

Whitehorse, March 02 2014

I thank the Commission and staff for the work done to date on this Land Use plan and I am encouraged by the fact that they have invited various stakeholders to the process at an early stage. I commend the commission on its vision statement. It will take work to bring this to fruition and I support them in this endeavour.

I'm encouraged and inspired that the Commission takes to heart the goal of taking care of the land as well as its people. The growing polarization that we've been seeing in the Yukon is, I think, the result of an effective marketing campaign that would want us to think that both goals cannot coexist. This has been extremely divisive and harmful to our sense of community. Some people would like you to believe that you must sacrifice one in order to get the other. I do not support this approach. In fact, to ensure our future, it is our responsibility to use our knowledge and creativity to ensure environmental stewardship as well as social responsibility. Healthy communities need healthy economies. The challenge is here, how will we take care of the planet AND the people. Your process is a step in that direction.

In order to actualize their vision, I trust the Commissioners will keep in mind the reach of the various laws, regulations and consultation processes already controlling activities on the land. From a subsurface rights perspective, only a few low impact activities (known as Class 1) can proceed without permitting or community consultation. The thresholds for the different levels were developed in consultation with industry, First Nations, and conservation groups. Therefore, even land proposed here as IMA IV is already under some form of protection.

In light of this, I was surprised and disappointed to realize that the scoring system used to quantify each of the values considered had an inherent anti-mining bias to them. From what I understand, a value from 0 to 1 was first assigned to each value in each LMU as to how well that value would be supported by any given designation. For example, in a protected area designation, mineral potential will get a '0' because that value is not supported by that designation and in fact cannot proceed at all. Hiking would get a '1' as it is strongly supported by the designation.

But in IMA IV, mineral potential get a '1', but hiking gets a '0'. Does this imply that hiking is impossible on all of open crown land? Or that crown land would be so horrible for hiking that nobody would go there to hike? It appears that all of the ecological and First Nation interest values got a "0" in the IMA IV designation, and only slightly higher scores in the other IMAs. This is an unfortunate, unnecessary bias that increases the polarization of the different values and that affects the decision makers when they look at this data and when they look at the table that shows the performance of one alternative over another. The unfortunate, and surely unwanted implication, is that this scoring system implies that any land open to staking is detrimental to renewable and cultural values. Also, it seems like if there was no data for hiking, the value got a '0' also.

I don't think that anyone can really believe the fact that crown land, equivalent to the proposed IMA IV, does not support moose, caribou, plants, recreation, water, First Nation interest, etc. In fact they support them quite well under the current regimes, and I think this should be acknowledged and factored realistically. Class 1 mineral activity does not threaten these values. Advanced projects have a greater footprint no doubt, but still very small compared to the size of the LMUs. This unfortunate bias undermines much of the hard work that was put into assembling and developing this plan.

If such a factoring is needed to add contrast to the different scenarios, it might be because the realistic evaluation shows that controlled responsible development is really not that bad? It would be interesting to see the results of a realistic evaluation. Perhaps the methodology needs to be revised. These analyses are only as good as the data that we put into them. Also, if there is not enough data, the analysis suffers.

Mineral potential

Another point of methodology is how the mineral potential information was used; I don't think the information was very well understood. The final scoring or mineral potential was done by multiplying the mineral potential "value" by the square area of the land management unit. Since the cookie cutter for the mineral potential map is not the same as the cookie cutter used for the land management unit, an LMU could contain a small area of high mineral potential, and its importance of it would get diluted because the rest of the LMU might be of much lower potential. In light of this, the numbers provided for mineral potential in each LMU are unfortunately quite meaningless.

I offered to have a detailed look at the overlap between LMUs and these high potential polygons and have asked for the shape file to do so but have not received anything yet at deadline time. I would be happy to do this if I could get the data.

But the main point on mineral potential maps is that they represent a snapshot in time. The mineral potential exercise was done after the White Gold discovery and the public release of a mineral resource estimate. A mineral resource estimate is very significant as it documents real, calculated quantities of metal, not just the result of a probabilistic estimate. Had the assessment been done say 7 years earlier, the results would have been very different. Points to note, since the mineral potential exercise, Comstock Metals found significant mineralization on their property, and the number of gold ounces at Brewery Creek is six times the amount calculated in 2003. Or take the significant discovery in the Rakla belt, where a new mineral deposit type for the Yukon was found in rocks previously thought of low potential.

Our state of knowledge, our ideas, and our technology are constantly evolving. So we have to be very careful when we try to capture dynamic values and knowledge (and this goes for all values) into a fixed plan. The current claim map is not a prediction of where the next discovery will be. Since subsurface withdrawal is the only legal right at risk of being alienated, we have to tread carefully when limiting access to land.

TEA

The proposed 'Traditional Economy Area' designation is unfortunately very problematic as the Trondek Hwechin's proposal outlines very clearly that they don't want any hard rock activity whatsoever under that designation, and therefore want withdrawal of mineral rights. They also envision a type of monitoring/stewardship of that land that would basically bring it under First Nation administration, like a Class A land selection.

Some of the activities they propose have a much larger footprint and disruptive environmental impact than mining (agriculture, forestry, energy generation), and others (hunting, gathering, and transformation and marketing of those products) could coexist very well with mineral activity under the existing regulatory regime, as any activity over class 1 would go through a community review anyway. In fact, the financial benefits from advanced mineral projects could help finance such ventures and therefore contribute to the development of a sustainable sector of the economy. The proposed approach to road access is also regrettable. I support the development of an economy based on

traditional goods, but not at the unnecessary expense of other land uses. I find it a bit confusing that Land Claims selections are not outlined on the maps as they are administered by the First Nation and are not subject to the result of this public debate.

Specific LMUs.

Due to the short time given for comments and the abundant material to review, I haven't had the time to explore the details of each LMU. I would welcome an extension in order to provide more detailed comments. From what I've observed so far, I generally support IMA IV designation, and bring your attention to supporting IMA IV designation for the following LMUs that may be overlooked:

- LMU 18 hosts rocks with good potential for volcanogenic massive sulphide mineralization,
- LMU 16 and portions of LMU 15 should not be used to block access from the Dempster Highway,
- LMU 29 includes many mineral claims and represents the extension of the significant Coffee gold deposit,
- the eastern portion of LMU 21 could host undiscovered gold mineralization, since the placer occurrences there indicate a proximal source for the gold.

Cumulative effects of conservation

- Protected areas have an 'echo' or donut effect, and areas near PAs become very difficult to work on. Cumulative protected areas, when looked at Yukon-wide, create a difficult climate for the mineral economy. The land use planning process isn't finished, and we already have the highest percentage of PAs in the country. Withdrawing mineral rights has economic and therefore social ramifications.
- I would like to see an analysis of environmental stresses of increased traffic on the resources of Tombstone Park. It costs money to properly manage a protected area. Overuse is said to already strain the resources of this relatively new park.

-I support the careful creation of protected areas in order to support rare or sensitive features. To that effect, the boundaries of the LMUs could be changed to accommodate smaller areas that need additional protection.

-Tombstone Park is already representing a significant portion of the area and the LMU designation in the neighbouring Peel watershed ensure significant protection of a very similar landscape. Creating even more PAs should only be done where current regulations are not effective in protecting rare features or sensitive habitat. I don't think we need more ecoregion representation.

Cumulative effects of development

I'm no expert on cumulative effects but I'm not sure that enforcing policing measures based on fixed thresholds is the best approach. The environmental assessment process, regulations and legislations already address cumulative effects. Some consideration should be given to evaluating the actual risk of a proposed development, instead of establishing fixed thresholds that may or may not remain relevant to a particular area. I think some thoughtful research, involving people with knowledge of the mineral industry, is needed before deciding on a policy for managing cumulative effects, and to distinguish between the real ones from the ones that may be perceived by an uninformed public. Participation by the mineral industry would help ensure relevance.

Conclusion

I'm concerned that land-use planning has created an expectation with the public that each plan will yet create additional protected areas, further alienating access to the subsurface. I will support a plan that maximizes existing legislative and management tools to achieve its goals. I encourage the modification or size reduction of LMUs in order to address specific issues of concern. I also don't think the land use planning process should be used as a second phase of land selections.

For all the extensive data gathering and analysis, the final discussion seems to be whether we withdraw sub-surface rights or not. Since withdrawal of these rights has huge social consequences, I support a plan that will minimize the amount of land withdrawn. I do think we have the legal and management tools necessary to ensure the integrity of the land without having to put a fixed fence around all the values we wish to protect. To achieve this goal, it will take a willingness to drop a polarizing stance, to realistically evaluate risk, and to develop familiarity with existing management tools such as laws, regulations, and required consultations. From such a place, we can make informed decisions.

I hope that the staff responsible for the development of this plan, and future elaboration of thresholds, rules, etc., will get more familiar with the regulations, data and concepts used in the mineral industry. I encourage you to include more technical knowledge from the mining sector, especially since it has the most to lose.

You will get many comments regarding the lack of clarity in regards to the activities permitted in the different designations; I know you will be doing more work to that effect. I just would like to point out although preservationists oppose the grandfathering of mineral rights in a CA or PA, it would be very difficult for anyone to attract investment and actually work there. The claims in Tombstone Park have remained inactive. I think grandfathering mineral rights achieves the goals of conservation without the cost of expropriation or the perceived cost of mineral withdrawal. So it's a double-edged sword. I thank you for the opportunity to comment, and wish you wisdom and insight for the next phase of the process.

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