



# KLUANE FIRST NATION

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September 11, 2009

Honorable Archie Lang  
Minister of Energy, Mines & Resources  
300-211 Main Street (K-11)  
Whitehorse, YT  
Y1A 2B2

Dear Minister Lang,

## **RE: Comments on Proposed Amendments to the Yukon Oil and Gas Act**

Further to your notice of consultation dated August 4, 2009 regarding the proposed amendments to the *Yukon Oil and Gas Act*, I now wish to set out general concerns on behalf of the Kluane First Nation with some of the proposed amendments. Before that however I would like to thank your staff Ron Sumanik and Debra Wortley for meeting with one of our representative on September 2<sup>nd</sup> to answer some of the questions that we had with regards to the proposed amendments to the *Yukon Oil and Gas Act*.

It is our understanding that, through the proposed amendments to the *Act*, the Yukon Government wants to update and modernize the *Yukon Oil and Gas Act*. However, the Kluane First Nation would like to raise a few concerns with regards to the proposed amendments and the consultation process required to amend the *Act*.

- (a) **Timelines for consultation.** It is Kluane First Nation's recommendation that the consultation period be extended in order for all Yukon First Nations to be afforded a reasonable opportunity to submit written comments. From our understanding, the Yukon Government intends to introduce the proposed amendments to the fall session of the Legislative Assembly and this is the reason for such a short consultation period and tight timelines. However, it would be wise for the Yukon Government to delay this process so as to make sure that all Yukon First Nations have had a chance to review the proposed amendments appropriately and voice their concerns to the Government.
- (b) **Protocol for the proposed amendments.** In January 1997, the Yukon First Nations and Yukon Government signed the Memorandum of Agreement (the "MOA") to support the transfer of oil and gas responsibilities and powers to the Yukon Government under the Accord subject to a number of conditions, including measures to protect the rights and interests of Yukon First Nations.

Among other matters, the MOA established a joint working group to cooperatively review and revise the *Act* and its regulations since they were developed without any substantive input from the Yukon First Nations.

The working group, which includes representatives of the Council of Yukon First Nations (the "CYFN"), Kwanlin Dun First Nation, Kaska and Yukon Government, substantially revised the final draft of the *Act*. Subsequently the *Act* was passed by the Legislative Assembly and received royal assent in November 1998.

The Kluane First Nation would like to raise its concerns with regards to the manner in which the Yukon Government has proposed its amendments to the *Yukon Oil and Gas Act*. If the Yukon Government wished to amend the *Act* contrary to its commitment set out in the MOA, it should have raised the matter for discussion with Yukon First Nations on a Government-to-Government basis. For instance, such a matter could have been raised at a meeting of the Yukon Forum rather than mailing a letter to each Yukon First Nation and issuing a news release. It is in our view inappropriate for the Yukon Government to propose changes to its agreements with Yukon First Nations on its initiative in a public manner. The MOA was a significant agreement. It was signed by each Yukon First Nation Chief and the Government Leader at a public ceremony in Whitehorse. It was the first substantive agreement amongst the Yukon First Nations and Yukon Government since the signing of the Umbrella Final Agreement.

It is our recommendation that the final drafting of the proposed amendments be reviewed by the MOA working group. This would be consistent with the process employed to develop the *Act* and its regulations.

- (c) **Section 13.** The Yukon Government is proposing to completely remove Section 13 from the amended *Yukon Oil and Gas Act*. The current wording of section 13 states that the Minister shall not issue new dispositions or licenses authorizing any oil and gas activity in the Traditional Territory of Yukon First Nation whose land claim agreement is not in legal effect without its consent. The proposed deletion of section 13 represents a breach of the Yukon Government's commitments under the MOA. The Yukon Government's proposal to amend the *Act* in a manner inconsistent with its commitments under the MOA concerns all Yukon First Nations and not only those without land-claim agreement currently in effect.
- (d) **Section 67.** The Yukon Government is proposing to completely remove Section 67 "Environmental Assessments" from the *Yukon Oil and Gas Act*. The Kluane First Nation is concerned that completely removing the section from the *Act* will open the door to the possibility of issuing licenses before they have been properly reviewed by YESAB. The Kluane First Nation requests that the Yukon Government address in the *Yukon Oil and Gas Act* the requirement for a YESAB assessment prior to any oil and gas activity authorization being issued.
- (e) **Section 68.** It is Kluane First Nation's recommendation that the MOA working group examine the outcomes of the benefit agreements implemented

over the past decade in order to determine if the *Act* or policies require revision. Based on this examination, amendments to the *Act* or changes to policy may be proposed. The territorial representatives of the MOA working group have already confirmed an interest to undertake this work.

The foregoing sets out Kluane First Nation's primary concerns with regards to the current Yukon Oil and Gas Act consultation. Despite the fact that Oil and Gas will likely continue to be part of Yukon's energy mix for the foreseeable future, I would like to take this opportunity to encourage the Yukon Government to look at alternative energy sources as desirable development options so as to assist Yukoners to decrease their dependence on oil and gas. In the meantime, Yukon's oil and gas resources should be made available to Yukoners instead of being exported and associated benefits should be maximized within the Yukon.

I look forward to hear back from you on how the concerns that have been raised by my First Nation will be addressed.

Sincerely,

A handwritten signature in black ink, appearing to read 'W.S.', is positioned above the typed name.

**Wilfred Sheldon**  
Chief, Kluane First Nation

Cc: Anne-Marie Legare, KFN Director of Lands, Resources & Heritage