



Your file

Our file

October 13, 2009

BY FAX: 393-6252

Honourable Archie Lang
Energy, Mines and Resources
Box 2703
Whitehorse, Yukon Y1A 2C6

Dear Sir:

RE: Proposed amendments to the *Oil and Gas Act* (Yukon)

Tr'ondëk Hwëch'in has reviewed the amendments proposed by the Yukon government with respect to the *Oil and Gas Act*. In general, we do not have any concerns with respect to the technical amendments to the *Act*, but we have concerns about the process employed by the Yukon government with respect to the proposed amendments and the proposed deletion of section 13.

Firstly, it is not appropriate for the Yukon government to simply mail a letter to each Yukon First Nation and issue a news release announcing the proposed amendments. Instead the Yukon government should have raised its intention to amend the *Act* with Yukon First Nations on a government-to-government basis – particularly if those amendments included changes to the *Act* which would be contrary to its commitments set out in the Memorandum of Agreement (the "MOA").

As you know, the MOA confirmed the support of the Yukon First Nations with respect to the transfer of oil and gas responsibilities and powers to the Yukon government subject to a number of conditions, including measures to protect the rights and interests of Yukon First Nations. The MOA was signed by the Chief of each Yukon First Nation and the Government Leader at a public ceremony in Whitehorse in January, 1997. It was the first substantive agreement amongst the Yukon First Nations and Yukon government since the signing of the Umbrella Final Agreement in 1993.

Following discussions between the Yukon First Nations and Yukon government on a government-to-government basis, the MOA working group should have been convened to develop any proposed amendments. This approach would have been consistent with the principles of the MOA and the development of the *Act* and regulations. Instead the Yukon government only convened this working group as part of the public consultations.

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Secondly, we are concerned that the Yukon government is proposing to delete section 13 of the *Act*. Section 13 reflects a key commitment that the Yukon government made to the Yukon First Nations under sections 4 and 5 of the MOA. As you know, section 13 provides that where a Yukon First Nation has an outstanding land claim, consent is required before the Yukon government can issue any oil and gas rights within its traditional territory, including the right to explore for oil and gas. It is our understanding that the Yukon government proposes to delete section 13 of the *Act* on the basis that it wishes to align the *Act* with the common law provisions for consultations with the Yukon First Nations. We find this justification for the deletion of section 13 to be dubious at best.

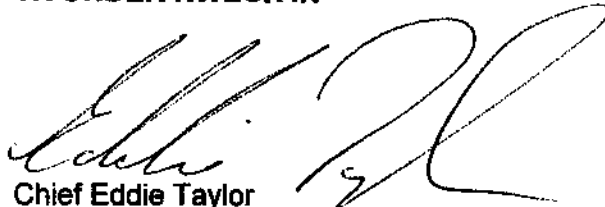
We support the comments and positions of the Yukon First Nations that are still bands under the *Indian Act* (Canada) since this proposed amendment will directly affect their interests.

In closing, we propose that the MOA working group undertake a review of the *Act* to determine what amendments, if any, are required. Although the Yukon government has identified what changes it sees as necessary with respect to the *Act*, it is likely that others may also see the need to amend the *Act*. In particular, we recommend that the MOA working group examine the outcomes of the benefit agreements negotiated pursuant to section 68 over the past decade in order to determine if the *Act* or policies require revision. Based on this review, the working group may recommend amendments to the *Act* or its regulations or changes to policy.

To that end, we request that the Yukon government take the time necessary to complete this work with the Yukon First Nations. We share an interest to ensure that oil and gas resources in the Yukon Territory are managed and administered effectively and efficiently and wish to work with you achieve those objectives.

Sincerely,

TR'ONDĒK HWĒCH'IN


Chief Eddie Taylor

cc. Ron Sumanik, Manager, Oil and Gas Business Development