



## COUNCIL OF YUKON FIRST NATIONS

Office of the Grand Chief

April 23, 2014

**BY FAX (819) 953-4941 AND MAIL**

Honourable Bernard Valcourt  
Minister of Aboriginal Affairs and Northern Development Canada  
10 Wellington Street  
Gatineau, QC K1A 0H4

**Re: Proposed federal amendments to the *Yukon Environmental and Socio-economic Assessment Act (Canada)***

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On behalf of the members of the Council of Yukon First Nations (the "CYFN"), this letter and the attached chart provide comments about proposed amendments to the Yukon Environmental and Socio-economic Assessment Act (the "YESAA"). The letter provides an overview of CYFN issues and concerns while the chart provides specific responses to the table of "proposed amendments to the *Yukon Environmental and Socio-economic Assessment Act*" that was prepared by Aboriginal Affairs and Northern Development Canada (the "AANDC") and dated February 21, 2014.

The CYFN supports amendments of the YESAA in a timely manner to address the agreed outcomes of the YESAA Five-year Review while ensuring consistency with the provisions of the Umbrella Final Agreement (the "UFA"). But, as we advised your officials and as described in the attached chart, the CYFN has deep concerns with the proposed federal amendments that are inconsistent with the UFA or the findings of the Five-year Review. Some key areas of concern include the following proposals, which the CYFN recommends be removed from the proposed amendments:

- The establishment of authority for the Federal Minister to delegate powers to the Territorial Minister effectively provides for two parties (Canada and Yukon) to make decisions about the distribution of powers among levels of government. YESAA arises from the tri-partite UFA and delegation of powers through discussion with two parties is not consistent with the tri-partite nature of the agreement and its implementation. Also, there is no similar provision proposed for delegating powers to First Nation governments.
- The proposal to establish a broad exemption from assessment for renewals and amendments is not consistent with the parties' agreement during the Five-year Review and would create exemptions for some projects that should be subject to assessment. The parties agreed that the type of amendment proposed is too broad and that YESAA already contains sufficient flexibility for appropriate temporal scoping of projects. Canada should support implementation of the findings from the Five-year Review, to provide and apply appropriate flexibility in temporal scoping of projects under YESAA.



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- The proposal to provide the Federal Minister with authority to issue policy direction to the Yukon Environmental and Socio-economic Assessment Board (the "Board") is a direct conflict on the independence of the Board. It also contradicts the tri-partite approach envisioned in the UFA by providing one party with authority to enforce its policy on the Board while the other parties would not have this ability.

While the proposed federal amendments implement recommendations of the Interim YESAA Five-year Review Report (March 31, 2012), it must be noted that three key issues of the Yukon First Nations remain outstanding and are not addressed in the interim YESAA report or the proposed amendments. Firstly, the CYFN maintains that a territorial or federal decision body must engage with affected Yukon First Nations in certain circumstances including where the decision body may reject or vary a recommendation from an assessment body. Secondly, the CYFN proposes that the YESAA be amended to provide for its periodic review and establish a role for the Yukon First Nations in future reviews of the YESAA process. Lastly, if the environmental assessment process in the Yukon is to operate effectively and efficiently, the Yukon First Nations must have the resources to fulfill their duties under the YESAA and be able to participate fully with respect to the assessment and review of activities and projects within their respective traditional territories. As recommended in the Five-year Review Observations and Conclusions Report, a review of the adequacy of funding for First Nation governments is required.

Your officials advised on April 2, 2014, that they intend to meet with us to further discuss these matters. We look forward to those discussions where we hope to identify revisions to the proposed amendments to address our concerns.

Sincerely,

  
for Ruth Massie  
Grand Chief

Enclosure

cc. All Yukon First Nation Chiefs  
Premier Darrell Pasloski, Yukon Government  
Stephen Mills, Chair, YESAB  
Paula Isaak, Director General, Natural Resources and Environment Branch, AANDC  
Tara Shannon, Director, Resource Policy and Programs Directorate, AANDC

