



LIARD ABORIGINAL WOMEN'S SOCIETY

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Yukon Mineral Development Strategy

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To Math'ieya Alatini, Doug Eaton, Angus Robertson;

Re: Response to Yukon Mineral Development Strategy

In response to the Yukon Mineral Development Strategy, Liard Aboriginal Women's Society appreciates the opportunity to provide our perspectives for your consideration. As Indigenous women's rights defenders, Liard Aboriginal Women's Society (LAWS) are caregivers responsible for the wellbeing of Dene Keyeh (the People's Land) of the Kaska Dena. We protect these ancestral lands and water for the generations to come, for humanity and for all of life. We exercise our rights to live in our ways on our homelands.

The Yukon Mineral Development Strategy (YMDS) falls short of what Kaska Dena and Indigenous women and communities need, which is safety for indigenous women, and a recognition that these are our unceded and traditional territories that need to be protected. These are linked as our elders clearly state, "you treat the women like you treat the land", with dignity and respect. Just as the Liard Aboriginal Women's Society rejects any assault of women, we reject any proposal to destroy Kaska Dena lands.

Although YMDS refers to aligning with the modern treaties with Yukon First Nations, transboundary treaties, the principles of reconciliation enshrined in the United Nations Declaration on the Rights of Indigenous Peoples and the recommendations of Canada's Truth and Reconciliation Commission", it fails to recognize the findings of the 2019 National Inquiry into Murdered and Missing Indigenous Women and Girls (MMIWG) and the many Calls for

Justice that correlate the resource extraction industry and increased levels of violence against Indigenous women, girls, and 2SLGBTQQIA. The absence of MMIWG in strategic priority one is apparent in all subsequent strategies named in the draft. This is unacceptable in a jurisdiction with extremely high rates of violence against Indigenous women. Considering the Yukon Government's recent MMIWG2S+ Implementation Strategy, LAWS requests the final YMDS Strategy to include the MMWIG calls to justice.

YMDS, as written, does not place enough importance on Indigenous land values and our deep respect for the land - we belong to and respect the land rather than hold an exploitative view of natural resources. LAWS asks those who prepare a final YMDS Strategy to also reflect on the values of our traditional law, Dena A'Nezen, for an Indigenous view of our relations with the land and with each other. The final YMDS strategy must recognize and incorporate Indigenous world views, not simply mention them.

We are held in the arms of our land and taught about our place in Creation. We call this Dena A'Nezen, the law of our land.

We are taught to honour all of Creation, from the Sky above to the Earth below, to all that lies between, to all things large and small, and to all things seen and unseen. The land speaks to us today as it has to our ancestors of long ago. It is the source of Dena A'Nezen, teaching us about who we are, and about our place in Creation. It holds the memory of our people and shows us the way to live in harmony with all of Creation.

The ways of the Liard Aboriginal Women's Society are the ways of Dena A'Nezen. Dena A'Nezen opposes violence against the land and against each other, calling on us to be mindful of our words and actions, to uphold fairness, care and harmony in our relationships with all of Creation, and to know our place.

The Yukon Mineral Development Strategy fails to acknowledge the true history of mining, and the environmental and financial costs of the mess left behind at the Faro mine (among many others) that will require billions of dollars to be managed in perpetuity to prevent the complete destruction of waterways and ecosystems. The free entry mining system must end, it is land theft.

Exploration and mining activities in the Liard Aboriginal Women's Society's homelands in unceded Kaska Dena lands have caused environmental, social, cultural, economic and

spiritual damage in Dene Keyeh (the people's land), and threaten the survival of the woodland caribou, fish, animals, and birds, the waters, places and resources we since time immemorial rely on for sustenance.

To ensure Indigenous rights are respected while upholding Indigenous law and authority, we must shift the discussion of the acceptability of a mine proposal from the environmental assessment stage to the mineral tenure stage, when the third-party interest is first created on the land. In the court case *Ross River Dena Council v. Government of Yukon* (YKCA December 27, 2012), Justice Groberman states "Statutory regimes that do not allow for consultation and fail to provide any other equally effective means to acknowledge and accommodate Aboriginal claims are defective and cannot be allowed to subsist." (reasons for judgement, para 37)

The scheme of creating a third-party interest without Indigenous communities having the ability to protect their cultural and natural resources up front fails to respect Indigenous rights. To remedy this problem, in the future there should be a phase out of free-entry mineral tenure system. Land use plans should be completed before allowing for the acquisition of land and subsurface rights for mining interests, and acquisition available only where land use plans specify, and where Indigenous Peoples give their free, prior and informed consent. The proposed strategic YMDS socioeconomic base assessments and land use plans need to be supported, with the full participation of Indigenous Nations.

The final YMDS must set out how it would support a decision to say "no", instead of, as the Strategy now implies, assigning an implicit eventual "go ahead" for all mining proposals. The YMDS must recognize the need to undertake assessments in collaboration with Yukon, Canada and Indigenous authorities that manage the pace and scale of mining, address cumulative effects, and provide long-term community welfare and employment. Extensive consultations that fail to yield results to the satisfaction of any party, legal fees, and corporate investments in projects that don't succeed are costs that become unnecessary when governments and industry accept Indigenous rights. A YMDS that espouses a recognition of Indigenous land rights, without establishing changes to legislative regimes that respect them, would be a failure.

ADDRESS VIOLENCE AGAINST WOMEN AND INCORPORATE THE NATIONAL INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS (MMIWG) INTO STRATEGIC PRIORITY 1

The brief reference to MMIWG on p. 34 of the YMDS does not recognize the connections between the violence of extractive industries on the land and the violence against women in mining workplaces, and nearby communities. The National Inquiry into Missing and Murdered Indigenous Women and Girls must be included in the first Strategic Priority identified on Page 12 to “Establish a modern mineral resource management regime aligned with the modern treaties with Yukon First Nations, transboundary treaties, the principles of reconciliation enshrined in the United Nations Declaration on the Rights of Indigenous Peoples and the recommendations of Canada’s Truth and Reconciliation Commission”.

The MMIWG final report identifies numerous aspects of mining related activity that have profoundly harmful impacts on Indigenous women and girls. The MMIWG Calls to Justice relating to the extractive industry are as follows:

- There is substantial evidence of a serious problem demonstrated in the correlation between resource extraction and violence against Indigenous women, girls, and 2SLGBTQQIA people. Work camps, or “man camps,” associated with the resource extraction industry are implicated in higher rates of violence against Indigenous women at the camps and in the neighbouring communities.
- This increased rate of violence is largely the result of the migration into the camps of mostly non-Indigenous young men with high salaries and little to no stake in the host Indigenous community.
- Industries that create “boom town” and “man camp” environments are implicated in increased rates of drug and alcohol-related offences, sexual offences, domestic violence, and gang violence, as well as sex industry activities in the host communities. These occurrences disproportionately impact Indigenous women, girls, and 2SLGBTQQIA people.
- The influx of people as a result of “man camps” near or within Indigenous, remote and rural communities further results in stress on already limited social infrastructure, such as policing, health, and mental health services.
- In addition to the adverse social impacts the extractive industry discriminates against and violates the safety of Indigenous women, girls, and 2SLGBTQQIA people.

experience as a result of these industries, it is clear that Indigenous women, girls, and 2SLGBTQQIA people do not have equitable access to the economic benefits these industries can provide.

- Indigenous women face significant barriers to participating in the extraction industry due to work environments that are often hypermasculine and hypersexualized. For Indigenous women working within these camps and these industries in general, there are elevated rates of workplace racism, sexual harassment, and violence. These camps are also often far from law enforcement, and therefore are largely unpoliced.
- The nature of the work, particularly shift work in and out of isolated locations, also deters women from participating in these industries, since it is not compatible with raising a family and meaningful participation in family and community life. When women do find employment in these industries, it is often within the low-paying jobs, such as housekeeping, cleaning, and food services.
- The creation of a “boom town” as a result of the extraction industry often results in high rates of inflation and an increased cost of living in the host communities. Indigenous women are disproportionately impacted by this, in terms of increased economic insecurity.

Dignity and justice are an inherent right for indigenous women and girls. Our women and girls should not have their home community become a more dangerous place to live. The need to protect their safety is something that YMDS has not adequately addressed. YMDS must recognize the MMIWG findings that the extractive industry discriminates against and violates the safety of indigenous women, and respond to the MMIWG Calls for Justice (13.1 – 13.5). The long-term consequences of these violent crimes ripple throughout the entire community and have negative consequences for all children and adults. In fact, our elders report that generations of girls and young women have grown up learning to run away and hide behind buildings when they see an unknown vehicle, or certain vehicles they know are coming from a mine, because of lived experience of being targeted by mine staff who abuse them through sexualized exploitation and in other ways.

LAWS recently surveyed a cohort of indigenous women mine workers, confirming that sexual harassment, sexual assault, and racial discrimination are widely tolerated in mining and exploration workplaces. Mining companies must be responsible for the male-dominated culture in the workplace and take measures to educate its workforce on human rights and workplace safety, and be responsible for the behaviour of its workers.

The final YMDS must take a stronger position to “implement” both the recent Truth and Reconciliation Commissions Calls for Action and the National Inquiry into Missing and Murdered Indigenous Women and Girls Calls for Justice, and recognize that because Canada is now signatory to the United Nations Declaration on the Rights of Indigenous Peoples, governments must recognize that the right of First Nations to give free, prior and informed consent means that they have the right to say no.

Liard First Nation and Ross River Dena Council are not signatories to the Umbrella Final Agreement, so are not considered one of the 11 self-governing First Nations to whom “negligible amounts of royalties” are collected and shared. Mining activities have damaged environmental, human, cultural, socioeconomic, wildlife, and heritage values and failed to provide economic benefit to our people.

Twenty-five years have passed since the Umbrella Final Agreement. Since that time, Court rulings have recognized Indigenous rights and title; the Truth and Reconciliation Commission has issued Calls for Action; Canada is now signatory to the United Nations Declaration on the Rights of Indigenous Peoples; and the National Inquiry into Missing and Murdered Indigenous Women and Girls has issued Calls for Justice. YMDS draft strategy recognizes that “[s]tates shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impacts.” However, Yukon mining legislation, government procedures, and socio-economic processes have not changed. There are no mechanisms in place to obtain the free, prior and informed consent of Indigenous peoples to resource extraction projects on their lands. The mechanisms currently in use are designed to give the appearance of cooperation and consent without doing so in fact. The final YMDS must present a legislative model that implements these standards.

MINING ECONOMY DOESN'T BENEFIT INDIGENOUS COMMUNITIES AND LANDS

LAWS experience of previous mining activities is that when they come into our homeland they don't provide everything that's promised to our people. It doesn't bring wealth into the community. Instead, mining brings more addictions, drugs, and violence.

The YMDS draft refers to mining promoters' concern about clarity for industry to have land access to mineral claims, government help for building roads and trails and infrastructure gaps such as electrical energy and communications services. Principle 7 aims to ensure "legislative and regulatory certainty for access to Yukon lands for mineral exploration and development with clarity and transparency in the permitting, monitoring and enforcement processes." ***Kaska Dena are entitled to clarity and certainty for access to healthy traditional lands, watersheds and sacred sites.***

As Indigenous women, we defend our territory from the unwanted theft and exploitation of our lands, from mining projects which have caused significant environmental destruction (labelled "cumulative effects") in the mountains and valleys of Kaska traditional territory.

Principle 3 speaks to sustainability, "Resource development based on environmental impact levels acceptable to Yukoners as resource stewards, and responsive to evidence of cumulative effects." LAWS has been witness to many mine projects that are not models of social and economic "sustainability". Mining is inherently unsustainable, once the minerals are removed from the ground they cannot be rejuvenated.

The Precautionary Principle is key to ensuring appropriate protections against cumulative effects. For example, governments should collect and monitor effluent data on all substances in routine testing. We should know what is in mining effluent, even if science does not yet point to a single parameter deleterious effect. The Whitehorse Mining Initiative spoke to this in 1994; "all stakeholders need access to high quality, relevant, and unbiased information grounded in sound science." (WMIp.17) This principle points to the need for rejuvenation of regulations/laws that truly and proactively protect clean water, and healthy environment in a way that is enforced.

"STREAMLINING" PROCESSES

LAWS strongly opposes the Yukon Water Board becoming a YESAB decision body. The Yukon Water Board is a quasi-judicial entity that provides a unique independent review of proposals and a critical regulatory function of setting water license criteria for mines. These water licenses provide the basis of accountability for mining operations to be monitored by government agents and tracked for improvements to water processing and management should the mine be failing to meet their license standards and requirements.

As an independent body, the Yukon Water Board provides a forum for public hearings which are required for most mine proposals. During these processes, reclamation costs are estimated with public input and financial assurances are determined to have the ability to clean up the mine at any given point in the mine life should the mine enter closure. While the Yukon has been woefully inadequate at implementing the collection of securities, this is a critical assessment made by the YWB.

As we have experienced in Kaska Dena traditional territory, more mines have been abandoned than properly reclaimed. Wolverine mine is a prime and recent example of this concern, adequate securities were not paid on schedule and there were water quality problems that the Yukon Government had to enter into a court case to attend to the Wolverine mine's contamination. As Kaska, we experienced this as devastating and concerning with no confidence or certainty that this type of situation would not keep happening. The YMDS has the opportunity to put measures in place to actively address this.

PROPOSED ACCOUNTABILITY MEASURES FOR INTERNALIZED MINING COSTS

Lacking in the YMDS are mechanisms to ensure mining companies internalize cost of catastrophic failures, perpetual care, environmental degradation, decreased human health and reclamation through full cost accounting, strict bonding requirements or other instruments. This must be done with transparency for the full costs of catastrophic failures, reclamation, perpetual care, restitution to indigenous people and landowners need to be reported publicly.

LAWS has two suggestions to include in the YMDS to ensure protection of environment and health:

1. Catastrophic Failure Fund – government should co-ordinate an industry funded pool for cleanup and restitution for individuals harmed.
2. Institute a high tax/fee on polluted water

ADDRESS SYSTEMIC MINING INDUSTRY FAILURES

We see symptoms of systemic failure in the following areas of governance of Yukon's minerals and metals sector that need to be addressed by YMDS:

- poor resource efficiency;
- massive waste storage facilities with perpetual impacts;
- disregard of Indigenous People's authority and needs;
- trends towards larger mines and shorter mine lives;
- inequitable distribution of wealth;
- failure to retain wealth from the extraction of non-renewable resources; and
- failure to address and manage cumulative effects, and long-term, unresolved pollution.

LAWS wants to see current and future Kaska Dena, and other Yukon Indigenous Peoples, receive value for their resources rather through upholding Indigenous laws, authority and rights rather than see environmental liabilities.

KASKA DENA RETAIN ABORIGINAL RIGHTS AND TITLE

Liard First Nation and Ross River Dena Council are not signatories to the Umbrella Final Agreement, so are not considered one of the 11 Yukon self-governing First Nations. Mining activities have damaged environmental, human, cultural, socioeconomic, wildlife, and heritage values and failed to provide economic benefit to our people. LAWS recommends the final YMDS clarify a position to recognize that Kaska Dena assert their Indigenous rights and title.

We urge you in your endeavours to include women's advocacy organizations, Liard Aboriginal Women's Society and the Yukon Status of Women Council, in the discussions that develop a final YMDS and the work plan to proceed to legislative and regulatory work.

Sincerely,

Ann Maje Raider, Executive Director

REFERENCES

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VIOLENCE ON THE LAND, VIOLENCE ON OUR BODIES:

Building an Indigenous Response to Environmental Violence. 2016