

Options for Maintaining Areas with High Protected Areas Values in the Southeast Yukon

DRAFT FOR DISCUSSION PURPOSES ONLY

INTRODUCTION

This paper examines options for maintaining areas with high protected area values in the southeast Yukon while still allowing responsible resource development to proceed.

This paper:

- Identifies the key resource development interests in the region;
- Identifies the main protected areas interests in the region;
- Reviews how these different interests are planned and managed;
- Identifies the potential for conflict between these different interests;
- Identifies options for maintaining areas with high protected area values; and,
- Recommends a course of action for maintaining these areas for future consideration.

BACKGROUND

The southeast Yukon is rich in natural resources. It has the Yukon's most valuable proven oil and gas reserves, and our most productive commercial timber forests. The region is also rich in conservation values. It is high in biological diversity. It has many important plant and wildlife habitats, and has large untouched wilderness areas with naturally operating ecosystems.

There are many competing interests for land and resources in the southeast Yukon. There is considerable pressure for increased forestry and oil and gas development. This is driven by the desire to utilize the recent gas finds in the southeast part of the region and to maintain and expand lumber mills in the Watson Lake area. Concurrent with these pressures, conservation interests are stating that the areas of high environmental values in the region should be identified and set aside before any further development takes place.

Most importantly, the region is still subject to land claims negotiations. The southeast Yukon is within the traditional territory of the Kaska Nation. There is still no Final Agreement for the area, which means that provisions for resource management or land use planning as specified in the Umbrella Final Agreement do not yet apply. Special arrangements, however, have been made with the Kaska to allow for oil and gas development prior to a final agreement. As well, a Memorandum of Understanding is now under discussion to facilitate forest management planning and increased timber harvesting prior to the completion of claims. Land claims negotiations do not, however, affect existing rights to stake mineral claims on crown land, and this activity has continued in the region.

THE PROTECTED AREAS ISSUE IN THE SOUTHEAST YUKON

From the perspective of the conservation interests, a key issue in the southeast Yukon is that it appears that there are processes in place to facilitate resource development (oil and gas, mineral and forestry) in advance of a Final Agreement in the region, but there does not appear to be any parallel process in place to facilitate the establishment of protected areas in advance of the claim.

The Yukon Protected Areas Strategy (YPAS), adopted in 1998 by the Yukon Government, commits to establishing core protected areas within each of the Yukon's 23 ecoregions. These Goal 1 areas would be selected to represent natural undisturbed ecosystems and would not allow mining, hydroelectric, logging, agriculture or oil and gas surface work.

The southeast Yukon has 4 ecoregions, none of which currently have Goal 1 protected areas. The land claims process currently in progress in the region may create some Special Management Areas that meet Goal 1 criteria, however it is neither expected nor intended that the claims process will meet all YPAS commitments for the area

Currently, there are still intact natural areas in these ecoregions that meet Goal 1 criteria for protection. YPAS, however, commits to waiting until claims are completed before initiating its own public planning process to identify and establish Goal 1 protected areas.

The key concern amongst conservation interests in the southeast Yukon is that if resource development is allowed to proceed in advance of a Final Agreement and in advance of the identification and establishment of Goal 1 protected areas, future options for meeting our Goal 1 commitments in the region may be seriously compromised or lost.

It is noted, however, that not all interest groups share this same concern. Some development advocates, for example, feel that resource development activities can be managed to be low impact only, and do not pose a serious threat to the future establishment of Goal 1 areas in the region.

CURRENT RESOURCES INTERESTS AND ACTIVITIES IN THE REGION

There are currently a number of different resource interests and activities underway in the southeast Yukon. These include the following:

Oil and Gas Resources:

- Brief statement of current oil and gas activities in the region
- How oil and gas resources are currently managed in the region
- Anticipated future trends (The Department of Economic Development has identified the southeast as an area rich in oil and gas and would like to eventually proceed with lease sales in the area.)
- Map showing existing tenures and activities

Forest Resources:

- Brief statement of current timber harvesting activities in the region
- How forestry is currently managed in the region
- Anticipated future trends (The Department of Indian and North Affairs and the Yukon Territorial Government have committed to developing a longer term Timber Harvest Agreement application process for the region. These discussions are still in progress with stakeholders and the affected First Nations. Also make note of access implications of increased forestry development in the region)
- Map showing existing productive forests, tenures, and recent activities.

Mineral Resources:

- Brief statement of current mineral activities in the region
- How mineral resources are currently managed in the region
- Anticipated future trends (Current tenures are not an indicator of future trends. Things can change very rapidly. First assessment of regional mineral potential will be ready by 2001???)
- Map showing existing claims

Land Claims Interests:

- Overview of claims situation
- Map showing IP land selections and proposed SMAs

Protected Areas Interests:

- Overview of current status re: identifying and establishing PAs in the region, including map showing areas that have been identified as having Goal 1 type values.
- Material will be provided by YPAS Secretariat. YPAS material supplied to date includes the following:
 - Special Management Areas have been identified in the land claim negotiations process (Francis Lake and Coal River). No YPAS initiatives have been considered for the region since land claims are not settled. However, negotiators have left the Beaver River area relatively unencumbered to allow for a potential public protected area planning process to occur after the claim is settled.
 - In anticipation of potential forestry activity and as required by a Canadian Environment Assessment Act (CEAA) review, an extensive protected areas evaluation has occurred for the LaBiche watershed. This assessment resulted in the identification of a network of ecological sensitive areas otherwise know as the Labiche Forestry Ecological Network (FEN). The federal government has not accepted the recommendation to withdraw the FEN from future forestry activities. The territorial government currently only supports a withdrawal of forestry activities for the area.
 - Four eco-regions are located in the southeast. Some of these potentially have some form of protected area designation through proposed SMAs:

| | |
|---------------------|--|
| 1) Selwyn Mountains | Francis Lake SMA proposals |
| 2) Liard Basin | Francis Lake & Coal River SMA's |
| 3) Hyland Highland | Beaver River: not an accepted SMA but has strong YPAS potential (baseline information available) |
| 4) Muskwa Plateau | Lower Beaver: same note as above) |

- The Beaver watershed is the only one in the southeast that has not already been affected by logging/road activity. Extensive ecological field data has been collected for both the Labiche and Beaver watersheds. Detailed analysis and reporting has occurred for the Labiche. Additional analysis and a report is required to identify areas of interest under YPAS for the Beaver River watershed.

OPTIONS FOR MAINTAINING AREAS WITH HIGH PROTECTED AREAS VALUES IN THE SOUTHEAST YUKON

The main development threats to protected areas values include: oil and gas, timber harvesting, mining, alienation through Land Claims, and access development. Of these, only mining has free entry system. The remainder of these types of development can be managed internally through government policies and program implementation.

The following options have been identified.

Option A:

Do not seek formal protection of these areas. Manage resource development internally to avoid these areas where ever possible. Proceed under the assumption that suitable areas will still be available when land claims are complete and a public YPAS process can start.

Steps:

- Seek Cabinet endorsement for Option
- Identify initial areas of interest for Goal 1 protection (as per YPAS "Step 1")
- Develop internal gov't policies to avoid development or land alienation in the initial areas of interest where ever possible.

Strengths:

- Is already within the administrative control of territorial and federal governments. No additional authorities / mandates are required.
- Doesn't interfere with land claims process.
- Could restrict most types of development (but not mining)

- This option is compatible with all the other options identified in this paper and can work in coordination with them.
- Doesn't compromise YPAS review currently underway

Weaknesses:

- Doesn't restrict mining. Risks are reduced but not eliminated.
- Not a strong level of protection. Administrative policies can be easily established but also easily overturned.
- Process would not be publicly accountable (public accountability would be difficult in a pre-claims setting, unless "Option C" were pursued)

Recommendation: YES

Option B:

Seek formal interim protection of these areas as soon as possible. Keep interim protection in place until a YPAS process is completed some time in the future.

Steps:

- Seek Cabinet endorsement for Option
- Identify initial areas of interest for Goal 1 protection (as per YPAS "Step 1")
- Seek formal interim protection from any surface or subsurface dispositions on areas. This would require both territorial and federal cabinet approvals.

Strengths:

- Achieves complete level of protection.

Weaknesses:

- Inconsistent with current YPAS process commitments. May further erode public trust in YTG's ability to implement YPAS properly.
- Because of the above, Federal and Territorial approvals would be unlikely.

Recommendation: NO

Option C:

Establish an Agreement with the affected First Nations to initiate a public protected areas planning process in advance of the completion of land claims.

Steps:

- Seek Cabinet endorsement for Option
- Identify initial areas of interest for Goal 1 protection (as per YPAS "Step 1")

- Negotiate an agreement with affected FNs re: proceeding with a public protected areas planning process prior to the completion of land claims, similar to other agreements re: proceeding with oil and gas, forestry etc.
- Could be linked with, or part of, the proposed landscape level planning process currently being called for by the public(in response to the THA draft)
- Initiate the process as per the negotiated agreement.

Strengths:

- Puts the protected areas planning process on the same footing and timeframe as forestry and oil and gas planning processes.
- Would respond to public and agency requests for landscape and protected areas planning prior to resource development in the southeast Yukon.
- Would enable the public to be involved in any recommendations for protection.

Weaknesses:

- May interfere with land claims processes.
- May be seen as being inconsistent with YPAS commitments
- May be difficult to negotiate suitable planning agreement with all affected parties

Recommendation: Needs Further Discussion

Option D:

Negotiate additional Special Management Areas through the Land Claims process to meet YPAS Goal 1 commitments in the southeast Yukon.

Steps:

- Seek Cabinet endorsement for Option
- Identify initial of interest for Goal 1 protection (as per YPAS “Step 1”)
- Negotiate additional Special Management Areas through the Land Claims process to protect these areas.

Strengths:

- This could achieve the required protection for the areas in question

Weaknesses:

- Would be a departure from current YTG land claims mandates for negotiating SMAs
- Process would not be publicly accountable
- May be difficult to get all parties to agree

Recommendation: NO

CONCLUSIONS AND RECOMMENDATIONS:

In order to successfully request interim protection for a potential Goal 1 protected area, YTG would need to have the backing of either:

- a public planning process that makes a recommendation for protection; or,
- a negotiated First Nation Final Agreement.

Without either of the above, the most that governments could do is internally adopt policies to avoid development wherever possible in the identified initial areas of interest.

The following course of action is recommended for further discussion (steps 1 &2 below)

- Complete the identification of initial areas of interest for Goal 1 protection as per YPAS “Step 1”. This must be done through a coordinated internal interdepartmental / intergovernmental process.
- Upon completion of the above step, adopt internal YTG and DIAND policies to avoid incompatible development (ie: oil and gas / forestry / roads) in these areas wherever possible.
- Concurrent with the above steps, pursue discussions with DIAND and the affected FNs to explore the possibility of proceeding with public protected areas planning in advance of the completion of land claims. Coordinate these discussions with the related discussions currently underway regarding forest management planning.

Suggested Immediate Next Steps:

- 1) Review approach with Deputies
- 2) Discuss and develop common approach with affected YG departments
- 3) Explore approach with Indian and Northern Affairs
- 4) Discuss with Ministers and develop presentation to Cabinet
- 5) Discuss with First Nations