



What We Heard

Developing a Resource Roads Regulation for Yukon

Department of Energy, Mines and Resources
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Find this document online at
engageyukon.ca/en/2018/regulating-resource-roads-yukon

Background

Access to Yukon's mineral, oil and gas and aggregate resources generally requires the development of new access roads, often managed by a land use permit issued by the Department of Energy, Mines and Resources. Many of these resource roads are typically built to be temporary, private, industry-use roads that provide access to resources, but often end up as permanent public roads. This is largely due to regulatory instruments that only regulate the construction phase of these resource roads.

The Government of Yukon has been working on developing a new Resource Roads Regulation that will specifically regulate the construction, use, closure and decommissioning of resource roads so to address gaps and inadequacies in the existing regulation. Building on years of work and First Nations and public input from previous consultations and engagements (mainly in 2014), we developed a regulatory framework for a new Resource Roads Regulation. Last summer (late May to July 2018), we undertook First Nations consultation and public engagement to solicit input on our proposed regulatory framework (focused on 10 key policy areas). This report is a summary of what we heard.

Engagement Process

The purpose of our latest engagement process was to seek your input on our proposed regulatory approach to modernize the management of resource roads in Yukon. We are using that input to improve our regulatory framework, which will ultimately be turned into a new resource road regulation for Yukon.

We used several methods to encourage Yukoners to submit feedback and comments. We had an online survey, postings on EngageYukon.ca, social media, and newspaper advertisements. We sent consultation letters and the Proposals and Questions document to First Nations. We sent letters requesting input from key stakeholders (municipalities, industry, communities, and non-government organizations). We held two facilitated workshops (June 12 and 13) and had one-to-one meetings with interested First Nations, other governments, non-government organizations and individuals.

What We Heard

Participation by the Numbers

Many participated in the public engagement through a variety of means but mostly by completing the survey:

Surveys completed: 183

Pages of comments received through survey: 50

Response letters submitted: 14

First Nations attending First Nation workshop: 10

Number of organizations attending stakeholder workshop: 25

Meetings requested by organizations/individuals: 15



First Nations Input

We consulted with all Yukon First Nations, Transboundary Aboriginal groups and the Inuvialuit on our proposed regulatory framework for resource roads. Methods of consultation included the following:

- letters of invitation;
- a one day workshop;
- online survey;
- in person meetings; and
- phone calls.

First Nations responded by all means to various extents. Key issues, best captured in formal response letters from eight First Nations included:

- First Nation rights to access land for traditional uses must be protected.
- First Nations want to work directly with Yukon on a government to government basis on the development of the resource roads regulation.
- First Nations want a role in co-managing resource roads, as it affects Settlement Lands as well as First Nation traditional harvesting rights.
- Formal government to government consultation on the proposed regulations is requested.
- There needs to be a discussion on the capacity of First Nations to be involved – additional resources will be required.
- Roads on settlement lands must conform to First Nations lands legislation.
- Comprehensive land use and resource planning should take place in advance of road development wherever possible.

All Other Input – Stakeholders and Public

The following pages summarize all comments received from all means of input (except the stakeholder workshop*) and provide results for all questions in the questionnaire.

* Input from the 2-day workshop is summarized in the “[Resource Roads Regulations Workshop – Summary Report](#)” (July 10, 2018).

1. Resource Roads vs. Public Roads

- 1 Define a 'resource road' as a temporary, non-public road (including an ice or winter road) that primarily provides access for industry users to mineral, coal, oil and gas, and aggregate resources, but may include temporary non-public roads that lead to other natural resources (as determined by the Minister).

Agree: 49% **Disagree: 11%** **Neutral: 39%** **Don't Know/No Answer: 1%**

Summary

This topic has a significant level of disagreement amongst respondents. While almost half of respondents support the proposed approach, many feel that resource roads should be open to the public and made permanent for future development and enjoyment. Most First Nations do not support this latter view, as they feel the roads negatively impact their traditional rights and use of the land.

- 2 Allow for the transfer of an existing road (under the Highways Act) to a resource road under the Resource Roads Regulation when required.

Agree: 32% **Disagree: 57%** **Neutral: 8%** **Don't Know/No Answer: 3%**

Summary

This proposal has a high level of opposition. A majority of respondents do not support transferring an existing public road to a non-public resource road.

- 3 Any decision to change a resource road to a public road or to change a public road to an existing resource road will need to be preceded by a formal public review.

Agree: 77% **Disagree: 12%** **Neutral: 9%** **Don't Know/No Answer: 2%**

Summary

This proposal has a very high level of support from most respondents. This reflects the importance of public review and input in the resource roads process.

Comments

- Resource roads should be open to the public, especially if they are publicly funded.
- Resource roads should be temporary and non-public.
- Resource roads should not be temporary.
- Resource roads should be broader than just mining and oil and gas – should include sectors like tourism and outfitting.
- Decision to change a road designation should go through a social and environmental assessment and should include consultation with First Nations.

2. Controlling Access

- 1 Access to resource road use will be limited to permitted users only and these permits will set out terms and conditions on how resource roads are to be used. Permit conditions may range from a permit holder having exclusive use to allowing other designated, authorized users to share the road.

Agree: 38% **Disagree: 55%** **Neutral: 6%** **Don't Know/No Answer: 2%**

Summary

This proposal has a high level of opposition – a majority of respondents do not support limiting access as described. Key concerns are similar to the concerns expressed for proposal one on the previous page.

Comments

- Resource roads should be publicly accessible.
- No public access but maintain access for First Nations and people with existing rights.
- Methods to control access were proposed including gates, staffing, and permits.
- Concerns regarding safety and liability with public access.
- Comments on government's role in limiting access.

3. Managing Shared Use of Resource Roads

- 1 Enable the development of multi-use agreements between resource road users.

Agree: 68% **Disagree: 21%** **Neutral: 9%** **Don't Know/No Answer: 3%**

Summary

This proposal has a high level of support, as it has the potential to reduce the negative impacts of duplicate resource roads. However, several placer operators, do not feel this approach would work for roads on placer claims. A number of respondents also noted that the implementation of multi-user agreements will be very complex and potentially divisive.

- 2 Permitted road users will be able to establish agreements on shared use but if that is not possible, the regulator will be authorized to set terms and conditions for shared use.

Agree: 44% **Disagree: 40%** **Neutral: 12%** **Don't Know/No Answer: 4%**

Summary

According to the survey's numerical results, the level of support for this proposal is only slightly higher than the level of opposition. However, this was not reflected in the survey comments, meeting notes and letters reviewed, where a clear majority of the comments supported the proposed approach.

- 3 An access management plan will be required to obtain a resource road permit.

Agree: 54% **Disagree: 33%** **Neutral: 7%** **Don't Know/No Answer: 6%**

Summary

This proposal has a high level of support. A majority of respondents recognize the value of doing comprehensive access management planning in advance of resource road development, so that access needs can be met in a way that addresses regional concerns and minimizes potential negative impacts.

Comments

- Implementing multi-use agreements will be very complex and challenging.
- Multi-use agreements may not work for placer operations.
- Need for public input on access plans.
- Types of permitted use in access plans must be explicit, monitored and enforced.
- Financial considerations with multi-use agreements.
- How multi-user agreements will be implemented (the process) and government's role.

4. Who is Responsible for Resource Roads?

- 1 Allow a permit to be assigned to another proponent/operator/owner

Agree: 60% **Disagree: 21%** **Neutral: 12%** **Don't Know/No Answer: 8%**

Summary

There is a high level of support for this proposal, as long as there is government oversight, clear criteria for transfer, and a well-defined transfer process. The needs for public review and environmental assessment in the transfer process are also noted.

Responsibility for the resource road can be transferred to another entity, if required.

Agree: 66% **Disagree: 20%** **Neutral: 8%** **Don't Know/No Answer: 6%**

Summary

A large majority of respondents support this proposed approach. Many also note that clarification is required regarding the process for transfer and how this process will address the various issues identified.

Comments

- Any transfer of responsibility for road must be overseen by government/regulatory agencies and permit conditions must be maintained.
- There needs to be transparent and clear process for permit assignment and responsibility transfer.
- Any transfer of responsibility must also include the transfer of financial security and liability.

5. Road Standards

- 1 Road standards shall be developed for all phases of resource road development — from construction through decommissioning.

Agree: 60% **Disagree: 31%** **Neutral: 6%** **Don't Know/No Answer: 3%**

Summary

The majority of respondents support road standards. It is recognized that different types of roads will require different types of standards.

Comments

- Need consistent and consolidated standards.
- Standards need to vary depending on specifics.
- Standards should address a number of things.
- No need for standards – current system is good enough.
- Standards will make it too expensive.
- Standards for safety.
- Standards should be set by technical specialists.
- Standards should be set by road proponent/builder.

6. Closure and Decommissioning of Resource Roads and Security

- 1 A closure and decommissioning plan will be required to obtain a resource road permit.

Agree: 57% **Disagree: 29%** **Neutral: 9%** **Don't Know/No Answer: 4%**

Summary

A majority of respondents support this approach. However, they also indicate that closure plans must be flexible enough to adapt to unforeseen changes in resource development projects.

2 Allow for progressive closure/reclamation requirements.

Agree: 57% **Disagree: 27%** **Neutral: 10%** **Don't Know/No Answer: 6%**

Summary

While a majority of respondents support this proposal, very few written comments were received. This may reflect a lack of general public understanding as to what exactly is meant by “progressive closure/reclamation requirements”.

3 Security will be a requirement to obtain a permit and will need to be sufficient to cover the full cost of decommissioning and potential environmental damage.

Agree: 54% **Disagree: 34%** **Neutral: 10%** **Don't Know/No Answer: 2%**

Summary

A majority of respondents support the requirement for up-front security, so that the public is not responsible for cleanup if a company goes bankrupt. However, industry is concerned that this requirement may reduce the economic viability of resource development in the territory, especially for small operators.

Comments

- Suggestions were made regarding what a closure plan should address.
- Progressive closure/reclamation should be defined.
- Suggestions were made as to how security should be collected and administered.
- Comments on how much security should be collected.
- Problems with requiring security.
- Security requirements will make road non-viable.
- Comments on when security should be refunded.
- Disagree with the need to decommission a resource road.
- Need flexibility for closure and decommissioning plans.
- Comments on the process for developing closure plans.

7. How Will the Permitting Work

- 1 The resource road permit will be linked to the duration of the resource extraction project(s).

Agree: 59% **Disagree: 28%** **Neutral: 8%** **Don't Know/No Answer: 5%**

Summary

A majority of respondents support this approach. However, many respondents also note potential complications, citing the unpredictability of the duration of project and the potential need to continue using the road long after a project has been closed.

- 2 Permit terms and conditions can be scoped to address mitigation for environmental and socio-economic impacts (pursuant to the Territorial Lands (Yukon) Act).

Agree: 62% **Disagree: 19%** **Neutral: 13%** **Don't Know/No Answer: 6%**

Summary

A clear majority of respondents support this approach. The role of the Yukon Environmental and Socio-economic Assessment Act process in scoping is noted. First Nations involvement in scoping is also requested.

- 3 Permit terms and conditions will be consistent with approved land and resource management plans.

Agree: 71% **Disagree: 12%** **Neutral: 10%** **Don't Know/No Answer: 7%**

Summary

A large majority of respondents support this approach. First Nations are especially supportive of undertaking land and resource management planning in advance of road development.

Comments

- There is a need for flexibility regarding linking the permit to the extraction project.
- Need periodic permit review and renewal during project operation.
- Comments on the process for scoping terms and conditions.
- Scoping of permit terms and conditions should involve First Nations.
- Suggestions were made on what permit terms and conditions should address.
- Land use planning needs to occur before resource roads are approved.

8. Compliance and Enforcement

- 1 Include additional compliance and enforcement tools – prohibitions, offences and penalties, pursuant to the Territorial Lands (Yukon) Act and Lands Act (which set limits on allowable enforcement tools).

Agree: 55% **Disagree: 28%** **Neutral: 10%** **Don't Know/No Answer: 7%**

Summary

This topic is of great concern to the public. It received numerous written comments from respondents. A clear majority of respondents support the need for additional enforcement and compliance tools. A minority feel the current system is sufficient.

- 2 Tickets will be issued for offenses via the Summary Convictions Regulation.

Agree: 48% **Disagree: 27%** **Neutral: 14%** **Don't Know/No Answer: 11%**

Summary

Of any topic, this proposal received the least amount of written comments – only four. Therefore, no definitive conclusions can be drawn from the comments. The numerical survey results indicate a moderate (not quite majority) support for the proposed approach.

- 3 Permits can be amended, suspended or cancelled.

Agree: 65% **Disagree: 20%** **Neutral: 10%** **Don't Know/No Answer: 5%**

Summary

A large majority of respondents support this approach. However people noted that amendments should follow a rigorous review process that may involve additional project assessments and public reviews. Also, they indicated that processes and criteria for suspending, cancelling or amending permits should be clear and transparent.

Comments

- Need additional enforcement tools and capacity.
- Fines and penalties should be increased.
- Should amend the Territorial Lands (Yukon) Act to expand enforcement.
- Clarification is needed for ticketing.
- Clarification required on how permits will be amended, suspended or cancelled – process and criteria.
- Enforcement considerations with multiple and unauthorized road users.

9. Fees – Land and Road

- 1 Adopt the same fees for the Resource Roads Regulation as in the existing Land Use Regulation, with the fees prorated for the life of the permit.

Agree: 46% **Disagree: 31%** **Neutral: 14%** **Don't Know/No Answer: 10%**

Summary

Although the quantitative survey results show that 46% of the respondents agreed with this approach, this is not reflected in the written comments submitted. The vast majority of the written comments support a fee increase. This may indicate that perhaps respondents did not accurately understand what was meant by the proposed approach “Adopt same fees as the Land Use Regulation”.

Comments

- The establishment of fees should consider a number of factors.
- Fees should reflect the scope of the resource road, how it is being used and its impacts.
- Fees should reflect the regulator’s cost to review and monitor the project.
- Fees should consider what other Canadian jurisdictions charge.

10. How Will the Resource Roads Regulation Work with Other Legislation?

- 1 The Resource Roads Regulation will replace the Land Use Regulation and the Mining Land Use Regulations for the management of resource roads.

Agree: 40% **Disagree: 27%** **Neutral: 16%** **Don't Know/No Answer: 16%**

Summary

This approach received a wide range of agreement, disagreement, neutral and “don’t know” answers. This may indicate a lack of public understanding of the details of the current and proposed regulations.

- 2 A resource road permitted under the existing Land Use Regulation will be subject to the new regulation after its land use permit expires.

Agree: 47% **Disagree: 33%** **Neutral: 11%** **Don't Know/No Answer: 9%**

Summary

This topic received only very few comments. It appears that there is moderate public support for this approach. Several industry members prefer to keep the current system and do not support removing roads from the existing Mining Land Use Regulations.

- 3 A road that is designated as a “resource road” under the regulation will not be subject to the Highways Act.

Agree: 51% **Disagree: 20%** **Neutral: 13%** **Don’t Know/No Answer: 16%**

Summary

A majority of respondents agree with this approach. However almost just as many disagreed or were neutral or did not know. This may indicate that more clarification is needed regarding the implications of not having resource roads subject to the *Highways Act*.

Comments

- Need better coordination in all road regulations.
- Need further clarification on interaction between Resource Road Regulation and other regulations affecting resource roads.

11. Anything Else?

Comments

- First Nations concerns.
- Wildlife related concerns.
- Various comments on public use or of resource roads.
- Comments from industry.
- Comments on regulations and legislation.

Comments submitted in the “Anything Else” section allowed respondents to make new points or reinforce points that had already been made in previous sections of the survey.

Of particular note:

- First Nations emphasized the importance of respecting government-to-government relations on this matter, and requested formal consultation on the development of regulations.
- Many respondents repeated their concerns regarding limiting public access on resource roads and their desire to keep these roads open to the public for future use and enjoyment.

- Industry members repeated their concerns about keeping the regulations reasonable, coordinated and industry friendly, and indicating their willingness to participate on an industry working group to provide input to the regulatory development process.
- Several respondents repeated their concerns about the need for proper planning and management of resource roads so that they have minimal impacts on wildlife and the environment.

Survey Respondents

Here is a profile of survey respondents:

94% of survey respondents were Yukon residents.

55% from Whitehorse.

39% from other communities.

86% were individuals.

12% were representing organizations.

Within the organization respondents:

7.1% were business corporations.

1.1% were First Nations.

1.6% were other governments

1.6% were non-government organizations.

You can read a detailed analysis of the quantitative portion of the survey in the Yukon Bureau of Statistics' "[Report on the 2018 Resource Roads Public Engagement Survey Results](#)".

What's Next?

We are analyzing all survey results and comments provided during the engagement in order to determine how our proposed approach to regulating resource roads may change.

This information will serve as a basis for drafting the regulations, which we expect to be completed in 2019.

