



Acho Dene Koe First Nation

General Delivery, Fort Liard, NT X0G 0A0
Tel: (867) 770-4571

Website: www.adkfirstnation.ca

December 1, 2020

Michael Pealow
Mineral Development Strategy Facilitator
Yukon Mineral Development Strategy
PO Box 372, 108 Elliott Street
Whitehorse, YT Y1A 6C4

Via Email: facilitator@yukonmds.com

Via Email: panel@yukonmds.com

SENT ELECTRONICALLY ONLY

SUBJECT: YUKON MINERAL DEVELOPMENT STRATEGY

Through the Mining Memorandum of Understanding process, First Nations and the Yukon government are working to create a joint Mineral Development Strategy For Yukon that looks at all First Nations' and Yukoner's needs, values and interests to shape a long-term plan for a successful and responsible mining industry in the Yukon.

The Yukon Mineral Development Strategy is intended to be a collective strategy for managing placer and quartz mineral prospecting, development, production, reclamation, closure, and post-closure management.

In 2019, an Independent Panel was established to lead an engagement process culminating in a set of recommendations to the Minister for the Yukon Mineral Development Strategy. It is to this independent panel that Acho Dene Koe First Nation provides this submission outlining recommendations for the Yukon Mineral Development Strategy and suggested approaches to modernize the mineral resources regime in the Yukon. Due to the effects of COVID-19 on the capacity of our Lands Office, Acho Dene Koe First Nation was unable to participate in engagement that ended in September 2020, but we request that this submission is incorporated in to the development of Draft Recommendations the Yukon Mineral Development Strategy Independent Panel is currently undertaking.

To support the development of this submission, Acho Dene Koe First Nation reviewed the following documents:

- Placer Mining Act
- Quartz Mining Act
- YMDS Discussion documents
- YMDS What We Heard Report
- YMDS What We Heard Summary of Key Findings
- Written submissions of other parties to the Independent Panel

Acho Dene Koe First Nation holds constitutionally protected Treaty rights, and assert strong Aboriginal rights within our Traditional Territory, which span three jurisdictions: British Columbia, the Northwest Territories and Yukon Territory. While Acho Dene Koe First Nation has not experienced a significant mineral development activity in the Yukon, we want to ensure that any future activity recognizes and accommodates our rights.

Need for updated legislation

Current mining legislation and the mining regulatory regime in the Yukon does not reflect the progress that has been made in Canada and in the mining industry regarding the application of the Duty to Consult and Accommodate and the adoption of principles of Free, Prior and Informed Consent.

Acho Dene Koe First Nation agrees with the submissions of other First Nations and Indigenous governments that updated mining legislation must be a key outcome of the Yukon Mineral Development Strategy. Such updated mining legislation must include requirements for the provision of clear and accessible information related to proposed acquisitions of mineral claims, proposed exploration or development activity and requirements for consent-based consultation and accommodation agreements with First Nations prior to approval.

Inclusion of Transboundary First Nations in mining legislation

The current Placer Mining Act and Quartz Mining Act exclude First Nations with traditional territories extending into the Yukon in key definitions, and therefore the rights and interests of these Transboundary First Nations are not adequately taken into account in the current regulatory regime.

The Yukon Mineral Development Strategy must set out requirements that any updates to existing mining legislation, or the development of new mining legislation explicitly acknowledge that Acho Dene Koe First Nation and other Transboundary First Nations receive the same considerations as First Nation signatories of the Umbrella Final Agreement.

Comprehensive Planning process for mineral claim and mineral development areas

Acho Dene Koe First Nation's perspective is that the foundational assumption underlying the current regulatory regime is that mining is that the ideal use of lands in the Yukon and that mineral development should be unilaterally facilitated and supported. This is evident in the current system of free entry staking and the Yukon Government's outdated approach to all lands being open for exploration and staking unless they have been specifically withdrawn. This is incompatible with the rights and interests of Indigenous groups and obsolete in comparison to other provincial and territorial jurisdictions, where available mineral claim areas are limited, there are structured application and approvals processes and/or consent is required from the holders of surface rights to carry out any staking, exploration or development. We recommend that an outcome of the Yukon Mineral Development Strategy be a comprehensive planning process in collaboration with First Nations and Indigenous governments, in which lands that are available or withdrawn for mining claims are identified, including considerations for the protection of ecologically and culturally significant areas, traditional uses of the lands and waters, and uses of the land for other economic development activity.

Robust requirements for Reclamation and Closure Planning

Under the current mining regulatory regime, numerous mines in the Yukon have never undergone adequate closure and reclamation, stemming directly from the lack of requirements in current legislation for mining proponents to provide comprehensive reclamation and closure

plans during the project approvals process. We recommend that updates to mining legislation and regulations include requirements for approvals of closure and reclamation plans prior to approvals being granted for exploration or development activity, including:

- Different types of closure (i.e. temporary suspension, final closure, etc.) and the required actions to implement for each type of closure.
- Open pit mines require detailed pit infilling modelling, geochemical modelling of pit water quality and actions the Proponent will undertake to ensure that the open pit is not a risk to human or ecological health
- The proponent must include a detailed surface water and groundwater monitoring plan for both the active and passive closure phases of the mine that is focused on monitoring potential effects of the Project post-closure. An aquatic effects monitoring plan must also be designed for the active and passive closure phases of the mine.
- The Proponent must revegetate all disturbed areas on the Project site, or justify any areas which will not be subject to revegetation, and provide a habitat offsetting plan for any areas which cannot be revegetated
- The closure plan must include a detailed assessment of the projected costs associated with closure of the mine and provide financial assurance for closure of the mine with the submission of a closure plan.

If you have any questions concerning our response, I will ask that you email our Lands Manager, Meghan Buckham at lands@adkfirstnation.ca
Thank you.

Yours truly,

ACHO DENE KOE FIRST NATION

Signed on behalf of Chief Eugene (Gene) Hope



Boyd Clark

Advisor/Acting Band Manager

Cc. Chief Eugene Hope
Hana Boye, Legal (Donovan & Co)
Meghan Buckham, Lands Manager (Consultant – Shared Value Solutions)
Scott Mackay, Lands Director (Consultant – Shared Value Solutions)
Directors, ADK Holdings Ltd.
Council