

Engaging with Yukon First Nations and Communities

*A Quick Reference Guide to Effective
and Respectful Engagement Practices*

2012



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This guide is intended to provide general guidance to mining, exploration and development companies when conducting business in the Yukon and engaging with Yukon First Nations and communities.

It is not intended to provide any form of investment, legal, accounting, tax or any other form of professional advice related to doing business in the Yukon. Users are cautioned that they should obtain appropriate and current professional advice.



Overview

Overview

This Yukon-specific guide is designed to help mining, exploration and development companies doing business in the territory establish sound and respectful working relationships with Yukon First Nations and communities when undertaking mineral exploration or development projects or activities.

Universal experience reveals that early, effective engagement with First Nations and communities during your planning stages is fundamental and can help you:

- Plan and build for long-term success.
- Build mutually beneficial relationships.
- Achieve permitting, regulatory and scheduling success.
- Gain awareness of First Nation and community values.
- Fulfill Yukon First Nation Final Agreement and legislative consultation requirements.
- Access local knowledge, expertise, employees and suppliers.
- Foster mutually positive outcomes.

This guide is a collaboration of the Yukon Chamber of Mines, Tr'ondëk Hwëch'in and the First Nation of Na-cho Nyak Dun.

This guide is intended to be a reference only and is not meant to be prescriptive or provide legal advice.

In addition, the guide does not provide details regarding how to engage a specific First Nation or community – as each case is unique – nor does it provide advice regarding how to fulfill legislative consultation activities.

Environment

Environment

The Yukon has a unique and groundbreaking governance structure and regulatory environment compared to other Canadian and northern jurisdictions.

Eleven of 14 Yukon First Nations have settled their land claims and have entered into Self-government Agreements that establish each as a legal entity with powers and responsibilities similar to those of a province – including the right to govern its citizens and its lands.

In addition, in 2003, the federal government devolved the legislative authority for the management and control of natural resources to the Government of Yukon.

Yukon First Nations

Yukon First Nations

First Nations culture is fundamentally linked to the land and the natural environment. It is imperative to acknowledge and respect these values when undertaking projects or activities in the Yukon.

A crucial first step toward effective engagement commences with approaching each Yukon First Nation as an order of government versus as a stakeholder.

Yukon First Nations with Final Agreements own tracts of Settlement Land (including Category B land) within their traditional territories over which they have defined management powers depending upon the applicable category of land. In several cases, they are also decision makers regarding the issuance of permits and licences.

Three Yukon First Nations are not self-governing and do not have powers authorized by self-government agreements. However, they too, have rights and authorities within their own traditional territories.

In the development of your engagement strategy, you must determine with which First Nation you need to engage. It may be necessary to engage with more than one First Nation (as in some instances, traditional territories overlap).

For detailed definitions of Settlement Land, land categories, traditional territories, Final Agreements and Self-government, please refer to the glossary at the conclusion of this guide.

For a map outlining Yukon First Nation Traditional Territories, please see link on page 17.

Contact information for each Yukon First Nation can be found on pages 13-14.

Yukon Communities

Yukon Communities

The Yukon has a population of approximately 35,000 and 11 of its 14 communities have populations with fewer than 1,000 residents. One quarter of the territory's population is aboriginal.

Yukon communities have endured 'boom and bust' economic cycles for decades and will be rigorous when inquiring about your project's longevity and the long-term impacts and benefits for the community, its residents and its infrastructure.

Eight Yukon municipalities are incorporated and have certain decision-making powers and responsibilities. In addition, there are several unincorporated communities that may have an interest in your project or activity.

It is imperative that you determine early on with which communities and groups you need to engage. Community contact information can be found on pages 13-14.



Yukon Chamber of Mines

Yukon Chamber of Mines

The Yukon Chamber of Mines is a not-for-profit organization that works on behalf of its mining, exploration and service and supply members to promote a vibrant, healthy, safe and responsible mining and exploration industry in the territory.

In 2010, the Yukon Chamber of Mines launched its *Yukon Mineral Exploration Best Management Practices and Regulatory Guide* to equip mining and exploration companies with a range of planning tools and practices that pertain to the regulatory and environmental conditions of the Yukon mining industry.

The Yukon Chamber of Mines is committed to responsible development and early, effective engagement. Its *Best Management Practices* are designed to help reduce the potential impact of mining and exploration activities on the environment.

Contact information for the Yukon Chamber of Mines can be found on page 15.



Permitting and Regulatory Context

Permitting and Regulatory Context

There are several federal laws that apply to resource development projects and activities throughout the territory (including on First Nation Settlement Lands).

Unlike other Canadian jurisdictions, a single environmental and socio-economic assessment process applies in the Yukon to most projects and activities whether they are on federal, territorial or First Nation lands.

The Yukon Environmental and Socio-economic Assessment Act (YESAA) legislates a process to assess the environmental and socio-economic effects of projects and activities in the territory.

YESAA – administered by the Yukon Environmental and Socio-economic Assessment Board (YESAB) – integrates scientific information, traditional knowledge and other local knowledge in all assessments. The process incorporates principles that include recognizing and enhancing First Nation economies and meaningful participation for all Yukon residents.

Other key federal laws and territorial legislation that may affect your project or activity can be found on page 17.

Contact information for associated government departments can be found on page 14.



Land Operating Context

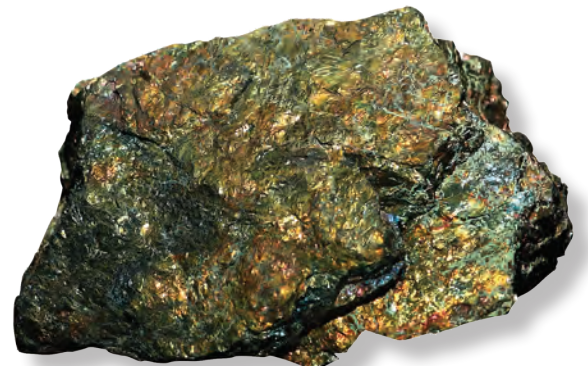
Land Operating Context

The Yukon is 483,450 square kilometres and represents 4.8 per cent of Canada's total land area.

The majority of land in the territory is administered by the Government of Yukon; however approximately 7.6 per cent of land in the Yukon is owned by Yukon First Nations pursuant to their First Nation Final Agreements.

Some tracts of land in the territory have been withdrawn from disposition for the purposes of national and territorial parks or for uses such as Special Management Areas, Habitat Protection Areas and National Environment Parks.

Other lands have been withdrawn from disposition on an interim basis to be set aside for future land selections by the three Yukon First Nations which have not yet settled their land claims – the Liard First Nation, Ross River Dena Council and White River First Nation.



Engagement

Early, Effective Engagement

In addition to potentially making your project more attractive to investors, helping you secure locally based employees and suppliers and streamlining assessment and regulatory processes, early, effective engagement:

- Demonstrates your company's recognition of Self-governing First Nations as orders of government and your commitment to corporate and social responsibility.
- Facilitates a greater understanding of what First Nation laws, treaties and/or asserted aboriginal rights to consider in your plans.
- Can assist you in the development of an Impact Benefit Agreement, Cooperation Agreement or Socio-economic Participation Agreement with a First Nation.

In short, early, effective engagement is good business practice and will help increase the likelihood that Yukon First Nations and communities will support your project or activity – a critical factor in determining sustainable success.



Mitigating Potential Challenges

Mitigating Potential Challenges

Companies face a number of challenges when engaging with Yukon First Nations and communities.

Some key realities include First Nation capacity and/or resource limitations that may delay responses and a 'disconnect' that may exist between the values of the First Nation or community and the perceived values of your company.

In order to anticipate and help mitigate these challenges, your company should:

- Approach and address Yukon First Nations as orders of government (similar to the manner in which you engage the territorial government).
- Not think of or refer to First Nations as stakeholders.
- Arrange personal meetings between your executives and First Nation and community leaders.
- Determine the appropriate First Nation and community contacts and ensure they are regularly informed at key junctures in your project.
- Undertake clear and effective information-sharing policies and advertising tactics (when applicable).
- Develop an engagement strategy with realistic timelines.
- Partner with First Nation and community individuals and/or organizations to facilitate local benefits and help build sustainable local capacity.
- Follow community protocols and/or best practices where they exist.
- Recognize and accommodate First Nation cultural activities (e.g., potlaches, General Assemblies and time set aside for traditional harvesting).
- Understand that some First Nations and communities have been negatively impacted by the residual trauma of the residential-school experience and its link to substance abuse.
- Consider modifications to your project that address First Nation and community concerns.

First Nation Governments vs. First Nation Development Corporations

Yukon First Nation governments have Development Corporations that are responsible for pursuing economic activities on behalf of the First Nation and its citizens. These corporations are 'arms length' from the First Nation government and may have different mandates for resource development projects.

First Nation governments are responsible for the stewardship of the land with a priority on the long-term sustainability of natural resources, while Development Corporations may place a priority on economic generation.

Your engagement strategy should recognize and address these potentially varying interests.



Local Benefits

Local Benefits

A willingness to generate significant local benefits will greatly enhance prospects for a project's success. Companies and communities need a strong reciprocal understanding of each other's values and objectives. This will result in stronger relationships and greater project sustainability and success.

Local benefits will vary with a project's stage and with each community and can include:

- Training and capacity building to help build a skilled local labour force.
- Preferential hiring for First Nation people and local residents.
- Preferential opportunities for First Nation and local companies to provide goods and services.
- Joint economic ventures with First Nation and local companies.
- Contributions to community events, initiatives and/or infrastructure.
- Investment and equity acquisition opportunities for First Nations and communities.



Contacts

The following contact numbers and web sites provide an overview of relevant organizations, government and non-government departments that may be affected by your project or activity or provide assistance to you and your company.

Please note that all phone numbers are preceded by area code 867.

First Nations and Communities

Southeast Region

Kaska Tribal Council (Watson Lake)	536.2805	kaskadenacouncil.com
Liard First Nation (Watson Lake)	536.7901	kaskadenacouncil.com
Ross River Dena Council	969.2277	kaskadenacouncil.com
Town of Watson Lake	536.8000	watsonlake.ca
Town of Faro	994.2728	faroyukon.ca

South Central Region

Carcross/Tagish First Nation	821.4251	ctfn.ca
Kwanlin Dün First Nation (Whitehorse)	633.7800	kwanlindun.com
Ta'an Kwäch'än Council (Whitehorse)	668.3613	taan.ca
Teslin Tlingit Council	390.2532	ttc-teslin.com
City of Whitehorse	668.8346	whitehorse.ca
Village of Teslin	390.2530	teslin.ca

Southwest Region

Champagne and Aishihik First Nation (Haines Junction)	634.4200	cafn.ca
Kluane First Nation (Burwash Landing)	841.4274	kfn.ca
White River First Nation (Beaver Creek)	862.7802	
Village of Haines Junction	634.7100	hainesjunctionyukon.com

Central Region

Little Salmon/Carmacks First Nation	863.5576	lscfn.ca
First Nation of Na-cho Nyak Dun (Mayo)	996.2265	nndfn.com
Selkirk First Nation (Pelly Crossing)	537.3331	selkirkfn.com
Village of Carmacks	863.6271	carmacks.ca
Village of Mayo	996.2317	yukonweb.com/community/mayo/

Northern Region

Tr'ondëk Hwëch'in (Dawson City)	993.7100	trondek.ca
Vuntut Gwitchin First Nation (Old Crow)	966.3261	vgfn.ca
City of Dawson	993.7400	cityofdawson.ca

Yukon Government Web Sites

Community Services	community.gov.yk.ca
Economic Development – Regional	economicdevelopment.gov.yk.ca
Energy Mines & Resources:	
Forest Management	emr.gov.yk.ca/forestry
Mineral Resources	emr.gov.yk.ca/mining
Oil and Gas Resources	emr.gov.yk.ca/oilandgas
Land Use	emr.gov.yk.ca/lands
Environment	env.gov.yk.ca
Executive Council Office	
Land Claims	eco.gov.yk.ca/landclaims/index.html
Development Assessment	eco.gov.yk.ca/dap/index.html
Statistics	eco.gov.yk.ca/stats/index.html



Organizations, Associations and Acronyms

Association of Yukon Communities (AYC)	ayc-yk.ca
Council of Yukon First Nations (CYFN)	cyfn.ca
Klondike Placer Miners' Association (KPMA)	kpma.ca
Yukon Environmental and Socio-economic Assessment Board (YESAB)	yesab.ca
Yukon Chamber of Commerce (YCC)	yukonchamber.com
Yukon Chamber of Mines (YCM)	yukonminers.ca
Yukon Land Use Planning Council (YLUPC)	planyukon.ca
Yukon Mine Training Association (YMTA)	yukonminetraining.com
Yukon Water Board (YWB)	yukonwaterboard.ca
Yukon Workers' Compensation Health & Safety Board (YWCHSB)	wcb.yk.ca

Renewable Resource Councils (RRC)

Carcross/Tagish RRC	399.4923	yfwmb.ca/rrc/carcrosstagish
Alsek RRC (Haines Junction)	634.2524	yfwmb.ca/rrc/alsek
Carmacks RRC	863.6838	yfwmb.ca/rrc/carmacks
Dan Keyi RRC (Burwash Landing)	841.5820	yfwmb.ca/rrc/dankeyi
Dawson District RRC	993.6976	yfwmb.ca/rrc/dawson
Laberge RRC	393.3940	yfwmb.ca/rrc/laberge
Mayo District RRC	996.2942	yfwmb.ca/rrc/mayo
North Yukon RRC	966.3034	yfwmb.ca/rrc/northyukon
Selkirk RRC	537.3937	yfwmb.ca/rrc/selkirk
Teslin RRC	390.2323	yfwmb.ca/rrc/teslin



Useful Links

The following links provide references to relevant resources that may provide useful information or successful engagement perspectives.

Engagement and Best Practices Tools

Industry Practices: Developing Effective Working Relationships with Aboriginal Communities (CAPP)

www.capp.ca/getdoc.aspx?DocId=100984

Learning from Experience: Aboriginal Programs in the Resource Industries (Alberta)

www.acr-aboriginalproject.org

E3 Best Practices Guidelines (PDAC)

www.pdac.ca/aboriginal/information/engagement.aspx

Yukon Mineral Best Management Practices and Regulatory Guide (Yukon Chamber of Mines)

www.yukonminers.ca

Reclaiming Connections: Understanding Residential School Trauma Among Aboriginal People (First Nations Child and Family Caring Society of Canada)

www.ahf.ca/downloads/healing-trauma-web-eng.pdf

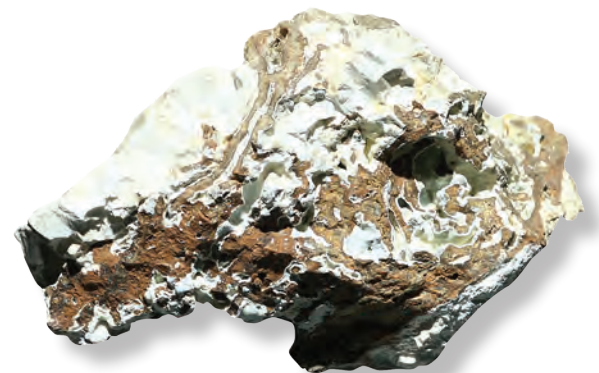
Yukon Energy, Mines and Resources Assessment/Regulatory Guide

www.emr.gov.yk.ca/pdf/yesaa-guide-final-web.pdf



Key Federal and Territorial Acts and Regulations

Fisheries Act	www.dfo-mpo.gc.ca/habitat/role/141/1415/14151-eng.htm
Navigable Waters Protection Act	www.tc.gc.ca/eng/marinesafety/tp-tp14799-nwpa-181.htm
Metal Mining Effluent Regulations ..	www.dfo-mpo.gc.ca/habitat/role/141/1415/14156-eng.htm
Yukon Surface Board Rights Act	www.yukonsurfacerights.com/en/legislation
Yukon Lands Act	www.gov.yk.ca/legislation/acts/lands.pdf
Territorial Lands (Yukon) Act	www.gov.yk.ca/legislation/acts/telayu.pdf
Quartz Mining Act	www.gov.yk.ca/legislation/acts/qumi.pdf
Placer Mining Act	www.gov.yk.ca/legislation/acts/plmi.pdf
Oil and Gas Act	www.gov.yk.ca/legislation/acts/oiga.pdf
Forest Resources Act	www.emr.gov.yk.ca/forestry/forest_legislation.html
Environment Act	www.gov.yk.ca/legislation/acts/environment.pdf
Waters Act	www.gov.yk.ca/legislation/acts/waters.pdf
Parks and Land Certainty Act	www.env.gov.yk.ca/parksconservation/parkslandcertaintyact.php
YESAA	www.yesab.ca/act_regulations/act-external.html
Historic Resources Act	www.tc.gov.yk.ca/pdf/historic_resources_act.pdf
Yukon Archaeological Sites Regs	www.tc.gov.yk.ca/archsites_permit.html



Conclusion

Conclusion

Resource companies have learned from global, national and local experience that early, effective engagement with First Nations and communities has significant benefits.

There is awareness that companies are working within tight timelines and that healthy communities and a healthy environment are synonymous with a vibrant economy and responsible, sustainable projects.

The majority of Yukon First Nations and communities will welcome the economic opportunities your project or activity may bring when undertaken with an approach that is respectful of their interests, priorities and values.

In summary, each First Nation and community has a unique approach to engagement and the first step in any successful engagement process is open and regular communication.



Glossary

Category A Settlement Land – the First Nation has ownership of the surface and the sub-surface.

Category B Settlement Land – the First Nation has ownership of surface rights only (also known as 'Fee Simple' Settlement Land).

First Nation Final Agreements – modern, comprehensive land claims agreements or modern-day treaties between Canada, Yukon and a specific First Nation. Under the Final Agreements, a First Nation has specified decision-making powers over certain activities on its Settlement Land and a vital role in activities in its traditional territory.

Final Agreements are constitutionally entrenched. Each specific Final Agreement is modelled after the Umbrella Final Agreement (UFA) containing all the provisions of the UFA as well as additional provisions specific to the individual First Nation.

In addition to identifying specific parcels of Settlement Land, the Final Agreements set out a wide range of rights, powers and authorities pertaining to land, heritage, access, surface and sub-surface rights, resource planning and assessment, management, cultural resources, resource royalty sharing and compensation.

Self-government Agreements – The 11 Yukon First Nations, which entered into First Nation Final Agreements, concurrently entered into Self-government Agreements. These agreements set forth the powers, rights and responsibilities of First Nation governments. The Self-government Agreements enable First Nations to make and enact laws in relation to the administration and internal management of their government and their citizens (particularly those laws associated with programs and services).

Examples of these powers include allocation of rights and interests on Settlement Land, municipal planning and the management of natural resources under their ownership and control.

Settlement Land – parcels of land owned by a First Nation. They can range in size from that of municipal lots to several hundred square kilometres. Each parcel was negotiated and agreed to as part of each First Nation Final Agreement.

Yukon First Nations Settlement Land parcels are almost exclusively within the First Nation's traditional territory. The total amount of Settlement Land is 41,595 square kilometres. The amount of Settlement Land that each First Nation received is set in the UFA and all Settlement Land is categorized as Category A or Category B Lands.

Traditional Territory – refers to the geographic area that was historically used and occupied by a specific First Nation. The term itself does not imply ownership, as these areas encompass vacant public land administered by the Government of Yukon, private land and land owned by the First Nation.

For example, the City of Whitehorse is within the Traditional Territories of the Kwanlin Dün First Nation and the Ta'an Kwäch'än Council.

UFA – Umbrella Final Agreement provides a framework for the negotiation of agreements between the Government of Canada, the Government of Yukon and each of the Yukon First Nations.

Yukon Community – refers to any part of the Yukon established as a municipality and/or referenced in the *Yukon Municipal Act* and includes cities, towns, hamlets and local advisory areas.

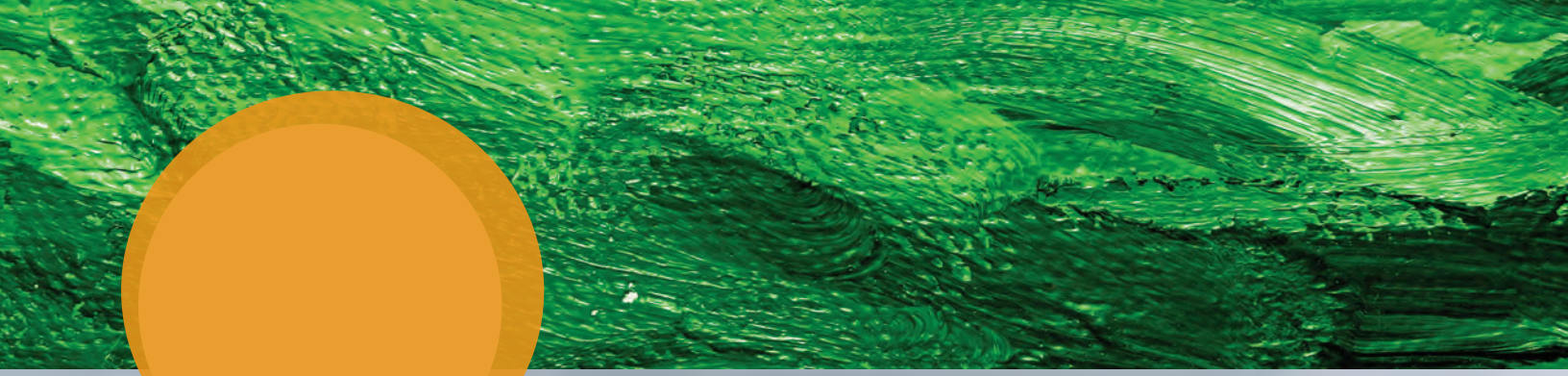


Photo courtesy of Trondëk Hwëch'ih



Yukon
Chamber of Mines