



Office of the Minister
Box 2703, Whitehorse, Yukon Y1A 2C6

February 21, 2011

Peel Watershed Planning Commission
307 Jarvis Street, Suite 201
Whitehorse, Yukon Y1A 2H3

Dear Chair:

I would like to thank Commission members for their hard work and dedication in developing the Draft Recommended Plan ("the plan"). It has been a challenging initiative and I appreciate all of your efforts.

This letter builds on the joint response from the Parties and reflects the Yukon government's views on key policy issues identified during our review of the plan. Also enclosed is a more detailed technical analysis that elaborates on this response and offers technical feedback on the plan.

Yukon government continues to follow the process outlined in Chapter 11 of the Yukon First Nation Final Agreements and is responding to the Commission per the process described under section 11.6.

Yukon is seeking modifications to the current version of the plan, and requesting the Commission re-evaluate some of the plan's recommendations based on the following themes:

Balance Conservation and Development Interests

The Yukon government recognizes that the Peel watershed is a unique area that includes many areas of environmental and cultural significance as well as identified non-renewable resources. We are seeking a Final Recommended Plan ("the Final Plan") that recognizes, accommodates and balances society's interest in these different features of the region.

Yukon government supports the internationally recognized concept of the "precautionary principle" and the objectives outlined in Chapter 11 of the First Nation Final Agreements. Based on Principle #15 of the *Rio Declaration* and the land use planning objectives, we feel that the Commission should consider recommending some cost-effective measures for managing land uses and preventing degradation in some parts of the Peel region. The planning region has a mix of values and resources. We believe that there is an ability to accommodate mixed uses that meet society's need, while erring on the side of caution on the basis of a determined level of risk.



The plan proposed that a large portion of the region be designated as Special Management Areas. While government believes there should be areas where development is excluded in the Peel, more work needs to be done by the Commission to identify and develop a rationale for these areas.

We request that the Commission re-examine the location, nature and potential extent of current and future conflicts between the values of conservation, non-consumptive resource use and resource development. During this review, Yukon's existing legislation, regulation, laws of General Application, government policies and the *Yukon Environmental and Socio-economic Assessment Act (YESAA)* and Water Board processes should be considered as they regulate development and are important tools in conserving land and mitigating risk.

The Yukon government recognizes that managing surface access (winter and all-season roads) can be challenging but not impossible. We believe a ban on surface access is not a workable scenario in a region with existing land interests and future development potential. We would like to see a range of access options developed which consider the various conservation and resource values throughout the region and also take into account existing regulatory tools and best management practices which can be used to mitigate risk and limit other user's access.

Plan Complexity of the Land Management Regime

The Yukon government is looking for a less complex and more streamlined land management regime in the Final Plan.

The management guidance proposed in the plan is complex due to the number of land management units (LMUs). This complexity is compounded by the various management goals articulated for each LMU. Yukon feels that in the interest of efficiency and clarity, some of these LMUs with similar management intent and land based values could be consolidated into larger units. Some of the LMUs are very small (e.g. LMU F, I, J, L and N) and hence are not at a regional planning scale. Other LMUs (e.g. D and E) are very large, which limits the flexibility of land use management over extensive areas of the landscape. Consolidating some specific units would assist in implementing the land use plan and in implementing any proposed subsequent planning exercises.

Another concern is the layers of additional planning proposed for the region. Yukon government had expected that once a regional land use plan was approved, a large number of subsequent planning exercises (e.g. sub-regional planning) would not be required. For example, the plan recommends that up to 19 additional planning exercises may be undertaken for the LMUs. This volume of subsequent planning exercises would be

needlessly complex and require substantial resources. It would also create areas of overlap where there may be multiple applicable plans, and thereby result in uncertainty or confusion.

While we recognize some additional future planning may be necessary, (such as in the North Yukon region with the Summit/Bell LMU), from a capacity perspective and in the interests of management clarity for the region, the Yukon government cannot support the proposed number of subsequent management plans.

Implementation

The Yukon government requires a land use plan for the Peel region that can be successfully implemented and administered by the Parties, and provide workable guidance over the long term.

The heavy reliance on plan amendment and variances (changing the plan) is problematic since it would change the “rules” on an ongoing basis and the process would be a huge burden on the Parties. A land use plan should provide enough broad guidance so that it does not require frequent amendments to address normal changes in land uses or interest. Yukon does not support the concept in the plan whereby a third party (Commission) would make determinations on plan amendments or variances. It is the Parties to the approved land use plan that are charged with implementing it on their respective lands.

Yukon government is also concerned with the way the plan proposes to deal with “nonconforming uses” under YESAA. If the plan’s proposed approach was applied, the Designated Office of the Yukon Environmental and Socio-economic Assessment Board would have to call upon the Commission frequently to make a determination on conformity. This creates an additional layer of review and has time and resource implications that Yukon government views as unacceptable. A model that has been implemented in the North Yukon plan delegates conformity checks to the Yukon Land Use Planning Council, and we suggest that the Commission consider that model.

General

The Yukon government would prefer that the Commission produce a Final Plan that is more streamlined and user-friendly. We believe that the existing approved North Yukon regional plan can serve as a model for size and readability on the next version of the plan.

The full version of the plan currently includes a number of appendices. This approach should be reconsidered, as all the key management direction of a regional land use plan should be presented within the body of the plan, rather than as appendices. However, having all the key management recommendations “rolled-up” as a summary list in an appendix (as in North Yukon plan) would be helpful.

In summary, the Yukon government would like the Commission to consider the following when developing the Final Plan:

1. Re-examine conservation values, non-consumptive resource use and resource development to achieve a more balanced plan.
2. Develop options for access that reflect the varying conservation, tourism and resource values throughout the region.
3. Simplify the proposed land management regime by re-evaluating the number of zones, consolidating some of the land management units and removing the need for future additional sub-regional planning exercises.
4. Revise the plan to reflect that the Parties are responsible for implementing the plan on their land and will determine the need for plan review and amendment.
5. Generally, develop a clear, high level and streamlined document that focuses on providing long term guidance for land and resource management.

We understand that the Parties' responses to the plan will require significant deliberation by the Commission in considering its work ahead. Modifying the plan will take time and resources, and we look forward to working with the Commission in developing a reasonable work plan, timeline, and associated budget for completion of a Final Plan. Our Technical Working Group (TWG) member should be contacted if the Commission wishes further elaboration on any part of the response or technical references therein.

Following receipt of the Final Plan, the Parties have agreed to review and conduct a joint consultation as outlined in the recently renewed Letter of Understanding.

Again, I would like to thank the Commission for its efforts in developing the Draft Recommended Plan and look forward to receiving the Final Plan.

Sincerely,


Patrick Rouble
Minister, Energy, Mines and Resources

cc. Honourable John Edzerza, Minister of Environment

Attachment: Detailed Yukon Government Response on the Recommended Peel Watershed Plan

Detailed Yukon Government Response on the Recommended Peel Watershed Plan

This feedback document is a detailed response to the Recommended Peel Watershed Land Use Plan. Due to the size of the Plan, the review focused primarily on plan elements that required modifications. Yukon government acknowledges the hard work involved in producing the Recommended plan and supports many parts of the plan. Much of the current plan content, in particular the descriptions of the region's values and resources, will be appropriate in a final recommended plan.

The general comments (Part One) are to be considered broadly with respect to the overall plan approach. Part Two includes specific comments by page numbers that follow the same sequence as the plan for easier integration. We encourage the Commission to contact the Yukon Government Technical Working Group (TWG) member to arrange follow-up meetings with YG staff to assist in the integration of these comments.

Part 1: General Comments

Plan Context (Forward and Introduction):

The Commission made its conclusions and prepared its recommendations according to its Terms of Reference and based on its understanding of Chapter 11. As a product of land claim agreements negotiated by three parties, it is critical that the land use plan be factually correct in how it presents those Final Agreements. This is particularly important because the purpose of the land use plan is to provide guidance to decision makers.

In a number of places in the Recommended Plan, there are selective references to, or paraphrasing of the clauses of the Final Agreements, resulting in specific statements or conclusions that are not supported by the Final Agreements, or which are vague and open to interpretations. For example, on page 3-10, the statement "Since cultural and traditional-use activities are to be maintained under UFA/FN agreements..." arguably gives the impression that the Final Agreements in some way ensure such activities are to be maintained. Neither 'cultural activity' nor 'traditional-use activity' are defined terms, so it is unclear what uses (or potential treaty rights) they refer to. It is also unclear what is meant by 'to be maintained' (and where in the Final Agreements such an assurance is given). Rather than paraphrasing and/or providing an interpretation of the Final Agreement, the relevant Final Agreement clauses should be quoted directly.

Another concern is that in a number of places, the Recommended Plan draws on objectives and clauses from chapters other than the Regional Land Use Planning chapter (Chapter 11). As a comprehensive land claim agreement that speaks to so many matters, a Final Agreement must be read and understood as a whole. At the same time it is important not to interpret individual clauses outside of their context and apply them to other processes or chapters.

LMU "Linkages" to the UFA:

The concept of linkages (or links) between the rationale for each SMA and the Final Agreements is introduced at page 3-8 and such linkages are identified for each of the LMUs in section 4.2. There is little provided by way of explanation as to what it means for these UFA clauses to be identified as 'links' to or for the Management Objective. The

Commission itself notes (on page 5-2) *“linkages...have been identified based upon the Commission’s interpretations of these documents [UFA/FNFAs]. The parties however, are strongly advised to make sure such linkages are accurate during the Recommended Plan review stage, including deferring to expert opinion on UFA interpretation.”*

This approach (of identifying linkages) should be reconsidered (and perhaps eliminated) as it gives the impression that the referenced clauses somehow provide support or justification for the Management Objectives.

Some of the referenced clauses may be broadly related to the subject matter broadly speaking, but that is simply a reflection of the fact that the Final Agreements are comprehensive and cover a variety of subjects. For example, one of the Key Management Objectives for the Ogilvie River Headwaters LMU is "To manage Peregrine Falcon nesting habitat to ensure reproductive success." One of the stated UFA links for this Objective is 16.6.9 – simply states that a RRC can make recommendations to the Minister, affected First Nation, the FWMB, & the Salmon Sub-Committee on any matter related to Conservation of Fish and Wildlife. Another example for the same LMU is the management objective to identify and protect culturally important sites and areas that are of high subsistence and heritage values to First Nations. In this case one of the identified UFA links is 13.5.3.2 states that the Yukon Heritage Resources Board may make recommendations to the Minister and First Nation on the means by which traditional knowledge of Yukon Indian Elders may be considered in the management of Moveable Heritage Resources and Heritage Sites. The fact that such clauses are speaking to the same broad subject matter as the stated Management Objective cannot be used to imply that it forms part of the rationale for that SMA.

Also, references to clauses in the Gwich’in Transboundary Agreement as being ‘UFA links’ should be removed.

Enhanced Consultation:

The concept of ‘enhanced consultation’ should be removed. It appears that the only enhancement to existing processes would be the requirement that YG consult confidentially with First Nations, with no reciprocal obligation. Consultation is defined in the Final Agreement and in common law; and as the Plan derives from the Agreement it is confusing and inappropriate to introduce an additional consultation term or process.

The text box on page 3-13 about the Little Salmon v. Yukon court case should be deleted. It is inappropriate for the Commission to suggest that what it refers to as ‘enhanced consultation’ would have avoided this dispute. One of the conclusions in the judgment by the Supreme Court was that the consultation in this case was adequate.

Precautionary Principle

The definition in the Recommended Plan emphasizes that a lack of information does not wholly justify inaction “when the costs of action are negligible.” While the benefits of inaction are plainly discussed throughout the Recommended Plan, costs of inaction have not been discussed. It is recommended that the Plan provide a full account of information the Commission received on the potential impacts of limiting future options in its land use designations. Given the plan’s priority on the precautionary principle, it is important that the principle be considered and applied in a way that recognizes a fulsome understanding of costs and benefits.

Management Direction and Conditions

While recognition of the ecological values and objectives to maintain them is generally clear in the plan, many of the management conditions are vague and ambiguous. For example, several management conditions include the statement “*Manage levels and types of land use in advance of ...*”. Some clarity is needed around what the thresholds or triggers for these are or how they might be developed.

The term General Management Direction (GMD) or General Management Directions and Monitoring (GMDM) is used several times, but it does not appear to be consistently used (e.g. Sections 3.2.2 and 4.3 are not consistent with one another). The plan also mentions that GMD is provided in section 4.2 (Management of Land Use by LMU) but does not describe what elements of this section are considered the GMD.

Conservation Values

The plan consistently reflects a full range of conservation ideals related to watershed-level protection, landscape connectivity, wilderness, focal species preservation, retention of key habitats, provision of ecosystem services, recreation, and retaining ecological integrity.

Implementation

When producing the Final Recommended plan, the Commission should be cognizant and realistic about the cost and resource commitments of plan implementation. As one example, the Plan makes a multitude of research recommendations ranging from wildlife habitat to water resources, to best management practice research. It will be up to government to evaluate each recommendation, assess capacity to implement them, and prioritize them. It should be explicitly stated in the Final Recommended plan that the research recommendations are suggestions, not obligations, upon signing an Approved plan.

Implementation: Role of the Commission

The Plan presents an ongoing role for the Commission that has not been agreed to by the Parties. Clauses 11.2.1.3 to 11.2.1.6 speak to the process of regional land use planning providing for plan review etc. but do not specify that such a role is to be carried out by the Commission. Clause 11.4.5.10 suggests only that there *may* be a role for the Commission.

Other examples of this are on page iv (point 8); on page 1-2 (last row in Table 1.1); page 1-14 (reference to “a future Peel Regional Planning Commission”); page 1-18 (reference to a YESAB to Commission referral step); page 3-3 (reference to a ‘conformity evaluation’ process); page 3-4 (reference to referring a proposal to amend the Plan to the Commission); page 4-2-105 (reference to a “sub-regional planning Commission”).

The plan also proposes a role for the Commission in plan variance and amendment. Processes that do not include a Commission for addressing variances and amendments need to be identified, as it should not be assumed a Commission remains active post plan approval. Note that the North Yukon plan does not have a Commission involved in implementing the plan.

Presentation/Format of Plan

An executive summary should be included in the Final Recommended plan. This should present the highlights of the document without adding any new material not presented in the plan itself.

The Plan contained numerous typos and has some font inconsistencies.

The Recommended Plan is too large and complex. It needs to be more streamlined and written more concisely. The organization and presentation of the Recommended Plan *Summary* document is well-written, and could be used as a model for a modified full plan.

It would be useful for the Commission to provide a roll-up of all the management recommendations as was done by the North Yukon Planning Commission (see Appendix A2.2 of the Approved North Yukon plan).

There are a number of strong and conclusive statements made throughout the plan that are unsubstantiated or unreferenced. If retained, these statements require citations. Some specific examples are provided below.

Part 2: Specific Comments by Plan Sections

Plan Section One: Introduction

Page iii (first bullet)

The foundation of the plan is the First Nation Final Agreements, not the UFA, as it is the Final Agreements themselves (not the UFA) which were given the force of law through the settlement legislation. This error is replicated in other places in the plan and this should be corrected throughout.

Page 1-2 & 1-3 (references to 11.4.5.7 and 11.1.1.3)

The references to affected First Nations should be corrected. These FA clauses use the term Yukon Indian People, which is a defined term, and not the same as 'affected First Nations', which is not mentioned in those clauses.

Page 1-7

Under 1.3 the text box says "five" principles, when there are six according to section 1.3.1.

Page 1-7

Section 1.3 Independence and Impartiality

The Message from the Commission (page vii) states "we were at a fork in the trail and had to choose to manage for one cluster of interests or the other" seems to be inconsistent with the goals and principles laid out in the Plan, particularly with section 1.3 on independence and impartiality, where it states " The Commission will carefully consider any and all information, advice or recommendations provided to it by government, agency or the public in a balanced and neutral manner." It is recommended that the Plan remain consistent with the Commission's goals and principles approved by the Parties.

Page 1-8 (First Nations Traditional and Community Resource Use)

There is no Objective 5.4.9 in the Final Agreement.

Page 1-12 (YESAB)

It would be more appropriate to reference the FNNND Final Agreement rather than the Vuntut Gwitchin Final Agreement.

Page 1-12 (Canada)

The text refers to a section 1.3.3 of the Recommended Plan which does not exist.

Page 1-14

There is a reference in the last paragraph to an information gap analysis as part of the basis towards the use of the precautionary principle, we would recommend that this gap analysis be included in the plan or provided as an appendix.

Page 1-14

The plan states the following: "*The Commission notes that virtually all cases of wildlife population declines in the Yukon are linked to increased access.*" This is an example of a conclusive statement where a reference is required.

Page 1-15 Section 1.6 Linkages...

The Porcupine Caribou Management Board is not a UFA Board. See also 4-2-23 for the same reference.

Plan Section 2: Description of Project Area

Page 2-2 Land Ownership, Regulation and Management

There are some errors in this section. For example the first paragraph could be interpreted as implying that the Gwich'in Comprehensive Land Claim Agreement is under the UFA. There is a reference to a Table 7.1 listing lands and resources acts, but there is no such Table in the Plan. There is a statement that Yukon First Nation rights can "also" be exercised on non-settlement lands, implying that such lands are outside of a Traditional Territory. Tetlit Gwich'in Yukon Land is referred to as Settlement Land, which it is not. Finally, all of the Tetlit Gwich'in land parcels are owned in fee simple, not just the 11 rural blocks.

Page 2-4 (Peel River Preserve)

This section referencing the Peel River Preserve as being a 'designated area' should be revised or deleted. It originated as a federal notation in the 1920s with no assessment process. The designation as a preserve was rescinded in the 1980s.

Page 2-4 & 2-5 (Dempster Highway Development Area)

This is an incorrect description of the Area Development Act. There is nothing in the Act or Regulations suggesting that they are intended "to provide a higher level of environmental assessment of activities".

Page 2-7 (middle para.)

The sentence containing "...given the emphasis on site-specific management in the UFA." should be clarified, as it is not correct to suggest the FA focuses on site-specific management.

Page 2-9, Section 2.6.1 (Tourism)

The Recommended Plan supports important wilderness-based tourism and guided hunting resources, activities and potential in the planning region. The Snake, Wind and Bonnet Plume watersheds are particularly important to wilderness tourism. The

continued success of existing tourism business, and future sustainable growth in remote areas of the planning region, depends on retaining high quality wilderness and wildlife resources.

The Recommended Plan also supports road accessible tourism activity and tourism potential along the Dempster Highway Corridor. Maintaining visual quality and sustainable outdoor recreation and tourism are identified as important management objectives for a proposed sub-regional plan for the Dempster Highway Corridor.

Page 2-10

Tourism is not the only economic activity that is sensitive to the general state of the economy, and it should not be assumed that tourism is more sensitive to the general state of the economy than other economic sectors in the region.

Plan Section 3: Plan Framework

The process laid out in Section 3.4 (Plan Conformity and Changing the Plan) is a process-intensive model that would create additional administrative layers with time implications. With respect to determining plan conformity, there is an operational model in place for the North Yukon planning region which has YLUPC performing the function of determining plan conformity. This model should be considered in implementing the Peel land use plan.

Page 3-5 Section 3.2.3. Management Conditions. In the last sentence there is a reference to Section 3.5, which does not exist.

Page 3-6 (footnote)

The reference to the Historic Resources Board should be to the Yukon Heritage Resources Board.

Page 3-7 (Lands in Special Management Areas)

The text is confusing and should be clarified. For example what is meant by “the consensus recommendations of the Parties”? The following sentence speaks of “regulatory tools that reflect the Yukon Government’s authority under the UFA to manage on-settlement or public lands” – but that authority derives from laws of general application not the UFA.

Page 3-8 (2nd bullet):

This bullet is incorrect in how it describes Chapter 10 referrals of SMA proposals to RRCs. Clause 10.3.3 does provide for the referral of SMA proposals to RRCs, however, per Schedule B of Chapter 2 of the NND Final Agreement, clause 10.3.3 is suspended in overlap areas.

Pages 3-10 (4th para.) and 3-11(1st para.)

Some of the referenced regulatory tools are incorrect. The reference to “ecological preserve” should be “ecological reserve” and should be referenced under the *Parks and Land Certainty Act* rather than the *Environment Act*. Habitat Protection Areas should be referenced as being under the *Wildlife Act* rather than the *Environment Act*. There are currently no ‘wildlife reserve’ or ‘wildlife area’ designations available under the *Environment Act*, though it does allow for a “wilderness management area”.

Page 3-13 (3.3.4 Sub-Regional Planning)

The first sentence is not written clearly, and references only some of the provisions related to sub-regional planning. Suggested rewording is “This Plan provides for sub-regional planning in accordance with Chapter 11, and is available...”

Page 3-14 (3.4 Plan Conformity...)

The description of how there may be changes to the Plan is not quite correct and should be clarified. For example 11.4.5.10 does not speak to the question of the Parties agreeing to a review. Also there is some duplication in the text.

Page 3-16, Section 3.4.1 – “Plan variances are to be granted only to projects *that are small enough* to be processed through a YESAA Designated Office Evaluation” is misleading. Designated Offices assess a wide range of projects including advanced mineral exploration, mine development and new remote road development.

Plan Section 4: Land Use Management

Page 4-1-3 Mineral Resources

Yukon’s Environmental and Socio-Economic Assessment (YESAB) process and permitting, regulation, enforcement and monitoring processes for development projects need to be accurately reflected in the Recommended Plan. The Plan includes several inaccurate or potentially misleading statements regarding the YESAA process. Specific examples of statements are provided herein.

The sentence “... YESAA *only applies to more advanced exploration projects...*” is incorrect. YESAA applies to a range of mineral exploration projects.

Existing referral, assessment, permitting and regulatory processes do not ‘completely assess’ socio-economic aspects projects assessed at the Designated Office level.

A better description of, or perhaps a flow chart that illustrates the referral, YESAA and permitting processes would be useful.

Page 4-1-3 Mineral Resources

While the Recommended Plan supports important wilderness-based tourism and guided hunting activities, as well as a full range of conservation ideals, it does not effectively communicate the value of non-renewable resources in the planning region. Better use of the Commission’s *Resource Assessment* and Gartner Lee Limited’s *Strategic Overview of Possible Mineral Development Scenario* would improve the discussion on non-renewable resources in the region.

Page 4-1-11: A “Key Issue” identified about all-season roads is that they “persist for long periods of time, making full decommissioning and reclamation difficult, if not virtually impossible, in any foreseeable future”. This conclusive statement requires a reference.

Page 4-2-5 (First paragraph) and Page 4-2-4 (Rationale)

There are some discrepancies in references to the preferred regulatory designation tools.

Page 4-2-5 to 4-2-6. LMU A

The plan recommends the following:

“Key Management Objectives: To maintain existing water quality and flow regime throughout the headwaters of the Ogilvie watershed

Management Conditions: New infrastructure should be constructed so that damage to the shoreline, escarpments, the river and lake beds, or other natural features will not lead to significant impacts on water quality or fish populations.

Monitoring Recommendations: Monitor water quality and fish populations for adverse significant effects due to infrastructure on shorelines, escarpments, etc.”

Comments:

These recommendations are largely unnecessary. The plan should reflect the processes in place already. Most proposed infrastructure developments undergo an environmental and socio-economic assessment where potential water-related impacts and appropriate mitigation are identified. Projects that are allowed to proceed are then licensed which includes conditions requiring bio-physical monitoring. Environment Yukon’s water quality, hydrology and biological experts provide expert advice into the environmental assessment and regulatory processes to ensure appropriate water quality, quantify and biological protection and monitoring.

Pages 4-2-18, 4-2-25, 4-2-32

The recommendation that new (permanent or temporary) tourism infrastructure is prohibited in the Blackstone River Uplands and Snake River LMUs, and restricted to mobile or temporary infrastructure in the Hart River, and Wind and Bonnet Plume Rivers LMUs may limit opportunities for sustainable growth for wilderness tourism and guided hunting.

Page 4-2-23

In the first paragraph, the plan states the following:

“While mineral exploration has been a generally compatible land use activity with renewable uses, there are growing incidences of conflict with wilderness tourism operations (e.g. noise) or wildlife (e.g. sensory) disturbances resulting from exploration fly-in access or camp activity.” This statement requires a reference and some discussion of the materiality of any incidences of conflict.

Page 4-2-30 Section LMU E - The statement “The Snake River is the most popular wilderness paddling river in the Peel River watershed...” is inaccurate. The Wind River is the most popular paddling river in the watershed. In 2006 the Wind River received over twice the number of guided and self-guided paddlers (107) than the Snake River (49). The Wind River is also more popular with Yukon resident paddlers.

Page 4-2-30 Rationale for Designation

Guided hunting, a tourism activity, is not concentrated along valley bottoms.

Page 4-2-68 (Rationale)

“Committee” should be added after “Advisory”. The reference to ‘initial implementation’ is confusing. It would be clearer to simply reference the clause of Appendix C of the Transboundary Claim (that is, 7.2.3.c).

Page 4-2-72 (Rationale)

References to the Trail River, as a 'major east-west corridor' would be more appropriate in the discussion of the Peel Plateau LMU. Only a very small portion of the headwaters of rivers tributary to the Trail River are within the Turner Lake Wetlands LMU.

Pages 4-2-78, 4-2-81, and 4-2-86

The precise boundaries of the National Historic Site (NHS) are not clear. The textual descriptions of the NHS don't appear to correspond exactly with the boundaries noted on Map 4.

Page 4-2-80 LMU N Aberdeen and Peel Canyons

The plan states: "*Indicators of water drinking quality should be tracked on the Peel main stem with results being communicated to the community of Fort McPherson*". This is a responsibility of DIAND, Northwest Territories. A sampling program near the community exists.

Page 4-2-95 (Heritage, Cultural and Scientific Resources)

There is a reference to Brown Bear Creek. It is not in this LMU, but flows through the Jackfish Creek Lakes, Peel Plateau (east) and Lower Peel River LMUs.

Page 4-2-96 (Rationale)

There is a reference to the Richardson Mountains that should be the Ogilvie Mountains.

Page 4-2-105 Sub-regional Planning

The plan recommends sub-regional planning involving a planning commission and Yukon Fish and Wildlife Management Board (YFWMB). At present, YFWMB does not engage in planning processes such as this.

Page 4-2-110 (Land Status)

There is duplication in the references to the Secondary Use Area.

LMU descriptions in 4-2: The "rationale for designation" sections appear to have significant redundancy with the LMU description for "ecological/cultural resources". For reader ease and efficiencies, it may be practical to merge these separate components of the LMU descriptions.

The resolution of LMU maps in section 4-2 are of variable quality. For example, the LMU C map is fuzzy. Maps in the plan should be at a high resolution.

Three Heritage SMAs are proposed in Section 4-2: Hungry Lake, Aberdeen/Peel Canyon and Lower Peel River. Establishing three Heritage SMAs within one year of Plan approval is not possible.

Photos in section 4-2 should be identified as ("YG Photo" or "CWS Photo").

In various LMU descriptions, the following phrase is used "high endemism/rarity". These two terms mean different things from one another, and each applicable circumstance could result in varying management approaches.

It is not clear whether the Dempster Corridor (LMU 2) management intent for sub-

regional planning would also be recommended for the highway corridor portion of LMUs 4 and H (both of these LMUs contain portions of the highway corridor)

The plan could have better presented links between the significant value data and the recommendations, as it is not always clear what criteria were used for a particular designation or recommended specific management goals for each LMU.

LMUs 1 to 5 should include some sort of consideration of the identified wildlife migration corridors.

The Commission could consider consolidation of LMUs, as many of the LMUs have similar values and similar management intent. Based on that observation, some consolidation of the units may be appropriate and provide some efficiency in any future planning requirements. See table below for suggestions:

Area	Plan Recommendation	Suggestion
LMU C,D,E,F	C, D, E recommended Wilderness Preserves. F recommended as a Historic Site.	Consolidate units and recommend management tools that retain wilderness.
LMU N,O,P	N, O recommended as National Historic Site. P recommended as Wilderness Management Area.	Consolidate units and recommend management tools that retain the wilderness and significant habitat.
LMU A,B (Ogilvie)	A recommended as HPA. B recommended as Ecological Reserve.	Consolidate LMU A with portion of LMU B (west). Recommend a management tool that will also allow for protection of the range of Porcupine Caribou.
LMU G,H	G recommended as Wilderness Management Area. H recommended as Wilderness Preserve.	Recommend management tools that will also allow caribou measures to be coordinated with adjacent IMAs.
LMU B (Hart East), I, J, K,L, M	B, I, J, L, M recommended as Ecological Reserves. K recommended as Critical Habitat Protection.	Consider consolidating units with adjacent units.

LMU N and O: “Heart of the TGFN National Historic Site”: The relationship between LMUs N and O and the proposed “Heart of the TGFN National Historic Site (NHS)” would benefit from elaboration and clarification. Specifically, the relevance of the last paragraphs in the LMU N section and the LMU O section should be more fully explained.

Plan Section 4.2:

The plan recommends the following re:
LMU A Ogilvie River Headwaters
LMU F Hungry Lakes
LMU N Aberdeen and Peel Canyons
LMU O Lower Peel River
LMU P Mid Peel River and Big Eddy
LMU 5 Peel Plateau

“ Monitor water quality and fish populations for adverse significant effects due to infrastructure on shorelines, escarpments, the river and lake beds, or other natural features.”

Comment:

This is part of the water licensing process; Water Resources Branch, YG provides input pre-licensing and monitors/audits post license. Potential developers are required to collect baseline information and data during operations in order to support impact assessment and verification of mitigation. Government programs may supplement, but are not to take the place of proponent programs.

Plan Section 4.2:

The plan recommends the following re: LMUs C,D,E,F,2

“Monitor all infrastructure for compliance with environmental standards and permits. Monitor all tourism/recreations facilities for compliance with environmental standards and permits”.

Comment:

The key issue for environmental protection officers and conservation officers are the increasing expectations and responsibilities for monitoring. In particular monitoring off-road vehicle use and tourism operators' tenure (Big Game Outfitters spike and base camps).

Page 4-3-5 Surface Disturbances

The plan recommends the following:

“Determine the effectiveness of the Plan’s definition of “ecosystem recovery” in dealing with run-off and sediment loading, especially in non-forested/shrubby areas.”

Comment:

It is not clear who the lead would be on this project. A monitoring program would be required to measure the effectiveness.

Page 4-3-6 Key issues related to managing hydrologic disturbances

The plan states:

“According to the Yukon Government’s Water Resources Branch, there is no funding to expand existing water quality monitoring...”

Comment:

The wording should more accurately reflect the current situation which is as follows:

- Yukon and Canada operate a water quality monitoring program.
- The program includes nine sites within the Yukon located within the Liard, Alsek and Yukon river basins – intended to monitor for changes in already impacted areas.

- New stations are added as resources and priorities allow.
- The installation of a new station in the Peel Watershed is on the list of candidates for new stations for further consideration as resources allow.

Page 4-3-7 CCME water quality methods

The plan states:

“CCME water quality methods may not meet the site-specific objectives outlined in the Transboundary Water management Agreement”.

Comments:

- The text is not correct as stated.
- CCME has generic water quality objectives for various water uses.
- In some cases, natural background levels exceed generic water quality objectives such that site specific objectives may need to be developed in order to establish baseline conditions against which future changes are measured.
- The Mackenzie River Basin bilateral agreement between the Yukon and NWT identifies generic and site specific water quality objectives. The latter yet to be developed.

Page 4-3-7 Watershed Management Plan

The plan recommends the following:

“Complete a Watershed Management Plan for the Peel Watershed, consistent with the objectives of the Yukon-NWT Transboundary Water Management Agreement.”

Comments:

A major driver for a water management plan would be impending development pressures on an area. No significant increase in development proposals suggest a water management plan is currently needed. Environment Yukon monitors and considers leading development of water management plans when there is clear demonstrated need for such plans.

Page 4-3-7 CCME Guidelines

The plan recommends the following:

“Review the CCME guidelines to develop regionally-relevant objectives that protect the wholeness of aquatic ecosystems within the Peel River watershed. Wetlands should also be addressed.”

Comment:

This recommendation could not be done for the whole region. The exercise would need to be at a smaller scale. A three year record is required in order to use the Canadian Environmental Sustainability Indicators.

Page 4-3-8 Water withdrawal

The plan recommends the following:

“Determine biologically relevant limits to water withdrawal upstream of key over wintering habitats before major developments.”

Comment:

This recommendation is redundant with existing processes. This would be considered as part of impact assessment and regulatory requirements as described above.

Page 4-3-8 Water monitoring

The plan recommends the following:

“Support and, if possible, expand current water quality and flow monitoring programs to every major tributary, to provide a benchmark for monitoring the indicators of cumulative effects.”

Comments:

Yukon government is reviewing the opportunity to add a water quality and hydrometric site to the Peel watershed. Decisions will involve monitoring partners.

Page 4-3-8 Stream health indicators

The plan recommends the following:

“Have water experts determine indicators of stream health, and related monitoring and analysis methods before major development takes place.”

Comment:

The Commission should be cognizant and realistic of the cost and resourcing commitments of implementation. Initiative would be driven by areas with potential development.

Page 4-3-8 Stream crossing density indicator

The plan recommends the following:

“Develop a stream crossing density indicator with critical levels before major development takes place. In comparison to CABIN-type indicators, this indicator should be more preventive and less reactive. Stream crossings relate to the generation of suspended sediments.”

Comment:

The Commission should be cognizant and realistic of the cost and resourcing commitments of implementation. Initiative would be driven by areas with potential development.

Page 4-3-8 Watershed Management Plan

The plan recommends the following:

“Complete a Watershed Management Plan for the Peel Watershed, consistent with the objectives of the Yukon-NWT Transboundary Water Management Agreement.”

Comments:

A major driver for a water management plan would be impending development pressures on an area. The development of a water management plan would require resources and take time, which is not warranted at present. Environment Yukon monitors and considers leading development of water management plans when there is clear demonstrated need for such plans.

Page 4-3-10 Contaminated Sites

The plan recommends the following:

“Contaminated sites should be cleaned up. The priority should be those sites with most potential to affect water quality or tourism and big game outfitting.”

Suggested Wording:

Remediation efforts should be done in accordance with the requirements of the regulation under the *Environment Act*.

Page 4-3-10 Climate Change

The plan states the following:

“In the Peel Watershed Planning Region, potential climate-change impacts are expected to be significant and should be considered in all land management and permitting decisions.”

Suggested Wording:

In the Peel Watershed Planning region, climate-change impacts are uncertain but are expected to be significant and should be considered in all land management and permitting decisions. Potential impacts of climate change should be given further attention through management planning.

Page 4-3-11 – Section 4.3.2 *“While YESAB’s project specific assessments may be successful in measuring cultural, social and economic effects”*. Socio-economic effects are identified but not ‘measured’ in Designated Office level assessments.

Page 4-3-12

The scope of the Plan review will be determined when it is requested by the Parties. Recommendations to conduct a regional socio-economic assessment of the Plan are unnecessary.

Section 5: Plan Implementation and Revision

Page 5-4 (Prepare Sub-Regional Plan)

It is incorrect to use the term “Sub-Regional Plans” in relation to SMAs, because any required SMA planning would be done using a process other than Chapter 11. The reference to a “Management Advisory Board” should be replaced with “management advisory body”, in accordance with clause 10.5.7.

Page 5-5 (Recommendations; 1st bullet)

This text is not appropriate as it is based on an incorrect reference to or paraphrasing of clause 12.17.0. That clause speaks to the point in time during which a project is undergoing assessment by YESAB (i.e. “Where...a Designated Office receives a Project application...”). 12.17.0 does not speak about assessments being done on an annual or regional basis.

Glossary

It appears that not all of the terms in the glossary are actually used within the plan. Terms in the glossary should only include those used in the plan. In addition, some terms are referenced, others are not. A citation or reference should be provided for each definition in the glossary.

Some glossary terms contain North Yukon LUP content, and refer to the VGFN Final Agreement.

Page G-2, 'cumulative effects' is defined as "changes to the environment and/or society that result from a land-use activity in combination with other past, present and future activities. The changes can be positive or negative". However, Section 4.3.1.1 – Management of Cumulative Effects defines them as "harmful changes to the environment and /or society caused by a series of land-use activities over time (past, present, and sometimes expected future activities)" (4-3-2). This inconsistency should be corrected.

Page G-3 (Tetlit Gwich'in Yukon Land)

Requires bold formatting; also the wording of the explanation is awkward ("Land where a First Nation has the same fee simple title...")

Page G-6 (Laws of general application)

This explanation is not clear.

Page G-6 (Non-settlement land)

It is incorrect to say it is land not affected by First Nation settlement land. The explanation should be: All public land in Yukon that is not Settlement Land.

Page G-9 (S-Sites)

The explanation is not correct, in that the Category A and B designation is not related to size. It would be better to explain them as: Generally smaller parcels of Settlement Land, covering specific interests of the First Nation.

Pages G-9 (Subsistence Harvesting) & G-10 (Sustainable Development)

The references to VGFN should be removed.

The plan contains a number of references to "GYTBA". These are likely referring to the GYTA- Gwich'in-Yukon Transboundary Agreement. This error occurs in the Glossary section (under Primary Use Area) as well as in the main body of the document.

Appendices

Appendix B is a confusing addition to the plan. If the management recommendations are integral, they should be presented in the plan itself and not appended. If they are not integral, they do not need to be offered as an appendix. Also- the definitions of the "management direction categories" (pg. B-1) should be presented under Section 3, Plan Framework.

Appendix B.4.1. Management of Specific Land Uses

Strategy 5.7 – Tourism Branch is already involved in other resource planning and approval processes (including those identified in this Strategy) to help ensure that tourism resources are recognized and considered. Tourism operators and organizations participate in processes that include public input.

Page C-1 (RRCs)

References to Renewable Resource Councils (throughout the Plan) should be Renewable Resources Councils.

Page C-2 (Gwich'in Land Use Planning Board)

This section should be deleted, as it is not a Yukon Board. It was established per the Gwich'in Comprehensive Land Claim Agreement, not the Transboundary Agreement, and its authority is limited to NWT.

Page F-1 (Gwich'in Land Use Plan)

It should be clarified that this plan is for a portion of the NWT adjacent to the Peel Planning Region. If it is retained in the table, the title description for the table should be revised, as it states that the listed plans are in the planning region.

Appendix F appears to contain some North Yukon LUP content.