



Yukon Fish & Wildlife
MANAGEMENT BOARD

BREIFING NOTE:

Beaver River Land Use Plan

BACKGROUND

- July 2016: ATAC Resources applies to YESAB for an all-season tote road
 - Proposal for constructing and upgrading 65 kms of road
 - Includes: 46 creek and river crossings, 8 bridges, one of which is a multi-span bridge across the Beaver River
- May 2017: YESAB recommends the project proceed with terms and conditions
- 2018: The decision bodies (YG and FN NND) negotiated an agreement and jointly signed the decision document
- Agreement directs YG & FNNND to develop a land use plan for the Beaver River Watershed and a Road Access Management Plan
 - Agreement appoints/co-opts the YFWMB to create a Wildlife Adaptive Management Plan for the area
 - June 2019: YFWMB writes to Minister of Environment asking the Plan be led by the RRC, as it falls within their mandate
- A condition of the decision document is that a Road Access Management Plan for the tote road be developed by the parties (YG/ NND) and ATAC *before construction is authorized*
 - *We are here*, RAMP is being developed by the Planning Committee

1. **h) Fish and Wildlife Harvest.** The Minister of Environment shall initiate a process in collaboration with the Yukon Fish and Wildlife Management Board towards the timely identification of an adaptive, proactive fish and wildlife harvest regime that will address actual or anticipated increased harvest associated with the Tote Road. This may require the application of restrictions on harvesting all or part of Game Management Sub-zones adjacent to the Tote Road. To support timely and adaptive wildlife management, NND will endeavour to collect data on big game harvest activities of NND citizens in these same areas, including species and sex, and provide annual reports to VG.

In support of these measures, the Parties will ensure terms and conditions on the project that require ATAC to ensure that their employees, contractors and sub-contractors do not harvest fish or wildlife within one km of the Tote Road, in the area marked as Schedule C of this agreement (the **ATAC Harvest Prohibition Area**).

KEY ISSUES

- This Agreement and the proposed Planning methodology circumvents the UFA, and Chapter 11 specifically (11.8) with regard to Sub-Regional and District land use planning
 - This plan is listed as a Subregional; but is actually only a local area plan
 - Committee claims “this is a better way of doing things”
- YFWMB has been tasked, at least on paper, with creating a Wildlife Adaptive Management Plan
 - No one at YG/ FWB has confirmed or mentioned otherwise
 - BRLUP Planning Committee is still listing us as the responsible party for this Plan, but FWB staff have admitted they have started working on it
 - Who is responsible?
- Forthcoming Resource Road Regulations won’t apply to most of this road, as 90% of it will be built on existing mining claims
- Why is the timeline so short on this? What is the impetus?
- There is a wetland policy currently being developed which ought to inform this process

CURRENT STATUS

- Road Access Management Plan for the tote road is now being worked on
 - This Plan somehow supersedes the BRLUP; *seek clarity on how this is legally possible*
- Grizzly bear and moose studies being conducted by YG/FWB
 - Can we get an update on results?

KEY CONSIDERATIONS

- A key point is the part of the agreement that creates primacy for the Access Road Plan over the BRLUP
 - See clause 1(k), clause 3 of the Agreement
 - 1. **k) Inconsistency with existing plans.** Unless agreed to by the Parties, the provisions of the Plan will prevail over any other local area district or regional land use plan to the extent of any inconsistency.

 - 3) **Conflict between the Plan and the Road Access Management Plan.** If there is any conflict or inconsistency between the provisions of the Plan and Road Access Management Plan, the provisions of the Road Access Management Plan will prevail over the Plan to the extent of any inconsistency or conflict, unless the Parties agree otherwise in writing or is required by law.
- This Plan will likely be precedent setting for future plans of similar nature
- YLUPC wrote a letter in 2017 (to EMR and NND):
 - “Finally, the Council has been seeking a means of bringing a common understanding to the interpretation of Chapter 11, including the need for a detailed process to create Sub-regional plans. The Council believes that there is considerable merit in the development of a Yukon Land Use Planning Strategy that would build on the terms of the First Nation Final Agreements and represent a common interpretation of the agreements and associated implementation work. The Yukon Land Use Planning Strategy would incorporate the concepts associated with the Supreme Court of Canada's ruling regarding the Peel court case and the lesson's learned from earlier regional planning exercises (North Yukon, Peel, Dawson, Teslin).”

RECOMMENDATIONS

- Meet with RRC (and FWB/ YG?) to clarify who will be responsible for creating the Wildlife Adaptive Management Plan
 - **Support the MDRRC in this process**
- Engage with NND to establish community priorities and perspectives
- Assemble all perspective and potentially deliver a recommendation to the responsible Ministers, and First Nation government