

Advocacy Training for the Yukon River Watershed

April 5-8, 2004

Fairbanks, Alaska

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Canadian Law & First Nations: An Overview

Aspects of Canadian Environmental Law
from a Yukon First Nation Perspective

Presentation overview

- Land Claims & Self-Government;
 - Authority under land claims;
 - Authority under self-government agreements;
- ***Yukon Environmental and Socio-economic Assessment Act (Canada)***;
- Aboriginal Law

Land Claims

- Based on Umbrella Final Agreement
- Currently there are 9 first nations that have ratified agreements.
- Agreements set out land, rights, compensations and collaborative management of resources
- In 1995, the UFA came into effect. This agreement established the framework for the settlement of First Nation Land Claims in the Yukon Territory. It also created several public bodies that bring First Nations and non-First Nations together to manage Yukon lands and resources.



Resource Management in Traditional Territories

- Yukon Water Board;
- Surface Rights Board
- Fish & Wildlife Management Board
- Salmon Sub-Committee
- Renewable Resource Council



Yukon Fish & Wildlife Management Board

- Ch. 16 of the U.F.A recognizes the Yukon Fish and Wildlife Management Board as “the primary instrument of Fish and Wildlife management in the Yukon.” At the working level, the Board deals with conservation and management of fish, wildlife, habitat and wildlife users on a territorial-wide basis.

Yukon Fish and Wildlife Management Board

- make recommendations to the appropriate Minister, YFN and Renewable Resource Councils on all matters related to Fish and Wildlife management, legislation, research, policies and programs;
- participate in the public proceedings of any agency, board or commission dealing with matters that affect the management and conservation of Fish and Wildlife and their habitat in the Yukon (16.7.13);
- make recommendations to the appropriate Minister on the need for and the content and timing of all Yukon Fish and Wildlife Management Plans for species included in international agreements, threatened species or populations, species or populations declared by the Minister as being of territorial, national or international interest, and transplanted populations and exotic species;
- make recommendations to the appropriate Minister on the need for, and for positions on, interjurisdictional agreements that affect the conservation and use of Fish and Wildlife in the Yukon (16.7.12.6);

Salmon Sub-Committee

- a public advisory body set up under the UFA. The Committee's main concern is the conservation of Yukon salmon stocks. The Committee makes recommendations to the Minister of Fisheries and Oceans and to Yukon First Nations on all matters related to Yukon salmon.
- Salmon Committee members also serve on the Yukon River Panel, which represents the Yukon in ongoing Pacific Salmon Treaty negotiations between Canada and the US.

Yukon Water Board (YWB)

- The YWB is an adjudicative board which acts as an impartial tribunal and is responsible for issuing water licenses for water use and waste deposit.
- Water licenses are issued for projects including quartz and placer mining, hydro power generation, municipal use, agriculture, conservation, industrial, recreational and miscellaneous projects such as culvert installation and bridges. The YWB also accepts and approves applications for mining land use permits as part of a governmental "one window" approach to licensing placer mining applications.

Self-Government

- Each Yukon First Nation that has a land claim agreement also has a SGA;
- The SGA sets out the government powers of the First Nations over their land, resources, citizens and government.
- Establishes the relationship of laws between the federal, territorial and first nation governments.

Legislative Powers

- Legislative powers set out under section 13 of the SGA, as well as provisions of the Final Agreement;
- Some powers include:
 - Use, management, administration and protection of natural resources under the ownership, control or jurisdiction of first nation;
 - Fishing and the protection of fish and wildlife and habitat;
 - Planning, zoning and land development;
 - Control or prevention of pollution and protection of the environment; and
 - Control or prohibition of the transport of dangerous substances.

Yukon Environmental and Socio-Economic Assessment Act

BACKGROUND:

- Act based on commitment set out in Ch. 12 of UFA;
- It will establish single process to assess projects on federal, territorial and first nation lands;
- It is unique to the Yukon;
- Parliament passed legislation in May 2003
- Has an 18 month implementation period, scheduled to come it to force in November 2004;

Yukon Environmental and Socio-Economic Assessment Act

BACKGROUND (con't):

- Still have to appoint Board Members, establish designated offices, develop procedural rules, hire and train staff and develop regulations;
- Will be a neutral assessment process that works at “arm’s-length” from YFN, YTG and Fed’s

YESAA – Assessment Bodies

- Projects will be assessed for their environmental and socio-economic effects by either the Board (the executive committee or a panel) or one of the designated officers
- Board will consists of seven members, three of which will form the executive committee
- Six assessment districts across the Yukon each with a local designated office

YESAA – Decision Bodies

- Following the assessment of a project, the Board or a designated office will recommend to the decision body whether or not the project should be allowed to proceed, with or without terms and conditions
- The decision bodies will issue a decision document that accepts, rejects or varies the recommendations

Aboriginal Law

- Aboriginal Rights
- Aboriginal Title
- Inherent Right
- Duty to Consultation
- Duty to Accommodate



Thank You