

Discussion on Final Draft Yukon Mineral Development Strategy

Preliminary review and report from Yukon Prospectors Association January 16 2021

Overview:

- Mandated under MOU between EMR (YG) and Grand Chief of the CYFN and “self-governing First Nations”, committing these to long-term responsible management of Yukon’s mineral resources.
- Produced by Mineral Development Strategy Panel, an independent panel comprised of three members, one from industry, one former First Nation chief, and one former Deputy Minister of Economic Development, then Energy, Mines and Resources (EMR).
- Identified Seven principles to “guide” development of Yukon’s mineral resources, and six “strategic priorities” to implement these. Ultimately 79 recommendations were provided.
- Seven principles are: Collaboration, Honouring Our Ancestors, Sustainability, Future Generations, Respect, Transparency and Trust, and Certainty and Clarity.
- These principles show the strategy is heavily slanted towards incorporation of First Nation interests, much less so those of the mining sector. Strategy is basically the result of a politically driven process.
- Six “Strategic Priorities” are a bit more even-handed, but still slanted towards environmental, socio-economic and First Nation concerns.
- Incorporates principles of “United Nations Declaration of the Rights of Indigenous Peoples” (UNDRIP), particularly principle of Free, Prior and Informed Consent by Indigenous peoples.
- Some recommendations must be preceded by “modernized mineral resource legislation”, to bring into force by the end of 2023.
- Many submissions described negative legacy of mining, including “erosion of Indigenous rights and cultures and adverse social effects” including “violence against women and family disruption”. This is a stretch to blame against mining.
- Recommends that YG will need to undergo “transformational leadership” and function as a “coherent and singular entity”. YG has “alone been delegated administrative responsibility”.

Pros

- Has significant industry input, mainly through one of its members. Good balance of interests represented on panel.

- Did include consultation with industry, as well as availability for general public to provide input, and received significant number of submissions and comments. Public comments accepted until Feb. 22nd, 2021.
- Incorporation of First Nations participation is at the leading edge of similar policies in other jurisdictions. Good to have indigenous people involved in Yukon's economic activities rather than on the sidelines.
- Recognizes positive impacts of mining on service and supply chains and overall economy of Yukon, including that of First Nations.
- Recommendation of increased royalties to be profit-based, rather than production-based. Also recommends increased retention of royalties within Yukon (currently limited to \$6M). Recognizes need for mining to increase YG revenues.
- Establishment of "mining district or zone" (proximal areas of similar mineralized settings to an existing operation) approach may mitigate need of Decision Bodies to review minor changes to an established mining plan. This is similar to one of the four main tenets of Bill S6.
- For prospecting, need for Class 1 notification would be excluded for "low impact, non-mechanized" programs.
- Recommends increased funding for the Yukon Geological Survey (YGS).
- Recommends establishment of Yukon Mineral Exploration program (YMEP) in regulation, allocate core funding of \$2.5M over three years.
- Establishes clear rules for compensation of existing claims "stranded" by land use planning.
- Effort made to increase "mineral literacy". This may constrain the ability for anti-mining groups to denigrate Yukon's mining industry through misinformation.

Cons

- **Major Issue:** Includes "the addition of **reconciliation**... as a reason to justify a prohibition of entry order for prospecting, staking and mining under the YQMA and YPMA". What exactly does "reconciliation" mean in this context, and how can it be quantified? Without clear parameters, "reconciliation" could be used to prohibit entry Yukon-wide. Why not?
- **Major Issue:** Recommends completion of remaining six Land Use Plans within five years, an unattainable target. Worse, recommends establishing "time-limited staking moratoriums parcels to tightly encompass specific high-value environmental, social and cultural attributes...upon initiation of a Chapter 11 (of the UFA) land use planning process". These may be lifted upon consent of the "Parties" involved. However, if these are withdrawn early in the processes and these take longer than 5 years, much of remaining Yukon would be off-limits indefinitely.

- **Major Issue:** Recommends incorporation of cumulative effects and heritage impacts on analysis of project proposals. Late entries into a prospective area may be denied simply because of perceived additional impacts.
- **Major Issue:** Finalize policy for extractive resource activities in Yukon Wetlands. States that “wetlands cannot be returned to a pre-disturbance state within seven generations” (210 years; one generation = 30 years), which is likely scientifically unsubstantiated. Wetlands can be reclaimed to a productive state (although not pre-disturbance) for wildlife within a few years.

Other significant issues

- Recommends redirecting some of “not-as-yet allocated \$360M” earmarked for the Yukon Resource Gateway Project towards completion of remaining Yukon Regional Land Use Plans. Obviously, this takes funding away from infrastructure, although shouldn’t be a major portion of this money.
- Recommends implementation of a “water tax”, which could be varied depending on water quality at placer mines.
- Recommends introduction of a “First Nations Resource Charge”, in addition to sharing of resource revenues.
- Recommends yet another tax; a non-Yukon payroll tax. This could be detrimental to operators forced to hire qualified personnel from Outside.
- Recommends replacement of current Quartz and Placer Mining Acts, which have represented the interests of Yukon miners and explorations well.
- Recommends modifying Free Entry system, including prohibition of entry in Category B lands and within municipal boundaries. However, it doesn’t recommend removal of Free Entry altogether.
- Administration of new taxes, programs and governing bodies will require increased funding and personnel. Is this viable in light of potential transfer payment freezing or reduction due to Covid-19?
- Requires negotiation of benefit agreements between project proponents and Yukon FNs. Larger companies/ operators may have the resources, but smaller ones, including individual prospectors, probably won’t. More advanced projects (need to define “advanced”) would require participation agreements; mine development and production and decommissioning would require Impact-Benefit Agreements. The latter are typically in place anyway.
- Recommends considering prohibition of certain minerals, namely uranium (a clean energy fuel, possibly the only truly viable one) and coal (which may include coking coal for steel production).

Final Statement

Although the YMDS strives for balance between contrasting interests, this is essentially a political document produced between the Department of Economic Development and Yukon’s First Nation

governments. Although many recommendations are positive towards industry, many, including four major issues, have significant potential to impair the efficacy of Yukon's mining industry.

The recommendation for reconciliation as a basis for prohibition of entry is disturbing, as this is an undefined and unquantifiable concept in the context of mining. The Truth and Reconciliation Commission states: ". . . Reconciliation is about establishing and maintaining a mutually respectful relationship between Aboriginal and non-Aboriginal peoples in this country" (Wikipedia, after TRC). This should not be used as an easy pretext for prohibition of entry.

Following up on the events in the United States Capital Building on January 6th, a "rule of law" is necessary to retain order in government. Adding reconciliation to the list of issues for prohibition of entry introduces an arbitrary condition, outside of the rule of law concerning Yukon's regulatory regime. Any arbitrary condition would introduce uncertainty to the regulatory regime, and be an inhibition towards investment, directly contradicting one of the six strategic priorities.

We are pleased that further comments will be accepted until February 22nd.

Respectfully,

Yukon Prospectors Association (YPA)
January 7, 2021