

A black and white photograph of a mountainous landscape. A winding road is visible on a steep, rocky slope. The foreground is dominated by a dense forest of evergreen trees. The sky is overcast.

Resource Roads Regulations Workshop

Summary Report

Westmark Whitehorse Hotel
June 12 and June 13, 2018

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Executive Summary

This report summarizes the results of a two-day workshop to discuss the development of a resource roads regulation in Yukon. The workshop was organized and hosted by the Government of Yukon. Day one had participants from First Nations. Day two had participants from the resource industries, Renewable Resources Councils, Boards and Councils, Local Advisory Councils, and Non-Government Organizations.

The purpose of the workshop was to review past and current concerns related to resource roads and to engage with First Nations and invited groups regarding Yukon's initiative to develop a new resource roads regulation.

The workshop was held as part of a broader government process to engage the public in this topic. This included posting the discussion paper: *Developing a Resource Roads Regulation for Yukon, Proposal and Questions* on the Government of Yukon website: engageyukon.ca to invite feedback from the public at large. The topics covered in the workshop were the same as those in the discussion paper.

During the morning discussions on both days, the following issues were identified:

The proliferation of new resource roads and their impacts:

- Many new roads are being built, some even parallel to each other.
- Once built, resource roads are often used by the public, increasing conflicts.
- Roads open up the back country. This can be positive for increased recreation and hunting opportunities, but have long term negative impacts for wildlife, traditional lifestyles and the environment.

The need for baseline data and monitoring:

- To fully understand resource roads and their impacts, there needs to be adequate baseline data gathering and monitoring for existing environmental conditions, road types, road locations, and road use.

The need for long-term planning:

- All applications for new resource roads should consider the long-term vision for the region and an assessment of the long-term cumulative impacts of the road.
- Wherever possible, regional and local land use plans should be in place to set guidelines for resource roads.

The need for clarification on:

- Which groups or individuals have 'existing rights' to use a resource road?

The need for regulatory harmonization:

- There should be one overall road strategy that manages all resource roads in a consistent manner. If possible, one permit should cover one road.

Is a new regulation really needed?

- Several industry members questioned if a new regulation was really needed.
- Some participants suggested it may be better to amend and improve the current land use regulation rather than create an entirely new regulation.

Consultation:

- Proponents and government should work together early in the road application process and consult with First Nations, Renewable Resources Councils and the public.

Respect First Nation rights:

- First Nation Final Agreements and treaties must be respected.
- Respecting First Nation Agreements and rights helps to avoid future legal issues and creates more certainty.

Multi-use of roads:

- Having multiple users on the same road often leads to complications and conflicts due to different values, different uses and different types of vehicles.

In the afternoon sessions, detailed table discussions were held to focus on the ten topics identified in the discussion paper. Each workshop finished by identifying the following priorities:

Day 1 Priorities:

- **Terms and conditions** for resource roads need to be flexible and adaptable to enable adaptive management strategies as users and conditions change.
- **Security** should be collected and be sufficient to cover all costs associated with reclamation, closure, restoration, and long term monitoring of the site.
- **Baseline studies** of the road and area need to be done to monitor environmental conditions and change over time.
- **Road standards** should include input from First Nations, industry, government and industry specialists and take into account best management practices, measurable terms and conditions and environmental concerns.
- **Land use planning** is required to determine long terms uses for an area, allow for public input, and effectively manage resource roads and land use activities.
- **Public rights and existing rights holders' rights** to use resource roads need to be clarified and differentiated.

- **A shared enforcement approach** should be developed between First Nations and the Government of Yukon, involving training opportunities, joint inspections, stronger relationships and mutual capacity.
- **Wildlife protection** needs to be implemented through hunting restrictions, speed limits and seasonal road closures. This will require coordination with the *Wildlife Act*.

Day 2 Priorities:

Multi-use agreements:

- Mechanisms should be developed for multiple resource users on the same road to eliminate parallel roads.
- The Government of Yukon should work with industry to facilitate multi-use agreements and be able to impose decisions if users cannot reach agreement.
- Agreements must be rock solid, coherent, detailed and managed by government.
- If multiple users are to be allowed on a road, safety is key.

Flexibility and adaptability:

- If the intent or the use of a road changes, these changes need to be considered in regards to reassessing permits, responsibilities and terms and conditions.
- Permits timeframes need to be adaptable and tied to other authorizations.
- Decommissioning, reclamation and closure requirements should be flexible to be able to accommodate changes in use and users.

Coordinated approach to road permits:

- There needs to be a coordinated and integrated regulatory and permitting process.
- One project = one road permit.
- The process for permits should be integrated and managed under one entity.
- Amalgamate all acts and regulations into one framework for mining roads.

Roads standards:

- Should be flexible based on class and use rather than industry specific.
- Base standards on land use planning guidelines and base line information.
- Use modern road construction standards.
- Road standards should be site specific and balance safety and environment.

First Nations buy-in:

- Proponents need to consult First Nations up front.
- First Nations need to buy into the new regulation, understanding there will still be case-by-case consultation on each project.

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1.0 Introduction

This report summarizes the results of a two-day workshop held in Whitehorse on June 12 and 13, 2018 to discuss the development of a resource roads regulation in Yukon.

The workshop was organized and hosted by the Government of Yukon. Day one included invited participants from Yukon First Nations and trans-boundary First Nations. Day two included invited participants from resource industries, Renewable Resources Councils (RRCs), mandated Boards and Councils, Local Advisory Councils, and Non-Government Organizations (NGOs).

The purpose of the workshop was to:

- follow up on previous work done by the Government of Yukon, including:
 - the *Resource Access Roads Framework* (2013); and
 - the *Resource Access Road Regulation: A Discussion Paper* (2014)
- review how resource roads have been permitted and managed to date in Yukon;
- identify key issues related to resource roads in Yukon; and,
- engage with First Nations and invited groups on the issues and priorities that should be considered in developing a new resource roads regulation for Yukon.

The workshop was held as part of a broader government initiative to engage the public on this topic from May 25 to July 23, 2018. This includes posting the discussion paper: *Developing a Resource Roads Regulation for Yukon, Proposal and Questions* on the Government of Yukon website: engageyukon.ca to invite input from the public at large. The agenda and topics covered in the workshop reflect the topics covered in the discussion paper.

This report is a summary of the workshop discussions only. It identifies the key points made during plenary and table discussions. While this report captures the main themes raised, it does not include every single comment made during the two days.

Unless otherwise indicated, this summary reflects the combined results of both days of the workshop. On most issues, participants in both days shared similar concerns and interests. Where there were significant differences in Day 1 and Day 2 discussion results, these are noted.

2.0 Workshop Format

The workshop included presentations by government officials, plenary discussions facilitated by an independent facilitator, and table discussions facilitated by government staff.

The morning sessions started with an opening welcome and round of introductions, followed by a brief overview on the history of Government of Yukon involvement in permitting and managing resource roads in the territory. This was followed by several presentations on different types of public and resource roads in Yukon, and how they are currently permitted and managed. Each presentation included time for questions and discussions to identify key issues.

The first part of the afternoon sessions focused on five small table discussions where participants engaged on the 10 different topics identified in the discussion paper: *Developing a Resource Roads Regulation for Yukon, Proposal and Questions*. Each table had two assigned topics selected from the discussion paper, identified the proposed approach contained in the discussion paper, and posed questions designed to stimulate further discussion on the approach. Each table had two facilitators to lead the discussions and record comments on a flip chart. Each discussion period lasted 20 – 25 minutes, after which participants were asked to move to another table and provide input on two other topics. Five discussion periods were scheduled. In this way each participant had enough time to give input on all 10 topics.

The second part of the afternoon sessions focused on identifying priorities. Each facilitator was asked to identify the top key messages they heard at their tables and present these to the plenary group. These top messages were written on flip charts and taped to the wall. Each workshop participant was then given a strip of 12 'sticky dots', and invited to place a dot beside the messages they felt were most important. This system of 'voting' was used to identify the top priorities of the group.

Both afternoons ended with facilitated plenary discussions on the identified priority issues, and a workshop closing.

3.0 Morning Plenary Discussions: Key Issues

During the morning plenary discussions, several key issues related to resource roads were identified. These include:

The proliferation of new resource roads, often used by the public:

- Many new roads are being built. Some are even parallel to each other.
- Once built, resource roads are often used by the public, increasing conflicts and impacts.
- More consideration should be given to sharing roads and establishing thresholds for road density in a region.

Resource road impacts:

- Roads open up the back country. This can be positive for increased recreation and hunting opportunities, but negative for the environment.
- Roads impact First Nations land uses and traditional lifestyles.
- Roads fragment wildlife habitats and result in increased hunting pressure.
- Roads often have negative impacts on creeks, sensitive areas, hydrology and the environment.
- Roads have significant long-term cumulative impacts over a large area.

The need for baseline data and monitoring:

- To fully understand resource roads and their impacts, there needs to be adequate baseline data regarding existing environmental conditions, road types, road locations, and current road use.
- Ongoing monitoring of road use and road impacts needs to be done.

The need for long term planning:

- Regional land use plans should, where possible, be in place to set guidelines for resource roads.
- In the absence of a regional land use plan, the permitting process should allow for public input and all parties working together to develop a long term vision for the region.
- All applications for new resource roads should consider the long-term vision for the region and an assessment of the long-term cumulative impacts of the road.

The need for clarification on:

- When is a road or trail under the jurisdiction of the Department of Energy Mines and Resources and when is it under the jurisdiction of the Department of Highways and Public Works?
- Which groups or individuals have 'existing rights' to use a resource road?
- When does a resource road become 'public'?
- Who has the liability for the use of a resource road, both for single user roads as well as for multi-user roads?
- Which party has the legal authority to control access to the resource road and control the use of a resource road?

The need for regulatory harmonization:

- There should be one overall road strategy that manages all resource roads in a consistent manner.
- The current piecemeal approach, with more than one agency involved, is frustrating.
- The new permitting process should be simplified and coordinated.
- If possible, one permit should cover one road project.
- The same rules should apply equally to all user groups.

Is a brand new regulation really needed?

- Several industry members questioned if a new regulation was really needed.
- Industry doesn't want a whole new layer of regulations that may complicate the permitting process.
- It may be better to amend and improve the current land use regulation rather than create an entirely new regulation.

The need for consultation:

- Proponents and government should work together early in the road application process and consult with First Nations, Renewable Resources Councils and the public.
- Proponents should consult with existing users in the area.
- Public meetings should not be the only form of consultation. They often attract people opposed to development.

Respect First Nation rights:

- First Nation Final Agreements and treaties must be respected.
- Respecting First Nation Agreements and rights helps to create certainty.

Multi-use of roads:

- Multiple users on the same road often leads to complications and conflicts due to different values, different uses and different types of vehicles.
- Large industrial users with frequent heavy machinery use generally cannot share roads with others due to safety concerns.

4.0 Table Discussions

At the table discussions, participants provided detailed input on specific topics as identified in the discussion paper: *Developing a Resource Roads Regulation for Yukon, Proposal and Questions*. Discussions were aided by having posters with the “Proposed Approach” from the discussion paper at each table, as well as posters with workshop discussion guides identifying issues and questions designed to facilitate further input on the proposed approach.

The “Proposed Approach” for each topic is included in the body of this report. The workshop ‘discussion guides’ are included in Appendix 7.2.

For the most part, discussions at each table focused mainly on the topics identified. However, as can be expected, participants also often made comments on other related topics. These ‘off topic’ comments were also recorded. For the purposes of analyzing participant input and presenting results in this report, these ‘off topic’ comments are included according to their topic area, rather than according to the table they were recorded at. For example, if comments regarding “Compliance and Enforcement” were made at the discussion table on “Road Standards”, for the purposes of tabulating results for this report, these comments were considered and analyzed as part of the “Compliance and Enforcement” section.

This section provides a summary of the table discussions only. It does not record every comment made. Rather, it highlights that main themes raised in response to the proposed approach identified in the discussion paper.

4.1 Resource roads vs. public roads

Proposed Approach

1. Define a ‘resource road’ as a temporary, non-public road (including an ice or winter road) that primarily provides access for industry users to mineral, coal, oil and gas, and aggregate resources, but may include temporary non-public roads that lead to other natural resources (as determined by the Minister).
2. Allow for the transfer of an existing road (under the Highways Act) to a resource road under the Resource Roads Regulation when required.
3. Any decision to change a resource road to a public road or to change a public road to an existing resource road will need to be preceded by a formal public review.

Type of industry that should be eligible for a resource road:

- Most participants felt that all land based developments should be eligible for a resource road, including, but not necessarily limited to: energy (hydro, wind and solar) agriculture, mining, trapping, and tourism etc.

Should resource roads be only temporary?

- Many participants noted that temporary roads will only work if they are closed to the public and open to one user only and for a limited time only.
- Many people noted that any decision to close a resource road should be done in consultation with all affected parties and the public.
- Some participants noted that if a single use resource road is not being actively used any more, it should be closed and decommissioned.
- Some people noted that if there still are valuable natural resources in an area, it may be difficult to close a resource road, even if it is not currently being used.
- Some people noted that if the resource road is used by multi parties or the public, it will be very difficult to close.
- Some people also noted that main artery resource roads should not be closed.

Should a public road transfer into a resource road, or a resource road change into a public road?

- Many participants noted that once a road is public, it should remain public.
- Many people also noted that once a road is used by the public, it is very difficult, if not impossible, to stop the public from using it.
- Some participants expressed concern that changing a public road to a resource road would close off access for trappers, outfitters and other rights holders.

Public Review:

- Most participants noted that any change in status from public road to resource road or resource road to public road should be subject to public consultation.



4.2 Controlling Access

Proposed Approach

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

Who should be allowed to use a resource road?

- Many participants noted that it important to manage public expectations regarding who does and who does not have permission to use a resource road.
- Public and First Nations education is important to clarify who has access.
- All participants agreed permit holders should have access to the resource road.
- Many people noted that resource roads built solely for industry should not be open to the public, especially new resource roads that do not have a history of public use.
- Several participants, however, noted that individuals and groups with pre-existing rights of access in an area, such as First Nations and trappers, should have the right to use a resource road in the area.
- Several participants noted that early in the process, the proponent should seek an agreement with local First Nations and other residents regarding access.
- Some participants also noted that the rights of First Nations and other individuals in the area to use a resource road still needs legal clarification.
- Some participants noted that it is important to clarify who has the legal authority to control access on the road. Government or the proponent?
- Some people noted that emergency services should always have access.
- Some people noted that if a resource road is built with public funds, it should be open to the public.

How should access be controlled?

- Several participants suggested that locked and staffed gates could be used to control access.
- Personnel and signs at the entrance of a resource road could be used to educate the public and road users on access controls, road rules, and road safety.
- Many participants, noted that controls should be put in place to reduce wildlife impacts, such as hunting restrictions, speed limits, and/or seasonal closures.
- Several participants noted that radio communications could improve safety.
- Some people noted that controlling off-road vehicle use on resource roads is equally important, but often more difficult than controlling cars and trucks.

4.3 Managing Shared Use of Resource Roads

Proposed Approach

1. *Enable the development of multi-use agreements between resource road users.*
2. *Permitted road users will be able to establish agreements on shared use but if that is not possible, the regulator will be authorized to set terms and conditions for shared use.*
3. *An access management plan will be required to obtain a resource road permit.*

Multi-use agreements:

- Most participants noted that the shared use of roads should be encouraged to avoid multiple roads.
- Many participants noted that the multi-use agreements should be made between the proponent, the regulator and other interested users.
- Many participants noted that multi-use agreements need to be able to adapt to changes when new proponents want to be added to an existing road, or when road use or road conditions change.
- Many participants also noted that when road users or use changes, a new assessment should be required, and the permit revised.
- Several industry participants noted that some proponents may not want to share their road for safety reasons, since they may be using large specialized equipment on the road that is not compatible with other vehicles.
- Some industry participants noted that placer operations are more difficult for road sharing, because the roads are often on claims and they are frequently relocated as mining progresses.
- Most First Nation participants noted the importance of reaching agreement with local First Nations on multi-use agreements.
- Several participants noted that YESAB can play a role in defining multi-use agreements and use conditions.
- Multi-use agreements should address: shared responsibilities and costs, liability, authorizations, access control, terms and conditions, and enforcement responsibilities.
- User agreements could also include compensation for the loss of a use of a mining claim where a shared road makes part of claim inaccessible.

The role of the government (the regulator) in multi-use agreements:

- Many participants noted that government should play a central role in facilitating shared roads and multi-use agreements.
- Most participants noted that government should be able to impose multi-use agreements when proponents cannot agree.
- Several participants noted that government should manage the multi-use agreements, since the roads are on public land.
- Some industry participants expressed concern that it may take too long for government to negotiate user agreements.
- Some participants noted that all multi-use agreements should contain a dispute resolution mechanism.

Access Management Plans:

Participants supported access management planning. Several items that should be considered in access management plans were identified:

- Plans should clarify who is authorized to use the road and under what conditions.
- Many First Nation participants noted the plan should include a requirement for baseline studies and monitoring to identify cultural and environmental values and evaluate change.
- Many participants noted the plans should address wildlife concerns, by including hunting restrictions, speed limits, and seasonal closures when required.
- Many participants noted the plan should emphasize safety measures, such as speed limits, safe road design, and the use of radios for traffic control and safety messages.
- Many participants noted that access management plans need to be flexible to be able to adapt to changing users and conditions.
- Many participants noted the plan should be consistent with local and regional land use plans.
- Many participants noted that the plans should incorporate modern technologies and techniques to manage access, such as remote sensing, drones, cameras, and radios.
- Some participants noted the plan should address and restrict the construction of secondary roads or trails, and control off-road vehicle traffic.
- Some participants noted the plan should address user training and education.
- Some participants noted the plan should address requirements for decommissioning.
- It was also noted that Traditional Knowledge should be used in the development of access management plans.

4.4 Who is responsible for a resource road?

Proposed Approach

1. *Allow a permit to be assigned to another proponent/operator/owner.*
2. *Responsibility for the resource road can be transferred to another entity.*

Assigning resource road permits:

- Most participants noted that permits should be transferable, in case the project proponent changes.

Responsibilities for the resource road:

- Many people noted that government has the most responsibilities, including but not necessarily limited to permitting, leading multi-user access agreements, monitoring and enforcement.
- Some people noted that government is ultimately responsible for the resource road, since it is located on public land.
- Some participants noted that government, not the proponent, should be responsible for controlling access and managing the road.
- Some participants noted that if the proponent pays for the road, they should be responsible for it.
- Some people noted that all respective proponent and government responsibilities for resource roads should be clearly identified, so that governments, proponents and the public have greater certainty. This is especially important when there are changes to the road project.

4.5 Road Standards

Proposed Approach

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

Support for road standards:

- Most, if not all, participants supported the need for road standards.
- Most participants noted safety should be a top priority for road standards.
- Many participants noted that standards should be flexible to adapt to different seasons, different types of equipment, numbers of users, type and intensity of use, and change in use or ground conditions etc.
- Some participants also noted that some basic standards need to be consistent.

- Some participants noted that roads used by the public or by large companies are usually built to a higher standard than small non-public roads.
- Some participants also noted standards need to be enforceable.
- Some industry participants also noted the standards should be affordable.

Who should develop road standards?

- Many participants noted that the standards should be developed collaboratively with industry, the Government of Yukon, and First Nations.
- Many participants noted standards should be developed by using industry experts and examining road standards used elsewhere.
- It was also noted that regional and local land use plans can help define road standards.

What to include in road standards:

Participants had many suggestions on what to include in road standards:

- Standards for mitigating environmental impacts.
- Standards for road creek crossings and road building close to wetlands.
- Standards for road building on permafrost.
- Standards for reducing impacts on wildlife.
- Standards for reducing impacts on heritage values and resources.
- Standards for safety, regarding road size, grade, speed limits, pullouts, line of sight, radio communications, and check in-out systems.
- Standards for monitoring and baseline information collection.
- Standards for road building close to existing communities and residences.
- Standards for decommissioning.

4.6 Closure and Decommissioning of Roads, & Security

Proposed Approach

1. *A closure and decommissioning plan will be required to obtain a resource road permit.*
2. *Allow for progressive closure/reclamation requirements.*
3. *Security will be a requirement to obtain a permit and will need to be sufficient to cover the full cost of decommissioning and potential environmental damage.*

Support for a closure and decommissioning plan:

Most, if not all, participants supported the need for a closure and decommissioning plan early in the process. The following comments were noted:

- Decommissioning standards should be developed.
- Decommissioning standards should be goal oriented.
- Decommissioning requirements should be determined in multi-user agreements.

- Decommissioning and road closure will be difficult if there are still valuable natural resources in the area.
- The decommissioning plan should include monitoring of the decommissioned site.
- Revegetation should use native seeds and species.
- Reclamation should consider Traditional Knowledge.

Support for progressive closure/reclamation requirements:

- Many participants supported requirements for progressive closure and reclamation.

Security:

All participants noted the need for security. The following comments were made:

- Security can be cash or a bond, and needs to be applied to the project up front.
- Security should be enough to reclaim the road without being a burden to public.
- Security should cover third-party costs for reclamation to recover the ecosystem.
- Security can be shared between multiple users, as per a multi-use agreement.
- If the resource road becomes public, the security should be returned.
- When reclamation requirements have been met, the security should be returned.
- If security is too high, it can put an operator out of business.
- Security should be transferable.
- Security should be held by one department.



4.7 How will Permitting Work?

Proposed Approach

1. The resource road permit will be linked to the duration of the resource extraction project(s).
2. Permit terms and conditions can be scoped to address mitigation for environmental and socio-economic impacts (pursuant to the Territorial Lands (Yukon) Act).
3. Permit terms and conditions will be consistent with approved land and resource management plans.

Timeline for resource road permits:

- Most participants agreed permits should be linked to the duration of the project.
- Some participants noted that for longer-term projects, periodic reviews may be warranted. The timeline for road permits could be linked to the timeline for other permits required by the operator, such as water licenses etc.
- Many participants noted that if an operation changes during the life of the project, a new assessment should be done and the permit should be changed.
- Some participants noted that there should be a regular review of permits.
- Some participants noted that some projects have an intermittent timeline, where they operate, then stop, then reactivate again. This can repeat several times. This makes it difficult to predict what the actual duration of the project will be.

The scope of permit terms and conditions:

Participants had a number of suggestions for permit terms and conditions:

- They should be consistent with access management plans.
- They should address wildlife concerns, such as hunting controls, speed limits and seasonal restrictions. This may require coordination with the *Wildlife Act*.
- They should be consistent with YESAB recommendations.
- They should include provisions for baseline information collection and monitoring for environmental and heritage values.
- First Nations should be consulted on road terms and conditions.
- The terms and conditions should stay within the scope of the *Territorial Lands (Yukon) Act*, to manage land.
- They should address socio-economic matters, such as compensation, training or benefits agreements, in a clearly defined and tangible way.
- Terms and conditions should be easy to implement, and enforceable.

Land and resource management plans:

- Most, if not all, participants noted that terms and conditions should be consistent with local and regional land use plans.

4.8 Compliance and Enforcement

Proposed Approach

1. *Include additional compliance and enforcement tools – prohibitions, offences and penalties, pursuant to the Territorial Lands (Yukon) Act and Lands Act (which set limits on allowable enforcement tools).*
2. *Tickets will be issued for offenses via the Summary Convictions Regulation.*
3. *Permits can be amended, suspended or cancelled.*

Additional compliance and enforcement tools:

Participants had several comments regarding compliance and enforcement:

- A clear and reasonable regulatory regime is in everybody's interest.
- Currently compliance and enforcement is lacking.
- More progressive enforcement tools are needed.
- Increased enforcement tools, resources and officers are needed.
- Shared monitoring and enforcement with First Nations should be done.
- Regulations should be coordinated to ensure a consistent enforcement regime.

Issuing tickets and fines:

- Most participants agree that local enforcement officers should have the authority to issue tickets and fines.
- There should be heavier fines for infractions. For example, the recent MacGregor Creek case was fined too little.
- Fines need to reflect actual damage done.
- There should be escalating fines for repeat offenders.
- Fines need to be high enough so that they aren't just seen as a cost of doing business.

Amending or suspending permits:

- Many participants agreed that the regulator should be able to amend, suspend or cancel permits as an enforcement tool.

Other comments re: enforcement:

- More public education is needed to inform people about resource roads rules.
- Resource roads need to have better signs with maps, so that everybody knows the locations and restrictions.

- For roads with multiple users, enforcement will be more difficult.
- Improved communication is needed between industry, government and First Nations regarding rules and enforcement.
- Improved enforcement is needed regarding wildlife disturbance and hunting from resource roads.
- All resource road terms and conditions should be in one permit. This makes it easier for industry to comply.
- Enforcement should be consistent, and officers should be well informed on the industry they are inspecting.
- Inspections should be coordinated.

Sharing enforcement responsibilities with First Nations:

- Many First Nations participants noted that First Nations and government should work together on monitoring and enforcement. This will involve training, resources and coordinating compliance and enforcement roles.
- Some First Nations participants noted that the capacity of First Nations to participate in enforcement is limited. Additional training and resources will be required.

4.9 Fees: Land and Road

Proposed Approach

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

Permit Fees:

- Most participants agreed that permit fees should reflect the size of the project and its impacts.
- Many participants noted that the current fees are too low and should be updated.
- Many other participants noted that the current fee structure should be kept.

4.10 How will the Resource Roads Regulation work with other Legislation?

Proposed Approach

1. The Resource Road Regulation will replace the Land Use Regulation and the Mining Land Use Regulations for the management of resource roads.
2. A resource road permitted under the existing Land Use Regulation will be subject to the new regulation after its land use permit expires.
3. A road that is designated as a 'resource road' under the regulation will not be subject to the Highways Act.

Replacing the Land Use Regulation:

- Some industry participants suggested that it would be better to amend and improve the existing *Land Use Regulation* rather than to create an entirely new regulation.
- Other participants did not express any opinion on this matter.

Resource roads and the Highways Act:

- Many participants noted that there needs to be clarification and public education on what roads are subject to the *Highways Act*, and what roads are subject to other regulations.

Other relevant legislation:

- Many participants noted that there needs to be improved coordination and enforcement through the *Wildlife Act* to address issues regarding wildlife disturbance and hunting from resource roads.

5.0 Setting Priorities

Following the table discussions, each facilitator was asked to identify the top five key messages they heard at their tables and present these to the plenary group. These top five messages were written on flip charts and taped to the wall. Each workshop participant was then given a strip of 12 'sticky dots' and invited to place a dot beside the messages they felt were most important. This system of 'voting' was used to identify the priorities of the group.

In the flip charts prepared by the facilitators, there was considerable overlap and duplication in the messages. In addition, some messages were unclear regarding their exact meaning. For these reasons, a strict numerical accounting of dots to identify a specific priority for each individual message was neither meaningful nor appropriate. Rather, the system of dots was used to identify general priority themes that were shared by most participants. In the final analysis, it emerged that several themes collectively had a similarly high number of 'votes' indicating their high priority, and other themes had significantly less dots, indicating a lesser priority. The difference in numbers of votes among the high priority themes was so small that it was not significant, therefore they are all identified equally as 'top priorities'. Messages that received a significantly less number of 'votes' were also similar in numbers of dots. They are identified as 'other priorities'.

5.1 Day 1 Priorities – First Nation representatives

Top Priorities

Terms and conditions:

- Terms and conditions for resource roads need to be flexible and adaptable to enable adaptive management as users and conditions change.

Security:

- Security should be collected up front.
- Security should be sufficient to cover all costs associated with reclamation, closure, restoration, and long-term monitoring of the site.

Baseline studies:

- Studies need to be done to monitor environmental conditions and changes over time.

Road standards:

- Standards should include input from First Nations, industry, government and industry specialists.
- Standards should take into account best management practices, measureable terms and conditions and environmental concerns.

Land use planning:

- Land use plans are needed in advance of roads to determine long terms uses for an area, allow for public input, and effectively manage resource roads and land use activities.

Public rights and existing rights holders' rights:

- Rights to use a resource road need to be legally clarified and differentiated.

A shared enforcement approach:

- Enforcement should be shared between First Nations and the Government of Yukon.
- The approach should involve training, joint inspections, stronger relationships and capacity building.

Wildlife impacts:

- Wildlife impacts should be reduced through hunting restrictions, speed limits and seasonal closures where and when appropriate.

Other Priorities:

- **Multi-user agreements:** should be encouraged to facilitate shared roads.
- **An integrated and consolidated permitting structure:** should be developed to facilitate coordinated administration and enforcement.
- **Access management plans:** should consider baseline data, local knowledge, environmental sensitivities, wildlife impacts and hunting controls.
- **The scope of resource industries:** should include tourism and backcountry activities.
- **Improve public and First Nations communications:** to clarify the rules for resource roads and facilitate public buy in.
- **Fees and fines:** are too low and should be increased.
- **Enforcement provisions:** should be expanded and improved.

5.2 Day 2 Priorities – Renewable Resources Councils (RRCs), mandated Boards and Councils, Local Advisory Councils, Resource Industry Participants, and Non-Government Organizations (NGOs)

Top Priorities

Multi-use agreements:

- Mechanisms should be developed for multiple resource users on the same road to eliminate parallel roads.
- The Government of Yukon should work with industry to facilitate multi-use agreements and be able to impose decisions if users cannot reach agreement.
- Agreements must be rock solid, coherent, detailed and managed by government.
- If other users are to be permitted on the road, safety is key.

Flexibility and adaptability:

- If the intent or the use of a road changes, these changes need to be considered in regards to reassessing and changing permits, responsibilities and terms and conditions.
- Permit timeframes need to be adaptable and tied to other authorizations.
- Decommissioning, reclamation and closure requirements should be flexible to be able to accommodate changes in use and users.

Coordinated approach to permitting roads:

- A coordinated and integrated regulatory and permitting process is needed.
- One project equals one permit.
- The permitting process should be integrated and managed under one entity.
- Amalgamate all acts and regulations into one framework for mining roads.

Roads Standards:

- Standard should be flexible based on class and use rather than industry specific.
- Base standards on land use planning guidelines and base line information.
- Use modern road construction standards.
- Road standards should be site specific and balance safety and environment.

First Nations Buy In:

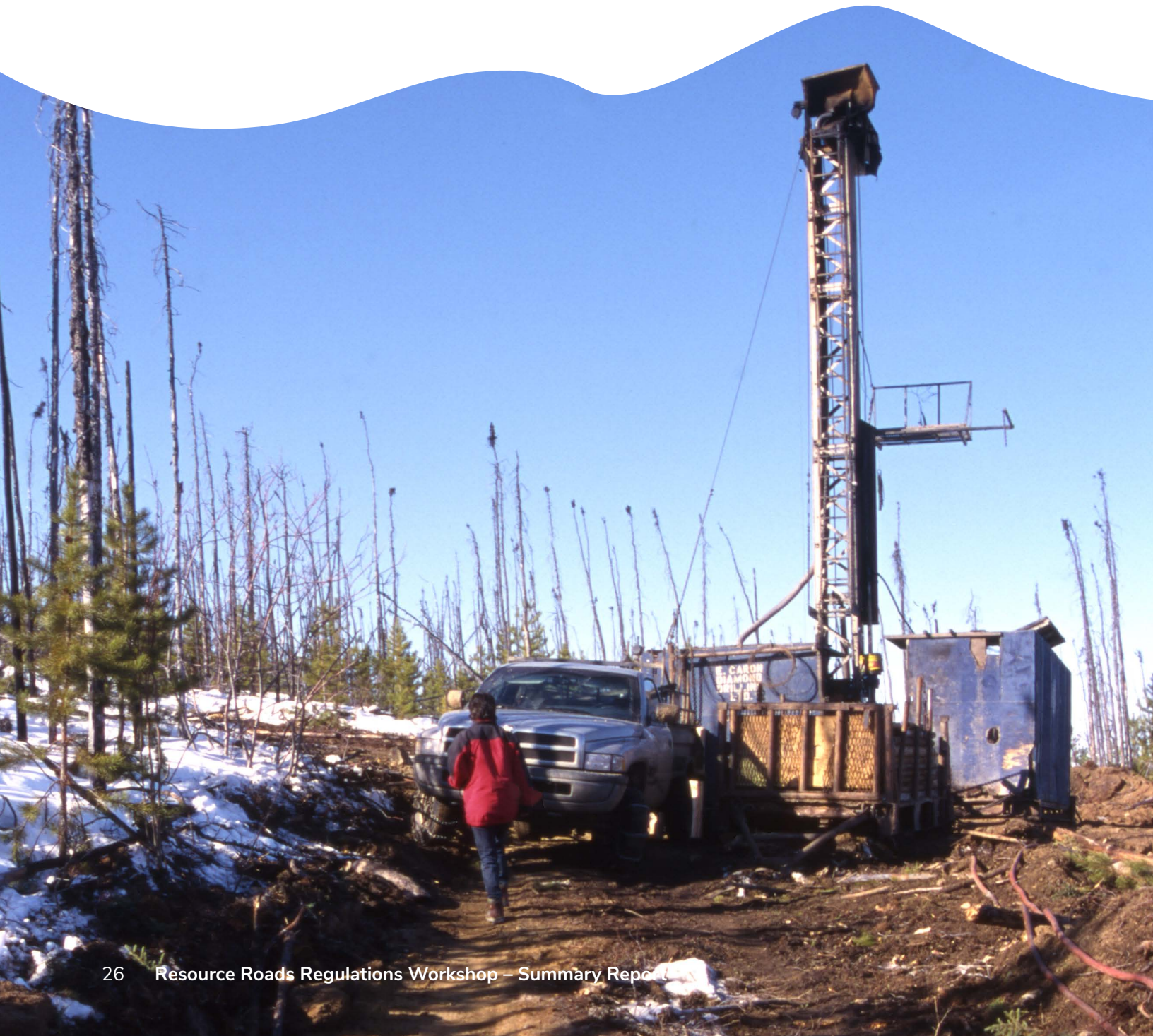
- Proponents need to consult with First Nations up front.
- First Nations need to buy into the new regulation, understanding there will still be case-by-case consultation on each project.

Other Priorities

- **Security:** should be collected up front and linked to other activities and authorizations and re-evaluated every few years on third-party basis.
- **Hunting restrictions:** need to be improved and implemented.

6.0 Conclusion

This two-day workshop had good attendance from invited participants. Both plenary discussions and table discussions were effective in getting important input from groups concerned with resource roads in the territory. This summary highlights the key messages received from the workshop. It is hoped that this information will be useful for the Government of Yukon and other parties in the development of effective policies and regulations for resource roads in the territory.



7.0 Appendices

7.1 Workshop Participants

Day 1 - June 12, 2018

Organization

Champagne and Aishihik First Nations
Champagne and Aishihik First Nations
Champagne and Aishihik First Nations
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Environment
Environment
Executive Council/Aboriginal Relations
First Nation of Na-Cho Nyäk Dun
Highways and Public Works
Highways and Public Works
Kwanlin Dün First Nation
Kwanlin Dün First Nation
Liard First Nation
Workshop Facilitator
Selkirk First Nation
Selkirk First Nation
Ta'an Kwäch'än Council
Ta'an Kwäch'än Council
Teslin Tlingit Council

Name

Micheal Jim
Meagan Grabowski
Larry Joe
Bruce Warnsby
Rod Jacob
Anne-Marie Légaré
Jim Bell
Lyle Dinn
Chandelle King
Robert Savard
Mike Draper
Diane Brent
Brian Bell
Manon Moreau
Richard Potvin
Brenda Sproule
Jennifer Curtis
Heather Onson
Jocelyn McDowell
Maureen Huggard
Chris Butler
Robyn Parker
John Pattimore
Geraldine Pope
Travis Stewart
Bob Kuiper
Ellie Marcotte
Kevin McGinty
Bill Bruton
Scott Paszkiewicz
Hannah Turner

Day 1, continued

Organization

Tr'ondëk Hwëch'in
Vuntut Gwichin First Nation
White River First Nation
White River First Nation
Yukon Government Tourism

Name

Natasha Ayoub
Rosa Brown
Ray Sabo
Neil McGrath
Denise McCann

Day 2 - June 13, 2018

Organization

Workshop Facilitator
Alsek Renewable Resource Council
Alsek Renewable Resource Council
Back Country Hunters
Canadian Parks and Wilderness Society
Carcross Tagish Renewable Resource Council
Casino Mining Corporation
Chance
Coeur Silvertip
Ducks Unlimited
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Energy, Mines and Resources
Environment
Goldcorp

Name

Bob Kuiper
Chuck Hume
Laura MacKinnon
Todd Onsorge
Randi Newton
Don Toews
Mary Mioska
Cindy Dickson
Loralee Johnstone
Jamie Kenyon
Laura Spicer
Chandelle King
Anne-Marie Légaré
Jim Bell
Diane Brent
Kirk Price
Rod Jacob
Brenda Sproule
Richard Potvin
Mike Draper
Heather Onsorge
Jennie Gjertsen

Day 2, continued

Organization

Highways and Public Works
Highways and Public Works
Klondike Placer Miners Association
Laberge Renewable Resource Council
Mayo District Renewable Resource Council
Nickel Creek Platinum
Selkirk Renewable Resource Council
Selkirk Renewable Resource Council
SLR Consulting
Tourism
Tourism and Culture
Triumph Gold Corp.
Triumph/Ecofor
Victoria Gold
Wilderness Tourism Association
Wildlife Conservation Society
Yukon Chamber of Mines
Yukon Chamber of Mines
Yukon Conservation Society
Yukon Fish and Game Association
Yukon Government Executive Council Office
Yukon Land Use Planning Council
Yukon Outfitters Association

Name

Robyn Parker
John MacDougall
Jonas Smith
Len Mychasiw
Ed Johnson
Steven Kramar
Jerry C. Kruse
Scott Sawy
Christiane Buie
Denise McCann
Jodie MacMillan
Paul Reynolds
Cris Guppy
Mike Gunn
Kelly Fraser
Don Reid
Mike Burke
Randy Clarkson
Mike Walton
Greg LeBlanc
Andrew Smith
Copper Jack
Brenda Stehelin

7.2 Workshop Agenda, Flip Charts and Discussion Guides

Resource Roads Regulations Workshop

Agenda, Flip Charts and Table Discussion Guides

Westmark Whitehorse Hotel: June 12, 2018 – Yukon government and First Nations

June 13, 2018 – Yukon government and Stakeholders

Agenda

9:00	Opening
9:10	Welcome and introductions
9:20	Overview of Yukon resource roads
10:00	Break
10:20	Past and current tools for managing resource roads
11:20	Plenary discussion: Yukon resource road issues
12:00	Lunch
1:00	Recap of morning and intro to afternoon sessions
1:15	Facilitated Small Group Discussions
	1. Resource roads vs. public roads and who is responsible?
	2. Controlling access and managing shared use of resource roads
	3. Road standards and closure/decommissioning of resource roads
	4. How will the permitting work, permit fees and how will the resource road regulation work with other legislation
	5. Compliance and enforcement
3:15	Break
3:30	Reporting back from small group discussions
4:00	Plenary discussion: priorities for action
4:30	Closing

Rules of Engagement

We are here to share our knowledge, experience & interests

Everybody's input is valued

Listen to each other with respect

Respect differences where they exist

Recognise common ground where possible

Focus on interests, not positions

Focus on solutions, not problems

All views will be recorded and reflected in workshop report

Cell phone etiquette

Plenary Discussion

Resource Road Issues:

- Environmental Impacts
- Social Concerns
- Economic Issues
- Road Management Issues
- Legislative / Regulatory Issues

Table 1 Resource Roads vs. Public Roads

Issues: Public confusion and concern re:

- Difference between public road & resource road?
- Who can use a resource road?
- Are resource roads temporary only, or permanent?
- What happens to a resource road when it's purpose is finished?

Questions:

1. What type of industries should a resource road apply to?
2. Should resource roads be temporary only, and restricted to permit holders only?
3. When should a resource road be closed & decommissioned?
4. Are there instances when it would be appropriate to change a resource road into a public road, or vice versa, change a public road into a resource road?
 - o If so, when?
 - o Should the change require a public review?

Table 1 – Who is Responsible for a Resource Road?

Issues: Resource roads are usually built to service a private development, but the road is located on public land.

There may be lack of clarity on who is responsible for road planning, funding, construction, use, mitigating impacts and closure.

- o What happens if the original road builder/permit holder goes bankrupt?
- o What happens if government wants a resource road to be available to other resource users?

Questions:

1. Should the permit holder be responsible for everything that has to do with road, including: planning, funding, construction, controlling use, mitigating impacts and road closure?
2. How should responsibility for the road be addressed if the project proponent changes, the proponent goes bankrupt, or new proponents want to use the road?

Table 2 – Controlling Access

Issues: Under existing regulations, there is no effective way to prevent public use of a resource road.

Public use of resource roads leads to environmental impacts, safety issues and liability concerns.

Certain individuals with existing rights may need to use the road for access. (e.g. pre-existing users in the area and First Nations)

Questions:

1. Should access to a resource road be closed to the public and limited to permitted users only?
 - o How should access be controlled?
2. How should we address the needs of those who have existing rights to access in the area?
3. What issues may arise through the use of the road by existing rights holders alongside the resource industry users?
 - o How could these issues be addressed?

Table 2 – Managing Shared Use of Resource Roads

Issues: One way to reduce environmental impacts is to have shared use of a resource road.

Often the original road was built by a single proponent. Sharing use of the road raises issues of: fairness, responsibility, financial liability, access control and long-term road management, etc.

Questions

1. Should government enable the development of multi-use agreements between resource road users?
2. Who should be responsible for developing, authorizing and managing these agreements?
3. If permitted users cannot reach a shared use agreement, should government be allowed to impose terms and conditions for shared use?
4. What should be included in an access management plan?

Table 3 – Road Standards

Issues: There are no current standards for resource roads.

Lack of consistency in road construction, safety, maintenance or decommissioning.

Current land use permits specify conditions on an ad hoc basis to address environmental concerns.

Road safety or design issues are not addressed.

Questions:

1. Should standards be developed for resource roads? Should the same standards apply to all resource roads?
2. How should standards be developed? Who should be involved?
3. How can road standards best address:
 - o Road design and maintenance?
 - o Road safety?
 - o Environmental concerns?
 - o Road decommissioning and rehabilitation?

Table 3 – Closure and Decommissioning of Roads, & Security

Issues: Current regulations do not effectively regulate road closure or decommissioning. Current financial security requirements are inadequate to cover many decommissioning costs. Current regulations have limited restoration provisions and the permit is only three years.

Questions:

1. What should be included in a closure and decommissioning plan?
2. What kinds of progressive closure/reclamation methods could be considered in a decommissioning plan?
3. How should the amount of security be determined?
4. What type of security should be required?

Table 4 – How Will Permitting Work? / Permit Fees

Issues: Current permits under the *Land Use Regulation* only regulate construction and are limited to three years.

Application and land use fees need to be set under a new resource road regulation.

Questions:

1. Should the permit time frame be linked to the full duration of the project, including closure? What if the project changes?
2. How should permit terms and conditions address?
 - o Road use and safety.
 - o Existing land and resource plans.
 - o Environmental and socio-economic impacts.
 - o Wildlife concerns and increased hunting pressure.
 - o Other concerns?
3. Should fees for road permits be kept as they are now?
 - o \$150 for a permit application and \$50 for assignment.
 - o \$50 for the first two hectares of land needed for the road and \$50 for each additional hectare.
4. Are there other factors that should be considered in setting the fee structure for resource road permits?

Table 4 – How will the resource roads regulation work with other legislation?

Issues: Interaction of a new resource road regulation with existing regulatory regimes.

Transition of existing permits

Questions:

1. Is there a problem with the resource road regulation replacing the current *Land Use Regulation* and *Mining Land Use Regulations* on resource roads?
2. What should happen to existing permits once the new regulation is in force?

Table 5 – Compliance and Enforcement

Issues: Current permitting regime does not have sufficient compliance and enforcement tools such as ticketing.

Current tools are limited to summary conviction fines, weak trespassing measures, and court proceedings.

Current enforcement is limited to the maximum three-year term of the permit.

Questions:

1. Should additional enforcement tools be established, such as prohibitions, offences and penalties?
2. Should government be able to issue on-site tickets for offences?
3. Should government have the ability to amend, suspend or cancel permits in response to compliance issues?
4. What other compliance and enforcement tools should be considered?



