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*Report of the
Casino Trail Local Resource Group
on the Casino Trail Project*

*Prepared for the
Minister of Community and Transportation Services*

*By the
Casino Trail Local Resource Group*

February 1990

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February 15, 1990

Honourable Maurice Byblow
Minister, Community & Transportation Services
Government of the Yukon
Box 2703
Whitehorse, Yukon
Y1A 2C6

Dear Sir:

In the fall of 1987 your predecessor, the Honourable Piers McDonald, agreed to fund the work of the Casino Trail Local Resource Group to re-evaluate the adequacy of previous studies on the Casino Trail, and to recommend mitigative measures and identify the additional work required to address the urgent concerns raised by the Selkirk and Little Salmon Carmacks First Nations.

Since that time the Local Resource Group has worked to carry out these tasks. Previous work has been re-evaluated through interviews and a major workshop held in 1988. From this re-evaluation new work has been identified and four major reports have been prepared for the Local Resource Group in the areas of cultural heritage, community impact assessment, environmental protection, and wildlife management.

In the attached report we have provided a summary of the process of the Local Resource Group, as well as the new work undertaken in an attempt to resolve the major land and resource use conflicts over the Casino Trail Project.

We are pleased to report to you that the experiment of a cross representational working group (The Local Resource Group) as a forum for conflict resolution has worked well over the past two years. Despite very different interests, values, and positions on the Casino Trail, all members of the Local Resource Group were able to set aside their biases long enough to reach common ground on many issues. The results are the recommendations contained in the following report.

We must add that even though the Local Resource Group was able to reach a consensus on these recommendations, the conflict over the Casino Trail Area is far from over. Resource disputes continue daily between government agencies and Yukon First Nations as more land use applications are received for spur roads and continued mining development in the traditional lands of the Northern Tutchone and the Yukon.

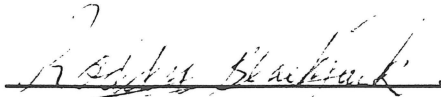
Some of these problems can be alleviated by initiatives on the part of the Yukon Government in the areas of roads and transportation policy and planning, land use planning and environmental assessment. However, outdated federal mining legislation presents a major constraint in balancing the interests and values of all Yukoners in the planning and allocation of land and resources.

We urge you to consider our recommendations for immediate action not only on the part of the Government of the Yukon, but in addition we urge you to meet with your federal counterparts to effect change on the part of the Government of Canada. Without such action, we can assure you that the Casino Trail Project and other similar projects will continue to be a source of conflict for both governments in the future.

We thank you for the opportunity of carrying out the work of the Casino Trail Local Resource Group. We will be pleased to meet with you, as provided in the Agreement establishing the Casino Trail Local Resource Group, to discuss your response to our recommendations.

Yours sincerely,

THE CASINO TRAIL LOCAL RESOURCE GROUP



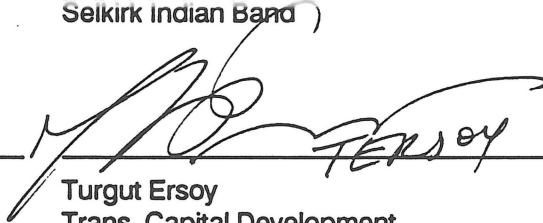
Chief Roddy Blackjack
Chief
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Marilyn Van Bibber
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Chris L. Knight
Chief Negotiator
Land Claims Secretariat
Government of the Yukon



Turgut Ersoy
Trans. Capital Development
C. & T.S.
Government of the Yukon



Nancy MacPherson
Consultant
Environmental & Community Planning

Note to Readers

The Casino Trail Project has been the subject of a great many reports and studies over the past decade. We have made reference to these source documents throughout our report, **however it was not possible to give the details of all of these reports and documents in this report which concentrates on recommendations.**

We would therefore refer the reader to the binder which should accompany this report in order to obtain complete details of all the reports and documents referenced herein. Copies of this report and the accompanying binder can be obtained or borrowed from the Land Claims Secretariat Office, Government of Yukon (upstairs in the Horwoods Mall) telephone 403-667-5878.

1

The Casino Trail Project: Background

The Casino Trail Project is a partially completed mining access road into the Dawson Range northwest of the town of Carmacks on the Yukon River. At the beginning of the 1989 construction season 39.6 kilometres of road had been constructed through the traditional lands of the Northern Tutchone people of the Yukon to the mineral resources of the Dawson Range.

The Casino Trail Project grew out of a long standing interest by the mining community in the potentially rich mineral resources of the Dawson Range in the southwest portion of the Yukon. Since the 1950's the Dawson Range has been actively explored as an area of high mineral potential with two producing properties in the 1960's at Mt. Freegold and Mt. Nansen. The proposed mineral access road through the Dawson Range was first envisioned in the early 1960's when a federal government engineer, A.A. Wright, described the route as the preferred option for a Carmacks-Snag transportation link. The idea lay dormant until 1980 when Archer Cathro & Associates Ltd. urged the government to upgrade and expand the Mt. Freegold Road. In 1985 a formal proposal came from the Yukon Chamber of Mines urging that a minimal all weather road be built in several stages 135 kilometres northwest from the road terminus at Freegold Mountain to the Casino mineral property.

As a result of concerns expressed by a number of government agencies, the Department of Northern Affairs struck an ad hoc interagency committee to conduct an initial environmental overview of the proposed Casino Trail. The Project Advisory Committee (PAC) undertook several tasks: an assessment of mineral potential in the area; a geotechnical appraisal of several route options; and an environmental overview of the project. The results of the PAC studies identified a preferred route for more detailed study before construction began. The recommended studies were only partially carried out, and the preferred route for the initial section of the corridor was overruled by a political decision in favour of a route that PAC had rejected as being environmentally unsound and geotechnically difficult. (See Chronology of Events Summary in Reference Binder for a complete list of events)

Construction of the Casino Trail began in the fall of 1986 by the Government of Yukon, Department of Community and Transportation Services, Highways & Transportation Branch. Both the Selkirk and Carmacks Little Salmon First Nations were deeply concerned that the Casino Trail access road created a public road through their traditional lands, and perhaps more significantly, that Indian interests were not represented in the system of land and resource allocation in the Yukon. Representatives of the Selkirk and Carmacks Little Salmon First Nations met several times with government officials during 1987 in an attempt to have their concerns addressed. In the winter of 1987 the Casino Trail Local Resource Group was formed as an attempt to provide a forum for the resolution of conflicts over the Casino Trail Project.

*Report of the Casino Trail Local Resource Group
The Casino Trail Project: Background*

By the fall of 1988, construction of the Casino Trail had progressed to kilometre 39.6 at a total cost of \$1,671,024.00 to the Government of Yukon.

In order to more fully determine the impact of the Casino Trail on the traditional lands of the Selkirk and Carmacks Little Salmon Indian First Nations, the Casino Trail Local Resource Group commissioned a number of new studies in addition to reviewing existing material on the Casino Trail. These studies took place during 1988 and 1989 along with several workshops with representatives from government agencies, industry and Yukon First Nations. These studies are described briefly in this report along with the recommendations of the Local Resource Group.

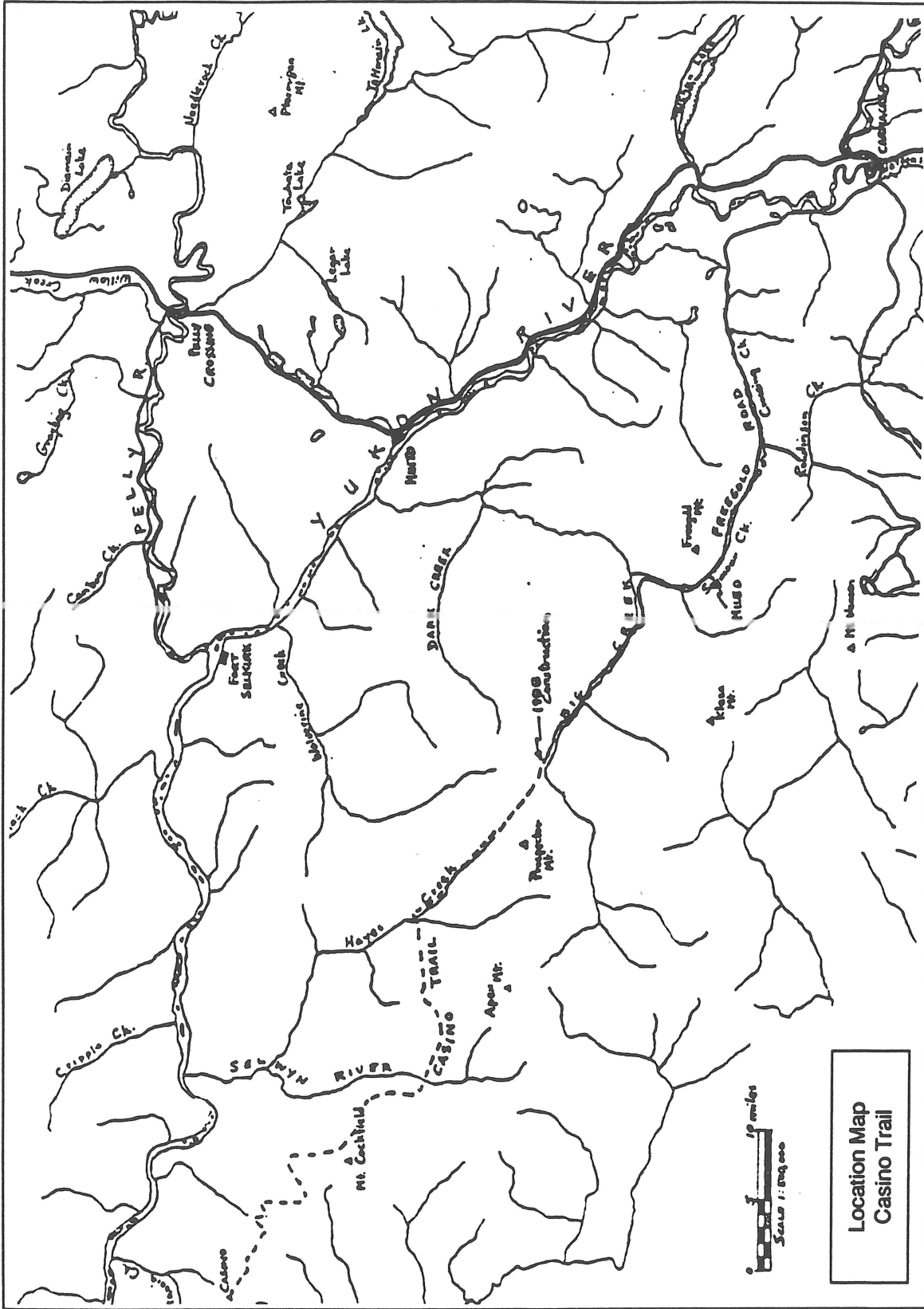
One study in particular led the Local Resource Group to request that construction of the Casino Trail be halted for the 1989 season. During May and June of 1989, studies by the Department of Renewable Resources on the winter range of the Klaza Caribou Herd, determined that a four hundred and eighty square kilometre area between the present terminus of construction of the Casino Trail westerly past Hayes Creek constitutes the discrete winter range of this herd.

It became clear that additional time was required to develop an action plan to assess the capacity of the winter range for development and the measures which could allow the road to proceed through the winter range. Thus, the Local Resources Group requested of the Department of Community and Transportation Services that 1989 construction (km. 39.6 to km 58) be stopped and that the Department of Renewable Resources in co-operation with the Selkirk and Carmacks Little Salmon Bands be requested to assess the winter range in terms of its capacity for development.

In July 1989 the Resource Transportation Access Program (RTAP) Management Committee agreed to defer construction for one year in order to allow the development of methods to ensure protection of wildlife based on the new information from the winter range studies. Construction of the remainder of the 100 kilometre road is to be reviewed in the future.

This report outlines the problems identified with the development of the Casino Trail and makes recommendations for improvements to the current planning and regulatory regime.

Report of the Casino Trail Local Resource Group
The Casino Trail Project: Background



2

The Casino Trail Local Resource Group

The formation of the Local Resource Group (LRG) has been an experiment in conflict resolution through a working group process made up of appointed representatives of Government of Yukon and Yukon First Nations. Representation was by consensus of the Carmacks Little Salmon and Selkirk First Nations and the Government of Yukon. Both Bands appointed a representative to the Group. Two representatives were appointed by the Minister of Community and Transportation Services, Government of Yukon and an independent consultant was selected as the fifth member of the Group by mutual agreement of government and the First Nations.

The members of the Local Resource Group were as follows:

- Roddy Blackjack, Chief, Carmacks Little Salmon Indian Band
- Marilyn Van Bibber, Negotiator, Selkirk Indian Band
- Chris Knight, Regional Negotiator, Land Claims Secretariat
- Turgut Ersoy, Director of Transportation Capital Development Department of Community and Transportation Services, Government of Yukon
- Nancy MacPherson, Consultant, Environmental and Community Planning

2.1 Terms of Reference of the Local Resource Group

- 2.1.1 Review the adequacy of the existing environmental and socio-economic information and identify what matters require further investigation.
- 2.1.2 Identify the nature and extent of potential impacts on the physical, biological, social and economic environment and identify where possible proposals to mitigate negative impacts and maximize benefits.
- 2.1.3 Particular attention should be given to the impact of the Casino Trail, spur roads, and Casino Trail mining activities on:
 - (a) wildlife, including habitats and populations, Indian subsistence hunting, other forms of hunting, trapping, guiding activities and non consumptive uses;

- (b) fisheries including habitats and populations, Indian food fishing and other fishing activities;
- (c) social structure, functioning and stability of Carmacks and Pelly Crossing communities; and
- (d) heritage and historical sites, including known resources and areas of heritage/historical potential.

2.1.4 The work of the Local Resource Group shall be directed towards:

- (a) developing a **Wildlife Management Plan** for the region with input from local native harvesters in addition to the technical data developed by the Department of Renewable Resources;
- (b) developing an **Environmental Protection Plan** covering the existing and proposed routing of the Casino Trail spur road development and mining activity; and
- (c) identifying **potential economic activities** in which the Bands may become involved, either directly or indirectly as a result of the Casino Trail Project.

2.2 The Work of the Local Resource Group

Members of the Local Resource Group from government and Yukon First Nations met approximately once every two months throughout 1988 and 1989, with occasional conference calls between meetings to set agendas, and receive new information. Since LRG members held full time jobs in addition to the Casino Trail Project work, the Group relied on secretariat work from both the Land Claims Office and the Transportation Capital Development Branch of Community and Transportation Services.

The Local Resource Group divided its work into two phases:

- Phase One - a review of previous work undertaken by the Project Advisory Committee and consultants to the PAC.
- Phase Two - new work commissioned or requested of government agencies.

The reference binder that accompanies this report contains complete copies of reports commissioned in both Phases One and Two of the work of the LRG. Readers are referred to the reference binder for complete details of any of these reports. Chapter Three and Four of this report contain a summary overview of the work of Phase One and Two.

3

Phase One: Assessment of Previous Casino Trail Work

In Phase One the Local Resource Group undertook the first major task in the Terms of Reference, that of reviewing the adequacy of the existing environmental and socio-economic information, and identifying matters requiring further investigation.

The LRG approached this task in two ways. First, interviews were conducted with government personnel involved in the environmental and socio-economic assessment of the Casino Trail in 1985 for the Spencer Report. (See Summary of Interviews in Reference binder) Individuals were asked to comment on the adequacy of the studies in their particular area of expertise, and to identify research gaps. Second, the LRG convened a workshop composed of participants who were interviewed, and representatives from both the Selkirk and Carmacks Little Salmon First Nations. A consultant was hired by the LRG to assist with the workshop and to write a Phase One Report as a summary of the results of the workshop. This report appears in its entirety in the reference binder.

From the workshop the LRG concluded that while agencies involved in the initial environmental assessment carried out by PAC had raised valid concerns, few of their recommendations had actually been carried out. The consultation process with both the Selkirk and Carmacks Little Salmon First Nations was found to be inadequate. As a result recommendations were made by participants of the workshop around improved participation and consultation with resource users (particularly Indian Bands) in the planning and decision making process with respect to the allocation of land and resources.

The following list of concerns and issues raised by workshop participants is taken verbatim from workshop notes:

(a) Route Change

The fact that the new alignment through Big Creek has escaped environmental review was a problem. Some participants were concerned about the rationale and process behind this decision.

(b) Proponent Identity

There was some question about who the proponent was, and at what point a "project" came into being.

(c) Initial Environmental Evaluation

Should an I.E.E. have been done instead of the overview carried out by Spencer? What is the difference?

(d) Lack of Regional Development Planning

This was seen as necessary, along with regional development scenarios. Current planning was piecemeal. "We do not have a full picture of area's activities."

(e) Potential Damage to Fish and Wildlife Resources

Environmental concerns are not being met, particularly fish and wildlife resources.

(f) Water Pollution

Raised as an issue primarily in conjunction with proposed heap-leaching operations in the area.

(g) Compensation for Impacts

This was a concern relating to loss of wildlife resources and impacts to cultural resources. Will there be compensation and how will this compensation be carried out?

(h) Access

The trail will provide open and unrestricted access to the area. This will lead to increased hunting pressure by non-native hunters and possible declines in animal populations. Examples of where this had happened were raised - Granite Lake, Marshall Creek and Sifton Range. Such access is difficult to control. There is great resistance in establishing right-of-way hunting closures along the road. Sports hunting lobbies in the past have been successful in removing controls lessening them (eg. Dempster Highway - initially 5 km corridor, subsequently reduced to 1 km as a result of pressure).

(i) Inadequate Lead Time

There was no opportunity to do wildlife inventory work before route selection, and therefore no opportunity to affect project design.

(j) High Elevation Route Alignment

Roads above treeline mean increased visibility for hunters and, therefore, increased vulnerability of game populations in the alpine areas.

(k) Lack of Planning Funds

All players noted that this was a problem. There is just not enough money to do thorough and timely planning.

(l) Lack of Implementation of Earlier Recommendations

YTG Department of Highways did not implement much of the recommended planning work of the Project Advisory Committee and the Regional Environmental Review Committee.

(m) Population Growth

The social impacts of a population influx as a result of major resource developments in the Carmacks area and the resulting demand for additional services can pose serious problems for local people. Can these be mitigated?

(n) Initial Road Decision

People had some difficulty in understanding how this project got started, and how government became the proponent.

(o) Heritage Concerns

YTG Heritage Branch has responsibility for surface resources only; Federal government has responsibility for archaeological resources. This lack of coordination makes integrated management of heritage resources problematic.

(p) Overall Lack of Regulatory Control

(q) Ineffectiveness of the Process of Consultation

There has been little effective consultation with Bands on this project. Beyond this, frustration was expressed by Indian representatives that consultation was meaningless anyway because development always goes ahead.

(r) Responsibility for Impact Mitigation

Who is responsible for mitigation and enforcement of terms and conditions?

(s) Relation to the Land Claim Process

How can land continue to be alienated through mining leases and roads when the same lands are being claimed and dealt with at the land claims table? Should this not be stopped until the claims are settled?

(t) Solutions Proposed Do Not Address the Concerns

(u) Hunting Restrictions on the Bands

Why should the Bands be asked to curtail hunting as a result of government-created conflicts?

(v) **Reactive Nature of Planning**

This issue is related to the inadequate lead-time problem. Input typically is sought after the fact.

(w) **Lack of Control over Mineral Activity**

There is not effective control by planning agencies over mineral exploration and development activity. How much damage has been done in the area so far? What about the effects of heap-leaching?

(x) **Who is Benefiting From This Project?**

(y) **Restricted Focus of Environmental Assessment**

Examining only the road corridor is not a valid approach. There are other concerns and effects that take place away from the road right-of-way, for example spur roads, heap leaching, increased access.

The following recommendations were made by workshop participants for interim measures for 1988. Given that a permit application for km 33-65 was imminent, several recommendations were put forward at the workshop for immediate follow-up. The intent of these recommendations was to mitigate potential impacts solely for the 1988 construction activity. These included:

3.1 Bands Participation in the Land Use Advisory Committee

The two Bands felt that it was critical that they have an opportunity to participate in the Land Use Advisory Committee's review of applications for land use in the Casino Trail area.

3.2 Terrain Analysis and Environmental Protection Plan

YTG Transportation Division had stated that a terrain analysis and Environmental Protection Plan would be prepared and would accompany the land use permit application. The LRG should review and monitor the development of these plans, with particular attention to the Environmental Protection Plan.

3.3 Review of Past Compliance

It was recommended that the LRG obtain the federal inspection reports of the past two seasons construction activity and review these as to the adequacy of work undertaken.

3.4 Restriction of Hunting in the Area

It was recommended in the workshop that ways be explored to restrict hunting in the study area for 1988, pending the production of a wildlife management plan. Doug Larson, moose biologist for Fish and Wildlife Branch had already recommended complete closure for moose. (Subsequent to the workshop a one kilometre no hunting corridor on either side of the Casino Trail was recommended for all species by the Department of Renewable Resources and supported by the LRG. An additional prohibition of the use of all terrain vehicles and snow machines off the Casino Trail for the purpose on hunting or game retrieval was recommended).

3.5 Investigate Road Right-Of-Way Withdrawals

A recommendation focused on controlling spur road development dealt with examining the feasibility of withdrawing land from third party disposition along the right-of-way. This would provide the regulatory control necessary to direct the location and style of spur road connections.

3.6 Cultural Resources Survey 1988

It was a concern to the Bands that a proper survey of archaeological and heritage resources occur before the 1989 activity, in addition to surveying at a later date the remaining route for post-1988 construction.

The workshop also identified further work that was required for the Casino Trail Project in the areas of:

- (a) Environmental protection planning for route construction;
- (b) Development of wildlife management plan;
- (c) Cultural resources survey;
- (d) Community impact assessment; and
- (e) Future developments impact assessment.

4

Phase Two: New Work Undertaken by the LRG

Having undertaken a review of previous work on Casino Trail, and with recommendations in hand from the Phase One workshop, the LRG proceeded to identify new work necessary to meet the other requirements of the Terms of Reference. Paying particular attention to the need to identify the nature of potential impacts of the project on the physical, social, biological and economic environment of the Casino region, the LRG recommended the following studies:

4.1 Heritage Resource Impact Assessment of the Casino Trail

This study undertaken by archaeologist R.M. Gotthardt identifies heritage sites which potentially lie in the road right of way, and makes recommendations to adjust the road alignment to avoid these traditional and prehistoric sites. Ms. Gotthardt also recommends that crews working on the road construction be alert to any evidence of old camps along the foot trails where the road alignment overlaps with the foot trails.

A further recommendation concerns signage on the Casino Trail which informs travellers of the history of the country. In particular, mention should be made of the fact that for much of its route, the Casino Trail follows the traditional travelling trails of Selkirk people to important copper sources in the White River area; and that, in part, the Casino Trail intersects the old Chilkat trail from Fort Selkirk (the Dalton Trail), which was used by Chilkat traders on their return from trade with Selkirk people in the Fort Selkirk area during the seventeenth and eighteenth centuries. (Gotthardt, 1988)

4.2 A Study of the Impacts of the Casino Trail on the Northern Tutchone of Pelly Crossing and Carmacks, Yukon Territory

This report undertaken by Tony Pearse and Martin Weinstein in 1988 documents the extent and style of contemporary land use activity by the Selkirk and Carmacks Little Salmon Indian Band, including ways in which bush resources are integrated into the village economy. Pearse and Weinstein attempt to determine how Northern Tutchone people traditionally used the land, how resources are managed, how the exchange network operates, how and why customary land use practices have changed over time, and how people view the significance of land for the future.

Their study involved interviewing key informants in the villages of Carmacks and Pelly Crossing over the course of four weeks in May and June of 1988. This was

followed by the preparation of map biographies of land use activities of interviewees over the course of their lifetimes as hunters, trappers and fishers.

Pearse and Weinstein conclude that what is needed to remedy the problems created by the Casino Trail Project are fundamental and sweeping attitudinal changes at the core of decision making and regulatory structures within government. These changes must take into account Indian needs and interests. They proceed to make a series of recommendations principally directed towards enhancing awareness about Indian needs and interests in policy formulation and administration. They point to the need to:

- educate administrators, managers and politicians about the Indian economy;
- develop curriculum materials to teach Yukon Indian history, land and economic traditions and the contemporary subsistence and mixed economies;
- document oral histories with respect to historically how people managed their land and resources;
- improve the process and capacity for Bands to become involved in the policy making and regulatory spheres of government;
- fund feasibility studies on income support programs;
- evaluate job creation programs with special attention to the factors that make for success;
- support native owned wilderness tourism enterprises;
- undertake community planning projects to address the solutions to breakdown of the family unit;
- explore the feasibility of forming Hunters / Fishers / Trappers Association to serve as an internal policy making body for Northern Tutchone land and resource management;
- negotiate a proprietary interest in all the lands they retain for harvesting activities;
- explore the desirability of reorganizing individual traplines as group traplines;
- further the awareness of native subsistence economics within renewable resources departmental philosophy;
- establish community based hunting territories;
- establish the Casino Trail as a controlled access road with the prohibition of hunting except for the Northern Tutchone;
- consider buffer strips insulating all new developments from the Selkirk Indian fish camps along the Pelly Farm Road;

- establish a co-operative and adaptive monitoring program to document the environmental and socio-economic effects of the Casino Trail;
- establish a 200 metre right-of-way as a means of regulating spur road development off the Casino Trail;
- enact legislation for waste management, site reclamation and abandonment for all mines, as well as implementing enhancement programs and training programs for future development; and
- document the effects of heap leaching and distribute to the Bands.

4.3 An Environmental Protection Plan for the Casino Trail Area

The Local Resource Group requested the development of an Environmental Protection Plan for the Casino Trail Area consisting of terms and conditions applying to the construction of the road as well as a wildlife management plan for the area.

The report recommending terms and conditions of construction along the road corridor was carried out by the Department of Community and Transportation Services through Mr. Peter Percival.

The terms and conditions for construction along the Casino Trail corridor provide **specific details in the following areas:**

- design standards
 - alignment
 - cross-sections
- construction procedures
 - sidehill construction
 - drainage construction
 - back slope stability
 - slope construction
- borrow pits
- creek and stream crossings
- clearing, grubbing/stripping
- archaeological resources
- wildlife and fisheries
- construction scheduling

4.3.1 Wildlife Management Plan

The Wildlife Protection Plan prepared by Mr. Kent Jingfors for the Department of Renewable Resources confirms that wildlife populations occur at low densities in the Casino area and that they are vulnerable to overharvesting as a result of improved hunter access of the Casino Trail.

Jingfors makes the following recommendations:

With respect to Sustainable Harvest Management

- close all moose and caribou hunting in the Casino Trail area (GMZs 5-22, 5-23, 5-24 and 5-26);
- close sheep hunting in GMZ 5-23; and
- consider the possibility of re-introducing Dall sheep to historic range in the Big Creek / Prospector Mountain area.

With respect to Habitat Management and Protection

- support a road alignment option that avoids the open alpine and subalpine areas at higher elevations (>1200 m asl) in the Dawson Range.
- restrict access along the Casino Trail to the snow free period, i.e. no road maintenance or snow removal between the months of November and May;
- once a final route has been established, the Environmental Protection Plan should be updated to include site specific wildlife protection measures.
- ensure adequate lead time and sufficient details on route alignment are provided to review agencies, the LRG and the Renewable Resource Councils once they are formed, for their effective input into further developments in the Dawson Range; and
- consider nominating the eastern part of the Dawson Range (i.e. the Casino Trail Area) as a Conservation Area pursuant to the Fish and Wildlife Sub-Agreement of the Yukon Indian Land Claim Framework Agreement.

With respect to Wildlife Population Monitoring

- continue to monitor raptor productivity in the proposed road corridor at 2 year intervals starting July 1990;
- resurvey the eastern Dall sheep population in GMZ 5-23 in 1990;
- replace 15 radio collars on the Klaza caribou herd in 1990 and schedule another herd census for late winter 1994; and

- determine moose distribution and relative densities during stratification flights of the Casino Trail survey area and a portion of GMZ 5-26 during early winter 1992.

With respect to Community Participation

- information on wildlife needs and management objectives for the Little Salmon Carmacks and Selkirk Indian Bands should be used to update this management plan;
- encourage the participation of the Little Salmon Carmacks Band in the Yukon-wide Indian harvest survey;
- support the hiring and training of a local resource person in each Band to collect harvest information, assist in protection efforts, participate in wildlife surveys and be the key contact for the Band in matters related to renewable resource management;
- gather traditional knowledge on wildlife concentration areas recognized as being important by the Bands and share the results of recent and proposed wildlife surveys in the Dawson Range; and
- support teaching of trapping, hunting and other bush skills to children, students and interested adults by experienced hunters.

4.4 Future Development Scenarios for the Casino Area

The Department of Economic Development was requested to provide an assessment of possible development scenarios for the Casino Trail / Dawson Range area given the existing knowledge of mineral resources combined with improved access provided by the Casino Trail.

The Department by means of a memo, identified several likely candidates for development, however were unable to predict which if any may come to production due to uncertainties in metal prices.

5

Recommendations of the Local Resource Group

5.1 Deliberations of the LRG: Reaching a Consensus

Together with the information from Phase One, the Local Resource Group examined the range of studies and information brought before the Group during 1988 and 1989. We attempted to synthesize and debate the information from many perspectives. Representing a range of interests, we did not always agree among ourselves, nor at times did we agree with the recommendations submitted to us by government departments or consultants.

At times the process seemed futile when, in the midst of trying to make recommendations for an improved system of land and resource planning, applications continued to be made for mining access roads through the traditional lands we were discussing. Although it was discouraging to know that the present system was powerless to set right the legal imbalance of land rights, these incidents served to reinforce the need to pursue the necessary changes in the way we plan and make decisions concerning land and resources in the Yukon.

We have tried to reach a common ground in identifying the problems as we perceived them, and to define solutions that we felt were practical and workable in light of present circumstances. The knowledge and experience of each Local Resource Group member in his or her own field of expertise and life experience contributed greatly to the deliberations of the LRG. The following recommendations are put forward with the hope that initiatives will be taken by both the Territorial and Federal Governments to put into place a balanced system of land and resource allocation that fairly represents the interests and value systems of native and non native Yukoners.

In preparing these recommendations the Local Resource Group has tried to view the Casino Trail project in a context broader than that of an isolated incident related to the building of one road. At the same time we have been cognizant of the need to make recommendations specific to the problems of Casino Trail and the current system of resource management in the Yukon.

It is evident to the Local Resource Group that many of the problems experienced in the Casino Trail Project are symptomatic of a much larger issue in the Yukon. That is, the question of accommodating equally and fairly the views, interests and value systems of Indian and non Indian Yukoners in the process of planning and allocating land and resources. The Local Resource Group recognizes the inherent difficulty in doing so in the current context of the Yukon Quartz and Placer Mining Acts which

place many mining activities above all other interests and beyond the scope of present regulatory mechanisms.

We recognize that nothing we can say will correct past injustices or inadequacies that have occurred with respect to this project, or with respect to the larger question of accommodation of native and non native values. However we hope that by constructively reviewing the present planning and regulatory system that future decisions may reflect an improved measure of fairness.

In preparing recommendations the Local Resource Group considered a range of documentation including:

- the report of the Project Advisory Committee (PAC);
- the Spencer Report detailing the environmental assessment of the project;
- the Morin report on the mineral potential in the Dawson Range;
- background correspondence between the interested parties – Yukon Chamber of Mines, Government of Yukon, Council for Yukon Indians, Selkirk Indian Band, Carmacks Little Salmon Indian Band and DIAND;
- background documents detailing the concerns of the Carmacks Little Salmon Indian Band and the Selkirk Indian Band with the Casino Trail Project and process by which the project was implemented; and
- reports commissioned or requested by the Local Resource Group including:
 - Phase One Report of the Local Resource Group
 - Cultural Heritage Report
 - Community Impact Study
 - Development Scenarios of the Dawson Range
 - Environmental Protection Plan for the Casino Area
 - Wildlife Management Plan for the Casino Area, and the Framework Agreement in Principle on the Yukon Indian Land Claim.

A previous draft of these recommendations was reviewed in July 1989 by a workshop of representatives of Carmacks Little Salmon and Selkirk First Nations, the mining industry and government agencies involved with the Casino Trail. The LRG invited workshop participants to review the recommendations and to improve upon them with their knowledge and expertise. The LRG benefited significantly from the input of workshop participants and consequently the following recommendations reflect many of their suggestions. These recommendations are however solely the consensus of the LRG and not the workshop participants, their organizations or agencies.

5.2 The Planning and Regulatory Process

Problem Statement

Problems related to the Casino Trail Project exemplify in many ways the failings of the current planning and regulatory system in the Yukon. Although we are aware that the Land Claims Process and the Land Use Planning Processes are attempting to address many of these problems, we wish to identify the major areas of weakness that we have seen with respect to the Casino Trail Project:

- Of major concern to the Local Resource Group is the exemption of mining activities from the Yukon Territorial Lands Act which applies to all other land based activities in the Yukon. This results in an unbalanced land and resource planning and regulatory system which, in the view of the Local Resource Group, makes it virtually impossible to adequately balance resource use interests.
- The lack of effective participation of Yukon Indian people on LUAC, FTLAC and RERC presents a major difficulty in reflecting the interests and values of Yukon Indian people with respect to land and resource use. In our view the current form of consultation (mailing applications to Band, occasional meetings, occasional appearances before the advisory committees when hearing an application) should be improved. These measures occur too late in the process and lead to raised expectations and disappointment in the system on the part of Bands.
- The current system of land use permitting is entirely reactive in nature and does not allow for review of general development scenarios or the exploration of options for meeting resource needs. With respect to water regulation, Section 15 of the Northern Inland Waters Act allows the Board to hold general hearings on matters of policy. This section was recently used for the first time in a general hearing on mining abandonment.
- The split jurisdictions between the Yukon Government (roads, wildlife) and the Federal Government (land/habitat, mining and other resource rights, and native interests) creates confusion and fragmentation in implementing a cohesive approach to land and resource planning as well as development assessment.
- The lack of integration between the regulation of water and land uses in the Yukon further fragments the regulatory system.
- The lack of a regional planning process in the Casino area as well as a lack of concrete regional plans against which to weigh development proposals results in ad hoc incremental development with the strongest lobby interests having their objectives met in a first come first served system.
- The lack of a comprehensive territorial development assessment process for projects such as Casino means that projects proceed by small increments without a review of the larger picture.

- The LRG is concerned that the Development Assessment Process that is currently being designed and negotiated under the Land Claim Agreement will pertain only to projects at the permit/license stage and that there will not be an opportunity to assess such factors as: development scenarios, concept plans, alternative options for development, cumulative impacts of linear development and associated impacts of projects such as Casino Trail.

Recommendations pertaining to Legislation and Regulation

- 5.2.1 That the Territorial Lands Act be amended by the repeal of Section 3.3.
- 5.2.2 That current legislation governing mining in the Yukon, in particular the Yukon Quartz and Placer Mining Acts, be reviewed and amended to reflect sound environmental standards and practices including abandonment and rehabilitation requirements. This review must guarantee and facilitate the involvement of Yukon First Nations, industry and the public at large.
- 5.2.3 Implementation of legislative changes should consider among other factors, the concern of industry with respect to the economic implications of meeting new standards.
- 5.2.4 That the current land use application review process be improved in consultation with Yukon First Nations, resource users and the public. Measures should include but not be limited to:
 - 5.2.4.1 Improving the information flow to communities through the use of fax machines and a re-design of the land use application form to include a brief 1-2 paragraph assessment of potential environmental and resource impact to more clearly and comprehensively present information to reviewers.
 - 5.2.4.2 Improve the mapping and sketch requirements to accompany the application to ensure easy reference.
 - 5.2.4.3 Increase the frequency of regular consultation and communication between field staff of both federal and territorial governments (RMO's, CO's) with local municipalities and Indian Bands.
 - 5.2.4.4 Develop increased participation in the Federal Territorial Land Use Advisory Committee (FTLAC) through the formal input of local Renewable Resource Councils into the FTLAC process.

Recommendations pertaining to the Planning Process

- 5.2.5 Integrate land and resource planning and management processes through use of local Renewable Resource Councils.
- 5.2.6 That the Land Use Planning Policy Advisory Committee review present LUP priorities and establish the Northern Tutchone traditional territories of the Little Salmon Carmacks and Selkirk First Nations in the central Yukon as a high priority planning region.

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- 5.2.7 In the absence of any re-ordering of Northern Land Use Planning priority areas, that a sub-regional plan be undertaken of the Dawson Range/Casino area. This work should continue the identification of critical habitat areas.
- 5.2.8 That the sub-regional planning initiative be structured under the guidelines established by the Land Claims Sub-agreement on Land Use Planning.
- 5.2.9 That the new Development Assessment Process currently being negotiated allow for the assessment of concept plans, policies and alternative development scenarios.
- 5.2.10 That the Development Assessment process follow a logical progression of an environmental review of a development before application is made for other permits including a water licence.

5.3 Roads / Transportation Policy and Capital Planning

Background:

Upon examination of the history and problems of the Casino Trail Project it became apparent that the genesis of some of these problems are related to the system of planning, implementation and funding of roads in the Yukon. The Resource Transportation Access Program (RTAP) of the Yukon Government provides funding assistance for resource access development in the Territory such as roads, airstrips, etc. R.T.A.P. has 2 Committees - the RTAP Technical Committee which approves applications for contributions up to \$30,000 and the RTAP Management Committee which approves expenditures up to \$500,000. The RTAP Program has a \$2,250,000 annual budget and the program is in its 4th year of a 5 year term. A total of 129 applications have been received as of January 1990 and 63 applications have been approved for funding assistance.

Problem Statement:

Although some improvements have been made to RTAP since its inception in 1986, the following matters are of specific concern to the Local Resource Group with respect to resource access development in the area affected by the Casino Trail Project in particular, and in the Yukon in general:

- in the absence of a Yukon Roads / Transportation Policy, proposals for roads are dealt with on a first come first served basis by the Resource Transportation Access Program Committee(s) with little opportunity to view the larger picture of transportation and regional development planning. This tends to create a reactive and incremental approach to road development.
- the Casino Trail Project did not have a real applicant/proponent from the start of the project leaving government by default to become the proponent.
- there was a tendency for the Casino Trail Project to take on a life of its own once started, with few built-in checks or balances to evaluate the ongoing need for the project.
- although consultation with Bands has been implemented recently by RTAP it cannot replace early involvement in the planning process. Leaving consultation until the RTAP stage forces the Bands into a reactive position rather than a cooperative position.
- until implementation of the Capital Planning Process there was no formalized consultation process for roads development leaving room for potential abuse of the regulatory or permitting system by interest groups.

Recommendations

While the following recommendations reflect the Casino Trail case study, they also have application for road development throughout the Territory:

- 5.3.1 That a Resource Access Policy for the Yukon be developed as a priority by the Department of Community and Transportation Services, and that this policy ultimately be a sub-component of a Yukon Roads and Transportation Policy.
 - 5.3.1.1 That the Policy provide linkages to the Yukon Conservation Strategy, the Yukon Economic Strategy and the Yukon Indian Land Claim Framework Agreement;
 - 5.3.1.2 That the Policy consider distinct categories of roads, including, but not limited to, public arterial roads, resource roads (including exploration, production and spur roads)
 - 5.3.1.3 That the Policy integrate the present Capital Planning Process.
 - 5.3.1.4 That the Policy be developed in conjunction with Yukon First Nations and industry.
 - 5.3.1.5 That a single window approach be used in implementing the policy.
 - 5.3.1.6 That the relevant knowledge and experience of both the Yukon Indian People and the scientific communities is fully integrated in the planning and development of resource access in the Yukon.
- 5.3.2 That the proposed new Yukon Highways Act and regulations under the Act be reviewed publicly and revised periodically to reflect policy initiatives with respect to Roads and Transportation Policy.
- 5.3.3 That both private and government agency applications for financial assistance for resource roads have a specific applicant/proponent.
- 5.3.4 That applicants for RTAP funding be required to take on at least a portion of the funding responsibility for the development of the road.
- 5.3.5 That resource access projects be re-evaluated annually according to current conditions, to ensure that projects do not take on a life of their own, and to evaluate the continued viability and desirability of the project.
- 5.3.6 That proponents seeking funding for major resource roads or airstrips be required to contribute to funding of impact assessments related to their applications, including mitigative measures, rehabilitation and abandonment, and measures outlining means of restricting access to the road.

- 5.3.7 That a Spur Roads Strategy for the Casino Trail be prepared. A major objective of the Strategy should be to limit the intrusive effect of additional road development with particular attention to critical wildlife habitat. In addition the Strategy should delineate specific areas where road development/air strips should be avoided.

5.4 Environmental Protection for the Casino Area

Problem Statement

The Casino Trail area does not fall under any special protective measures either of a federal or territorial nature, with the exception of Fort Selkirk which has been designated under the Interim Protection measures of the Yukon Indian Land Claim process.

The Local Resource Group is concerned about a number of current and potential activities which could pose a threat to the integrity of the ecology of the area:

- increased access for sports hunters to the area as a result of mining roads;
- the potential practice of heap leaching in which toxic chemicals (cyanide) are used in the extraction of gold;
- the transport of toxic chemicals on roads in the area; and
- the difficulties of enforcement of hunting closures and other environmental safeguards.

The increased access that the Casino Trail will provide for sports hunters is of immediate concern to the LRG. In 1988 the LRG requested that the Yukon Wildlife Management Board put into place a no hunting corridor along the route of the Casino Trail. The Yukon Wildlife Management Board did not respond to the first request of the LRG, however upon appeal, the Board agreed to closure of Game Management Zones for the 1989 season (Zones 5-22, 5-23, 5-24, 5-26).

Although the LRG understands the rationale for the Wildlife Board closing all game management zones in the area (low game population numbers), the LRG feels that a no hunting corridor is preferable to complete closure of the area as the Bands agreed to abide by a no hunting corridor only. As such the LRG has requested of the Wildlife Board a reconsideration of the concept of a corridor closure.

In addition, the LRG has reviewed in detail the recommendations of the Wildlife Protection Plan prepared by the Fish and Wildlife Branch of the Department of Renewable Resources, as well as the proposal to study the caribou winter range in the Casino Trail Area. The LRG has adopted many of the recommendations of the Wildlife Protection Plan, and has communicated suggestions for revisions to the Fish and Wildlife Branch of the Department of Renewable Resources stressing the importance of developing an effective process to carry out joint wildlife studies with Yukon First Nations.

Recommendations

- 5.4.1 That any company undertaking heap leaching be required to provide a full impact assessment of the effects of heap leaching in the Dawson Range Casino area including a contingency plan.

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- 5.4.1.1 That companies undertaking heap leaching be required to post the maximum bond required, and that fencing, chemical and physical stabilization of the leaching area be required.
- 5.4.2 That the provisions of the Dangerous Goods Transportation Act contained in Section 26 be strictly applied and enforced, and that substantial bonding be required as a condition of work for companies transporting and using toxic commercial chemicals, other hazardous materials and wastes.
 - 5.4.2.1 That the Department of Community and Transportation Services be required to ensure roads used for transportation of dangerous toxic chemicals are maintained in a safe condition.
 - 5.4.2.2 That carriers have a contingency plan and the capacity to deal with emergencies.
- 5.4.3 That abandonment plans and adequate bonding/security be required for any companies operating in the Casino area including comprehensive details on site rehabilitation, chemical and physical stabilization of tailings and other wastes.
- 5.4.4 That the Wildlife Management Board review the original proposal of a "no hunting corridor" along the Casino Trail, as opposed to the complete closure of GMZ's 5-22, 5-23, 5-24, 5- 26.
- 5.4.5 That access along the Casino Trail be restricted to the snow free period, i.e. no road maintenance or snow removal between the months of November and May.
- 5.4.6 That the Wildlife Management Plan be revised and finalized with Local Renewable Resource Councils once information on the Klaza winter range is complete.
- 5.4.7 That a proposal for a Special Conservation Area be developed for the Dawson Range.

5.5 Economic Opportunities and Training

Background

The mandate of the LRG included "the consideration of potential economic activities in which Yukon First Nations may become involved either directly or indirectly as a result of the Casino Trail Project." (Terms of Reference)

During the review of the Casino Trail Project the LRG has become aware of the difficulties experienced by Yukon First Nations in benefitting economically from major projects in the Casino Trail area. Accessing available economic opportunities, developing appropriate skills, structuring economic activity to complement traditional pursuits are all factors which present barriers and constraints to Yukon First Nations in maximizing local benefits of projects such as Casino Trail. These are not new barriers in the system, yet they continue to exist for Yukon First Nations.

The Local Resource Group agrees with the pressing need to recognize the value of the subsistence activities to the social, cultural, spiritual and economic life of Yukon Indian people. The Local Resource Group recognizes these activities such as hunting, fishing, trapping, picking of berries and plants, sometimes referred to as the "bush economy" activities as a legitimate element of community economic structure that should be reflected in the planning and development of the region. The Local Resource Group also acknowledges that over past years a wide variety of stresses have produced considerable family and community social breakdown and that every effort must be taken to redress these conditions.

Recommendations

- 5.5.1 That the feasibility study on harvest support programs outlined in the Land Claims Sub-agreement on Economic Development Measures be undertaken as soon as possible.
- 5.5.2 That all planners incorporate cultural and economic values related to subsistence and community economies into conventional economic analysis and planning methods for Yukon land and resource allocation.
- 5.5.3 That adequate human and financial resources be provided for Yukon First Nations to gather and use information pertaining to their traditional lands and resources.
- 5.5.4 That training be provided to Yukon First Nations members to enable them to engage in the work required in 5.5.3.
- 5.5.5 That the Development Assessment Process require all development projects to identify a local benefits plan outlining such factors as economic opportunities, skill requirements, training, use of local services and materials.
- 5.5.6 That as a first step government agencies (Department of Education, Community and Transportation Services) meet with Little Salmon Carmacks

and Selkirk First Nations as soon as possible to outline measures that may be taken for Yukon First Nations to benefit from projects such as Casino Trail.

- 5.5.7 That wildlife management training opportunities be facilitated at an early date through the implementation of training measures outlined in Section 13 of the Land Claims Sub-Agreement on Fish and Wildlife including such provisions as: resource conflict resolution training, basic geography, planning processes, traditional land use.

5.6 Compensation

The matter of compensation was referenced by the original Project Advisory Committee (PAC) as an issue of importance. The LRG has heard continual concern from all parties with respect to the need for compensation for renewable resource users who have experienced loss or damage to their land, equipment and income as a result of resource developments.

We therefore recommend:

- 5.6.1 That the Trappers Compensation Policy referenced in Section 11.7 of the Sub-agreement on Fish and Wildlife Management be pre-implemented as a priority in the Casino area.

5.7 Monitoring

- 5.7.1 That the monitoring provisions of the proposed Wildlife Management Plan be implemented:
 - 5.7.1.1 Continue to monitor raptor productivity in the proposed road corridor at 2 year intervals starting in July 1990;
 - 5.7.1.2 Resurvey the eastern Dall sheep population GMZ 5-23 in 1990;
 - 5.7.1.3 Replace 15 radio collars on the Klaza caribou herd in 1990 and schedule another herd census for late winter 1994 (5 year interval);
 - 5.7.1.4 Determine moose distribution and relative density during stratification flights of the Casino Trail survey area and a portion of GMZ 5-26 during early winter 1992.
- 5.7.2 That regular reports on the monitoring activities be communicated to the Little Salmon Carmacks and Selkirk Bands in the interim until Renewable Resources Councils established.
- 5.7.3 That monitoring of surface and ground water as well as baseline monitoring of fish and wildlife habitat take place on a regular basis in the Casino area with the full participation of First Nations people.
- 5.7.4 That the Casino Trail case be used as a training opportunity to involve First Nations in monitoring activities such as sampling, surveying, mapping and interpretation of results.

5.8 The Local Resource Group Process

Initiated as a forum for exploring the resolution of resource use conflicts among government agencies and the Selkirk and Carmacks Little Salmon Indian Bands, the Local Resource Group process has provided a positive learning experience for members, community residents and government personnel with whom it has come into contact. It has acted as somewhat of a forerunner to the potential activities of the Renewable Resources Council proposed under the Sub-agreement on Fish and Wildlife.

The Local Resource Group process is indebted to its members for their willingness to put aside biases in order to put forward practical suggestions of improvements to not only the way in which government carries out planning and resource allocation, but also the role and responsibility that Bands and communities themselves must play in this process.

All members of the Local Resource Group feel that this model of cross representation and mediation has broad application to the other fields of resource use conflict, as well as the various Boards and Committee structures of public government.

Recommendations

- 5.8.1 That the Sub-Agreement on Dispute Resolution in the Yukon Indian Land Claim Framework Agreement be pre-implemented immediately.
- 5.8.2 That development begin on a Conflict Resolution training curriculum which reflects the unique cross cultural dynamics of the Yukon.
- 5.8.3 That the Selkirk and Little Salmon Renewable Resource Councils be pre-implemented in 1990 to allow for the early involvement of First Nations in joint management of land and resources.
- 5.8.4 That Renewable Resource Councils be responsible for follow-up to the work of the LRG. Of high priority should be follow-up to the analysis of the Klaza Winter Range Assessment and further work which result from the acceptance of these recommendations.
- 5.8.5 That the LRG provide follow-up on the recommendations contained in this report until the Renewable Resource Councils are established for the Carmacks Little Salmon and Selkirk First Nations, and that upon their inception, the LRG provide a full briefing on the work of the LRG.