

MEMORANDUM OF UNDERSTANDING
Respecting the development of a local area plan
for the Fish Lake area

AMONG:

Kwanlin Dün First Nation as represented by the Department of Heritage, Lands and Resources (hereinafter referred to as the "Kwanlin Dün First Nation" or "KDFN")

AND:

The Government of Yukon as represented by the Department of Energy, Mines and Resources (hereinafter referred to as the "Yukon government" or "YG")

Being the Parties (collectively referred to as "the Parties") to this local area plan for the Fish Lake area

1. PREAMBLE

- 1.1. **WHEREAS** YG is responsible for local area planning on lands within its jurisdiction in Yukon, including private lands;
- 1.2. **AND WHEREAS** KDFN is responsible for local area planning on its Settlement Lands;
- 1.3. **AND WHEREAS** the Parties share an interest in developing a local area plan for the Fish Lake area;
- 1.4. **AND WHEREAS** the Parties recognize the benefits of entering into an agreement to provide for cooperative local area land use planning, in accordance with the provisions of Section 30 of the Kwanlin Dün First Nation Self-Government Agreement;

NOW THEREFORE the Parties agree as follows:

2. PLANNING AREA

- 2.1. The planning area for the Fish Lake Local Area Plan is shown on the map which is attached to and forms part of this Memorandum of Understanding as Appendix A.
- 2.2. The planning process will apply to privately titled lands, public lands, and KDFN Settlement Lands, but does not include Ta'an Kwäch'än Council Settlement Land parcel (TKC S-60B).

- 2.3. A portion of the planning area falls within the Traditional Territory of the Ta'an Kwäch'än Council (TKC). TKC has a long history of use and a site specific parcel within the planning area. TKC will be kept informed of major milestones throughout the planning process, and have opportunity to review and comment on key deliverables (including background report, draft and recommended local area plans). In addition, the Parties agree to work with TKC to ensure their interests and perspectives related to the Fish Lake area are addressed in the plan.
- 2.4. An administrative hold will be established within the planning area identifying the types of land use applications which can and cannot be considered while the plan is underway, as described in further detail in Appendix C of this Memorandum of Understanding.

3. PLANNING PRINCIPLES & OBJECTIVES

- 3.1. The following principles will apply when developing the plan:
 - 3.1.1. the principles of cooperation between the Parties (KDFN SGA 30.2.2);
 - 3.1.2. the well-being of ecosystems, biodiversity, and fish and wildlife populations is respected; and
 - 3.1.3. the process will embrace two ways of knowing (see Section 4 for further explanation).
- 3.2. The objectives of this collaborative local area planning process are to:
 - 3.2.1. develop and recommend a common land use plan for the Fish Lake area;
 - 3.2.2. promote coordinated land use within the planning area and minimize potential for conflict between land users;
 - 3.2.3. recognize and promote the history, heritage and culture of Yukon First Nation people in the Fish Lake area;
 - 3.2.4. understand and acknowledge past and present use of the planning area by Yukon First Nation people and other Yukon residents;
 - 3.2.5. balance the diversity of interests in the Fish Lake area and ensure all land users are fairly represented in the plan, including future generations;
 - 3.2.6. utilize the knowledge and experience of Yukon First Nation people and other Yukon residents in order to achieve effective land use planning;
 - 3.2.7. provide learning opportunities about Fish Lake environment, history and culture to enhance public awareness, appreciation and enjoyment of the planning area; and
 - 3.2.8. share information, knowledge and technical expertise between the Parties.

4. TWO WAYS OF KNOWING

- 4.1. Both Indigenous knowledge and western knowledge will be incorporated into plan development by integrating modern and traditional approaches to research, learning and communicating about the Fish Lake environment, history and culture. To establish a balanced and fair representation, Indigenous knowledge:
- 4.1.1. will be given equal weight to western knowledge in the formation of this plan;
 - 4.1.2. will have access to equal resources, and will be released with the consent of KDFN to be shared among the Parties;
 - 4.1.3. will be rooted in an Indigenous context, and will not be used to supplement, bolster or validate western knowledge;
 - 4.1.4. will not require explanation beyond the Indigenous context from which it is rooted (will not require a western explanation); and
 - 4.1.5. will be presented as living, modern, contemporary knowledge.

5. PLAN CONTENT

- 5.1. The Fish Lake Local Area Plan shall include the following:
- 5.1.1. a description of the planning area (geographic, historical, cultural, etc.);
 - 5.1.2. a description of land tenure and land users and associated values;
 - 5.1.3. a description of key land use issues;
 - 5.1.4. mapped information that may be associated with key issues to be addressed in the plan, including existing tenures, wildlife habitat, ecosystems, recreation potential, development suitability and limitations, etc.;
 - 5.1.5. relevant guidance from other existing plans which apply to the planning area;
 - 5.1.6. Indigenous knowledge including cultural, historical, and archaeological information on the indigenous history at Fish Lake;
 - 5.1.7. any additional relevant and available information;
 - 5.1.8. a description of public input received through the planning process;
 - 5.1.9. a land use map for the planning area with proposed land use designations and associated policies and management guidelines;
 - 5.1.10. strategies for plan implementation; and
 - 5.1.11. strategies for plan review, amendment and indicators of success.

6. STEERING COMMITTEE

- 6.1. A Steering Committee will be established to guide the planning process and assist the Parties in developing a draft plan for the Fish Lake area, as outlined in Fish Lake Local Area Plan Steering Committee Operating Procedures: Appendix B.
- 6.2. The Steering Committee shall be composed of three (3) KDFN representatives and three (3) Yukon representatives.
- 6.3. Planning staff from the Yukon and KDFN may participate as ex-officio members of the Steering Committee in a technical support capacity.
- 6.4. TKC Lands, Resources and Heritage staff may also participate as observers to the Steering Committee and in a technical support capacity.
- 6.5. The Steering Committee shall:
 - 6.5.1. make best efforts to coordinate the planning process and program of work to prepare a local area plan within two (2) years of Committee establishment;
 - 6.5.2. consider Indigenous knowledge, available scientific and technical information, and public input in the development of the plan;
 - 6.5.3. review and assist in the development of a communications and public consultation plan prepared for the planning process;
 - 6.5.4. review and assist in the development of draft plans as they are prepared; and
 - 6.5.5. recommend a local area plan to the Parties.

7. INFORMATION SHARING

- 7.1. The Parties agree that they shall exchange information necessary for the preparation of the plan in a timely manner and on a regular basis.
- 7.2. Indigenous knowledge may be shared subject to the agreement and permission of KDFN, or other Yukon First Nations as required including Ta'an Kwäch'än Council.

8. PLAN APPROVAL

- 8.1. The Steering Committee shall submit a recommended local area plan to the Minister of Energy, Mines and Resources, and the Chief and Council of KDFN for review and approval.
- 8.2. Each Party shall approve, reject or modify the recommended local area plan in accordance with Section 30.4 of the KDFN Self-Government Agreement.

- 8.3. The Parties will endeavor to reach consensus on a joint plan for the entire area, although each government reserves the right to proceed independently with a local area land use planning initiative, in accordance with Section 30.5 of the KDFN Self-Government Agreement.
- 8.4. The Parties will make the best effort to complete the plan within two (2) years of the establishment of the Steering Committee, or as otherwise agreed to by the Parties, subject to the availability of financial resources and personnel to prepare the plan.

9. PLAN REVIEW

- 9.1. The plan shall be reviewed at least once every ten (10) years following approval, subject to the availability of funding and personnel, or as otherwise agreed to by the Parties.
- 9.2. The plan may be reviewed earlier if deemed necessary (if both Parties consent), based on new or unanticipated events, or as a result of significant development proposals.

10. EFFECTIVE DATE

- 10.1. The Memorandum of Understanding comes into effect on the day of signing by the Parties.

11. TERM, TERMINATION, AND AMENDMENT OF THE MEMORANDUM OF UNDERSTANDING

- 11.1. Unless the Parties agree to extend it, the Memorandum of Understanding shall remain in effect until the completion of the plan.
- 11.2. The Memorandum of Understanding may be amended by written agreement of the Parties.
- 11.3. Any Party may withdraw from the Memorandum of Understanding by providing the other Party with thirty (30) days written notice of withdrawal.
- 11.4. Upon withdrawal of one Party, this Memorandum of Understanding shall be terminated.
- 11.5. If the plan is not completed within 2 years from the signing date of this Memorandum of Understanding, the land use prohibitions outlined in Section 2.4 (Administrative hold) may be reviewed and amended.

12. PLAN FUNDING

- 12.1. Yukon will support a planning consultancy contract(s) and costs associated with the planning process.
- 12.2. Unless otherwise agreed to by the Parties, the Parties will fund their respective technical support and data inputs.



**Greg Thompson, Director
Department of Heritage, Lands and Resources
Kwanlin Dün First Nation**

March 12 2020

DATE

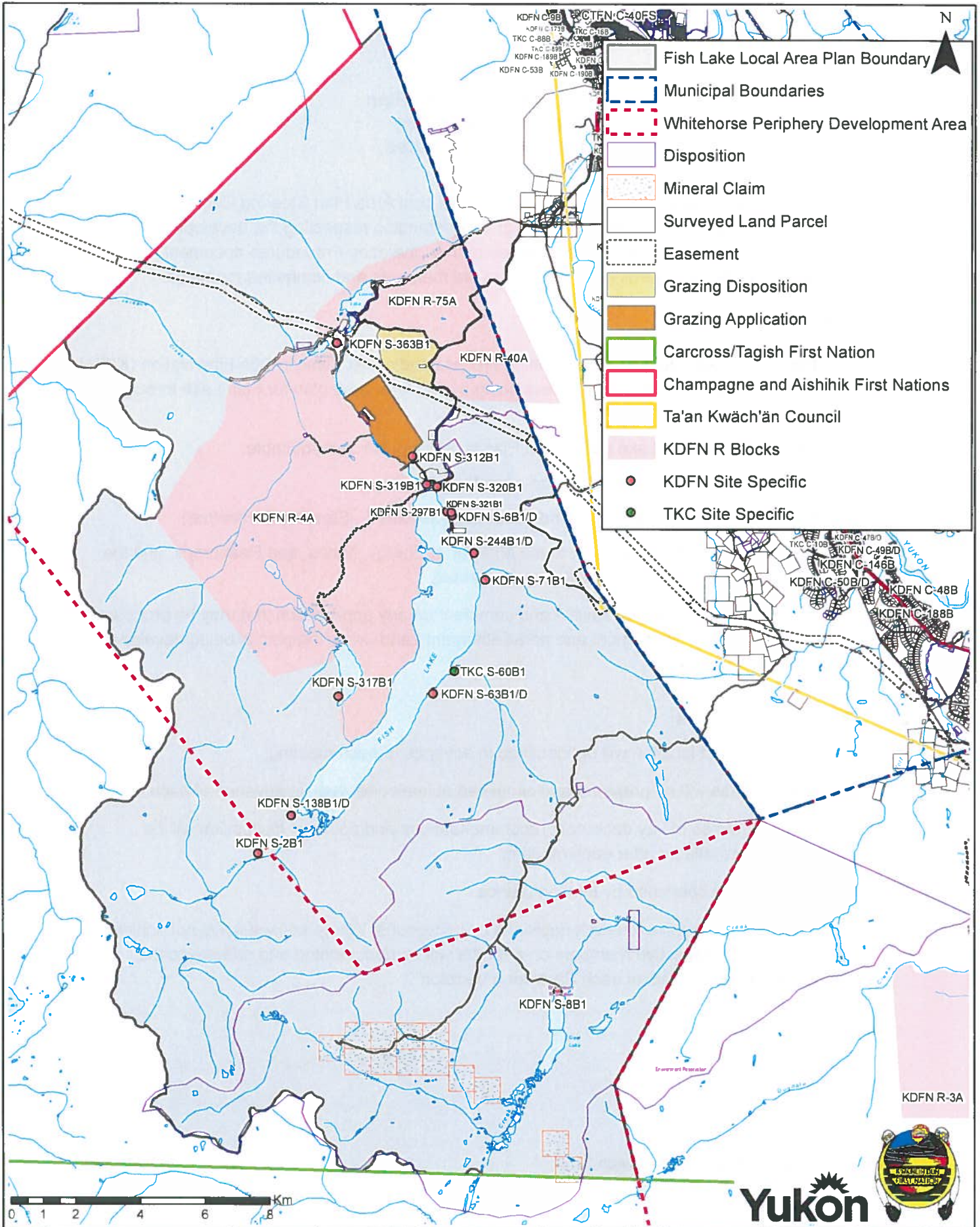


**Manon Moreau, Assistant Deputy Minister
Department of Energy, Mines and Resources
Government of Yukon**

March 20/20

DATE

Appendix A - Fish Lake Planning Area



APPENDIX B:

Fish Lake Local Area Plan Steering Committee Operating Procedures

The composition and the responsibilities of the Fish Lake Local Area Plan Steering Committee (Committee) are described in the "Memorandum of Understanding respecting the development of a local area plan for the Fish Lake area". The purpose of this Operating Procedures document is to provide additional guidance regarding the conduct of the members and committee meetings.

1. Mandate

The role of the Committee is to guide the planning process and assist Kwanlin Dün First Nation (KDFN) government and the Yukon government in developing a draft local area plan for Fish Lake through a public process.

- 1.1. To ensure that the Fish Lake Local Area Plan is realistic, fair and equitable.
- 1.2. To promote an honest, inclusive and co-operative process.
- 1.3. To adhere to the Memorandum of Understanding (Section 6 - Steering Committee).
- 1.4. To forward the recommended plan to the Minister of Energy, Mines, and Resources, and the Chief and Council of KDFN for review and approval.
- 1.5. The Steering Committee may review and comment on any applications that may be proposed in the planning area on Settlement and non-Settlement Land, while the plan is being developed, as described in Appendix C.

2. Meeting Procedures

- 2.1. Meeting dates and location will be identified in advance of each meeting.
- 2.2. Meeting agendas will be prepared and circulated at least one week in advance of each meeting.
- 2.3. Meeting summaries of key decisions, recommendations and points of discussion will be prepared and circulated after each meeting.
- 2.4. Meetings may be convened by teleconference.
- 2.5. The Committee will strive to reach decisions by consensus. Where consensus is not achieved, the views of the respective members on a matter will be documented and referred to the respective senior officials of each Party for a decision.

3. Quorum

- 3.1. At least four of the six members of the Steering Committee must be present for valid transaction of business by the committee. Of these four, at least two appointees from each of the Parties must be present.
- 3.2. Members may participate in person or by teleconference.

4. Committee Members

The responsibility of an individual Committee member is as follows:

- 4.1. Keep informed about matters of relevance to the work of the Committee including the perspectives of the Parties on these matters and any public input received;
- 4.2. Participate fully in Committee meetings;
- 4.3. Review all relevant meeting materials prior to Committee meetings;
- 4.4. Attend meetings on a regular and punctual basis; and
- 4.5. Facilitate effective communication between the Committee, the Parties, and the public.

5. Secretariat Support

Secretariat support for the Committee will be provided by Yukon government and KDFN.

Responsibilities will include:

- 5.1. Scheduling and arranging meetings;
- 5.2. Preparing materials to assist the Committee to carry out their work;
- 5.3. Preparing meeting summaries and distributing to Committee members (including technical staff from YG, KDFN and TKC) and follow-up on action items as required;
- 5.4. Responding to information requests;
- 5.5. Tracking Committee decisions for future reference and review;
- 5.6. Bringing issues to their respective governments for direction as required;
- 5.7. Providing technical and/or policy advice to the Committee as required;
- 5.8. Developing and managing public communications for review and approval by the Committee;
- 5.9. Working with TKC to ensure their interest and perspectives related to the Fish Lake area are addressed in the plan; and
- 5.10. With the involvement and advice of the Committee, hiring planning consultants, drafting documents, developing work plans and supporting the completion of the plan.

6. Non-member Participation

- 6.1. Committee members may request persons with specialized knowledge, skills or information about the planning area or the planning process to attend meetings in an advisory capacity.
- 6.2. TKC Lands, Resources and Heritage staff may also participate as observers to the Steering Committee and in a technical support capacity.

APPENDIX C:

**Administrative Hold Agreement within the
Fish Lake Local Area Plan Boundary**

BETWEEN:

The Government of Yukon, Department of Energy, Mines and Resources, the Land Management Branch, the Land Planning Branch and the Agriculture Branch.

AND:

The Kwanlin Dün First Nation, Department of Heritage, Lands and Resources.

hereinafter referred to as "Parties"

1. PURPOSE

The purpose of this Administrative Hold Agreement is to provide further clarity on an administrative hold to be established in the Fish Lake planning area by identifying the types of land use applications which can be considered while the planning process is underway.

2. SCOPE

The administrative hold will apply to all lands within the planning area, as shown in Appendix A of this Memorandum of Understanding.

The administrative hold will remain in place for 2 years or until the completion of the planning process. If the planning process takes longer than 2 years, the Parties agree to review the terms of this agreement two years from the signing date of the Memorandum of Understanding and then, if required, annually to identify any emerging needs or issues which may warrant a revision to the terms of the administrative holds.

The administrative hold does not apply to resource authorizations issued by Forest Resources Branch or Mineral Resources Branch.

Table 1. Administrative holds within the Fish Lake Local Area Plan boundary managed by the Government of Yukon.

EMR Branch	Type of authorization or disposition	Applications considered?	Additional notes
Land Management	Individual land application (rural residential, commercial/industrial, institutional)	No	
	Lot enlargement (rural residential, commercial/industrial, institutional)	Case by case	Lot enlargements will be considered only if they support the needs of the occupants of principal residences and are intended to resolve existing or emerging critical health and safety concerns such as water or septic replacement, or to adapt to changing slope stability or erosion affecting the structural stability of a dwelling or infrastructure related to human health and safety.
	Lease (commercial/industrial, outfitting concessions, water lot)	No	Public utility leases such as hydro or electrical may be considered.
	Gravel reserves (administrative reserves for granular resources)	Case by case	No new gravel reserves will be issued. Development within existing gravel reserves will be allowed.
	Quarry lease and permit	Case by case	Existing leases will be considered for renewal or reissue. Replacement quarry permits will be considered. Development of new quarry areas, for lease or permit, would not be considered.
	License of occupation	Case by case	Any licenses issued during development of the Fish Lake LAP will be reviewed following plan approval to ensure compliance with the plan.
	Planned lot development	No	
	Land use permit	Yes	
Land Planning	Private-land subdivision	Yes	
	Zoning amendments	Yes	Application driven rezoning applications for privately titled lands may be considered. Upon completion of a draft plan, or two years from the signing date of the Fish Lake Memorandum of Understanding (whichever occurs first), the Parties will revisit how rezoning applications will be evaluated for the remainder of the planning process.
Agriculture	Individual land applications	No	
	Lot enlargement	No	
	Grazing rights agreements (grazing agreements)	Case by case	Existing grazing rights agreements will be considered for reapplication and renewals. New grazing rights agreements would not be considered.
	Planned agricultural lot development	No	

Table 2. Administrative holds within the Fish Lake Local Area Plan boundary managed by Kwanlin Dün First Nation.

KDFN Department	Type of authorization or disposition		Applications considered?	Additional notes
Heritage, Lands and Resources	Existing Residents	Allocation (traditional use, residential)	Yes	Applications to grant an interest in Kwanlin Dün First Nation Settlement Land for existing residents will be considered while the plan is in development.
		Leases	Yes	
	Expressions of interest	Allocation (traditional use, residential)	Yes	Applications to grant an interest in Kwanlin Dün First Nation Settlement Land for existing expressions of interest holders will be considered while the plan is in development.
		Leases	Yes	



Greg Thompson, Director
Department of Heritage, Lands and Resources
Kwanlin Dün First Nation

March 12 2020


DATE



Jerome McIntyre, Director
Land Planning Branch, Department of Energy, Mines and Resources
Government of Yukon

March 16, 2020

DATE



Colin McDowell, Director
Land Management Branch, Department of Energy, Mines and Resources
Government of Yukon

March 17/2020

DATE



Matt Ball, Director
Agriculture Branch, Department of Energy, Mines and Resources
Government of Yukon

March 18, 2020

DATE