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Interdepartmental Wetlands Working Group
Government of Yukon, Department of Environment
CC: Honourable Minister of Environment, Nils Clarke

**YFWMB Comments & Recommendations on:
*A policy for the stewardship of Yukon's wetlands***

Thank you, on behalf of the Yukon Fish and Wildlife Management Board (hereafter, the Board), for considering our comments and recommendations on the most recent draft of *A policy for the stewardship of Yukon's wetlands* (hereafter, the Policy).

Before we begin our review, we would like to acknowledge and commend the Government of Yukon staff working tirelessly to develop this critical Policy. It has been a years-long process with an immense scope, and we appreciate the many inherent challenges posed.

The Board would like to recognize the diverse representation maintained throughout the public engagement process, right up to and including the final roundtable meetings. We have heard many different voices and perspectives bringing unique questions and concerns. By considering and incorporating such diverse input, the Policy will ultimately be more robust and meaningful for all.

However, while the engagement process has been robust, we have serious concerns about the Government drafting the Policy in isolation, without the input and perspective of First Nations representatives.

As you may know, the Umbrella Final Agreement (hereafter, the UFA) identifies the Board as the “primary instrument of Fish and Wildlife management” (UFA 16.7.1). As such, the Board has standing as an interested party, able to participate in the public proceedings of any “agency, board, or commission dealing with matters that affect the management and Conservation of Fish and Wildlife and their habitat in the Yukon” (UFA 16.7.13).

The Board represents the public interest and may make recommendations to the Minister of Environment on all matters related to fish and wildlife management, as well as any relevant research, programs, policy, or legislation (UFA 16.7.11).

Consequently, our comments will focus on the Policy pertaining to the mandate and scope of the Board, which is guided by the principle of conservation in all matters relating to fish and wildlife resources and their habitats (UFA 16.1.1.1, UFA 16.3.2).

Preface

The Board’s main interest in developing a wetlands policy is ensuring that Yukon has a roadmap for the future. After more than a century of human development without any real plan or foresight, the territory needs a firm commitment towards protecting critical wetlands and the surrounding habitats they support. We need a strategy, a vision, that outlines protections in plain language; a policy that will meaningfully shape *all* future actions of government.

This policy cannot change historical transgressions, but it can offer Yukoners a healthier, more sustainable future. Therefore, it is more important than ever that our current policies safeguard the continuity of undisturbed wetland habitats, as wetlands are essential in conserving the quality, diversity, and long-term optimum productivity of the Yukon’s fish and wildlife populations.

Wetlands, in all forms, support significant numbers of boreal creatures; including but not limited to insects, bats, resident and migratory birds, amphibians, freshwater and anadromous fish, charismatic megafauna like cervids and bovids, apex predators like bears and wolves, arboreal animals like mustelids and squirrels, and semi-aquatic rodents like beavers and muskrats. Many of these creatures may appear common today, others are increasingly rare, and unfortunately, a few seem to be disappearing right before our eyes.

Moreover, wetlands are also essential habitat for less visible flora and fauna such as plants, fungi, benthic invertebrates, and a whole host of micro-organisms — all of which play vital roles in supporting ecosystem health, and in turn, contribute to biodiversity.

Wetlands are fundamental in maintaining integrity and stability in the water table. Wetlands act as natural reservoirs, cycle nutrients, store and replenish groundwater, mitigate flooding and drought, store contaminants and carbon, filter sediment and pollutants, stabilize shorelines, and prevent erosion. These functions allow unique, fragile habitats to persist. These habitats, in turn, support many of Yukon's endemic and most at-risk species.

Beyond the ecological function of wetlands, these areas are irreplaceable sites of social significance, central to countless cultures and traditions. For millennia, Yukon First Nations peoples have utilized wetlands innumerable ways, including traditional food and medicine gathering activities.

Wetlands offer significant harvesting opportunities to subsistence users and licensed hunters, anglers, and trappers. Additionally, the Board acknowledges and supports the equally valuable non-consumptive use of wetlands; this includes non-disruptive activities such as healing camps, birdwatching, hiking, and pursuing creative outlets (UFA 16.3.17).

For nearly a century, the scale of impacts and disturbances of human activities on wetlands has been significant. While the overall footprint of mining operations within the Yukon may remain a small percentage of our overall landmass, these disturbances have disproportionately affected the environment.

Since mining activities tend to concentrate around wetlands, the loss of the functions and benefits to these ecosystems is lasting and significant. It also has ramifications for surrounding ecosystems that rely heavily on wetlands' ecological benefits.

Wetland complexes such as the Indian River valley, Klondike River, the Beaver River watershed, and the Tintina Trench have seen levels of disturbance already deemed socially and ecologically unacceptable.

The impacts of development on surrounding fish and wildlife populations are both lasting and disproportionate to any other type of land use or comparable human activity.

The Board also recognizes that these human activities frequently facilitate significantly increased access to remote and sensitive habitats that wetlands would otherwise buffer or barrier.

The Board has a long, established position on access and its potential for negative implications on fish, wildlife, and their habitat. Our experience is that access is seldom temporary or regulated effectively. Once established, these access corridors, whether mines or roads, drastically increase harvest numbers by humans and other predators alike.

In short, the Board identifies the unique importance of wetlands as being fundamental in maintaining the overall health of our ecosystems and ensuring a future in the Yukon characterized by abundant biodiversity. We strongly believe wetlands and their surrounding riparian areas should be valued and protected accordingly, as they are integral to one of the pillars of the UFA, “Conservation.”

It is our responsibility then, as stewards, to mitigate the effect climate change is having on these sensitive areas and the populations of fish and wildlife that rely on them for survival. We can only achieve this goal by refraining from any further development and destruction of these areas, which means prioritizing the integrity of the land over short-term financial gains.

Regarding implementation, we praise the government for its commitment to complete to Policy **by May of 2022**. However, we caution against releasing the Policy prematurely before a comprehensive consultation occurs. This includes time for adequate consultation with First Nations governments. This rush to release a finished product has been the pitfall of several long-awaited government initiatives, such as the Off-Road Vehicle Management Area Regulation.

We will comment on the Policy from beginning to end for simplicity.

Section 1: Introduction

While we appreciate how concise this section is, we would like to see the introductory message of the Policy be a bit more substantial. This section is an opportunity to explain why wetlands are important, the multitude of purposes they serve, and how dynamic their involvement is in maintaining ecological integrity and biodiversity, mitigating the loss of habitat, and offsetting climate change.

The introduction doesn't explain why we are creating a wetlands policy. We view this section as an opportunity to address historical oversights and state what needs to happen differently in the future. In doing so, we believe the Policy will establish a clear resolution, which will allow the Policy to remain relevant well into the future.

Instead, the Policy dilutes these important considerations into Table 1 (page 3), which loosely outlines the functions and benefits of wetlands. The Policy states that the ecological characteristics of specific types of wetlands determine their different functions and benefits (line 48/ 49). Yet, Table 1 does not break down that information or make any of those distinctions.

As it is considered foundational knowledge for the Policy (line 50), we believe that this table does not adequately reflect the significance wetlands play in the overall health and

well-being of the Yukon's fish and wildlife populations.

We recommend that the Policy explicitly communicates the significance and greater functions and benefits of wetlands in maintaining biodiversity and ecological integrity, protecting sensitive fish and wildlife habitat (including habitats of endemic, endangered, and threatened species), mitigating the effects of climate change, and enabling a gamut of important socio-cultural pursuits.

Recommendation 1.1: Expand upon the introduction by communicating the significant role wetlands play in mitigating the effects of climate change and habitat loss; and their inherent values in storing carbon, maintaining biodiversity and ecological integrity, and preserving sites of meaningful socio-cultural value.

Furthermore, as is noted in the very title of the Policy, the concept of stewardship is an underpinning theme of the Policy. The Board would like to see the concept of stewardship clearly expressed in the introduction. We believe doing so will provide a clear framework for other processes to view and understand the spirit and intent of the Policy.

Recommendation 1.2: Include a definition or explanation of 'Stewardship' in the introduction, as it is a central tenet of the Policy.

We are also concerned about the description of wetlands as "places where human activities can be concentrated, and wealth generated" (line 51). This perspective does not offer meaningful protection but implies that all wetlands are areas that support invasive activities. This idea does not align with an approach characterized by conservation or stewardship. We think leaving the definition of stewardship to the definitions section (Section 5) is inadequate.

Further, the introduction states that the "environmental assessment and regulatory review" considers economic factors during its process (line 52). However, it does not go so far as to specify which processes it will directly influence, nor how it will do so.

The Board's stance is that the Policy introduction should capture and reflect a more comprehensive framework of foundational knowledge, including and defining wetlands' broader ecological and social value.

We also firmly believe that the introduction should reference Indigenous or Traditional Knowledge, such as information about why wetlands are important and should be protected. The introduction is not a technical part of the Policy and would be a suitable section to include some Traditional Knowledge. That being said, we encourage the government to include Traditional Knowledge throughout the final document. This is especially important information for reference when management plans are being developed later on.

Recommendation 1.3: Include Traditional Knowledge and information on the traditional use of wetlands in the introduction.

We understand that Yukon First Nations were going to be engaged on a community-level basis before the final draft was completed, until the onset of the COVID-19 pandemic, when plans on consultation and engagement seem to have changed. However, after seeing the successful orchestration of the fifth (final) roundtable in November 2021, we believe a virtual town hall format would have been possible. Regardless, the interdepartmental Working Group responsible for writing the final draft could have easily included First Nations representatives. The Board is disappointed to learn this is not the case.

Section 2: Policy goal

We find the wording, “the Government of Yukon will work to ensure the benefits of Yukon’s wetlands are sustained for all” (line 66), leaves much to be desired. Without including a definition of what “sustained” means in this context, this sentence falls short of going so far as to include language specifically calling for the protection of wetlands.

We can no longer afford to continue losing wetlands faster than we are cataloguing them. We must create a Policy that outlines clear measures to safeguard wetlands and surrounding buffer zones in the future.

Recommendation 2.1: Include clear language establishing the “protection” or “conservation” of wetlands as being integral to the policy goal, as the idea of protection is central to the concept of stewardship.

We have expressed the desire to see protections outlined throughout the engagement process, as is documented in the Executive Summary of Roundtable #4.

Understanding this is a government policy intended to guide Yukon’s planning processes and decisions, the Board is still left wondering why First Nations governments were not consulted or invited to collaborate on writing the final draft?

This drafting process should have included First Nations representatives at every step. Instead, the draft Policy was written in isolation over the last two years and then re-emerged as a proposed final draft.

If the Board understands the process correctly, with this approach, First Nations’ input from the roundtable meetings is the extent of their involvement in writing this draft. And they will only be consulted after YG seeks public comment on the proposed final draft.

We do not find this approach to be in line with the spirit and intent of the UFA.

Specifically, with section 16.1.1.11 (UFA), “to enhance and promote the *full* participation of Yukon Indian People in renewable resources management.”

Policies of this magnitude are precedent-setting in the Yukon, as they will inform many land-use planning processes over the next few decades. As such, we need policies that will bring clarity and understanding to the land use planning process, not make it increasingly vague and obscure.

Recommendation 2.2: Consult with First Nations and their respective Renewable Resources Councils immediately, before the final draft of the Policy advances any further.

The Board would like to express that the Final Agreements outline Indigenous legal rights to guide or co-manage decisions about wetlands on their Traditional Territories. We propose that the three Policy objectives (lines 69-72) would be significantly more attainable if Yukon First Nations were included in the final drafting process.

Finally, implementing a mitigation hierarchy implies that some development will be allowed, depending on how valuable the project is – and how seemingly disposable the impacted wetlands are considered.

The Board does not find this notion to be in line with the concept of stewardship.

Recommendation 2.3: Replace or augment the concept of mitigation hierarchy with a “protection hierarchy”. Emphasize the principle of stewardship in the decision-making processes and assert a clear commitment to protecting wetlands.

Section 3: Scope of the application

As for the scope of application, we feel this section of the Policy is too vague.

The Board is aware that this is a high-level, principles-based policy and is not intended to influence individual projects or guide at a sector level. However, without a high level of clarity and detail regarding the precise scope of application, the Policy offers few tangible outcomes (i.e., meaningful change in shaping land-use planning).

This ambiguity leaves the Policy susceptible to being largely ignored or circumvented during land-use planning processes, as we have seen in the past. If this is the case, the Policy will essentially prop up the status quo, as the valuable fish and wildlife habitat that wetlands provide continue to be altered or removed on a project-by-project basis, thus ignoring cumulative effects.

Without a clear understanding or explanation of which processes the Policy will influence and exactly *how* it will influence them – the Policy is diluted in its ability to have a noticeable effect on how we assess and mitigate environmental impacts.

Recommendation 3.1: Clearly define how the Policy will shape, influence, or be considered during land-use planning and decision-making processes. Outline which processes it will directly affect and explain how and when it should be considered or utilized (i.e., YESAB, YLUPC, Yukon Water Board, Placer mining, ORV Management Area regulations).

Section 4: Guiding Principles

The Board is unsure which “stewardship decisions” are being referred to (line 89). Again, the Policy does not go so far as to specify. However, in cases like this, it is our opinion that the Policy should be explicit.

The first bullet point in this section says the Policy will be “Informed by, and respect, all forms of knowledge—including equal consideration of traditional, local and scientific knowledge.” However, if the Policy integrated local and Traditional Knowledge throughout, we would see the Policy include a shortlist of areas that Yukon First Nations consider Wetlands of Special Importance.

Furthermore, how can local or Traditional Knowledge inform the Policy if it isn’t found anywhere in the final draft? After the Policy is released, how and when will this knowledge be collected or considered?

The second bullet point in this section (line 92/ 93) states the Policy must be “informed and consistent with existing processes outlined in Yukon land claim agreements and legislation.” However, again it does not go so far as to specify which processes it will be consistent with. Nor does it acknowledge the UFA or individual First Nations Final Agreements anywhere in the Policy, which is a grave concern to the Board.

We continue to see the spirit and intent of the UFA eroded or circumvented to make processes faster, more convenient, or more streamlined. We need forward-thinking policies that still honour the true spirit of the Final Agreements by including and referencing components from them. Consulting with First Nations after the final draft of the Policy is already written does not honour that spirit. This is a message that has been voiced time and again, and yet our perception is that we continue to be placed in a position of advocating for the UFA, despite its status as a Constitutionally Protected document.

The Policy states, “The Government of Yukon developed this policy through a collaborative approach” (lines 99-101). We believe that sentence should read, “The Government of Yukon informed this policy by meeting and hearing from First Nations and transboundary Indigenous Groups, boards and councils, municipal and federal governments, industry representatives and non-governmental organizations.”

The way this part of the Policy is currently written gives the false impression that the government co-authored this document with the aforementioned parties.

Recommendation 4.1: Change the wording to accurately reflect the engagement process and the degree to which the government ‘collaborated’ in drafting the final version of the Policy.

From our perspective, a collaborative approach implies working jointly on a project or task. But the final draft of the Policy was written in isolation by the government’s interdepartmental working group during a two-year engagement hiatus. We do not consider bringing a final draft to First Nations and looking for their approval to be a genuinely collaborative approach. We are aware of the challenges that the pandemic has placed on the collaborative approach described; nonetheless, we do not think this honours the spirit of enhancing or promoting the full participation of Yukon Indian People in renewable resources management. (UFA 16.1.1.7, UFA 16.1.1.11).

The Policy states that “Decision’s about the stewardship of Yukon’s wetlands must “recognize and consider” the concepts of taking a holistic approach, respecting the land, and reciprocity (line 109). The Board would like to see more assurances in this section, with concrete language that does not leave room for misinterpretation in the future.

Recommendation 4.2: Strengthen the language to reflect a commitment to stewardship by using definitive words such as “commit, uphold, or honour” to support these concepts of indigenous knowledge.

Another question the Board is grappling with regarding the scope of application is how the Policy will fit into legislation? And which legislation will give it power or authority in land use planning or decision-making processes? Will this Policy be enforceable under the *Wildlife Act*, *Environment Act*, *Quartz or Placer mining Act*, *Water Act*, *Agricultural Development Act*, *Parks and Lands Certainty Act*? or the *Territorial Lands Act*? Perhaps the creation of a new piece of legislation will be to protect wetlands in perpetuity?

The Board is concerned with the Policy being advanced before there is a wetlands inventory in place. It is our belief that this is an essential component of successfully implementing a protection-oriented policy.

However, we understand that the creation of such an index will be a substantial amount of work that will require time and resources to complete. In the absence of a comprehensive wetlands inventory that delineates quantities and classifications of wetlands, the Board believes that the government should be utilizing a precautionary approach.

Overall, the approach currently undertaken by the government seems to be dependent on risk assessment and evaluating the potential for habitat loss. We believe this to be a mistake. The Board would like to see the precautionary approach outlined and utilized as a guiding principle for the Policy. There has been widespread support for this approach throughout the public engagement process.

In doing so, the Policy would effectively protect wetlands from developments and projects that threaten their ecological integrity and contribution towards biodiversity. By preventing these harmful actions from continuing to occur, the Policy will be putting protection and stewardship of Yukon's wetlands first.

Section 5: Definitions

The Policy has several definitions that the Board believes need expanding to be comprehensive.

We identify the lack of definition for each of the five classes of wetlands to be a flaw within the current draft. If the Policy moves forward without including definitions that provide insight and parameters as to what exactly delineates each of these five classes, the entire premise of creating a comprehensive wetlands inventory is undermined.

Furthermore, without clear definitions being accessible to the public through this Policy, the likelihood of meaningful engagement regarding the creation and future designation of "Wetlands of Special Importance" is greatly hindered, as is the idea of a mitigation hierarchy.

Recommendation 5.1: Include definitions for each of the five classes of wetlands described in the introduction. These definitions should also help distinguish a hierarchy for assessing Wetlands of Special Importance.

Another concept missing from the included definition of a wetland is the idea of interconnectedness or circularity. Wetlands play an indelible role in the health and integrity of the larger ecosystems around them. Even with reclamation work, many of those primary functions are permanently lost or take thousands of years to re-establish naturally. The definition of wetlands should acknowledge the interdependence and connectedness of wetlands and their significance within larger ecosystems.

We suggest expanding the definitions of “wetland” and “wetland benefits” to include the concepts of interconnectedness and ecological integrity. As currently written, it does not define or recognize wetlands’ social or cultural importance or their functions and respective benefits. Further, it does not explain wetlands’ significance towards maintaining biodiversity, ecological integrity, or climate mitigation.

Recommendation 5.2: Improve and expand upon the definition of a wetland to capture the more significant ecological role wetlands play in our ecosystems and cultures.

There is also no definition for Wetlands of Special Importance. While we understand that there will not necessarily be a way to accurately capture the diversity of all WSI, not including any definition befuddles the notion even further.

Recommendation 5.3: Define Wetlands of Special Importance. This could be just the criteria required to be included on the indices of WSI.

Section 6: Building Knowledge

The Board commends the Government of Yukon for its commitment to creating a broad-scale territory-wide wetland inventory within five years of the Policy approval.

We firmly believe that creating a detailed territory-wide inventory that includes information on the abundance and location of all five wetland classes would help facilitate sound land-use planning decisions in the future.

While we can appreciate the challenge of creating a policy with such a broad scope and implications, the Board feels the government missed a fundamental step in writing the final draft of the Policy, which is especially evident in Section 6.

If the Yukon government had been willing to collaboratively write the Policy with input from Yukon’s First Nations and Renewable Resources Councils, it could have included a cursory list of protected areas or Wetlands of Special Importance in this draft of the Policy.

This collaborative endeavour would demonstrate the government’s commitment to ensure that Chapters 11 and 16 of the UFA are meaningfully upheld and would also create a robust template for future designations of Wetlands of Special Importance (WSI).

We acknowledge that the government has committed to doing this in the future (line 191/ 192). However, the Board feels that it would have given the Policy more momentum and clout if it included an initial WSI index in the final version.

Our view is that each First Nations and their respective Renewable Resources Council could have provided at least one area for consideration as a Wetlands of Special Importance. If for no other reason, we can protect these areas simply because of the socio-cultural benefit to each Nation.

Recommendation 6.1: Before publicly releasing a finalized version of the Policy, work with Yukon’s First Nations (transboundary, settled, and unsettled) and the RRCs and the Board to develop an initial WSI index, to be added as an appendix to the Policy.

For example, some wetland areas worth protecting right from the onset of this Policy are peatlands (bogs and fens) and permafrost wetlands.

Permafrost wetlands, which play a crucial role in sequestering carbon, are particularly susceptible to human development. While we do not have a wetland inventory to reference yet, we know that wetlands’ density generally increases further north. Therefore, it is likely that most of the remaining permafrost wetlands in Yukon are in the northern part of the territory. Once these habitats are disturbed, they will dry up and oxidize and never return to their historical state. The carbon dioxide and methane emissions released will undoubtedly exacerbate the ongoing process of climate change.

Recommendation 6.2: Create special protection measures to prevent future development in all organic wetlands, including peatlands (bogs and fens) and permafrost wetlands, to mitigate exacerbating Yukon’s carbon emissions. Provide technical information in the Policy to explain and address this issue.

Interestingly, the Government of Yukon recently released a strategy for addressing “climate change, energy, and a green economy,” titled *Our Clean Future*.

The first goal of the strategy is to reduce Yukon’s greenhouse gas emissions (page 10). However, by allowing future development in permafrost wetlands, the government would be directly contravening its own goal.

Furthermore, the recent *Yukon state of the environment interim report* (2021) found that greenhouse gas emissions in the territory have increased by almost 24 percent over the past decade (page 2).

If we plan to meet the scheduled goal of reducing greenhouse gas emissions by 45 percent, then it is clear to the Board that developing wetland areas must be kept to an absolute minimum.

Additionally, the Board firmly believes intensive restoration and reclamation processes must entirely offset the effects of future development in any wetland area. While reclamation is better than the alternative of leaving sites forsaken, we recognize that many wetlands that are affected will never be restored to their original function or state.

We fully support the initiatives outlined in this section to develop a wetland inventory (line 173), promote research on northern wetlands (line 200), and public awareness, understanding and stewardship of Yukon's wetlands (line 219).

The Policy commits the government to work collaboratively with First Nations and transboundary Indigenous groups to develop the wetlands inventories. We applaud this commitment.

However, we believe this level of engagement should have a timeline and framework attached to it. Platitudes about meaningful consultation and collaboration with First Nations are not what is needed. The Board believes that this is an opportunity for the Government of Yukon to do the right thing and honour the spirit and intent of the Final Agreements by incorporating First Nation perspectives in the Policy before advancing it to the public.

Section 7: Wetlands of Special Importance

We believe the term "Wetlands of Special Importance" (hereafter, WSI) should be clearly defined both in Sections 5 and 7. This definition should include explicit criteria for designating WSI.

We understand that the Policy utilizes WSI as a potential mechanism to protect wetland areas with significant importance. In the spirit of protecting important wetland complexes, the Board supports the idea of permanently and legally protecting all WSI. However, we firmly believe that these areas should not be evaluated based on their ecological value alone but also upon their socio-cultural values and benefits.

It is unclear to the Board what form of protection the designation of "Wetlands of Special Importance" really offers. We also do not understand exactly when WSI will be implemented and, more importantly, how. Once again, the Policy leaves this crucial section peppered with ambiguous language, as it outlines using WSI in several different capacities, either before or during a land-use plan.

Again, it fails to use concrete and binding language, which leaves the Board uneasy about whether WSI will adequately be utilized or merely overlooked within land-use planning and decision-making processes.

Recommendation 7.1: Define WSI and their consideration/ designation criteria in unambiguous terms.

Furthermore, the Policy does not specify which piece(s) of legislation will offer legal designation of WSI. The Board believes this information is vital to the public interest in this matter, and therefore, is essential information to include in the final version of the Policy.

What legislation will give WSI meaningful power or legal authority in land use planning or decision-making processes? Will this designation be enforceable under the *Wildlife Act*, *Environment Act*, *Quartz or Placer Mining Act*, *Water Act*, *Agricultural Development Act*, or the *Territorial Lands Act*?

Under the current definition, our interpretation of WSI is that they are not truly protected at all. The Policy states that the government may designate WSI after “(3) an assessment of economic and legal risks” (line 307/ 308). In our view, this means WSI is still open to development if there are potential risks that stem from its protection. We find this unacceptable and contravenes the concepts of conservation and stewardship.

Recommendation 7.2: Wetlands of Special Importance should be a designation that offers complete and lasting legal protection. Explain which legislation the Policy will use to enforce this designation.

The Board does not believe that economic or legal risks should be considered in the designation of WSI, as the denotation is supposed to be an environmentally protective measure. Notwithstanding, it is the only significant protection measure outlined in the Policy.

Additionally, the Policy commits no loss of benefits in WSI (line 202, 203) yet includes a mitigation hierarchy in Section 7.6. It states, “If a proposed activity is deemed necessary to Yukon society, there may be circumstances where it may be allowed to impact a listed Wetland of Special Importance” (line 331/ 332). The Board is unclear about what this means or what activities the Policy deems “necessary to society”? Does this mean a farm, a highway, or a large mine? Further, we think the Policy should identify which process(es) determines the designation “necessary to society”? Is it left to Ministerial discretion or anything that goes through existing legislative review?

Recommendation 7.3: The Policy should not include economic or legal risks when designing WSI but should focus exclusively on their ecological and socio-cultural significance.

In our view, if WSI is the lone designation the Policy offers for concrete, lasting protections to important wetlands, then why is there any flexibility allowing these sensitive areas to be disturbed, removed, or negatively impacted?

Our stance is that there is far too much opportunity for WSI to be developed simply for economic gain, which negates the ecological and socio-cultural benefits these areas provide.

The Policy appears to be contradictory in nature, stating that there will be no loss of benefits to WSI and that activities adjacent to WSI will not be restricted (lines 222-224). It also does not include any information on how buffers will protect wetland benefits to ensure their broader ecological significance is not diminished.

Recommendation 7.4: All WSI designations should include buffer zones to protect the ecological integrity of the surrounding ecosystems and should plainly describe exactly which human activities are accepted within the notion of “no loss of benefits.” This should also explain why these activities are deemed “necessary to Yukon society.”

It is unacceptable to the Board that the Policy does not include any index of WSIs in this draft. We understand that the Environment Yukon website used to contain a map establishing over fifty important “Key Wetland” areas. The Board is left wondering why it does not include any of these areas as an initial list of WSIs.

The Board believes that by not including any WSI designations when the Policy is released, the Yukon government avoids a significant opportunity to establish protected areas. Moreover, including an initial list of important wetlands (or WSIs) would help create a foundation or baseline for the consideration of WSIs in the near future.

We encourage the Yukon government to work with First Nations and Renewable Resources Councils to establish a cursory list of WSI, to be included in the final version of the Policy before releasing it to the public. In doing so, the government will significantly improve upon the lack of consultation and First Nations input that is currently missing from the Policy. Furthermore, it would uphold and honour the government’s commitment to proper consultation, as intended in the Final Agreements/ UFA (UFA 16.1.1.7, UFA 16.1.1.11).

Recommendation 7.5: The Government of Yukon should consult with First Nations and RRCs to establish an initial list of WSI to be permanently and legally protected, regardless of economic or legal risks.

The Policy will need a hierarchy or rubric that allows for an accurate evaluation of wetland importance while also considering and evaluating the plausibility of complete restoration. For example, wetlands that may take thousands of years to form (peatlands) should be classified as areas permanently protected from any future development and disturbance, regardless of project scope or financial value.

Section 8: Managing Human Impacts

We believe this section should be titled "Managing Human Activities" because it covers the management of human activities related to ensuring responsible economic development (line 340). However, the Policy does not go so far as to be explicit with which activities this includes. We believe this is important to explain in detail so that it does not confuse socio-cultural pursuits with economic endeavours or resource extraction processes.

Further, the Policy states that it "provides an overarching approach to managing human impacts" (line 344). We firmly believe that the Policy should provide an overarching approach to "protecting wetlands," as that is what is implied in the concepts of conservation and stewardship.

Recommendation 8.1: Use language that explicitly commits the government to protect wetlands as an overarching approach for the Policy.

Without specific criteria to assess the acceptability of loss, the Policy again leaves the door open for interpretation in this section. Which, if left as it is currently written, will continue to slowly erode the integrity of these important areas, as the process is not exhaustive in its guidance or delineation of these foundational concepts. This Policy needs to direct its overall ideology towards legislative tools either in place or in development, to ensure legislative protection of wetlands.

Recommendation 8.2: Establish well-defined criteria for considering whether wetland loss or loss of wetland benefits is warranted due to human disturbance or development. This section should provide guidance on how to manage all impacts to mitigate any loss of wetland benefits.

The Board firmly believes that utilizing a mitigation hierarchy to guide this Policy's implementation is flawed. In essence, this approach does nothing to change the current situation in the territory and will continue to allow the degradation and erosion of wetlands. The approach of utilizing a mitigation hierarchy is often undertaken by industry and extraction-oriented governments. We find this outlook and methodology to be unacceptable for the Yukon.

As previously stated, we do not find this approach aligns with the notions of stewardship and conservation, nor does it seem to offer an adequate change from the status quo. We suggest that this section be reframed to include a "protection hierarchy" to honour the spirit of these concepts.

Recommendation 8.3: Reframe the mitigation hierarchy to be a protection hierarchy.

The Board is also very concerned about the lack of well-defined limits on human activity and established thresholds for acceptable loss levels. This mitigation hierarchy allows for "unavoidable" impacts.

Recommendation 8.4: The Policy must establish clear limits on human activity and management thresholds for what is considered an acceptable level of wetland loss and explain why this loss is deemed acceptable. The Policy should delineate who is responsible for making such decisions and explain the process used for decision-making.

The Policy commits to including local and traditional Knowledge to guide these decisions around the loss of wetland benefits and mitigation controls but does not specify how or when it will be utilized. In our experience, these sorts of open-ended, vague assurances are used to administratively undermine the spirit of genuine consultation with First Nations governments, as well as other UFA signatories and UFA-established Boards and Councils.

The Policy states that offsetting of wetland benefits "may be required" (lines 379-381) when a permanent loss is expected. This is both non-committal and unacceptable to the Board. We believe that projects which will result in permanent loss of wetland benefits must be mitigated at every possible opportunity. Offsetting wetland benefits is another vague notion that must be well-defined as to how and when it will be utilized to warrant permanent loss.

The Policy also mentions a mitigation plan (line 386) required for any human activity that will impact wetlands. While the Board thinks this is a good idea, the idea for developing these plans is not identified. We are left wondering who is responsible for developing the plans and approving them? When will the plan be developed, and what must the proponent's scope of requirements meet?

Finally, as a part of the mitigation hierarchy, the Policy allows for unavoidable impacts to or loss of wetland benefits (line 422) so long as the proponent reclaims wetlands to restore similar benefits. However, we find that this does not accurately convey the true loss of some wetland's values, functions, and benefits, as some of these will undoubtedly be lost forever.

For example, disturbances to peatlands (bogs and fens) and permafrost wetlands simply cannot be undone, nor can reclamation efforts ever offer the full suite of benefits bogs and fens provide. Once removed, these wetland complexes either never recover or take thousands of years to fully restore their benefits as carbon sequestering ecosystems.

The Board believes that allowing these disturbances to remain a possibility is a significant departure from taking a "holistic approach" (line 104).

Recommendation 8.5: The Policy should acknowledge that not all functions and benefits of wetlands will remain, even after intensive reclamation work. It should also acknowledge the potential for the permanent loss of some of these functions and benefits.

Conclusion:

Overall, we appreciate and support the direction the Policy is taking. However, we find that several areas within the Policy need to be more well-defined and prescriptive.

We understand that the Policy isn't supposed to inform project or sector level activities, but that should not prevent it from offering tangible and meaningful commitments.

The Board acknowledges the benefits of resource extraction to the territory's economy and is not opposed to environmentally sustainable development and wise use. However, we must protect the dwindling fish and wildlife habitats, especially in the face of such rapid climate change.

Our territory has been led by economically focused policies and priorities at the expense of our sensitive fish and wildlife habitats. The Board believes that now is the time to change the momentum within the resource extraction sector and put the onus back on proponents to prove that their actions will not harmfully alter our environment. We would like to see proof that proponents can and will reclaim habitat loss and enable legislation that protects key wildlife habitats in the face of growing global economic interest.

We must look to the future when we are developing and implementing these new policies, and we must make it our goal to ensure that these renewable resources are available in healthy, well-distributed populations for all Yukoners for generations to come.

We thank you again for the opportunity to comment on the final draft of the Policy. If you have any questions or require clarification, contact our Executive Director, Graham Van Tighem, at (867) 667-5835.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Carl Sidney', with a small arrow pointing to the right at the end of the signature.

Carl Sidney, Chair
cc: Honourable Minister Nils Clarke