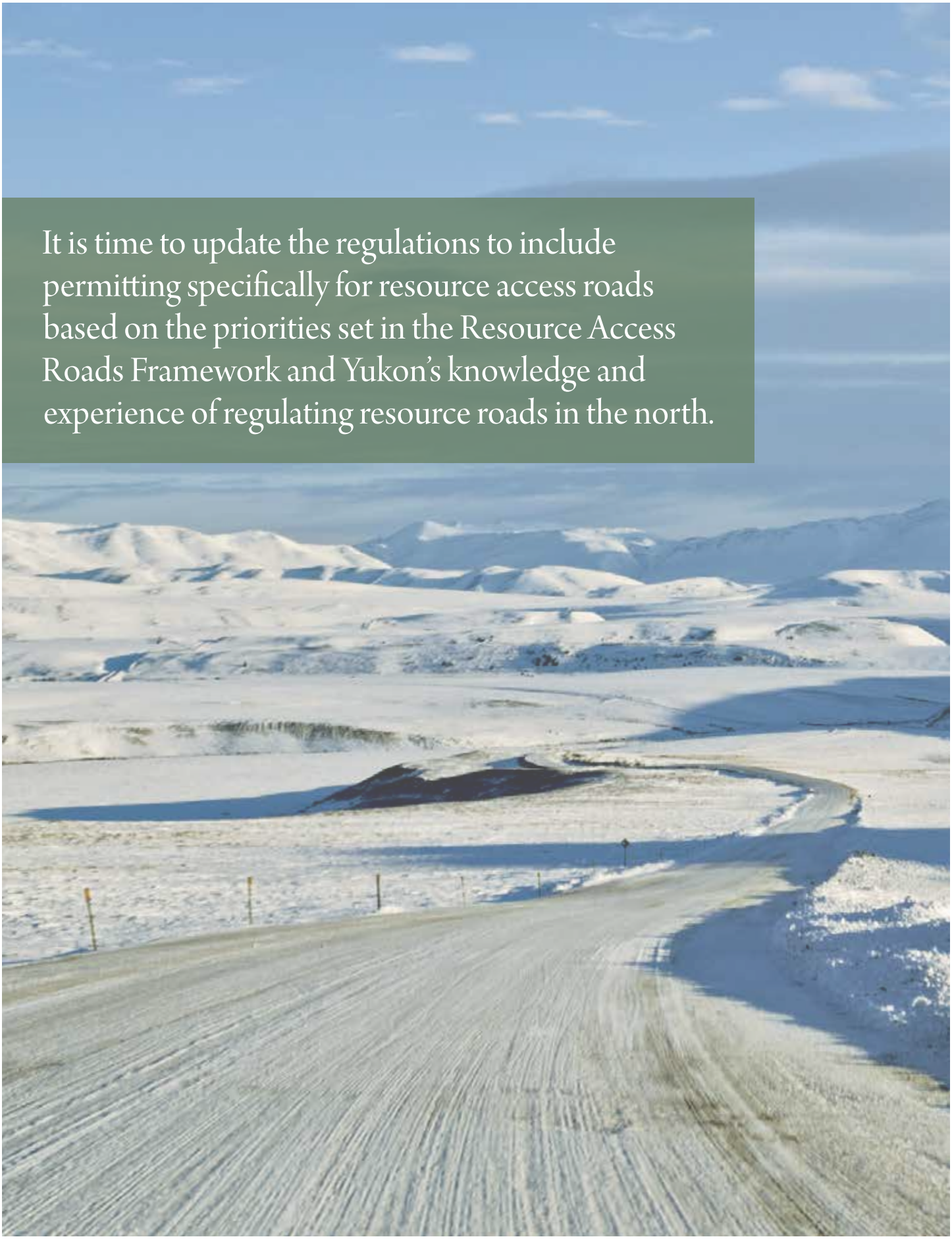
Resource Access Road Regulation

DISCUSSION PAPER

Yukon
Energy, Mines and Resources
Land Management Branch



It is time to update the regulations to include permitting specifically for resource access roads based on the priorities set in the Resource Access Roads Framework and Yukon's knowledge and experience of regulating resource roads in the north.

BACKGROUND

THE RESOURCE ACCESS ROADS FRAMEWORK approved in February 2013 outlines the goals and principles that guide decisions around the development and management of resource access roads. This framework calls for a "successional permit" to regulate resource access roads in areas such as off mineral claims and on oil production leases beyond the normal three-year land use permit.

The land use permitting regime that is currently used to issue land use permits for the purpose of road construction was developed in 1970-71.

It is time to update the regulations to include permitting specifically for resource access roads based on the priorities set in the framework document and Yukon's knowledge and experience of regulating resource roads in the north. This new regulation under the *Territorial Lands (Yukon) Act* will provide up-to-date land management tools and provide industrial users of these roads clarity as to the roles and responsibilities for both government and industry as for the life span of these roads. This type of regulatory authority is currently provided for forest resource roads pursuant to the *Forest Resources Act* which came into force in January 31, 2011.

Proposed Scope for the new regulatory authority includes:

Scope	Why
Longer Term Permits	
To the extent possible, coordination of authorizations required for a project.	Currently, resource roads are permitted through a land use permit for two years plus a one year extension while a mining land use permit (which could include road construction and use on claims) can be issued for the duration of a project. It would be beneficial to harmonize permits, for example, if a mining land use permit is issued for a project then a resource road permit required for the same project could be issued for the same timeframe or through one regulatory body.
Ensure that there is only one permit required under the *Territorial Lands (Yukon) Act*.	Want to ensure that the road construction, operation, maintenance, modification, closure and decommissioning is permitted through a single road permit, that there is not a requirement for other land use permits relating to these activities.
Enable permit duration to be tied to the length of the project.	For the most part, resource access roads are tied to other projects and are in use for the life of the project; for example, an advanced mineral exploration project or mine. It makes sense for the permitting of the road to be tied to the life cycle of the road and permit the construction, operation, modification, decommissioning and closure of the road.

A new regulation is intended to clarify roles and responsibilities for government and industry and efficiencies in process. Does the proposed permit coordination and duration meet your expectations?

Scope	Why
Limited to Roads for resource access purposes.	
Ensure that new and existing roads used to access properties or move product to market can become a resource access road rather than a public road.	Permitting is proposed to apply only to industrial use and users of a road which is being used to access resources. This ensures that the roads are not used by the public and run the risk of becoming a public unmaintained road under the *Highways Act*. Alternatively, if an existing road is proposed to be permitted through a resource access road permit by upgrading the road, there could be provisions to restrict and control access and bring the permitting under the new land use regulation rather than the *Highways Act*.

Upgrading of existing unmaintained roads may ultimately result in changes in public use, in which case government may engage in further discussion with First Nations, communities and road users. Do you have any concerns about changes in public use for currently unmaintained roads, limiting these permits to roads for resource access purposes?

Scope	Why
Use of Roads	
Enable the development of, operation and maintenance standards and agreements, including multi-use agreements.	Operations and maintenance standards assist with safe use. Operations and maintenance agreements can ensure that the cost for the maintenance of roads is shared equitably and that the terms of use are clearly outlined. These measures ensure that roads are developed and maintained to a standard appropriate to the size/scope and proposed use of the road. Multi-use agreements assist with the reduction of new roads on the landscape and the associated cumulative effects.

Scope	Why
Establish the ability to restrict access.	Ensuring that the public does not use the road assists with maintaining safety and reducing liability on the roads, as well as ensuring that these roads do not become public unmaintained roads in the future. Additionally, restricted access could help address concerns about increased hunting and recreational pressures on lands adjacent to resource roads.

One of the principles of the Resource Access Roads Framework is to minimize the potential for unsustainable maintenance costs or ongoing liability for government. Maintenance and multiuse agreements and restriction of access assist with the reduction of costs and liability. Are there any other tools that can be employed?

Scope	Why
Addressing Environmental Concerns	
Ensure that the land use type terms and conditions apply to the road, for example, protection of wildlife and fisheries habitat and methods of controlling erosion.	To the extent possible, the permitting for resource access roads should be consistent with existing land use permitting, through the use of the same or similar terms and conditions.
Ensure that permitting is consistent with approved land and resource management plans.	A principle from the Resource Access Roads Framework to assist with reducing conflicting use.

Ensuring negative environmental and cumulative impacts are minimized. The proposed permitting of resource access roads would follow existing YESAA processes, for those projects that fall outside the scope of YESAA, there is a process to ensure involvement in decisions about road development. Do you have additional environmental concerns?

Scope	Why
Addressing Closure	
Establish that a decommissioning and closure plan is required as part of the approval of a permit.	Unless otherwise determined by Yukon government, all new roads will be decommissioned upon completion of the project. The requirement to submit and have decommissioning and reclamation plans approved will ensure that these considerations are addressed in the permitting process.

This allows government to make an informed decision as to the whether the road should be decommissioned or become a public road. Do you have any concerns about decommissioning these roads?

Scope	Why
Enforcement	
List prohibitions and offences.	The regulatory authority should contain a variety of compliance tools giving consideration to using the most appropriate tool necessary to obtain compliance, and when required, to promote general deterrence. While the *Territorial Lands (Yukon) Act* provides some compliance and enforcement tools, these can be enhanced. Providing comprehensive prohibitions and offences within the regulation ensures that there are items that can be tracked into the Summary Conviction Regulation for the purposes of issuing tickets. Tickets are a way of efficiently dealing with minor offences.
Provide the ability to amend, suspend or cancel resource access road permits.	Another compliance tool that can be used if the permittee does not or is unable to comply with the permit requirements.

Scope	Why
Enable the taking of security that can be applied toward decommissioning or to remedy or reduce any environmental impacts.	For consistency with roads that are on mineral claims, the taking of security can ensure that companies demonstrate that they have made sufficient financial provision to cover the obligations of the permit.

This list of enforcement measures can apply to an individual/corporation holding a permit and the public in using a restricted access road. Do you think the enforcement tools are appropriate?

Next Steps

Post consultation, YG will consider responses prior to drafting of the regulation, which is expected to be approved in early 2015.

The review process will continue until August 8, 2014. Comments received during the review period will be compiled and considered in the development of the Resource Access Roads Regulation. A compilation of comments received will be made available on our website through posting of a post-consultation report after the review period has closed.

If you would like to provide written comments, please submit them to Michael Draper, Manager Program Support, Land Management Branch, Energy, Mines and Resources at:

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By participating in this consultation process, you agree that Yukon Government may publish your comments and disclose any personal information these comments contain.

The purpose for collecting your comments is to improve the policy concepts for Resource Access Roads Regulation and to create a post consultation report.

Please submit your contact information here:

Name _____

Address _____

Phone _____

If you have any questions about why we are collecting this information, please call (867) 667-3185.

Appendix

Resource Access Roads Framework:

(http://www.hpw.gov.yk.ca/pdf/WEB_English_ResourceAccessRoadFramework.pdf)

Territorial Lands (Yukon) Act and Territorial *Land Use Regulations*:

(http://www.gov.yk.ca/legislation/legislation/page_t.html)

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