

Yukon Prospectors' Association
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Dawson Regional Planning Commission
PO Box 8010
Dawson City
Yukon, Y0B 1G0

RE: DAWSON LAND USE PLAN CONSULTATION

Dear Sir or Madam,

I am writing on behalf of the Yukon Prospectors Association (YPA) to convey our views on the Dawson Regional Planning Commission Plan Alternatives Package. The Yukon Prospectors Association represents independent prospectors, partnerships and private exploration companies working in the Yukon's mineral exploration industry. Our members rely on access to land; freedom to conduct lawful mineral exploration activities with minimal interference on land available for exploration; and certainty of mineral tenure to perform their work and earn their livelihoods. We sell the projects we generate and explore to junior mining companies and are very aware of issues that influence our client's decisions. We hope our comments will be useful in assessing the economic impacts of your proposed alternatives.

We have followed the work of the planning commission with interest and appreciate being allowed to send a representative to provide input into the development of this land use plan. We commend the commission for adopting a quantitative approach to classifying and weighing values in developing land use alternatives, and for seeking to make objective decisions that balance many competing and sometimes exclusive interests.

A summary of our observations and suggestions is appended to this letter. We would like to stress three points of particular concern to the Yukon Prospectors Association. These centre around the Traditional Economic Area designation, the cumulative economic effects of land withdrawals, and the potential of the plan to damage regulatory infrastructure. These are discussed in turn.

The YPA opposes the creation of the proposed *Traditional Economic Area* land use classification. The proposed classification would exclude mining and exploration by withdrawing lands from staking initially, by instituting land use policies explicitly inimical to mining as opposed to any other economic activities, and by creating uncertainty in the permitting process by adding an additional third party layer to government regulation of the mining industry on these lands. There are also larger issues. In our view, the proposed *Traditional Economic Area* designation would be little more than "Class B lite" – conferring authority over surface rights to First Nations on a quantum of land in excess of that already granted under Land Claims Agreements. Once the Yukon Government surrenders rights to administer these lands, they will be likely forced to go to court to regain control of them when the land use plan changes.

By excluding mineral exploration and potential development, the rights of existing mineral rights holders in the proposed areas would be jeopardized, raising the spectre of regulatory taking and consequent compensation. Are Yukon taxpayers to be burdened with compensation claims initiated by First Nations regulators on non-settlement lands?

The YPA is concerned about the cumulative effects of land withdrawals on the mineral exploration sector, the Dawson area and the Yukon economy. The mining industry is the largest private sector component of the Yukon's economy. The placer mining and mineral exploration industries are critical to the economy of the Dawson area, supporting businesses ranging from industrial suppliers, aviation charter and machine shops to expeditors, retail stores and hotels. At any time, there are many factors governing the level of mineral activity in an area. These include metal price and financial cycles, perceived mineral endowment, and the regulatory environment. Perhaps the most important criteria is the quantum of land available for exploration. Mineral exploration – both hard rock and placer – requires the repeated examination over decades of large tracts of land to identify mineral resources. This activity has no significant environmental consequences greater than any other transient land uses such as tourism, when conducted within the existing laws and regulations. Every fraction of land withdrawn from mineral exploration and potential development will translate into permanent economic and social impairment of the Dawson area through the loss of economic activity, businesses and jobs. We urge the commission to explicitly study the consequences of land withdrawals in areas dependent on the mineral industry by considering case studies or statistical data, and consider these consequences carefully before withdrawing land from mineral exploration and potential development. In every land use plan completed to date in the Yukon, there appears to have been an unstated target quantum of land destined to be withdrawn from mineral exploration. The Dawson area relies on a healthy mining industry to a greater extent than any other in the Territory and we urge the commission to minimize the damage to the Dawson area economy by restricting mining land withdrawals of land from mining and exploration only to those areas which are so sensitive that they cannot support any human commercial activity. If withdrawals must be implemented, these should be confined to consolidated areas north of Dawson where access is restricted and placer potential is lower. They should not be used to block access to areas where mineral exploration is permitted.

Finally, the YPA is concerned that commission is proposing the creation of new regulatory restrictions on mineral exploration outside of those found in existing legislation and regulations. We note in particular the proposal for varying seasonal operating conditions and other time dependent permitting and the creation of multiple levels of unspecified regulation to govern mineral exploration in the *Integrated Management Areas*. The creation of numerous areas with different operating standards and permitting processes creates a situation inimical to the prospector and junior mining company who lack the resources to deal with a collage of different regulatory regimes. It puts our clients – junior mining companies – at an additional disadvantage when competing for exploration capital with jurisdictions with more favourable climate, infrastructure and regulatory regimes. It should be noted that regulatory impediments are now glaringly obvious to any investor by reason of mandatory reporting requirements in Canadian securities legislation (National Instrument 43-101). Innovations in the Dawson area will deleteriously affect the investment climate for projects both there and elsewhere in the Yukon by creating arbitrary regulatory uncertainty. The YPA supports a go / no-go approach to land use regulation for

mining exploration and development. If an area is open to mining and exploration, we believe that prospectors should operate under a single, known and fixed set of rules applicable throughout the Yukon. If an area cannot support mineral exploration and potential development, it should be withdrawn from staking and exploration and existing claim owners should be duly appropriately compensated for their loss. We urge the commission to design the land use management classifications within the existing regulatory framework and not to propose innovations thereto.

Our other comments on the land use plan and the proposed alternatives are appended to this letter. We thank you again for the opportunity to participate in this process and be heard. We hope our input will be useful in fashioning a land use plan which allows for land use by the largest land users in the Dawson area.

Yours very truly,
YUKON PROSPECTORS ASSOCIATION

Mike Power
President

YUKON PROSPECTORS ASSOCIATION COMMENTS

ON DAWSON LAND USE PLAN ALTERNATIVES

- *Protected Area designation:* this definition should explicitly state what is shown in the table on page 27: the areas will be withdrawn from staking. It is critical that “grandfathering” be defined. Critically, will the full rights of claim holders, including rights of surface access be protected? In addition, necessary access corridors to areas where mineral exploration and development is permitted should be guaranteed. Such access corridors should be entirely on Crown Land and not subject to third party obstruction.
- *Conservation area designation:* the definition of this area is less opaque than that provided for Protected Areas but should be clarified to allow the mineral industry to assess the socioeconomic impacts of this designation. What types of operations will the proposed “strict rules” allow? Fly in only or ground access? Placer and / or hard rock operations? What limitations do you envisage concerning the size of operations?
- In the absence of a clear picture of what types of mineral exploration and development activities are envisaged for each zone, it is not possible to make an assessment of the socioeconomic impacts based on the areas selected alone. The YPA recommends that the commission work within the existing mining legislation and regulations to develop activity guidelines for each zone.
- *Traditional Economic Area.* We understand this land use designation to indicate an area under administration of a First Nation from which mining activities are excluded in the interim and will be prohibitively difficult to undertake in the longer term. Furthermore, this designation will allow third parties a veto on access to areas where mineral exploration and development are permitted. In many respects, this land use designation appears to be “Class B lite”. We would support this designation if there were a proportionate surrender of Class B land with high mineral potential to the Crown to mitigate the socioeconomic impacts of these withdrawals on the principal industries in the Dawson area – placer mining and mineral exploration.
- *Yukon River Corridor.* The YPA would support this designation provided it recognizes the preeminent importance of the Yukon River as a transportation corridor and guarantees reasonable right of access to the river for users in the hinterland. We cannot support this designation if protection of the view-shed were the primary guideline used in managing the land. We believe that reasonable accommodation is possible here but a designation that impairs use of the Yukon River for commercial or industrial transportation will effectively nullify the intent of the commission to allow a wider variety of land uses in the hinterland.
- *Particular damage to the placer industry.* The Yukon’s placer industry is the basis of the Yukon’s mining industry. It produces gold year in and year out and sustains the Dawson economy, often in the absence of any significant hard rock exploration or production in the area. It is vital to the Dawson community and economy. Modern placer mining is a temporary use of the land which usually improves the wildlife habitat in areas affected upon reclamation. We cannot support the withdrawal from placer exploration and production of any area with moderate to high placer potential or any area in which the placer potential has not been systematically evaluated.
- *Integrated Management Areas.* The YPA opposes any land use system which mandates Class I notification and permitting on land ostensibly open for mineral exploration. The Class I thresholds were developed in consultation with First Nations, environmental groups, the mineral exploration industry, and both the Federal and Territorial Government. It was agreed that these activities

should proceed without notification and consequent prior permitting by reason of their minimal environmental impacts. We object to any attempt to impair the intended functioning of the mining acts and regulations by creation of new categories of mineral land use. The view of the YPA is that land should be either open for staking and exploration under the laws *extant* or the land should be removed from mineral tenure and exploration with due compensation provided to affected mineral rights owners.

- Conflicts between legislation. In proposing land use thresholds, we believe that the complementary thresholds between the Lands Act (Yukon) and the Yukon Quartz and Placer Mining Acts must be considered. If it is proposed that activities under Class I MLUR will require blanket notification, there is no mechanism for requiring similar notifications under the Territorial Lands (Yukon) Act. If it is the intention to use notification thresholds to manage environment impacts, similar notification will be required under the Territorial Lands (Yukon) Act. This does not currently exist in legislation. If it is the intention of the commission to prohibit mining activities as opposed to other activities for reasons that do not concern land use, this is beyond the remit of the commission and likely unlawful. If on the other hand an area requires full notification of all Class activities for environmental reasons, either the Territorial Lands (Yukon) Act should be amended to capture similar activities by other users (trappers, outfitters, wilderness tourism operators, clubs and the general public) or the area should be placed in a park and fully managed with respect to impacts by all users.
- *Seasonal or timing restrictions.* The YPA objects to this measure being used as a management tool to limit or obstruct mineral exploration. The Wheaton River area has provided an excellent example of the folly of this approach. Prospectors and junior mining companies engaged in mineral exploration in the area are effectively limited to a 60 day operating season during the April through November period by virtue of overlapping or bounding land use restrictions. Is it reasonable to expect that a company or individual would contemplate mineral exploration potentially leading to development in an area where they can operate for only two months a year? Our experience in the Wheaton River area leads us to conclude that MLUR permits granted with these conditions effectively prohibit mineral exploration in the area.
- There are currently no hard rock mining operations in the area covered by the Dawson plan and in the past 100 years there has only been two small hard rock mining operations. Historic activity should be used as the guide in assessing the consequences of allowing mineral exploration in the planning area rather than estimates based on corporate intentions, not commonly realized.
- Estimates of mineral potential are widely considered to be deficient by the mineral exploration industry. Estimates of mineral endowment are by their nature backward looking and fail to appreciate the inertial effects of previous discoveries in distorting estimates of potential in comparatively unexplored areas. Shawn Ryan found the White Gold and Coffee deposits by exploring in areas considered to be of low mineral potential by the majority of professional geoscientists working in the exploration industry. Discoveries are disproportionately made by the 1% who think differently rather than the 99% who build the consensus. The commission should not make assessments of mineral potential based on this flawed approach.
- The mineral claims database used by the commission is out of date. For example, one area of the upper Sixty Mile River area is missing large blocks of claims where approximately half a million dollars in expenditures has been incurred by one company in the past two years.
- The Minfile database used in the compilation is not current and omits several important discoveries made in the past couple of years, notably the QV Property.
- The Kandik Basin (LMU 1) is considered prospective for hydrocarbon deposits by government authorities but is not being explored by the oil & gas industry by reason of its remote location and

difficulty of access. It is of limited interest to the mining exploration industry because it is quite remote and inaccessible. Given that the land use planning process involves trade-offs and given that there is doubtless some unstated quantum of land slated for withdrawal from mineral exploration and development for whatever reasons under the LUP, the YPA suggests that LMU 1 be designated a conservation area. Decades of experience in the MacKenzie delta demonstrates that oil and gas companies have the financial resources to complete tortuous and lengthy permitting prior to undertaking exploration activities. Designating this LMU as a conservation area would allow exploration by a determined party with significant resources and reduce the pressure to withdraw other accessible areas of higher mineral potential.

- In particular, the Ladue River (LMU 22) and Swamp Creek (LMU 27) areas have known mineral potential including historic hard rock high grading operations and small placer mines. In addition, there is significant potential for LMU 22 to host volcanogenic massive sulphide (VMS) deposits. These areas should not be withdrawn from mineral exploration by assigning a level of protection above IMA IV which would affect their viability.
- Areas to be withdrawn from mineral exploration should be concentrated in the area of LMU's 1 to 8 as access to these areas is effectively blocked by parks, private lands and lands withdrawn from development or access under other land use plans. This would minimize the damage to the economy of the Dawson area through impairment of its principal industries as a consequence of mineral land withdrawals.
- All of the proposed plan alternatives will inflict long term damage on the Yukon's mineral industry and the Dawson economy in particular. This will be slow, incremental and likely permanent once the industry is driven from the area or reduced to such a small role that depopulation and government expansion creates an environment inimical to any development. We cannot support or endorse any of the alternatives presented.