Attn: Michael Draper, Yukon Government, Energy Mines and Resources

Re: Resource Road Regulations Public Review Process

May 8, 2023

Thank you for the opportunity to provide input on the Proposed Resource Roads Regulations. The following comments have been prepared in response to the online survey as part of the public engagement process (questions in italics).

Access

Do you feel that the permitting and access control measures are adequate to address concerns around road safety, liability, wildlife and the environment?

Yes, with some concerns as outlined below

Existing roads

What would you like to see as part of the public input requirement to designate an existing public road as a resource road?

- Quantification of recent historical use of the public road to understand what expectations and activities would be changed and removed/reduced by restricting access through designation as a resource road. This information is required to directly address those expectations where possible, and inform the public of some implications of the proposed change in status.

- A thorough explanation/analysis of the reasoning and motivation for a shift from public to resource roads so that affected people and the public at large can understand the change. There are two general classes of agency who could propose such a shift in road designation: (i) a business proposing to take on the responsibilities of resource road status, and (ii) Yukon Government acting to apply resource road status, because of direction from land use planning, thereby requiring holder(s) of “resource use authorizations” accessed by the road to take on the responsibilities of that status. So, it seems that one or other of those two
classes of agency should be tasked (in the Regulation) with providing a formal proposal/application for public review (with argumentation) for the change in status.

Financial security

What are your thoughts on security requirements for resource roads development?

- Security will be an essential component of most resource road designations, because it will be relatively easy for a business (e.g., a mineral extraction company) to abandon a road that it has been using after that business has completed its economic activity (often through sale or bankruptcy).
- Uncertainty as to whether the security would be specific only to the resource road (and its decommissioning) under the Territorial Lands (Yukon) Act, or be assessed in conjunction with other security required under renewed mineral legislation (new Quartz and Placer Mining Acts) for mine closure and decommissioning. Given that “resource roads” will cover more “resource use authorizations” than just mineral exploration and development, it seems the security for the road would have to be stand-alone and controlled by the Lands Act.
- There is a need for the Regulation to explicitly detail how security would be transferred, and reassessed, when one holder of a “primary permit” no longer uses the road and therefore no longer needs the primary permit, but other users (with “access permits”, or overlapping “primary permits”) still want the resource road designation to apply. The “primary permit(s)” will have to specify which stretches of the resource road are the sole responsibility of the permit holder to decommission, and which stretches are joint responsibility of concurrent permit holders. An amendment process for primary permits, and associated security, will need to be detailed in the Regulation to deal with changes in numbers and overlap of primary permit holders.

Enforcement

What are your thoughts on enforcement as described in the discussion document?

- The biggest issue with enforcement will be setting up physical controls (gates, fencing) that stop the public accessing the road. These will have to be strategically sited to maximize the ability of the structures to limit passage through the bush to reach the resource road beyond the gate. Having gates staffed for most of the day would be advantageous. Placing the gate at a substantial river crossing is one approach. Keeping the road right-of-way no wider than road bed will be necessary to discourage use of the right-of-way by snowmobiles in winter. Foreclosing use by ATVs in summer will be a bigger problem.
Operational plans, classes and permits

What are your thoughts on the elements of the resource road permit as described in the discussion document?

- Although the Discussion document clearly outlines processes for transfer of public roads to resource road status, it is not explicit enough as to which agency(ies) could initiate a new resource road proposal nor the review process such a proposal would have to pass through. It seems that most proposals for new resource roads would come from businesses with “resource use authorizations”, but would governments ever take the lead so as to activate the access management directions in a regional land use plan? Will proposals for new roads be subject to environmental assessment through the Yukon Environmental and Socio-economic Assessment Board? We argue that they should be subject to such an assessment because: (i) such access roads have required YESAB review in the past; (ii) the compliance of a proposed road with land use plans needs review both by governments, YESAB, and the public; (iii) there is a substantial need to minimize the number of gated road “heads” – sites where resource roads or networks meet public roads – and public review can help in that discussion.

- The Regulation will need to deal with situations of shared use of a resource road by multiple businesses that have “resource use authorizations” to be accessed by the resource road. We suggest that all such businesses need to obtain “primary permits” (as opposed to some only having “access permits”), so that there is clear transfer of responsibility for the entire road network when one of the businesses no longer operates.

- It is excellent that Yukon Government will provide and mandate design and construction standards for resource roads along with issuance of primary permits.