clarity during implementation.

In the North Yukon, the question was the carrying capacity and sensitivity of various landscape types to linear and surface disturbance. In other words, how much activity can be "tolerated"? If there was an overlap between an oil and gas basin and a landscape with less sensitivity to disturbance, that could be considered OK. In the Peel, there were many areas with a high recreational and cultural value as well as high economic potential. The concept of RUWA was based on the idea that the existing regulatory regime could manage for those other values as well as foster economic activity. YG looked at various approaches in the provinces and in Alaska re: ways to intensively manage activities in order to protect other values identified as important.

An important difference between the RUWA and an Integrated Management Area (IMA) zone with a lower level of permitted development (e.g. IMA-I or II) is that the IMA designation doesn't say what types of activities are or aren't allowed. It just notes a maximum acceptable amount of activity. RUWA is more prescriptive and includes things like timing windows or requirements for temporary access only, and provides more guidance to regulators. IMA is more simple management – if the amount of expected activity is fairly low, or it is occurring in a less sensitive landscape, then the "laws of the land" apply. RUWA uses additional tools such as notification of Class 1 activities, off-road vehicle regulations, Special Operating Areas, etc. IMA zones don't predict how future activities will unfold, whereas with LMUs zoned RUWA you can be fairly certain. RUWA involves a "higher level of care" with virtually every activity that takes place.

Discussion

Carl Schulze (meeting observer) noted there is a big difference on the ground between areas zoned IMA and areas zoned RUWA, particularly in regards to the terms and conditions of permits and licenses and the requirements for proponents.

Will questioned whether the difference between the cumulative effects critical thresholds for RUWA (0.2% surface disturbance, 0.2 km/km² linear density) and IMA-I (0.1% and 0.1 km/km²) would actually be noticeable enough in the modeling to justify a different zone. Jim said yes.

Ron Cruikshank (YLUPC) noted that the basic zones evolved out of a discussion paper that Shawn Francis (Senior Planner for North Yukon Planning Commission) wrote in 2005. The Terms of Reference for the Dawson Commission (2008) didn't include any direction to use particular zones because the North Yukon plan was not approved yet (it was in 2009). During the Peel process, YG didn't discuss the RUWA concept with YLUPC. This was an issue because the need for consistency between regions had previously been noted as a recommendation for the Common Land Use Planning Process (CLUPP). It has left YLUPC with confusion about the direction to provide to future Commissions.

Jim said that RUWA is essentially the same idea the Commission was investigating with their Conservation Area zone in the Plan Alternatives – not a full legislated protected area, but recognizing that additional measures and management considerations are required to protect important values.

Jim thanked the Commission for the opportunity to speak with them, and encouraged them to contact him anytime if they have questions or need more information.

UPDATE: GILLIAN McKEE (Senior Land Use Planner, Corporate Policy & Planning, YG-Energy Mines & Resources)

Overview

Gillian McKee (YG Technical Working Group member for the Dawson plan) gave a short update on some documents she is preparing for the Commission, as well as the status of some key YG initiatives.

Gillian is compiling a summary table showing existing regulatory tools that enable spatial or seasonal management for other values (e.g. wildlife habitat), as well as some initial ideas for Yukon River corridor management tools. These will be provided to the Commission for their reference once completed. She is also working on a fact sheet regarding mineral claims and access.

The Yukon Water Strategy is almost completed (anticipated release before summer), and this will also have some useful recommendations the Commission can incorporate into the Dawson plan. For the heritage resources potential modeling project, as per Rob Thomson's comments in his presentation, some work is still required on the digital elevation model.

GUEST SPEAKER: CHRIS MACLEOD (Natural Resources Policy Analyst - Tr'ondëk Hwëch'in Natural Resources Department)

Overview

Chris was invited to speak to the Commission about Tr'ondëk Hwëch'in (TH) perspective on adequacy of the existing legislation and regulatory regime to address potential land use conflicts, typical concerns or issues TH raises during projects reviews through the YESAB process, differences in potential concerns between renewable and non-renewable resource activities, and any suggestions or recommendations for the Commission. The Commission was also provided (in their meeting package) with additional information and copies of documents that Chris refers to in his presentation.

Chris introduced himself as a long-time TH employee. Prior to his current position, he was the Development Assessment Coordinator, responsible for submitting TH responses on projects being assessed by YESAB. He was in this role from 2011 to 2013, during the busiest time for new staking activity.

Chris gave a **Power Point presentation (available on DRPC website)** describing:

- Legislation that TH has created and enacted on Settlement Land
- Other TH initiatives that attempt to address concerns about potential impacts of land use activities on other values (e.g. TH Mining Mandate, TH Best Practices for Heritage Resources).
- YESAB project statistics (number of projects assessed by Designated Office in the Yukon, and types of projects assessed by the Dawson office)
- Issues regarding TH participation in the YESAB process
- TH issues and concerns with the existing regulatory regime for mining, oil and gas, forestry, and renewable resources

TH is concerned about potential changes to the Yukon Environmental and Socio-economic Assessment Act being discussed at the federal level. There are some suggestions it may become less effective and less of an independent body. First Nations across the Yukon have similar issues and concerns with regards to the YESAB process. Those with settled Final Agreements have mostly stayed away from litigation, but this is changing now when other avenues are not effective (e.g. Peel Watershed regional plan). YESAB as a consultation mechanism is fairly effective, but especially for larger projects it does not give First Nations the amount or quality of consultation that they feel is required. Other deficits with YESAB include little consideration of how projects will impact treaty rights, and the concept of accommodation is not dealt with very effectively.

Access to Category B Settlement Land was the impetus for developing the TH Lands Act, so that activities cannot occur without TH consent (although members of the public exercising access without consent remains an issue). TH has also developed a Fish and Wildlife Act, and both of these laws are enforced by TH staff members. The TH Oil and Gas Act was developed mostly to ensure that no dispositions could occur in TH Traditional Territory without consultation being triggered. There are implementation issues – a lot of staff time is spent dealing with YG initiatives (e.g. Mining Act reforms) and it limits their ability to implement TH's own legislation.

The **Tr'ondëk Hwëch'in Best Practices for Heritage Resources (available on the DRPC website)** show the jurisdictional divide between Settlement Land and Commissioner's land (or Crown land). The Best Practices apply to Settlement Land and are encouraged for Crown land. The document also describes TH's definition of heritage resources, which is much broader than it is defined in YG legislation. For TH, heritage is a relationship to the land, not just artifacts or specific sites. First Nations heritage legislation is being developed as a joint project between all Yukon First Nations, as well as a stewardship guide. The **Tr'ondëk Hwëch'in Mining Mandate (available on the DRPC website)** comprises general expectations of companies operating within TH Traditional Territory. Impact and Benefit Agreements may also be negotiated, and will differ by project and company.

YESAB statistics show there are more projects in TH Traditional Territory than any other First Nation in the Yukon. TH has a dedicated staff position to coordinate responses, but it takes time to collect comments on each project from all departments and compile the submission, and often many applications are submitted at the same time of year. Projects are mostly placer mining, but TH got more familiar with quartz applications (at least early exploration) during the staking rush. They also deal with some municipal projects within Dawson. There is a lack of capacity and data to properly respond to all the applications, particularly in regards to potential socio-economic impacts. YESAB is also project-specific, and although cumulative effects are supposed to be considered, the nature of the assessment process makes it very difficult to do so. TH hopes that land use planning will help with this. Heritage resource overview assessments are also happening after the project is approved (at the regulatory stage), which is inconsistent with the requirements of the legislation that the assessor must consider this information before making recommendations on whether the project should proceed. There is also a lack of information on whether mitigation measures (to be implemented to allow projects to proceed) are actually effective or achieve their intended purpose.

TH and other First Nations believe that the Quartz Mining Act and Placer Mining Act are outdated and inconsistent with Final Agreements. Proponents are often unaware of the requirement to obtain consent to access their claims, and there are some direct contradictions in terms of surface rights. The fee structure and royalties system have a built-in incentive to hang onto land vs. getting work done as quickly as possible and reclaiming the area. It costs very little to keep claims active. TH is also concerned about "cascading rights" (i.e. once you have a mining claim, many other rights follow). This is especially an issue for Category B lands – once the surface is staked, any other plans for surface activities are on hold (this is the essence of the free entry system, the "first in time, first in right" concept and that mining is the highest and best use of the land).

In the Ross River Dena Council court case, First Nations were hoping for blanket Class 1 notification requirements across the Yukon. Chris said this was a longstanding promise, made by YG as part of the 2004 changes to the legislation to allow more activities to occur under Class 1.

TH is concerned about apparently "soft" regulations (e.g. an operator in the Tombstone area with a long history of non-compliance left another mess

behind, but no charges were laid or fines issued) and how often this is occurring. These types of things make TH skeptical that the existing regulatory system is sufficient or adequate to address their concerns.

TH generally has less concerns with renewable resource-based projects. However, some agriculture projects are in controversial locations. They can reduce wildlife habitat and prevent other activities from occurring, and they are permanent dispositions. For forestry projects, potential clear-cutting is a concern but the Forest Resources Act was specifically developed to comply with the Final Agreements (it is not mirrored federal legislation). TH would like to see similar amendments to other legislation. Also, TH was heavily involved in developing the Dawson Forest Resources Management Plan, and implementation is going well. It is a good model for successful legislation and cooperative relationship building. Final Agreement-compliant legislation makes a big difference – the big political stuff has been worked out, and you don't have to deal with the same ongoing issues for each individual project.

Chris clarified that First Nations have both surface and sub-surface rights on Category A Settlement Lands, whereas Category B lands are only surface rights.

Discussion

Carl Schulze (meeting observer) asked Chris to further explain why TH does not approve of the free entry system, and the desire for Class 1 notification requirements. Chris replied that when someone stakes a claim, they can immediately access and use the claims. There are no requirements for notification or consultation in between the act of staking the claim and the start of work. An entire season of work could occur on Category B Settlement Land without TH being aware of it, because they are not notified when or where new claims have been staked. Impacts on the landscape and fish/wildlife habitat, whether on Settlement Land or Crown land, can reduce other values and affect the exercise of Aboriginal and Treaty rights.

TH understands the Education/Encouragement/Enforcement approach taken by YG inspectors, but would like to see more aggressive enforcement. Saying “please don't do that” is not sufficient, and Chris said it is “shocking” that summary convictions are not possible under any mirrored legislation (as Rob Thomson described in his presentation). TH has seen that turnover in YG inspections staff is an issue, and in general there is a lack of capacity to keep up with the level of activity in the Dawson region.

Chris thanked the Commission for the opportunity to speak with them, and encouraged them to contact him anytime if they have questions or need more information.

GUEST SPEAKER: BOBBIE MILNES (Assessment Officer, Dawson Designated Office – Yukon Environmental and Socio-economic Assessment Board)

Overview

Bobbie introduced himself (he has previously participated in Commission stakeholder workshops) and apologized that Shelby Jordan, Manager of the Dawson Designated Office, was unable to make it. The Dawson YESAB office was invited to speak to the Commission about the Yukon Environmental and Socio-economic Assessment Act, typical YESAB recommendations for addressing concerns about potential impacts of land use activities and minimizing potential land use conflicts, and any suggestions for the Commission based on their experience implementing the North Yukon regional plan.

Like regional planning commissions, YESAB is mandated by the Umbrella Final Agreement (Chapter 12). Discussion about the differences between TH's definition of heritage resources and YG's definition based on the Historic Resources Act. When identifying heritage resources as a Valued Environmental and Socio-Economic Component (VESEC), YESAB uses the definition provided in the TH Final Agreement. TH submits fairly standard comments regarding potential impacts of projects on heritage resources. Typically, a recommendation for a Heritage Resource Overview Assessment (HROA) would occur in areas where there is high potential for heritage resources to be discovered. An HROA is basically a desktop study – background research, using

aerial maps and photos to estimate heritage resource potential based on previously discovered sites in the area and/or landscape features, and noting if further research is recommended (including a Heritage Resource Impact Assessment, or HRIA). An HRIA is a more specific study that involves fieldwork and excavations, intended to inventory heritage resources in a project area and mitigate potential impacts. An HRIA requires investment from the proponent, and can typically only occur during summer months (so a proponent applying for a project in the winter/spring may lose an entire season of work if an HRIA is required before they can commence activities). For projects on “virgin ground” or projects that involve moving earth (e.g. excavating), they generally take a closer look. Almost exclusively, the person who is responsible for HROAs and HRIAs is Christian Thomas, Development Assessment Archaeologist (YG). First Nations would like to be more involved in these processes, but there are capacity issues.

TH always requests that they should be notified directly if any artifacts are found, even if not on Settlement Land, but that recommendation has been rejected in every decision document. Actual site locations are usually considered confidential information, and only general locations relative to the project are noted on the public website. The heritage resources data layer in the mapping program YESAB uses is very limited, and does not contain all the information shared between YG and TH.

Assessments and recommendations have been evolving since YESAB started in 2005, they are getting better and more detailed. Standard mitigation measures have been developed for placer and quartz mining projects, and proponents are “encouraged” to follow best management practices. The most common VESECs identified are wildlife and wildlife habitat, heritage resources, environmental quality, and aquatic resources including fish and fish habitat.

YESAB does not conduct any follow-up on projects after they have made recommendations to the decision body and a decision document has been issued. It is the responsibility of the regulators to issue permits and licenses and to ensure compliance.

Discussion

Conformity checks for the North Yukon plan are currently conducted by Sam Skinner (Senior Planner, YLUPC), an arrangement agreed upon by the Parties and possible only because that region has such a low number of project applications. Most have been related to municipal infrastructure around Old Crow, and only the recent Northern Cross project in Eagle Plains was different. Bobbie questioned whether it was feasible to think that YLUPC would do conformity checks for the Dawson plan once completed, due to the sheer volume of applications (the Dawson Designated Office is the only YESAB office besides Whitehorse that has two assessment officers). Patrick Rouble (YLUPC) said they have been discussing this, and with more plans being completed, the increased workload may require the Council to create a separate staff position. Sam noted the wording in the Final Agreement suggests Commissions would be ongoing after the plan is approved, and they would conduct the conformity checks. Rosa added the YESAA legislation also suggests that Commissions would exist in perpetuity and play a key role in plan implementation.

Bobbie said they have been using the data in the Resource Assessment Report, particularly noting that old growth forest and wetlands are valued landscape features. They are very interested in the cumulative effects (CE) work being done for the Dawson region, particularly the linear and surface disturbance data that is still one of the best tools available to assess and manage CE. There are still questions about the definitions of surface disturbance, when areas are no longer considered “disturbed”. Their experience implementing the North Yukon plan CE levels has been very limited and hasn’t really helped increase their knowledge – only one project has been assessed, in an area zoned IMA-IV (highest level of development). The other land use designations have not been tested yet. Sam noted there was one application for mining gravel across the river from Old Crow, in an area zoned IMA-I or IMA-II. It looked marginal from a CE perspective (amount of disturbance it would involve), but the methods being used for the project allowed it to go ahead. Will asked whether YESAB is making efforts to track projects. Bobbie said a layer has recently been developed for their “Geolocator” mapping program, where you can turn on all projects ever assessed. It shows different colours for the projects accepted, varied or rejected by decision bodies but they are not tracking surface or linear disturbance. Sam added that YG-Energy, Mines and Resources is trying to get a better handle on tracking disturbances and

changes from current levels, how different types of disturbance revegetate and how long it takes. For the North Yukon plan, the “starting point” is estimated disturbance at the time the plan was written, but the information needs to be updated. There is also now mandatory year-end reporting required from proponents about actual vs. estimated amount of disturbance. Will noted that placer operations typically get 10-year licenses, so for many operators that new requirement for year-end reporting will not kick in until they apply for a license renewal. Several people noted that new technologies such as drones and improved satellite imagery may be the way of the future to track disturbance, and knowing a picture is being taken could become an incentive for proponents to create less disturbance.

Some YESAB recommendations that don't reflect the wording or match existing legislation and regulatory requirements are invariably modified by YG when they are the decision body. YESAB rarely makes recommendations that mirror regulatory requirements, it is assumed that the laws and regulations will be followed and enforced. They look more for gaps where additional measures are necessary to mitigate potentially significant adverse effects on VESECs, and think about “residual effects” (e.g. risks of things that could still occur, such as spills or accidents, and cause an impact to wildlife plus contribute to the cumulative effects in an area).

Discussion about 40 Mile caribou herd, difficult to pinpoint where they might go next. Bobbie said recommendations to minimize disturbance to high quality caribou habitat are becoming more common, as are recommendations to avoid activities at sensitive times of the year (e.g. helicopter use during rut or calving season), but it's difficult for industries like placer mining to avoid valley corridors when that's where the resource is. Chris Macleod said that TH has become more concerned with quartz mining activities at higher elevations, where there is also a lot of high quality caribou habitat. YESAB has also recognized that developing new access in areas where there is already a high wildlife harvest rate could push some populations over the limit, so they have made stronger recommendations in these cases. Will questioned whether developing new access would actually alleviate harvest pressure on certain populations by “spreading it out” over a larger area. Peter asked how YESAB can address CE on species like caribou and salmon that also spend time in Alaska, where there is much higher harvesting pressure. Bobbie said it is very difficult – YESAB can consider trans boundary effects but obviously can't make recommendations for mitigation measures for activities that happen on the Alaska side. There is the 40 Mile Caribou Herd Working Group that promotes cross-border cooperation and information sharing between Yukon and Alaska (similar to Porcupine Caribou Management Board, Yukon River Inter-Tribal Watershed Council, and Yukon Salmon Sub-Committee).

Discussion about best management practices (BMPs) – YESAB recommendations typically use standard wording or refer to documents prepared by YG or TH. Proponents are encouraged to follow BMPs, but they do not get included as terms and conditions in the permits and licenses, and are therefore not enforceable. Rosa asked about commitments made by the proponent during the assessment process. Bobbie said that if the commitment is essential to protecting the identified value(s), YESAB does state it as an official recommendation, but again these don't always become part of the terms and conditions of the permit/license. In theory, they consider proponent commitments to be the same as non-discretionary legislation (there is an assumption it will happen). YESAB is also not permitted to look at the past history of proponents. Scott reminded everyone that Rob Thomson (YG-CMI) had informed them during his presentation that inspectors do conduct more frequent visits and keep a closer eye on operators with a history of non-compliance.

Debbie asked how proponents could be prevented from flying over critical sheep habitat. Will and others suggested this was not within YG or YESAB's mandate, as it would be covered under the federal Aviation Act. Even for the federal government to institute a no-fly zone is extremely difficult, as pilots can't be restricted from flying the safest route. Bobbie said there was one project in Tombstone that didn't proceed, but the proponent had identified a flight route that avoided key sheep habitat areas. The Peel Commission did make some recommendations regarding overflights. Gillian was asked to check whether airspace is ever considered under Yukon jurisdiction, and whether the federal Aviation Act contains any clauses related to wildlife disturbance or avoiding key wildlife habitat.

YESAB hopes the Dawson plan will help identify areas with high agricultural potential or where residential development should be prioritized. This may be more of a YG prerogative, but it would help YESAB make recommendations when they get spot land applications within the region.

Bobbie thanked the Commission for the opportunity to speak with them, and encouraged them to contact him or Shelby anytime if they have questions or need more information.

GUEST SPEAKERS: MARK PEDERSEN AND FINELLA PESCOTT (Forest Management Branch, YG-Energy Mines & Resources)

Overview

Mark introduced himself as the Forester for the Dawson region, and Finella is the Forest Policy Advisor for the Forest Management Branch. The branch was invited to speak to the Commission about regulatory tools under the Forest Resources Act (particularly regarding access roads), the overall forest management planning regime in the Yukon, and how the Dawson Forest Resources Management Plan can be linked to the regional land use plan.

Mark gave a **Power Point presentation (available on DRPC website)** describing:

- Forest Resources Act and related legislation (Regulations and Operational Standards)
- Forest Resources Management Plans
- Harvesting Licenses
- Legislation and regulations specifically for forest resources roads
- Information on compliance and enforcement of the Forest Resources Act

Forest resources are planned on several different levels or scales: the Forest Resources Management Plans (FRMP), similar to regional land use plans, are landscape level and longer term (10-20 years). Timber Harvest Plans are more area-specific and shorter term (5 years), similar to what sub-regional land use planning might look like. Site Plans are for specific sites within a timber harvest area, operational plans done on an annual basis with cutting permits and involving a high level of detail such as buffers around heritage sites (like someone applying for a land use permit once the regional plan is approved). The different levels of planning provide lots of flexibility to meet plan objectives.

Mark described that he works closely with TH on implementation of the Dawson FRMP, including tracking and measuring indicators that represent progress towards the goals and objectives of the plan. The FRMP doesn't detail prescriptive measures, but identifies key values within each Landscape Unit that should be considered in the next stage of planning (i.e. Timber Harvest Plans). Annual allowable cut is a ceiling on the total amount to be allocated each year, on a landscape level. It could be thought of like cumulative effects, where the overall level is considered when allocating individual permits.

The Forest Resources Act and regulations have very specific provisions regarding access roads. Forest resource access roads are designed for timber harvesters, and other users are not allowed unless they have a permit to use the road. For example, the road at Bruin Creek is right next to 40 Mile caribou herd habitat, so it is gated and only one permittee is allowed to use it (and only until October). They do encourage shared use of roads, as well as winter roads which leave very minimal disturbance (minimal compaction and clearing of vegetation) compared to all-season roads. Winter roads can also be closed if there is a sudden temperature change, and they can set other terms and conditions for when or how the road can be used. A further level of detail is provided in Operational Standards documents and additional guidelines/best management practices, developed with technical advisory groups (e.g. hazard ratings to determine risk of compaction for different soil types and landscape features, or standard mitigation measures for streams of a certain

size or features). Enforcement of site plans are the responsibility of YG-Compliance, Monitoring and Inspections.

Discussion

Peter asked how beetle kill or forest fires affect the annual allowable cut estimates. Mark replied there are provisions in the Act to deal with catastrophic events. The cut level can be elevated or lowered, but only for Crown land (no jurisdiction on Settlement Land or privately titled land) and the annual allowable cut only applies to live green trees.

Will asked if there is any data on how much timber was harvested in the region during the Gold Rush era. Mark said that most trees in the Dawson area now are second growth forest, quite productive stands, but he hasn't seen any data about historical harvest levels.

The Dawson FRMP is an excellent resource for the Commission to use, and was a successful joint planning exercise. It also contains many recommendations and management direction for key values in the region that the Commission can build on (e.g. focal species, connectivity, biodiversity, climate change, mimic natural disturbance regimes, size and location of timber harvesting to preserve wildlife travel corridors, etc.). Monica noted the Commission has used the FRMP for guidance already when determining Landscape Management Unit boundaries, summarizing key values for the Resource Assessment Report, considering recommendations for wildlife species, and considering types of zoning and implementation considerations. The FRMP zoning system is very simple – there are two main zones, and additional considerations are listed as goals/objectives/values for individual Landscape Units.

Mark said forestry is a key economic driver in the region and could be more so. The FRMP does note that diversification of the local economy is important. The annual allowable cut is currently lower than what could be sustained, but there has been no push from industry to harvest at higher levels than they are right now. An inventory of timber harvest potential has been completed except for the northernmost part of the region, but the analysis and results are not finished yet.

Mark thanked the Commission for the opportunity to speak with them, and encouraged them to contact him anytime if they have questions or need more information.

AGENDA TAB 8: MINERAL STAKING DURING DAWSON PLAN DEVELOPMENT

Overview

Monica reviewed the letters between TH and YG regarding this issue. TH has requested several times since fall 2013 that YG put an interim staking withdrawal in place until the Dawson planning process is complete (i.e. until the Recommended Plan has been approved by the Parties). The initial request was for the entire planning region, which has now been scaled back to just those Landscape Management Units (LMUs) being considered for protection. YG has responded numerous times that they may consider it, but not until a later stage in the planning process. TH has requested the Commission position on this issue. Rosa said that VGG has requested a position on this issue from their leadership, and noted that staking activity during the planning for Fishing Branch Habitat Protection Area was very disruptive and resulted in numerous claims staked within the area before the boundaries were finalized.

Gillian explained that when a person stakes a claim, rights of access and use are granted immediately upon the claim being recorded. A withdrawal of staking rights in an area requires a prohibition order under the Quartz Mining Act and Placer Mining Act. This would apply only to new claims – claims in place before the prohibition order was granted would be “grandfathered” (allowed to remain with all associated rights). The expropriation of existing claims (e.g. if they are inside an area designated to become a legislated Protected Area) and associated compensation is very complex, and there is no standard approach or methodology.

There was no staking withdrawal during the North Yukon process, but the Dawson region is quite different in terms of mineral resources. During the Peel planning process, an interim withdrawal was put in place but at the Recommended Plan stage, and also included a “hold” on any further work on existing claims. Ron Cruikshank (YLUPC) explained that Draft Plans are usually still quite fluid and subject to major changes, whereas by the Recommended Plan your management recommendations are more solidified. An outcome of the Peel Watershed plan (YG-approved version) is that Special Operating Areas can also be established to protect environmental and cultural values, without the requirement for a full staking withdrawal.

Discussion

Questions about why mineral staking during the planning process is such a concern, but not other land use activities (including granting of permits & licenses and even permanent dispositions such as residential or agricultural land). TH staff explained the difference is in the legislation – with those other land use activities, approvals and associated rights are not automatically granted. There are opportunities to make comments in a public consultation process and the approval is not guaranteed.

Discussion about whether the lack of a staking withdrawal would actually influence Commission decisions. For example, having mineral claims in an area would not prevent the Commission from designating it a Protected Area. It would mean that the activities associated with the claims would be inconsistent with the management intent for the area, and it would be up to the Parties to determine other means to expropriate those claims.

Ron said the Council is working on several recommendations to improve the planning process, including the Parties agreeing on interim measures to be in place during the planning process (and included in Commissions’ Terms of Reference). Patrick Rouble (YLUPC) added that the Final Agreements don’t speak to the prohibition of staking or any other interim measures to be provided by the Parties while Commissions are doing their work. The issue seems to be around the acceptable level of risk.

Discussion about timing of the withdrawal – Debbie said it should be implemented before the Draft Plan is released, to preserve all Commission options and prevent people from rushing out and staking an area that the Commission might be considering for a Protected Area. Others think the Draft Plan stage would be premature - the Commission will be offering clearer direction than they were at the Plan Alternatives stage, but still considering lots of options and could still make substantial changes based on feedback received during the public review period. Scott noted that it costs a lot of money to stake a claim, and to stake in an area potentially going to be designated a park would be a substantial risk for someone to take. Also, most areas with good prospective ground were already staked in the 2011-2013 period. Peter noted that at any stage, the major political and economic implications of a staking withdrawal must be considered (the associated financial risk of potentially having to compensate companies is assumed by government), and getting an Order in Council is not a process that happens overnight. Also, YG’s position is already very clear from their letters, and a letter from the Commission will not influence it. Monica reiterated that the staking withdrawal would not be for the entire planning region, but only for those LMUs the Commission was potentially considering for legislated Protected Areas. The Commission has only been discussing this for a few LMUs, and if they are zoned that way in the Draft Plan there will be solid rationale provided. Neither the specific LMUs nor the rationale for designation are likely to change much between the Draft Plan and Recommended Plan.

To date, the Commission has responded to new YESAB applications in the planning region with a form letter. The letter notes the current stage of the planning process, and that the Commission is monitoring activities while planning is occurring, but does not make any specific comments. Once the Draft Plan is released, the Commission may wish to provide more detailed comments on some projects, particularly if there are any proposed activities that would not conform to the proposed management intent or zoning for a particular LMU. Ron provided a YLUPC recommendation that had been issued to previous Commissions. It notes that: the Final Agreement provides for land use activities to happen concurrently with regional planning; Commissions’ responses to YESAB applications should change as they move further ahead in the process; Commissions should be conscious of the time and resources

they expend in responding to applications; and Commissions should limit their representations to “regionally significant projects” (although staff should track all project evaluations for the purposes of identifying any emerging trends which may have regional implications).

Decisions

In-camera discussion resulted in the following decision (made without consensus of all members):

A letter will be sent from the Commission to YG before the Draft Plan is completed. The letter will suggest that an interim staking withdrawal be implemented for specific Landscape Management Units (those being proposed as Protected Areas or any other designation where withdrawal of sub-surface rights is included in the description of the zone), in order to preserve planning options as well as public confidence in the planning process and to minimize potential land use conflicts, and that it remain in place until such time as the Recommended Plan (or Final Recommended Plan) is approved by the Parties. The letter will also state that if the interim staking withdrawal does not occur at the Draft Plan stage, the Commission strongly suggests it be implemented at the Recommended Plan stage.

The Commission will reevaluate its approach to commenting on YESAB applications once the Draft Plan is released.

AGENDA TAB 9: PLAN ALTERNATIVES PUBLIC REVIEW - WHAT WE HEARD REPORT (OVERVIEW)

| Overview | Action Items |
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| <p>Monica explained that the What We Heard report has a dual purpose – it will help with Commission decision making, and it will “close the loop” in the public engagement and consultation process (helps to make people feel their contributions were worthwhile and were listened to). She gave an overview of the report structure and organization.</p> <p>There were no form letters or petition-type response - every single submission was different. This means there are many valuable responses to learn from, but also that it takes longer to organize in a way that will be useful for Commission decision-making.</p> <p>Kathy and Monica felt the call for feedback had not stated clearly enough that the submissions would be made publicly available on the website and attached as appendices to the What We Heard report, so Kathy contacted each individual submitter to get their written permission. Some people agreed that their submission could be posted as long as personal information was blacked out. This format was also followed for those submissions where the author did not respond after two attempts to contact them. The online survey form (through Survey Monkey) did not collect any personal information, so no additional action was required.</p> <p>The report is currently a compilation of all the feedback submissions, a description of the communications and consultation activities undertaken by the Commission throughout the review period, and information on how the Commission will be using the feedback. Staff have made no attempt at analysis or statistics, and have not selected “representative samples” of comments. Staff are somewhat uncomfortable doing this as it introduces a level of subjectivity and personal judgment. Also included are “office notes” from all the conversations that took place between staff and the public (in person or by email) throughout the review period, and the verbatim transcripts of the recorded question & answer sessions from the public meetings. These things add a substantial amount of work, but staff feel they are an important part of the record. People may have come to the public meeting and told us what they thought, but they didn’t do a written submission. The transcripts are also interesting to read for people who weren’t able to attend, and it shows transparency.</p> | |

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| <p>Monica emphasized that the feedback on the Plan Alternatives represents many people’s time and effort. There are many interesting and innovative ideas to think about, and it is important that the Commission reads and considers what people said as they move forward.</p> | |
| <p>Discussion</p> | <p>Action Items</p> |
| <p>Jim Bell (YG) suggested that the public (and the Parties) will likely be looking for some kind of analysis, something more than just a compilation of the submissions. Discussion about the benefits of doing this in relation to the additional work required. Jim also noted that using a third-party contractor can eliminate some of the potential for subjective judgments about what is “most important”.</p> <p>For the Draft Plan public review, the volume of submissions is likely to be much higher. Monica suggested that staff capacity will again be an issue, and the Commission should consider contracting out the Draft Plan: What We Heard report. The volume of submissions may also dictate the format of the report – e.g. the What We Heard report prepared by a contractor after the YG consultation on the Peel Watershed plan described how the report <u>had</u> to become a summary of key themes with representative quotes, because there were literally thousands of submissions.</p> <p>It was agreed the Draft Plan call for feedback, in various forms, should clearly state that unless a specific request is made to maintain confidentiality, all submissions will be posted on the DRPC website and available for the public to read.</p> | <p>Monica and Kathy to reconsider the structure and content of the Plan Alternatives: What We Heard report, in terms of providing additional analysis and identification of key themes.</p> |

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| <p>AGENDA TAB 10: PLAN ALTERNATIVES: SUBMISSIONS FROM PARTIES</p> | |
| <p>Overview</p> | <p>Action Items</p> |
| <p>The Commission reviewed the comments received from the three Parties: Yukon Government, Tr’ondëk Hwëch’in, and Vuntut Gwitchin Government.</p> | |
| <p>Discussion</p> | <p>Action Items</p> |
| <p>Discussion about Community Area shown in the five alternatives and its relationship to the area outlined in the Klondike Valley Land Use Plan (KVLUP). It was clarified that the Community Area, as defined in the Plan Alternatives, was an overlay zone simply meant to identify the potential area for future expansion of Dawson City (new locations for the airport and landfill, more residential subdivisions, agriculture opportunities, etc.). Sam explained he took the current municipal boundaries, added West Dawson/Sunnydale, buffered it by 5 km, and expanded it out to the Dempster Corner. In the North Yukon plan, the Community Area was right around Old Crow and was meant to identify the area most likely for future community development. Cumulative effects levels were not a component of this zone.</p> <p>Bear Creek, Rock Creek, Henderson Corner, etc. are outside the municipal boundaries of Dawson City and do not currently have an official Local Area Plan in place (unlike West Dawson/Sunnydale), so are included in the Commission’s mandate. TH desires more detailed sub-regional planning beyond Henderson Corner and in the Dempster Highway corridor – spot land applications in these areas have been quite contentious (wildlife values, Settlement Land parcels, no-hunting restrictions around titled land, etc.), and it was their understanding the regional plan would address these issues. They also noted the KVLUP recommended no further residential development within the lynx refugium area. YG prefers a planned approach to residential development vs. spot land applications – it concentrates disturbance, addresses the demand for country residential properties, and reduces required</p> | |

infrastructure investment. YG would like the Commission to make recommendations or identify areas in the region that would be most suitable for future residential development.

Review of watershed basis for boundaries of almost all LMUs, and discussion about potentially splitting some LMUs into two smaller ones to have more flexibility in zonation (based on current land use activities, e.g. existing mineral claims).

Rosa discussed VGG’s perspective on the northern part of the region. The Fishing Branch Habitat Protection Area, just to the north of the planning region boundary, was created to support the ecological objectives and to serve as a buffer for the Fishing Branch Territorial Park and is considered part of the protected area regime. During the planning process for Fishing Branch, the parties committed to revising the southern boundary. That commitment must be respected in the DRLUP process and should reflect the management intent of the HPA. VGG would like to see the entire Miner River watershed zoned in a consistent manner, and is strongly opposed to LMU 3 being designated higher development because of its oil and gas potential (it is incompatible with the ecological values of the existing protected areas). Monica also reminded the Commission of the summaries she had prepared for the December meeting on adjacent protected areas (Fishing Branch and Yukon-Charley Rivers National Preserve). Both TH and VGG have declared their Traditional Territories to be fracking-free, so potential oil and gas development using these techniques would not be compatible. Any cumulative effects levels in the northern part of the region should be as consistent as possible with the North Yukon plan.

Discussion of comments about the Land Designation System from the Parties and other submitters. Bill clarified the purpose of the Traditional Economy Area (TEA) zone was to maintain areas important for cultural values and inter-generational transfer of traditional skills and beliefs, as well as to modernize traditional uses of the land (stewardship, tourism, guiding) and promote renewable resource activities on a limited scale (small-scale agriculture and forestry, mini hydro, etc.). Some feedback questioned whether the TEA zone was the best way to maintain those values. For the Conservation Area zone, several comments noted that if there is no withdrawal of sub-surface rights, there is no mechanism in place to ensure the values you’re trying to protect will actually be protected.

The Yukon River Corridor is a prominent feature in the region, and DRPC decisions will have implications for other planning regions to the south. TH would like to see more detailed planning conducted, but realizes that a Commission recommendation for sub-regional planning could take a long time to implement and would require the Parties to commit funding. Ron described his work on the Gwich’in Land Use Plan in the Northwest Territories, where industrial traffic on the Mackenzie River was conflicting with First Nations activities. They identified sensitive areas along the river that were withdrawn from industrial activity. It didn’t take long to do this work, and it was not a huge percentage of the river. Sam added there could be specific direction to address potential conflicts (e.g. within 500m of existing cabins, do this) without needing to collect all the data.

AGENDA TAB 11: LAND DESIGNATION SYSTEM – CUMULATIVE EFFECTS INDICATORS AND LEVELS

GUEST SPEAKERS: SHAWN FRANCIS (S. Francis Consulting Inc., via Skype) AND SAM SKINNER (Senior Planner, Yukon Land Use Planning Council)

Overview

Shawn Francis has been contracted by the Yukon Land Use Planning Council (YLUPC) to investigate the potential use of cumulative effects indicators

and levels for the Dawson regional land use plan, similar to the work he conducted as Senior Planner for the North Yukon Regional Land Use Plan and his involvement with the Peel Watershed Regional Land Use Plan. Sam Skinner is providing technical support and assistance for the project.

Shawn explained that cumulative effects (CE) assessment is about how to better manage the effects of multiple activities on the landscape, and regional land use plans are an important piece of that. Establishing indicators to monitor over time and setting maximum levels of acceptable change assumes that certain impacts to the landscape are considered undesirable by society. Cautionary and critical CE levels have been used in previous regional plans to help identify the differences between Integrated Management Area zones.

His contract involves several focus group sessions with key government and industry representatives, to help develop a series of “futuring” scenarios for the region (i.e. what is likely to happen on the landscape in the foreseeable future). The scenarios focus on what is plausible or highly likely to occur in the sectors of placer mining, quartz mining, forestry, and oil & gas. These industries are the key potential landscape drivers in the Dawson region, i.e. those that can cause landscape change over broad areas. Once the scenarios are complete, projected surface disturbance and linear features (or “footprints” typically required for these activities to occur) can be modeled. The models build on work conducted for the Resource Assessment Report, assessing the current state of surface disturbance and projecting it into the future about 20 years (beyond this would be too speculative). Consideration of specific values will follow, and it is anticipated that “packages” of potential indicator levels would be developed for consideration by the Commission.

Sam described how the futuring scenarios sessions have gone so far. For placer, they tried to develop low/medium/high development scenarios based on confirmed resources as well as placer potential mapping. They looked at probable drainages where development will turn its attention in the next 20 years, as well as additional frontier areas (places where activity could occur or increase, but only in the high development scenario). For quartz, there was some disagreement among YG experts on whether the medium or high scenario was plausible. Al Doherty (Yukon Prospectors Association) said the high scenario for quartz mining was hugely unrealistic (or optimistic), and thinks the number of claims will likely start declining in the next few years. The high scenario for quartz assumed 24 new advanced exploration projects (on top of the peak number in 2011), where the low scenario assumed that only the top five current spenders would stay active (Brewery Creek, Ida Oro, Coffee Creek, Boulevard, and White Gold). For forestry, the low scenario kept timber harvest mostly to supply fuelwood for Dawson City, where the high scenario incorporated more harvesting for lumber. They looked at the area that needs to be cut and how much access is required to get one cubic meter of timber. For oil and gas, there was a lot of modeling done for the North Yukon and there isn’t much activity expected in the Dawson planning region, and the LMUs in which it might occur (far northeastern part of the region) will likely become amalgamated with the North Yukon plan, so they weren’t planning to do a new model. However, YG Oil & Gas Branch requested that a scenario be done since there has been recent activity just outside of the planning region. Sam showed photos of seismic lines from the recent Northern Cross project in Eagle Plains, compared to seismic lines from the 1960s. The new lines are much narrower and more meandering, but they still count towards the linear disturbance totals.

Discussion

Discussion about the forestry futuring scenarios and how natural disturbance is accounted for. The amount of green trees estimated lost every year to forest fires is factored into the annual allowable cut. Sam said the future forestry scenario has not been modeled yet, but he suspects that forestry’s contribution to overall cumulative effects would be very minimal. Myles Thorpe (Yukon Wood Products Association) said that 5000 m³/year is likely based on Arctic Inland operations, even if expanded (there may be more markets for waste wood chips, like the boilers now being used in Dawson). He thinks the high scenario should be closer to 10,000 m³/year since there could be more small operators, salvage of firewood from old burn areas, and (as Mark Pedersen noted) the annual allowable cut is currently lower than what could be sustained. He said the most constraining factor for forestry in the Dawson region is the cost of accessing and removing the trees and getting them to market – it makes the local Dawson City market the most obvious focus. There are more high value forest resources in the Dawson region but it is not cost-effective to get them right now. This could change in the future; new access could make areas more economically feasible.

Discussion about the quartz mining scenarios – Scott said even if gold prices increase again, large projects take a long time to get through the permitting process and start operations. Both Minto and Wolverine took about 20 years to get into production. Al Doherty thinks Kaminak is the only project with any near-term potential, the White Gold resource has been identified since 2008 and nothing has happened.

Discussion about the placer mining scenarios – numbers from the last 20 years were used to project the next 20 years, so the high development scenario reflects the way it was 20 years ago (but there has been dwindling resources and prices since then). Will said the high scenario is unrealistic; the resources just aren't there. The main high production areas have already been mined, unless there are some new undiscovered areas.

Discussion about oil and gas scenarios – Northern Cross has invested a substantial amount of money in Eagle Plains, and will be looking to recoup some of that money soon. Other requests for bids in the Yukon have gone unanswered, not much other industry interest. Companies are still likely to look to resources in the south where it's cheaper to develop. Liquid natural gas (LNG) was considered - the near/medium-term scenario would see LNG for local markets including Inuvik. Option to export LNG from the Beaufort Sea is likely beyond the 20-year timeframe.

Currently in the Dawson planning region, most linear features are concentrated in a few places. For surface disturbance, the situation is similar, although some areas (e.g. Goldfields at about 3.7%) are already way past the levels set for the North Yukon plan due to historical disturbance. Cumulative effects assessment typically buffers around linear features and surface disturbance, and adds direct and indirect effects (e.g. avoidance behavior) in the "Zone of Influence".

Discussion about potential monitoring indicators other than linear and surface disturbance (e.g. caribou, moose, salmon, social and economic measures). Shawn said any of the 50+ evaluation criteria developed for the Structured Decision Making model (used by the Commission in their Plan Alternatives phase) could be used, but there has to be adequate data available and a clearly shown connection between landscape disturbance and those indicators (e.g. in the North Yukon, there was lots of science and research clearly showing a connection between oil and gas development activities and impacts on caribou behavior). For the Dawson region, moose are a high value species but are fairly resilient to development. Grizzly bears or sheep would make more sense, but the data just isn't there to support development of cautionary or critical levels.

Fire history in the region shows about 40% of the landscape has been affected by fire in the last 50 years. Caribou tend to like older vegetation (lichens), so a large portion of the landscape is already lower quality habitat. Shawn noted that for the boreal ecotype caribou (habitat is mostly flatlands of northern Alberta and Saskatchewan), the recommendations are to maintain 65% undisturbed habitat throughout their range (the analysis takes fire into account). The Dawson region has a mix of barren-ground and northern mountain ecotypes. There is a lot of information on barren-ground caribou showing they are very sensitive to linear density.

Gillian noted that simply a calculation of overlap between the amount of surface disturbance from mining and the amount of suitable caribou habitat that has been lost is a limitation of the work. It doesn't reflect how that affects caribou behavior (what is their response to disturbance), how it impacts the overall population, etc. Setting CE levels can have huge implications for industry, so it has to be clear what the projected scenarios and levels are based upon (not a hypothetical exercise).

Myles Thorpe (meeting observer) recommended that maps showing linear density should be to scale, as the size of the lines can change how they are perceived by viewers.

Approval of Addendum for Minutes of Regular Board Meeting #16 (April 15-17, 2014)

By Motion #3 at Regular Board Meeting #20 (December 17, 2014)



Sara Wray Enns – Planning Technician

December 22, 2014
Date



Scott Casselman – Chair

December 22, 2014
Date