



YUKON LAND USE PLANNING COUNCIL

**A Recommendation for a
Response Protocol for Recommendations
from the Yukon Land Use Planning Council**

Recommendation Number 00-002

Clause Reference: 11.3.3, 11.4.1 Umbrella Final Agreement

To: Teslin Tlingit Council

Motion passed at Board Meeting: 00-008 on October 5, 2000

Date Released: October 5, 2000

Related Recommendations: Recommendation Number 00-001

Recommendation Number 00-002:
A Recommendation for a Response Protocol for Recommendations
from the Yukon Land Use Planning Council

The Yukon Land Use Planning Council recommends that the Yukon Government, the Government of Canada and Yukon First Nations adopt the following Recommendation:

Pursuant to 11.3.3 of the Yukon First Nations Final Agreements, the Yukon Land Use Planning Council will make formal Recommendations to Governments and affected Yukon First Nations, this being Recommendation Number 00-002.

The Government and affected Yukon First Nations, within a maximum of 60 days from the receipt of a Recommendation, under article 11.3.3, shall accept, vary, replace, reject, or defer the Recommendation. Any acceptance, proposed variation, replacement, rejection, or deferral shall be sent back to the Yukon Land Use Planning Council by the Government and affected Yukon First Nations, with written reasons. Positions and justifications for positions can also be expressed by authorized personnel at meetings where minutes are taken. If the Recommendation is being deferred, the response should indicate why, and indicate when a more decisive response can be expected. The Government and affected Yukon First Nations shall consider information and matters of public interest not considered by the Yukon Land Use Planning Council.

The Yukon Land Use Planning Council, within 30 days of the receipt of a variation, rejection, replacement, or deferral by the Government and/or affected Yukon First Nations, shall make a final Recommendation and forward it to the Government and affected Yukon First Nations with written reasons.

In the event that Government and affected Yukon First Nations cannot agree on the Recommendation made by the Yukon Land Use Planning Council, the Yukon Land Use Planning Council will work with representatives of the Government and affected Yukon First Nations to reach agreement on the contents of the Recommendation.

The Government and affected Yukon First Nations, within 45 days of receipt of a final Recommendation, shall accept, vary, replace, or defer it, or refer the matter to the Dispute Resolution process, as set out in article 26.4.0 "Other Disputes".

The Government and affected Yukon First Nations shall provide the Yukon Land Use Planning Council with notice of a final decision.

The Yukon Land Use Planning Council may request a shorter response interval for any Recommendation after discussions with responding agencies about response time lines.

Nothing in this Protocol shall affect any existing requirement, right, or provision contained in Yukon First Nation Final Agreements.

1. Intent of the Recommendation:

The Yukon Land Use Planning Council is making this Recommendation to encourage all Government and Yukon First Nations to respond to Recommendations in a timely fashion and through a recorded form to help with the implementation of Chapter 11 of the Yukon First Nations Final Agreements.

2. Introduction and Background:

Pursuant to article 11.3.3 of the Yukon First Nations Final Agreements, it is the mandate of the Yukon Land Use Planning Council to make recommendations to Government and each affected Yukon First Nation with respect to Land Use Planning in the Yukon. It is recognized that the Final Agreements do not require any of the parties involved to formally respond to the recommendations made by the Yukon Land Use Planning Council however, the Council has experienced difficulty receiving written or formal oral statements from implementation agencies regarding planning issues and recommendations. It has also had difficulty determining if comments and responses are "official" agency positions or "initial reactions" and/or "thoughts for consideration" from agency personnel. Without clear and timely responses, the Council cannot move onto other recommendations that are dependent on agreement by the parties involved.

3. Recommendation Development Methodology

This Recommendation was developed by extracting and modifying certain provisions of Chapter 16, specifically section 16.8.0, of the Umbrella Final Agreement. Also examined was the Consultation Protocol between the Alsek Renewable Resource Council and the Department of Indian Affairs and Northern Development.

4. Justification for Recommendations

Justification for written or recorded oral responses:

The Council is recommending that responses be in written or recorded oral form because:

1. the Council then possesses a clear statement of an agency position on a recommendation and can return to this statement for clarification and to justify subsequent actions and further recommendations;
2. the positions of each implementation agency can be more easily exchanged with other implementation agencies; and
3. it is believed that when agencies are aware that their stated positions will be considered a "record", greater care and thought will be given to the response. The Council does encourage open debate and free and creative thinking about the recommendation during the review and redraft stages, however ultimately the Council does require that implementing agencies develop formal positions.

Justification for maximum 60 day period for response: Council believes two months is a sufficient amount of time that any agency should require for review and comment regarding any of the recommendations it expects to make. It is hoped that most agencies will generally respond in less than the timelines indicated in the Recommendation.

Justification for maximum of 45 day period for response to redraft: The Council believes only 45 days is an appropriate time required to respond to a redrafted Recommendation, because the agencies should be familiar with the Recommendation and not require as much time to respond.

5. Implication of Recommendations

Implementation agencies will be expected to produce written responses to the Recommendations of the Yukon Land Use Planning Council. Personnel from the implementation agencies will be expected to attend meetings held relating to the Recommendation and identify when stated positions are to be taken as an "official" agency position and when they are simply presenting ideas for consideration.

6. Supporting Documents

Yukon First Nations Final Agreements, Umbrella Final Agreement: Section 11.3.3.



Yukon Land Use Planning Council



(date)

Teslin Tlingit Council

(date)