

# DRAFT COMMENTS FOR GENERAL DISTRIBUTION

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## Preface:

I am grateful for the opportunity to discuss the work thus far of the Commission. It is clear that they are thinking deeply about the region's future and are making progress in their goal of reaching a higher level of engagement with the community.

I am however concerned that the Commission may be uncritically taking direction from the Yukon Government about what it may or may not recommend. For example it insists that the plan must follow a directive that all claims be grandfathered and that provisions for access be made no matter how remote or marginal the claims or how much protected area will need to be traversed and impacted. Similarly, if the Yukon River Corridor is to be managed under a sub-regional plan, as the Commission suggests, it is reasonable that it be withdrawn from staking until the sub-regional plan is implemented despite the antipathy of the current Yukon government to withdrawals from staking..

The Commission should respect advice from government, but must recall that it is an independent body, trusted and expected to deliberate on questions such as these and consider them on their merits.

The Commission is aware that there is more than one party to the process, however it must keep in the forefront of its mind that the First Nation relinquished its claim on the majority of their land base in return for a real say in the planning for crown land in the region.

Jurisprudence surrounding First Nations claims and rights has been moving in one direction only since the Sparrow case in 1973. That is, the decisions have all, in the end, been in favor of a liberal interpretation of aboriginal rights. In fact, as time passes and case after case establishes exactly how Canada made its own claim on the land, Canada's claim looks less and less tenable. It is only the generosity and forbearance of First Nations that enables Canada to exist as a legal entity at all.

Similarly, the ancient system of free entry to stake mineral claims is being eroded each time it goes before the courts. Assuming that the best and first use of the land is for mineral exploration and development is old fashioned at best and naïve and wrong at worst.

The Commission should acknowledge these trends and resist the temptation to assume the Yukon government's views on First Nation treaties and the ancient free entry system will prevail as civilisation unfolds.

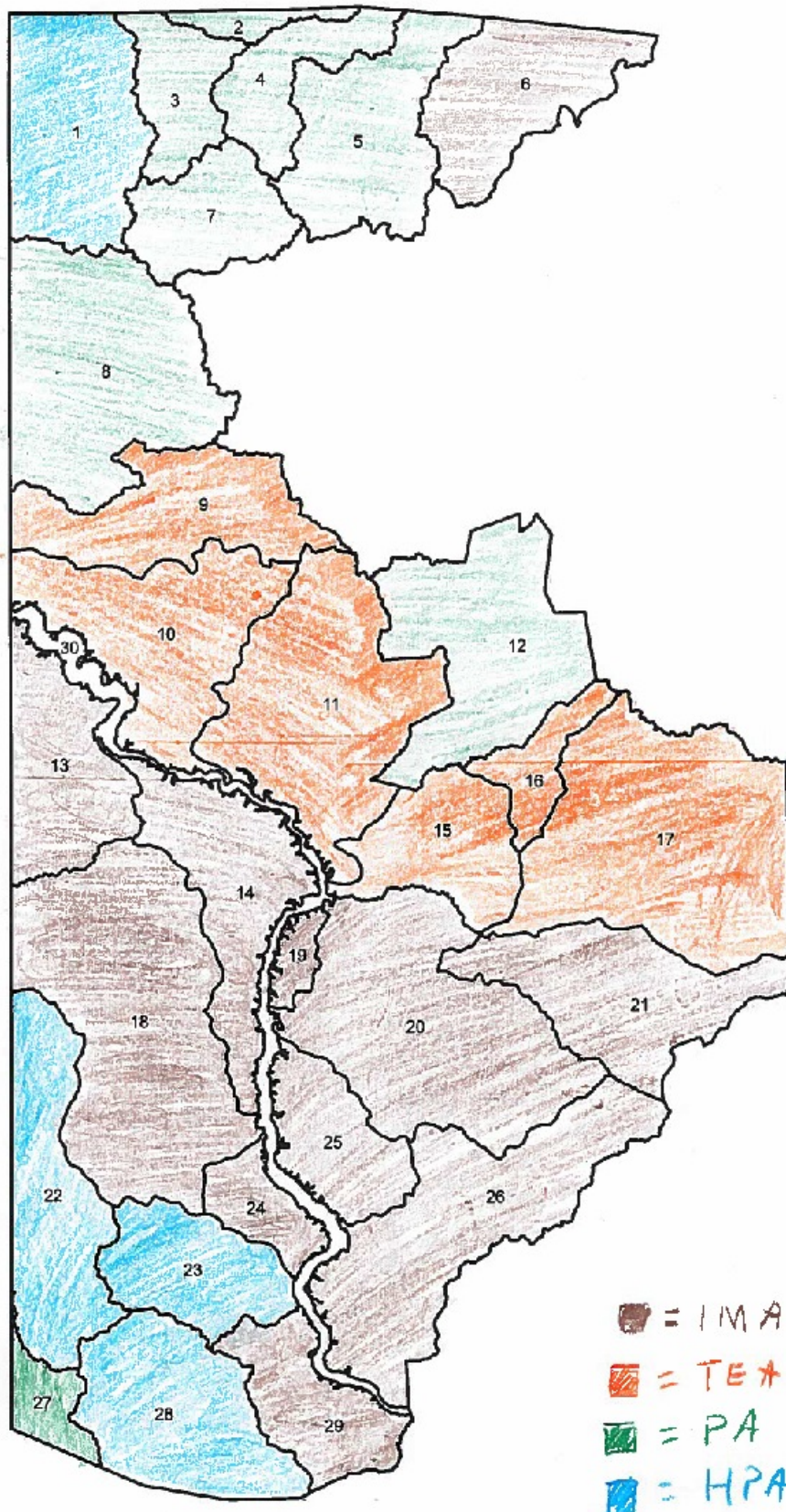
## Comments on the General Direction of the Dawson Regional Land Use Plan.

It is logical to consider the planning region as two distinct halves, a northern and a southern half.

The divide approximates the boundary between the Taiga Cordillera and Boreal Cordillera ecozones, which are the physiographic halves of the planning region. Almost all of the economic activity in the planning region is in the southern portion, as is the vast majority of permanent habitation and infrastructure. For the purposes of planning, the dividing line should extend along the Yukon River from the Alaskan border to Dawson, then along the Klondike Highway to Flat Creek Landscape Management Unit (LMU), LMU 21. The boundary should then follow the northern edge of the LMU 21 to the eastern edge of the planning region. While this boundary does not precisely follow the ecological border, it does approximate it while incorporating the socio-economic boundary.

If this general direction is accepted, then it is logical that the northern portion should emphasise protection while industrial activity should be directed to the southern section. The rationale for this is the concept that development should be steered towards areas already impacted and areas that have had little development should remain undisturbed. Exceptions to this general direction could be the assignment of Eagle Plains, LMU 6 to a high level of industrial activity to reflect the likelihood of oil and gas development there. The other major exception would be to assign the far south west corner of the planning region a high level of protection. The rationale for this is that this area incorporates the largest wetland in the planning region, LMU 27 the Scotty Creek Wetlands, and LMUs 22 and 28 encompass the most intact examples of boreal forest in the Klondike Plateau ecoregion. It should be noted that the Klondike Plateau ecoregion does not currently have a representative protected area in the planning region. Assigning this area a high level of protection would achieve several objectives.

The following page contains the YCS preferred alternative; industrial activity is directed towards already impacted areas, conservation is prioritised in intact areas.



## Description of Land Use Categories:

In this section I take the Plan Alternatives suggested descriptions and suggest some modifications (original text in italics).

- Protected Area (PA): *This zone provides the highest level of legislated protection for critically important ecological and cultural resources. It provides opportunities for monitoring, research and the establishment of benchmark areas. Ecosystems with high biodiversity and large areas of relatively low human disturbance are also better able to adapt to climate change.* It is anticipated that PAs would become parks under the Parks and Lands Certainty Act or HPAs under the Wildlife Act. Existing mineral claims would still exist except in critically valuable areas, but claim holders would be encouraged to relinquish their holdings, similar to the examples of Tombstone and Fishing Branch Parks. Access to industrial users would be severely restricted, with no permanent access and only winter roads permitted. Much of the Northern region of the planning region is currently defacto closed to road building through the provisions of the Dempster Development regulations, if roads are allowed in through PAs, access to other areas would soon follow.
- Conservation Area (CA): *Ecological resources in areas zoned CA may be sensitive to the impacts of disturbance seasonally or year-round, and may require additional management tools. The intent of this zone is to protect ecological and cultural values. Development may be permitted, but strict rules will be in place (vs. IMA Zone II which may appear similar but has a different management intent – the priority there is to enable renewable and non-renewable resource development).* Describing an area that allows mineral dispositions and development is confusing. Areas that allow staking should be labeled IMA. The alternative and preferred option could be to rename CA as HPA if the Commission's intent is truly to protect identified habitat values. In any case any land described as conservation focussed ought to be withdrawn from staking, at a minimum in the interim.
- Traditional Economy Area (TEA): We acknowledge this designation is under development and we await further refinement of the designation. In the meantime here are some suggestions:
  - The general management intent should be towards the renewable resource economy
  - Renewable resource activities should be small scale and not limit the use and enjoyment of the area by Tr'ondëk Hwëch'in citizens in pursuit of their traditional activities. For example agriculture should be confined to small holdings of less than 4ha, which has been shown to be economic for market gardens. Grazing leases and hay and grain farms would not be appropriate in TEAs. Similarly, the size of forestry operations typically in use currently in the planning region would be appropriate, larger operations with extensive clear cuts should not be permitted. Dispositions of land for small holdings and residences could be compatible with this designation.

- Yukon River Corridor (YRC): *This zone recognizes the unique importance the Yukon River plays in the Dawson planning region. It flows through the center of the region, and is highly valued by a range of users. The river provides access to resource-rich areas of the central Yukon that are not accessible by road. It is also important for its scenic views, cultural and heritage values, important wildlife habitat, and salmon migration routes. This zone would protect important aquatic and riparian habitat, while allowing for industrial land use, landings and access points. The Commission may recommend that a sub-regional plan be completed for the Yukon River Corridor. For the purposes of these alternatives, the boundary has been defined as 3 km on either side of the center of the river (6 km total).* It appears from this description that at least until a sub-regional plan is developed, the LMU would be withdrawn from staking. We support the withdrawal from staking. The commission should however be wary of kicking the management can down the road; it is their responsibility to indicate the appropriate uses for the YRC. Access to industrial activities could be permitted in this LMU, however they should be temporary as any large scale development would likely involve permanent roads rather than the river for access. The management direction should be on ecological values. Consideration should be given to expanding the corridor to include viewscales in iconic areas such as the Cloudy Range between the Yukon River and Eagle Creek downstream of the 40 Mile River i.e. the suggested limit of 6km may not always be adequate. It is primarily in the YRC that examples of relic Beringian sites exist.
- Integrated Management Area (IMA) Aside from the inclusion of IMA 1 to replace CA (when they are not designated an HPA), the designation of IMAs is adequate.

Detailed directions by LMU:

I have taken the liberty of suggesting that some of these LMUs be combined for planning purposes; this could reduce the number of LMUs to 20 from 30.

1. Kandik River. This remote LMU has been cursorily explored for oil; no proven reserves have been identified. While the logic of the oil and gas industry would indicate assigning this LMU to an IMA designation, the lack of proven mineral resources combined with the difficulty accessing it and the LMU's level of intact ecological values (Sheep WKA and porcupine caribou wintering ground) and the possibility to create a protected area contiguous with existing protected areas (Fishing Branch Park and Yukon Charlie Reserve) argues that this LMU should be an **HPA** and relinquishment of existing mineral claims encouraged.
2. Fishing Branch: This LMU is an extension of Fishing Branch and should be designated a **PA** under the Parks Act.
3. Miner River West, & 4. Miner River, & 5. Whitestone River, & 7 Upper Miner River: These LMUs are all tributaries of the Porcupine and could be combined. Along with LMU 8, Tatonduk River, these LMUs provide connectivity between Fishing Branch and Yukon Charlie Parks. They should therefore form the basis of a larger park. **PA.**



6. Eagle Plains: This LMU has the most viable oil and gas prospects in the planning region and in addition has ready access to the Dempster Highway. A designation of IMA would be logical
9. Eagle Creek & 10. Coal Creek: These LMUs could be combined. They encompass high value caribou and sheep habitat, it is possible that they are habitat for the Ogilvie Mountain Lemming and rise spectacularly from the Yukon River. These remote but important LMUs have been subject to some mineral exploration. Any large scale exploitation of their possible reserves would be catastrophic for the wildlife and tourism values of the LMUs. They should be withdrawn from staking. These areas do contain some of the largest and oldest trees in the planning region and are actively trapped. Salmon spawn in Eagle and Coal Creeks. Sheep are harvested by resident and non-resident hunters. Hikers frequent the ridge tops visible from the Yukon River. They would be good candidates for TEA status.
11. Twelve Mile River: This LMU is part of two active trapping concessions, the valley bottoms contain stands of large trees, sheep are harvested by non-resident hunters. 40 Mile Caribou have re-colonised the LMU. TEA
12. Tombstone Park: Already has a management plan. Consideration should be given to extending its boundaries to encompass that part of LMU 11 that was carved out of the original proposal (headwaters of the Twelve Mile). PA
15. Rock Creek: This LMU contains most of the population of the region. It has active farms and trapping and is valuable hunting and recreational ground. TEA.
16. North Klondike River: Adjacent to Tombstone Park, this area is valuable for hunting and gathering. Salmon spawn in the Klondike. TEA
17. South Klondike River: this LMU has very high ecological values but also contains the only reasonable prospect for a large scale gold mine at Brewery Creek. TEA, with provision for resurrection of the Brewery Creek or IMA 1 with provision for HPA over the remainder. This LMU has the best forestry resources and is the major salmon spawning LMU which tilts the scale toward TEA.
13. Forty Mile River: This LMU combines evidence of the oldest industrial development with considerable archeological sites, the return of the 40 Mile caribou and is heavily used for hunting, gathering and fuel wood harvesting. Placer Gold, the sole remaining non-renewable resource is mined at a low level. Industrial activity should be restricted both in time and space to protect caribou. Low level IMA 1. Without the need to allow gold mining, it would be an ideal TEA.
14. Swede Creek: Encompassing all the tributaries to the Yukon from 40 Mile to the 60 Mile rivers along the west bank of the Yukon, would be a good TEA but for balance should be low level IMA. As for LMUs 13 and 18, time and space restrictions on industrial activities are needed to protect caribou
18. Sixty Mile River: Contains extensive gold workings and the only identified caribou calving grounds, which should be an HPA, otherwise, IMA.

19. Caribou Creek, 20. Gold Fields, 25. Henderson Creek, 26. Stewart River are all where the bulk of gold mining take place and could be combined as an **IMA**. These LMUs contain WKAs and wetlands which should be protected:
21. Flat Creek: **IMA**, allowing for larger scale agriculture, rural residential and forestry
24. Excelsior: **IMA**, similar to Sixty Mile without the caribou calving
22. Ladue, 23. Lower White River, 28. Upper White River all have low levels of industrial activity and high conservation values, **HPA**
27. Scotty Creek Wetlands: the only extensive wetlands in the region, should receive a high level of protection **PA**
29. Coffee Creek: Some mineral development and access to other prospects, **IMA**
30. Yukon River Corridor: **SMA** as it is likely that a management plan for this LMU will be developed.

Designation	PA	HPA	TEA	IMA	YRC
LMUs	2,3,4,5,7,12, 27	1,22,23,28	9,10,11,15,16,17,18,	6,13,14,19, 21,25, 26, 28	30
Km <sup>2</sup>	6803	6269	14490	11447	920
Proportion	15.03%	13.85%	37.80%	25.30%	2.03%

- LMUs designated to the working landscape, that is TEA and IMA total 25,937 km<sup>2</sup> and are allocated for economic development, that is 63.1% of the planning region
- YRC is left out of this calculation as it is unclear what this LMU designation means.
- About 60% of the region will be withdrawn from mineral staking, all of the areas currently under mineral exploitation or likely to be exploited are within the working landscape.
- Economic activity within the planning region is considered to be more than just mineral development, but to include amongst others, agriculture, outfitting, tourism, forestry, hunting and gathering.

## Appendix A:

### Areas of LMUs

LMU	AREA	%
1	1768	3.91%
2	208	0.46%
3	742	1.64%
4	794	1.75%
5	1614	3.57%
6	1406	3.11%
7	965	2.13%
8	2613	5.77%
9	1574	3.48%
10	1989	4.40%
11	2608	5.76%
12	2101	4.64%
13	1327	2.93%
14	1558	3.44%
15	1139	2.52%
16	493	1.09%
17	3229	7.14%
18	3458	7.64%
19	215	0.48%
20	2946	6.51%
21	1738	3.84%
22	1661	3.67%
23	1107	2.45%
24	492	1.09%
25	945	2.09%
26	2525	5.58%
27	379	0.84%
28	1733	3.83%
29	1004	2.22%



30	920	2.03%
TOTAL	45251	100.00%

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