



2021



YUKON MINERAL ADVISORY BOARD
ANNUAL REPORT





MESSAGE FROM THE CHAIR

YMAB uses this report to draw attention to mechanisms we believe Yukon can use to continue developing a responsible, efficiently regulated and broadly beneficial mining sector for Yukoners.

- Heather Burrell



The Yukon Mineral Advisory Board (YMAB) is charged with providing advice and recommendations to the Minister of Energy, Mines and Resources on matters detailed in our Terms of Reference. The Board is comprised of senior industry professionals from Yukon, Canadian and International organizations who have devoted considerable time and effort to providing that advice over the course of the last year. I would like to open the 2021 Annual Report by thanking the Board for their participation and valued input to YMAB's work.

The Annual Report is one tool used by YMAB to present key recommendations and evaluate the current state of the Yukon's mining industry. Mining and its related industries continue to be one of the Yukon's largest non-government economic drivers, directly contributing 14.5% of the Yukon's Gross Domestic Product in the year preceding this report. Fundamentally, YMAB uses this report to draw attention to mechanisms we believe Yukon can use to continue developing a responsible, efficiently regulated and broadly beneficial mining sector for Yukoners.

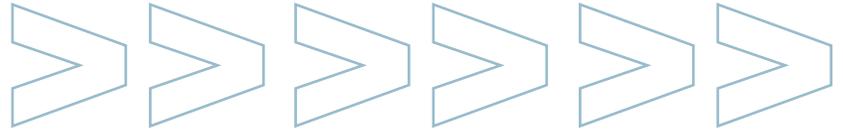
In recent years, our Annual Report has focused on the work leading to recommendations generated from the 2020 PricewaterhouseCoopers Report *Review of Duplication in Yukon Mining Legislation*. This report identified changes that could be made to the Yukon's regulatory regime without the need to update regulations or legislation. At YMAB's request, Yukon has provided responses to each of those recommendations. Discussion on this response is found within this report. As you will read, much work remains to achieve the benefits of these recommendations.

YMAB remains ready to assist in its capacity to achieve these important improvements to the Yukon's mining regulatory processes so that Yukoners may continue to experience the positive social and economic benefits of mining for generations to come.

Respectfully submitted,

Heather Burrell,
Chair | Yukon Mineral Advisory Board

PREFACE



The Yukon Minerals Advisory Board (YMAB) is established under Section 6 of the *Yukon Economic Development Act* and is charged with providing advice and recommendations to the Minister of Energy, Mines and Resources for governmental actions in relation to the following terms of reference for the Board:

- increasing mineral exploration and development in Yukon;
- attracting capital for the exploration and development of new mines;
- ensuring feasible and timely development of mines;
- improving the potential for producing mines to remain viable;
- participation by Yukon residents and businesses in mining;
- reducing constraints, including governmental constraints, on the development of minerals in Yukon;
- outreach with First Nations to explore the opportunities and benefits of mineral exploration and development in Yukon;
- such other matters pertaining to mineral exploration and development in Yukon as the Minister refers to the Board.

It is within the context of these Terms of Reference that YMAB focuses its advice. In recent years, YMAB's recommendations have been designed to remove barriers to achieving the above mandated objectives without regulatory change or significant cost to Yukoners.

The mining industry is a major private-sector employer in the Yukon and routinely interacts with

Yukon communities outside of Whitehorse. It is therefore the primary catalyst in the Yukon for bringing positive economic changes to those same communities. It is impossible for mining and exploration projects to provide these regional benefits unless the objectives outlined in Section 6 of the *Yukon Economic Development Act* are achieved.

Furthermore, Yukon has a responsibility to ensure that the regulatory and assessment processes it designs for the minerals industry are not overly bureaucratic in nature and are designed to deliver appropriate outcomes in a timely manner at every stage. And finally, administration of these processes needs to be consistently dedicated to achieving the outcomes desired by legislation. Unless this occurs, Section 6 objectives will simply not be achievable.

YMAB Board Member	Term Expiry
Heather Burrell (Chair)	November 2022
Brad Thrall	February 2024
Mark Ayranto	December 2022
Paul West-Sells	February 2024
Scott Donaldson	November 2022
Mike Burke	March 2023
Neil Loveless	March 2023
Wendy Tayler	February 2024
Delmar Washington	February 2024
Sebastien Tolgyesi	November 2022

RECOMMENDATIONS

Reducing Duplication in Mining Legislation

In 2020, PricewaterhouseCoopers (PWC) delivered their report *Review of Duplication in Yukon Mining Legislation*. This was the culmination of two years of work following YMAB's recommendation in 2018 to appoint an independent, unbiased review team with the aim of identifying unnecessary duplication in the mining approvals assessment processes required by the *Yukon Environmental and Socio-Economic Assessment Act*, *Placer Mining Act*, *Quartz Mining Act* and *Yukon Waters Act*.

The report outlined 10 key areas with recommended actions designed to improve outcomes for both the mining industry and Yukoners, in general. YMAB believes that none of the recommendations from the report required regulatory changes, therefore, could all be actioned without delay. The following is a 360° assessment of delivery by Yukon of those recommendations to date, and a response from YMAB.



360° REPORT CARD ON THE PWC RECOMMENDATIONS



EXCEPT FOR "RECOMMENDATION SUMMARY" AND "RESPONSE FROM YMAB", CONTENT IN THIS SECTION WAS PROVIDED BY YUKON. MINOR EDITS HAVE BEEN MADE FOR CONSISTENCY OF NAMING.

#1: PROJECT COORDINATION

Recommendation Summary

To establish a new role of a "project manager," a Yukon staff member that would be assigned to each project: go-to contact for proponents and would guide them through the assessment and regulatory process from start to finish.

Yukon's Response

We are also of the view that the Yukon's assessment and regulatory process can be complex and difficult to navigate. Coordinating the project assessment and regulatory process is of high interest to Yukon and we are always seeking ways to make improvements to our process where we have the ability to do so. From the recommendations from this report, YMAB reports from previous years, and the Mineral Development Strategy Recommendations, it is very clear that this topic continues to be a top priority for industry and we are committed to making improvements, where possible within our current regulatory framework.

A project manager role currently exists within Yukon. While not incorporating an additional resource dedicated to each project, the existing roles are designed to achieve similar outcomes to those envisioned by PWC recommendation #1.

For major mines specifically, Yukon has a newly revised Major Project Management Framework that guides Yukon's internal coordination by providing leads during the assessment and regulatory stages, and also clarifies roles and responsibilities of Yukon departments and how engagement with proponent and consultation with First Nations occurs externally. When an Executive Committee project such as a major mines enters assessment, the Major Project Yukon branch of the Executive Council Office is the

decision body. Once the assessment process is completed and the major mine projects enters the regulatory process the lead regulator, Mineral Resources Branch of the Department of Energy, Mines and Resources (EMR) takes over this project management role for issuing the Quartz Mining Licence.

For Yukon Environmental and Socio-economic Assessment Board (YESAB) Designated Office level projects, such as placer mines or quartz exploration projects and amendments to quartz mine licences, that enter the assessment process the Mineral Resources Branch of EMR is both the Decision Body during the assessment process and the lead during the regulatory process for issuing authorizations. During this time, the Mining Lands Officers and Mining Technologists monitor the project submissions and act as a project manager at this level. They follow the project through the assessment and regulatory processes, providing advice, reviewing projects and initiating consultation and liaising with the operator.

Further Action Indicated by Yukon

No specific further actions are anticipated by Yukon on this recommendation.

Response from YMAB

YMAB recommends that Yukon create a template, to be used by both Major Projects Yukon and EMR, that will inform the proponent of the project manager/lead on a specific file. Clear communication of who the project manager/lead is and who they report to will be beneficial to all parties.



#2: YESAB SCOPE

Recommendation Summary

To develop a Memorandum of Understanding (MOU) between Yukon, YESAB and Yukon Water Board (YWB) that confirms scope of each body and provides mechanism to resolve issues of overlap when they occur

Yukon's Response

The primary challenges with trying to clearly define the requirements at each phase are twofold. Firstly, there are two arms-length independent boards with their own legislation and policies, as well as public government involved in the process. The independence of the boards has been established under statute in a way that limits external influences to ensure their independence. Secondly, information requirements are also perceived differently by each of the assessors and regulators, as well as by industry and First Nations.

Recent work on guidance documents by Yukon particularly for major mines, provide information on what is required by the regulator. For example, guidelines for *Developing Adaptive Management Plans in Yukon: Water Related Components of Quartz Mining Projects (Completed: February 2021)* and the *Yukon Guide for Developing Water Quality Objectives and Effluent Quality Standards for Quartz Mining Projects* have been endorsed by the Yukon Water Board.

In addition, we anticipate that the results of new mining legislation will require consequential amendments to other pieces of legislation, and this will be an opportunity to look at the interface and alignment of various complimentary pieces of legislation. At this time, Yukon does not anticipate establishing an MOU with YESAB and the YWB. We are, however, continuing our efforts to develop guidance that is

accepted/endorsed by the assessor and the other regulator which will contribute to a common understanding of information requirements.

Further Action Indicated by Yukon

Yukon will continue to develop guidance for our regulatory process and engage as required with YESAB and the YWB on their guidance products and ensure alignment where possible.

Response from YMAB

YMAB accepts the complexities of the relationship between the regulators, the assessor and the parties involved in each of the processes. Notwithstanding the changes that may come into place with new mining legislation, YMAB believes this complexity should be a motivation, rather than an obstacle, to developing an MOU that creates clarity around areas of responsibility precisely so that where there is overlap – perceived or real – in scope, there are clear mechanisms in place to allow each body to carry out its statutory requirements without jeopardizing the independence of another's process.

YMAB acknowledges that work done to provide guidance documents for industry, and strongly urges Yukon to develop internal check-and-balances to ensuring that comments provided by Yukon departments in the YESAB process fall within the scope for the project – and aren't forward-projecting to the detriment of the proponent. For example, not having requests for a "Wildlife Protection Plan" at a Class 3 level, when it is a required part of a Quartz Mining Project.



#3: INFORMATION REQUEST AND COMMUNICATIONS

Recommendation Summary

To amend YESAB Screening and Designated Office (DO) rules to:

- **require initial meeting with proponent during adequacy;**
- **require site visits for more complex projects;**
- **YESAB and YWB to implement a system to track when and how comments are resolved;**
- **YWB should continue to conduct technical pre- submission hearings.**

Yukon's Response

Yukon agrees that those assessing and regulating a project should have a good understanding and knowledge of the types of activities proposed.

Yukon is encouraging our lead staff on project files to engage with proponents early and conduct site visits as required, and we agree that this is especially important for those more complex projects. YESAB has also finalized their Pre-submission Engagement (PSE) process for Executive Committee screenings, which will address some of the issues raised.

The recommendation for the YWB and YESAB to create a system that tracks comments has been raised with these boards.

The YWB will determine when they conduct technical pre-submission hearings, and Yukon is supportive of these and will provide resources to participate as required.

Further Action Indicated by Yukon

No specific further actions are anticipated by Yukon on this recommendation.

Response from YMAB

YMAB acknowledges the positive impact of the work done by Yukon staff in this area to largely achieve this recommendation. YMAB also acknowledges YESAB's development of the PSE while strongly encouraging Yukon to work closely with YESAB in ensuring this process remains outcomes-based in its execution and achieves the intended efficiencies, rather than allowing it to simply add process to the assessment phase of a project.



#4: REASSESSMENT

Recommendation Summary

- a. That YESAB and proponents should adopt **Gowling Report recommendation and broaden initial project scope to include potential future changes; and,**
- b. That Yukon, YESAB and YWB should **consult with industry to develop guidelines on reassessment triggers and process.**

Yukon's Response

Yukon and the Council of Yukon First Nations (CYFN) sent a joint letter to Minister Vandal, Canada's Minister of Northern Affairs, in December 2020 requesting a focused review of the *Yukon Environmental and Socio-economic Assessment Act* (YESAA). In February 2021, Minister Vandal indicated his commitment to working with members of the YESAA Oversight Group on amendments and renewals.

The YESAA Oversight Group is a joint effort between the Governments of Canada, Yukon and Yukon First Nations to work together to find efficiencies and ongoing improvements to the YESAA process. As part of its mandate, the Oversight Group is considering changes to YESAA and/or its regulations in an effort to reduce unnecessary assessments.

The Oversight Group has made progress in identifying changes to the YESAA to address the issue of whether an assessment is required when a project's authorization is amended or renewed. A consultation plan and work plan for advancing this amendment is being reviewed by the Oversight Group. Following the May 4th, 2022 Oversight Group meeting, the plan is to consult in the summer of 2022 with First Nations,

industry, non-governmental organizations, YESAB and YWB about the conceptual approach for the assessment of amendments or renewals. Canada has provided their critical path for an amendment to YESAA and has forecasted the amendment process to be completed sometime in 2024. We expect the Oversight Group will continue to work with the YESAB to advance further improvements to the YESAA process.

Further Action Indicated by Yukon

The focus for Yukon will be to continue working with the Federal and First Nation governments to make legislative amendments to YESAA.

Response from YMAB

YMAB would like to thank Yukon for making positive forward motion on this recommendation and we encourage Yukon to remain committed to and active on this important initiative.



#5: ADEQUACY REVIEW

Recommendation Summary

- a. That YESAB amend Screening and DO Rules to include clear guidelines on requirements for adequacy
- b. That YESAB develop clear interpretation of impact significance.

Yukon's Response

Providing more clarity and consistency on what is required for an adequate project proposal is important and we agree that more can be done on this front by assessors and regulators.

Yukon provided input into the YESAB's Pre-submission Engagement process for Executive Committee projects; application of these new rules will clarify Yukon's approaches and procedures regarding adequacy. Findings from the YESAB Executive Committee process will be used to determine what improvements may be available for DO projects.

The guidelines being developed in response to recommendation #2 will provide more certainty to the type and level of information required and expected. These will apply to all levels of projects.

Further Action Indicated by Yukon

No immediate action to be undertaken by Yukon at this time. YESAB is in the process of implementing the PSE process for YESAB Executive Committee Projects; findings will inform improvements for DO projects.

Response from YMAB

YESAB's development of the PSE process may be a very positive step forward in achieving this recommendation. As stated earlier in this Annual Report, YMAB encourages Yukon to monitor the effectiveness of this process to ensure it remains outcomes-based and achieves the intended efficiencies.



#6: OPPORTUNITIES FOR PUBLIC PARTICIPATION

Recommendation Summary

That YESAB streamline its Executive Committee process to include single public comment opportunity.

Yukon's Response

The YESAA is a federal statute. Two of the key purposes of the YESAA are to guarantee opportunities for the participation of Yukon First Nations persons and make use of their knowledge and experience in the assessment process, and to also provide opportunities for public participation in the assessment process. Additionally, based on public or First Nation comments, additional requests for information from the proponent may be generated, changing the project in some way, which may need additional public or First Nation input. Although this can create a cycle of comments and information requests and lengthen timelines, the public nature of the assessment process is a highly valued and important component of this process.

Further Action Indicated by Yukon

This is not a specific recommendation that Yukon will be pursuing with YESAB at this time. No further action will be taken to address this recommendation.

Response from YMAB

The PWC report did not recommend a reduction in the opportunities for participation of First Nations in the YESAB process. Its recommendation was designed to improve efficiency of process by ensuring that the opportunity for input was real, meaningful and provided enough information to YESAB that it could then proceed to carry out its review and make its recommendations with the certainty of a full understanding of the issues that had been raised by First Nations and intervenors. YMAB therefore continues to strongly recommend some level of limitation placed on the number of information requests and clearly defined timelines for responses in the YESAA process. At some point, the YESAB assessor must be supported in its process and trusted to make recommendations that address questions, comments and/or concerns from the comment period without creating additional circular processes that add little value and undermine two key purposes of the YESAA in relation to timeliness and certainty.



#7: STAFF SKILLS AND EXPERIENCE

Recommendation Summary

That YESAB, YWB and Yukon review and update policies to ensure that:

- a. Preference is given to using one set of consultants per project between all government bodies
- b. Develop an MOU that allows hiring specialist staff from other government bodies as an alternative to consultants
- c. Allow proponents to provide recommendations for appropriately qualified consultants

Yukon's Response

Yukon has formal procurement and hiring processes that are designed to attract and retain the best resources available. There are some informal and formal exchanges of resources and support between Yukon, YESAB and YWB. However, it is important to respect the scope and integrity of each process and this limits the ability to share resources to the extent that this recommendation is suggesting.

We remain committed to ensuring that there is sufficient and suitable capacity and knowledge to respond to the technical needs of a project through the assessment and regulatory phases. We also ensure we are building on existing training approaches, and provide internal training for employees on input to the adequacy review stage, as well as the public comments periods of the YESAB process.

This specifically includes:

- Hiring consultant expertise in specific technical areas
- A new approach to retaining an experienced mining industry expert to provide Yukon input and support at key stages in the project lifecycle

- A commitment to utilising existing capacities from other areas as and where possible.
- Support for proponents to identify independent consulting resources that may be available
- Ongoing staff training and skills development around YESAA and the YESAB process

Further Action Indicated by Yukon

No additional actions will be undertaken in response to this specific recommendation. However, Yukon will continue to make efforts to work more closely with YESAB and the YWB, where possible.

Response from YMAB

Notwithstanding Yukon's procurement and hiring practices, sharing of consultant expertise between the three bodies makes sense from a simple financial and human resource management capacity. Where a consultant (or government employee) is a preeminent specialist in a particular field of interest they should not be excluded from advising the YWB just because they were used by YESAB or employed by government.

YMAB notes that the development of an MOU as in recommendation #2 could facilitate Yukon's efforts to work more closely with YESAB and YWB to achieve these positive outcomes.



#8: RECLAMATION AND CLOSURE BONDING

Recommendation Summary

That Yukon and YWB establish MOU that creates a single process.

Yukon's Response

We recognize that the determination of securities by each regulator has long been a subject of discussion over the last 15 years. Consequently, Yukon and YWB chose to advance a trial, pilot project to inform the opportunities that may exist to better align the work of the Yukon and YWB with regards to reclamation and closure securities. This work was initiated in November 2020, and applied to the review of the reclamation and closure plans of Victoria Gold's Eagle Gold project. It was designed to give us tangible insight into the concurrent security processes and help in determining how to move ahead.

This work is close to completion, and the pilot process includes an evaluation/lessons learned component that will inform future steps to align and streamline the work of the regulatory bodies.

Further Action Indicated by Yukon

Until the pilot project lessons learned component has been completed, the specific areas of future work are unknown but could include Yukon policy development and further actions by YWB.

Response from YMAB

YMAB views the pilot project as a step in the right direction, but emphasizes that any future policy development or outcome should be applicable to all mining projects such that each project does not require a unique process.



#9: WATER BOARD ISSUES

Recommendation Summary

That YWB update its timekeeping system, improve transparency, and continue to engage early with proponents (possibly with Rules update).

Yukon's Response

Areas of improvement related to efficiencies and transparency during the water licensing process remain of keen interest. However, the responsibility for updates and changes to timekeeping systems and transparency lies with YWB. While we continue to bring these matters forward for discussion directly with the YWB any actions to support recommendation 9 will lie directly with YWB themselves.

Further Action Indicated by Yukon

No additional actions will be undertaken in response to this specific recommendation. However, Yukon will continue to raise issues related to YWB, where possible.

Response from YMAB

YMAB acknowledges Yukon's efforts to assist in the implementation of this recommendation and supports Yukon's continued work with YWB on this issue.



#10: CLAIM PRECEDENCE

Recommendation Summary

To amend legislation to enable third party adjudication between overlapping claim holders.

Yukon's Response

This is an ever-present issue for both quartz and placer claimholders that we have interest in resolving. The issue of overlapping claims has been recognized and raised as an "issue for resolution" by the Steering Committee for New Mining Legislation. This Steering Committee has been struck as part of Yukon's commitment to modernize our mining regime in a way that provides clarity and consistency to industry, businesses, governments and the public.

Consideration will be given on how to best address this specific issue through the development of new legislation, currently underway in partnership with Yukon First Nations, and with the input from Industry and ENGO representatives.

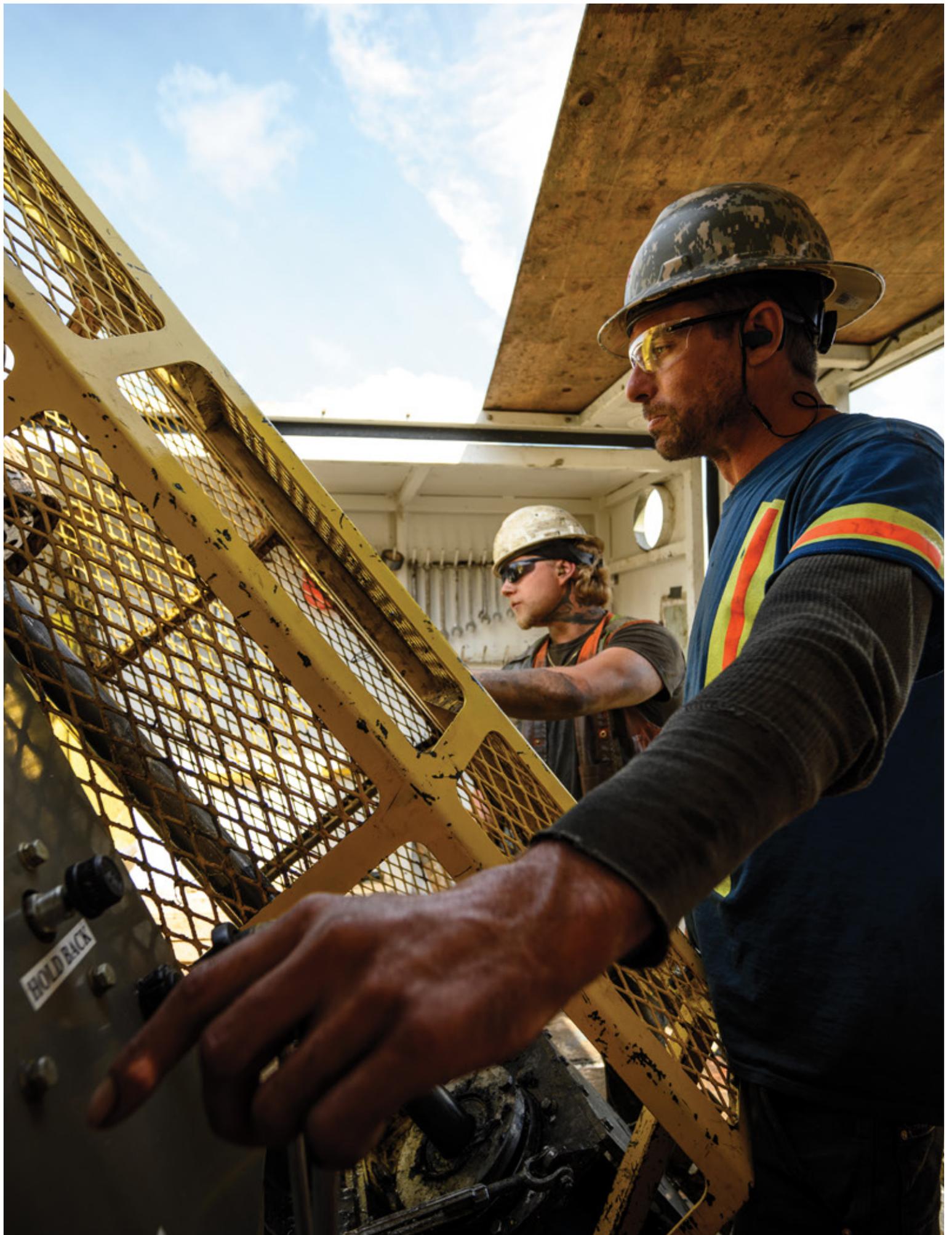
At this time, no interim amendments to either the Quartz or Placer Acts to address this issue are being contemplated.

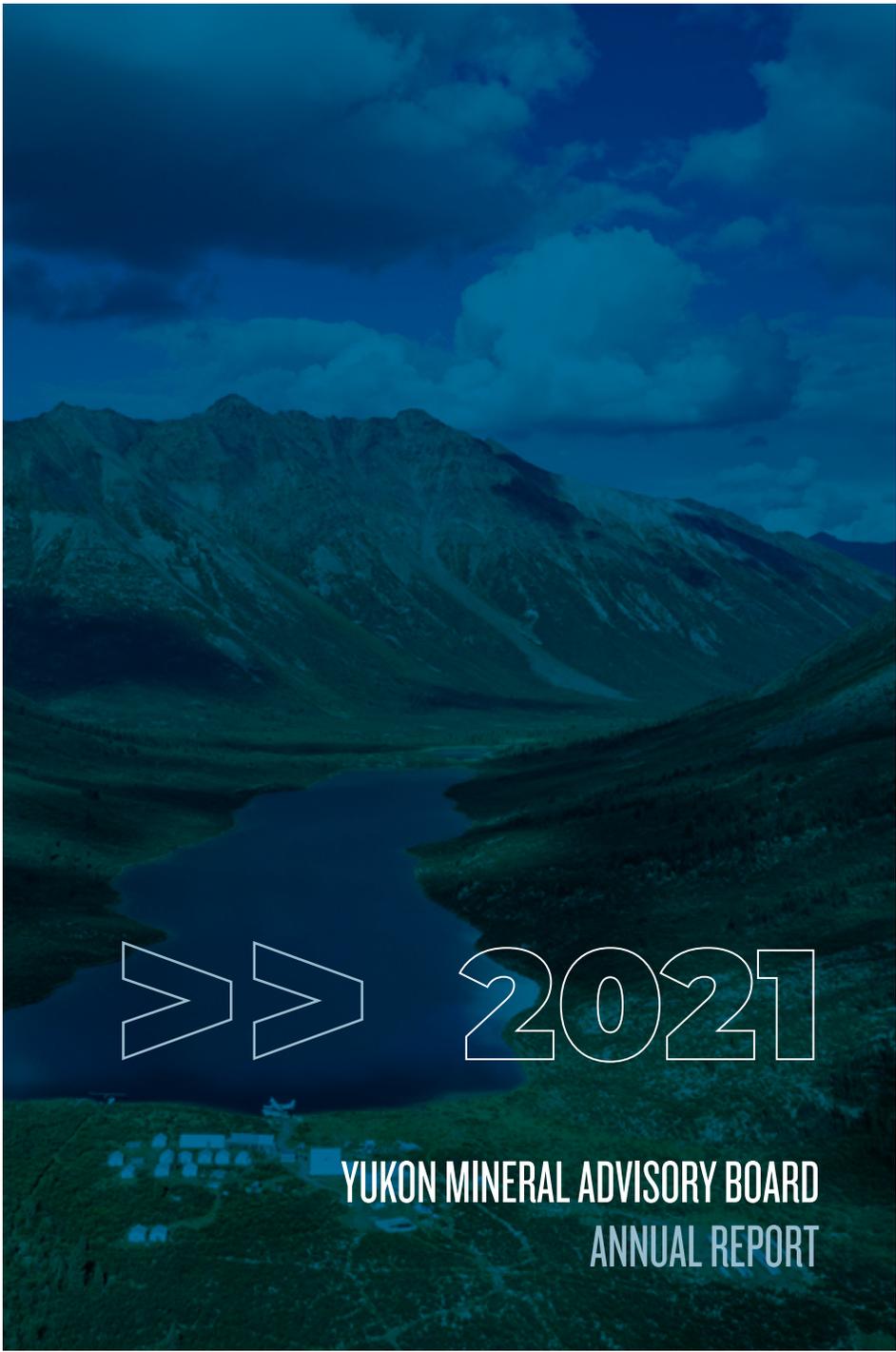
Further Action Indicated by Yukon

[This recommendation] will be addressed as part of the broader development of new mining legislation. It is also anticipated that additional consequential amendments to other statutes may be required.

Response from YMAB

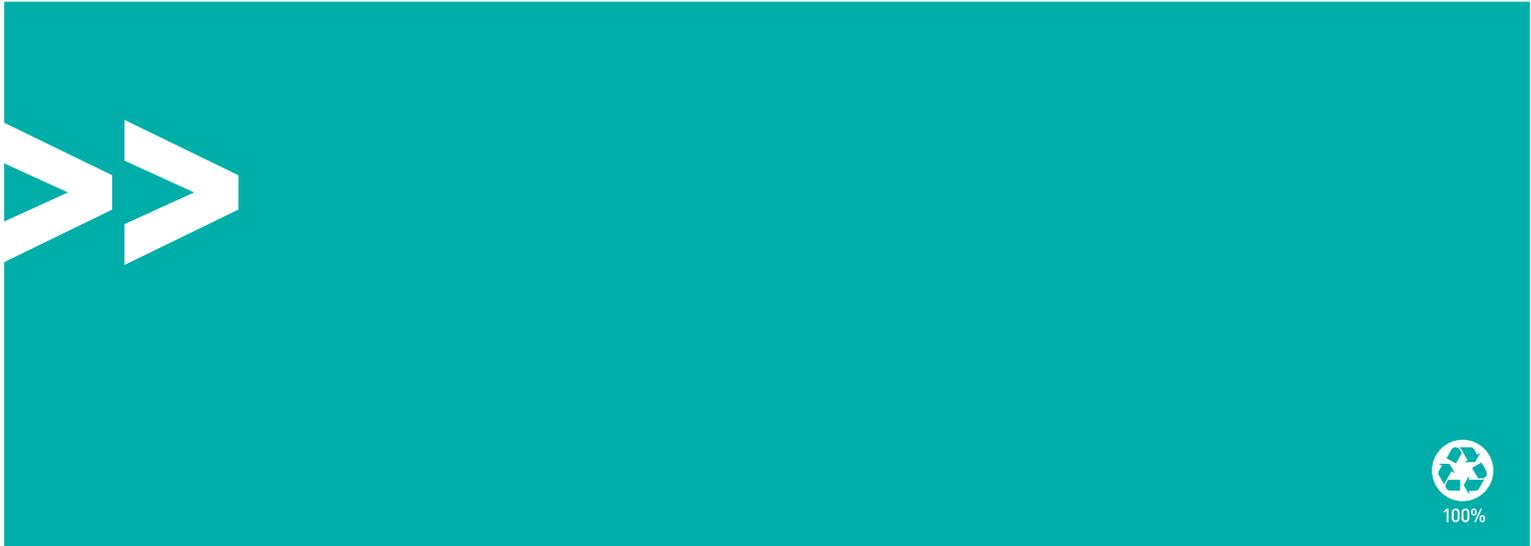
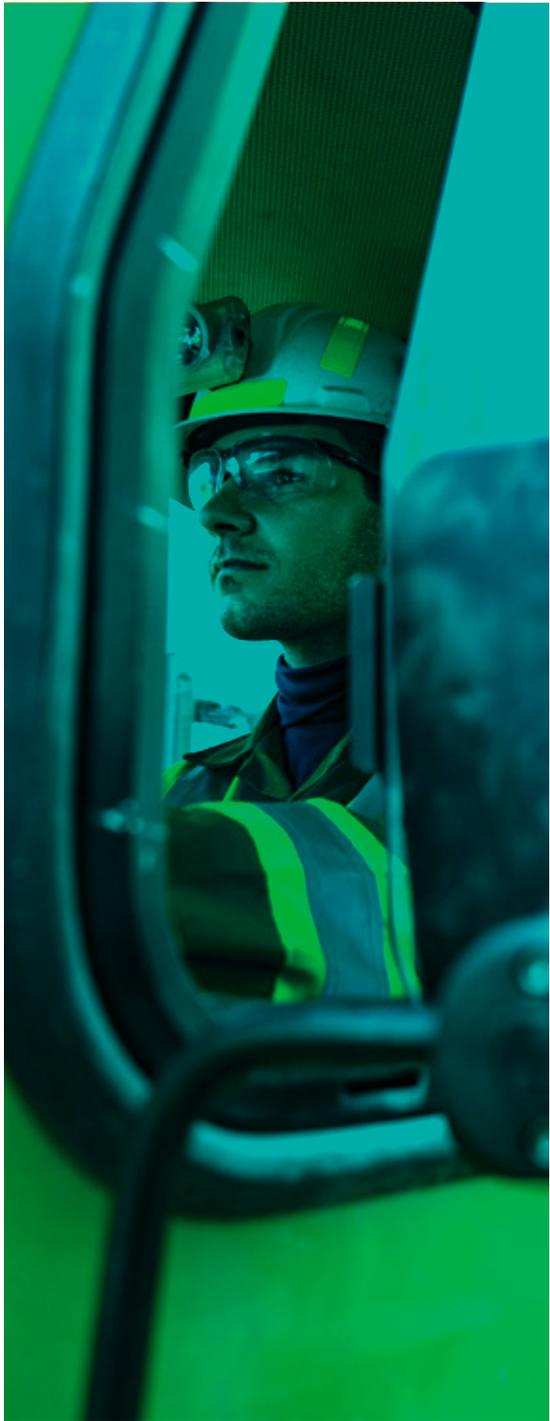
YMAB would like to thank Yukon and CYFN for the opportunity to participate in the New Mining Legislation process. Active participation with the Core Steering Committee and through Working Groups allows YMAB to provide industry perspective on topics/issues alongside the Environmental Non-Governmental Organization groups.





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