

11 M

THIS AGREEMENT made this 21<sup>st</sup> day of January 2018,

**BETWEEN:**

**GOVERNMENT OF YUKON**, as represented by the Minister of Environment and Minister of Energy, Mines and Resources

(YG)

**AND:**

**FIRST NATION OF NA-CHO NYÄK DUN**, as represented by the Chief and Councillors

(NND)

(each being a **Party** and collectively being the **Parties** to this Agreement)

**WHEREAS:**

- (A) ATAC Resources Ltd. (**ATAC**) is proposing the construction of an all-season, single-lane tote road (the **Tote Road**), as marked on Schedule A of this agreement, from the existing Hanson Lakes road to the Tiger deposit, located at the western end of the Rau property, that will be primarily located on Crown land and will cross a portion of NND R-5A and NND R-4A in order to support its advanced exploration and feasibility level development work at the Tiger deposit;
- (B) ATAC submitted the proposed construction of the Tote Road to the Mayo Designated Office for assessment in 2016 and the Mayo Designated Office issued its Designated Office Evaluation Report on May 3, 2017, and determined that the Tote Road would or is likely to result in significant and adverse effects, but these effects could be eliminated, controlled or reduced with the application of appropriate terms and conditions;

**NOW THEREFORE**, the Parties agree as follows.


- 1. **Development of a plan.** The YG and NND will prepare a plan for the portion of the Stewart River watershed (the **Plan**) identified on the map attached as Schedule A (the **Planning Area**) to this agreement in accordance with this agreement.
  - (a) **Establishment of a Planning Committee.** The Parties will each appoint two representatives to a land use planning committee to prepare the Plan (the **Planning Committee**).
  - (b) **Representatives.** The representatives of the Planning Committee will be delegates of the Parties that appointed them.
  - (c) **Operation of the Planning Committee.** The Planning Committee may make its own operating procedures and will work on the basis of consensus.
  - (d) **Duties of the Planning Committee.** The Planning Committee will:
    - i. endeavour to submit the Plan to the Parties by March 31, 2020;
    - ii. refer disputes or impasse issues to the Parties with respect to matters relating to the development of the Plan;
    - iii. seek direction and guidance from the Parties, where appropriate;
    - iv. provide for public participation in the development of the Plan; and

M 19

- v. prepare a workplan and budget for the development of the Plan.
- (e) **Objectives.** In the development of the Plan, the Planning Committee will:
- i. promote collaboration with respect to the use and management of land, water and resources, including fish and wildlife and their habitat, within the Planning Area;
  - ii. recommend measures to minimize actual and potential land use conflicts throughout the Planning Area;
  - iii. use the traditional knowledge and experience of NND citizens, scientific information and local knowledge of other residents in NND's traditional territory;
  - iv. promote the well-being of NND citizens and other residents of NND's traditional territory, including residents of Mayo, Stewart Crossing and Keno;
  - v. take into account traditional land use by NND citizens and their traditional land management practices;
  - vi. promote integrated management of land, water and resources, including fish and wildlife and their habitats; and
  - vii. promote development that does not undermine the ecological and social systems upon which NND citizens and their culture are dependent.
- (f) **Funding.** The Parties are responsible for the expenses of their Planning Committee representatives. YG will cover meeting costs and printing costs.
- (g) **Prohibition orders.** The Minister of Energy, Mines and Resources, on behalf of YG, shall as soon as practicable following the signing of this agreement, recommend to the Commissioner in Executive Council that, for the area marked on Schedule B of this agreement, prohibition of entry orders be implemented for the purpose of locating, prospecting or mining under the *Quartz Mining Act* and the *Placer Mining Act* until the Plan is approved by the Parties.
- (h) **Fish and Wildlife Harvest.** The Minister of Environment shall initiate a process in collaboration with the Yukon Fish and Wildlife Management Board towards the timely identification of an adaptive, proactive fish and wildlife harvest regime that will address actual or anticipated increased harvest associated with the Tote Road. This may require the application of restrictions on harvesting all or part of Game Management Sub-zones adjacent to the Tote Road. To support timely and adaptive wildlife management, NND will endeavour to collect data on big game harvest activities of NND citizens in these same areas, including species and sex, and provide annual reports to YG.
- In support of these measures, the Parties will ensure terms and conditions on the project that require ATAC to ensure that their employees, contractors and sub-contractors do not harvest fish or wildlife within one km of the Tote Road, in the area marked as Schedule C of this agreement (the **ATAC Harvest Prohibition Area**).
- (i) **Adoption of the Plan.** The Parties will review the Plan and may approve it or send it back to the Planning Committee for reconsideration and may provide specific direction or guidance to the Committee to reconsider.
- (j) **Compliance with the Plan.** YG and NND will exercise their lawful discretion to grant any interest in, or authorize the use of, land, water or other resources in conformity with the Plan. However, if a designated office, the executive committee of the Yukon Environmental and Socio-economic Assessment Board (the **Board**) or a panel of the Board recommends the approval of a project that is inconsistent with the Plan, the Parties may agree that the project proceed subject to certain terms and conditions.
- (k) **Inconsistency with existing plans.** Unless agreed to by the Parties, the provisions of the Plan will prevail over any other local area district or regional land use plan to the extent of any inconsistency.

- (l) **No construction until the Plan is finalized.** The Parties will not issue any licence, permit or other authorization for the construction of the Tote Road until they have approved the Plan.
  - (m) **Review.** The Parties will review the Plan no later than 10 years after its adoption.
2. **Road access management plan.** YG will work with NND and ATAC to develop a road access management plan (the **Road Access Management Plan**) to be finalized before the commencement of construction of the Tote Road. This plan will identify methods for the use of the Tote Road so that it will minimally disrupt or interfere with NND citizens' traditional, cultural and other uses of the lands and resources within NND's traditional territory, including the following matters, unless agreed otherwise by the Parties:
- (a) designation of the Tote Road as an ATAC private road and subject to 6.2.3.2 of the First Nation of Na-Cho Nyäk Dun Final Agreement;
  - (b) measures to prevent public use of the road, including the establishment of access gates road, the posting of signs and the restriction of motorized vehicles on the road.
  - (c) regulation of the times and dates when ATAC access to and use of the Tote Road is prohibited;
  - (d) installation of motion-sensor cameras by ATAC to monitor and record use of the Tote Road;
  - (e) regulation of the sizes and types of ATAC vehicles permitted to use the Tote Road;
  - (f) requirements for ATAC vehicle traffic to use the Tote Road in a convoy in order to mitigate impacts at specific times of the year;
  - (g) regulation of the use of ATAC all-terrain vehicles on or from the Tote Road;
  - (h) establishment of an effects monitoring program, including effects auditing, with respect to the use of the Tote Road;
  - (i) consideration of enforcement measures and approaches with respect to unauthorized access of the Tote Road; and
  - (j) any other matters that the Parties may agree.
3. **Conflict between the Plan and the Road Access Management Plan.** If there is any conflict or inconsistency between the provisions of the Plan and Road Access Management Plan, the provisions of the Road Access Management Plan will prevail over the Plan to the extent of any inconsistency or conflict, unless the Parties agree otherwise in writing or is required by law.
4. **Security and reclamation of the Tote Road.** YG and NND will work together to ensure that sufficient security is provided by ATAC to YG as provided by law, in a form recommended by the Parties, to fulfil its commitments under the reclamation plan made in accordance with the *Quartz Mining Act* that, among other matters, will provide for:
- (a) the removal of any culverts and bridges; and
  - (b) the restoration of the area of the Tote Road, including, as appropriate, clean-up, drainage, erosion control, re-contouring, overburden replacement and replanting of vegetation so that the area will blend in with the local landscape and vegetation.

YG will hold the security and will make best efforts to reach agreement with NND on recommendations for its use and expenditure to provide to the Minister of Energy, Mines and Resources.

- 
5. **Wildlife harvesting management.** The Parties will work with the Mayo District Renewable Resources Council to address management measures that support the conservation, including sustainable use, of wildlife populations and the protection of their habitat. This includes identification of mitigation measures necessary to minimise impacts that result from construction, maintenance, use and closure of the Tote Road.

YG and NND will work with ATAC to develop measures for ATAC to implement to:

- (a) restrict hunting access by motorized vehicle from the Tote Road;
- (b) prohibit ATAC's employees and contractors from any hunting or fishing activities in the area identified in Schedule C – the ATAC Harvest Prohibition Area; and
- (c) require ATAC's employees and contractors to take wildlife avoidance training.

YG will work with NND and ATAC to establish an adaptive monitoring program, including baseline data collection, with respect to impacts on wildlife and their habitat within the general area of the Tote Road.

6. **Trapper compensation.** YG will provide compensation in the amount of up to \$5,000 or additional compensation to the holders of RTC 45 and RTC 83 and any other NND holder of a trapline where it can be demonstrated to the satisfaction of YG that the holder has been impacted significantly by the construction, maintenance, use and closure of the Tote Road.

7. **Capacity for NND.** The Parties agree to enter into a Transfer Payment Agreement (**TPA**) for YG to provide NND \$175,000 upon the execution of this Agreement for the 2017-18 fiscal year, \$150,000 for the 2018-19 fiscal year. TPAs for \$50,000 annually shall be entered into by the Parties from the commencement of the construction of the Tote Road to the earliest of: eight years following commencement of construction or the permanent closure of the Tote Road. These funds shall be used to mitigate the Tote Road's environmental and socio-economic impacts, including, but not limited to, the following measures:

- (a) development and implementation of the road access management plan;
- (b) providing for NND's participation in the Planning Committee;
- (c) convening community information sessions for NND citizens to inform and update them about the Tote Road from time to time;
- (d) conducting annual meetings with affected NND families, traditional harvesters and trappers for NND and ATAC to update them about matters related to the construction, maintenance, use and closure of the Tote Road and seek their input and feedback;
- (e) convening annual business development meetings with ATAC and NND citizens and their businesses to identify and promote development of business opportunities and facilitate economic benefits; and
- (f) contributing funds not expended under (a) to (e) to the NND Wellness Fund.

Upon the expiry of the financial provisions in this section, the Parties will undertake a review as to whether NND continues to require capacity support to carry out mitigation activities, including those listed in paragraphs (a) to (f) above.

## 8. Communications.

Each Party will advise the other in advance of any planned public communication about matters relating to the Tote Road and will provide copies of prepared materials to the other Party in advance of their release. Should the other Party have any concerns about these materials, the Party will work with the other Party to resolve them in a constructive manner.

When advance notice of a public communication is not practicable, the Party involved will advise the other Party of the communication immediately after it has been made.

## 9. General

- (a) **Requirement for Decision Document(s).** This Agreement shall not come into force until such time as YG and NND have issued a joint Decision Document or compatible Decision Documents that provide for the Tote Road project to proceed subject to agreed-to terms and conditions.
- (b) **Amendment.** This Agreement may be amended from time to time, in writing, by the Parties. No term in this Agreement may be changed or waived except in writing.
- (c) **Entire agreement.** Upon this Agreement coming into effect, this Agreement will constitute the entire agreement between the Parties with respect to the subject matters referenced and will supersede any prior agreement, negotiation or understanding between the Parties.
- (d) **Enforcement.** The failure of either Party to enforce the terms or conditions of this Agreement at any time, or for any period of time, will not be a waiver of such terms or conditions or of the Party's right thereafter to enforce each and every term and condition of the Agreement. This Agreement and all of its terms and conditions will be governed by and interpreted in accordance with the laws of the Yukon and the laws of Canada.
- (e) **Severability.** The provisions of this Agreement are severable. If any provision is declared to be void or unenforceable it will be severed and the remaining provisions of this Agreement will continue to have full force and effect.
- (f) **Dispute Resolution.**
  - i. In this section, "Dispute" means a disagreement between the Parties arising out of the interpretation or application of the provisions of this Agreement or matters respecting or arising in connection with this Agreement.
  - ii. In the event a Dispute arises, the Parties will exercise all reasonable efforts to resolve it amicably.
  - iii. The Parties may resolve a Dispute by mutual agreement at any time and all such agreements will be recorded in writing and signed by authorized representatives of the Parties.
  - iv. If the Deputy Minister of Energy, Mines and Resources, the Deputy Minister of Environment and the NND senior official cannot resolve a Dispute by mutual agreement within 14 days of the Dispute arising, then they will refer the Dispute together with their recommendations to the Minister of Energy, Mines and Resources, Minister of Environment and the NND Chief for resolution.
  - v. If the Ministers and the NND Chief have not resolved the Dispute within 10 days after the day on which the Dispute is referred to them (or such other period as they may agree), then the Dispute may

M R

be referred by either Party to a mediation, such referral to be effected by the delivery of a written notice to the other of that Party's desire to mediate the Dispute (the "Mediation Notice"), provided that:

- A. the Parties to the Dispute agree to a mediation and to a mutually acceptable mediator within 5 days of delivery of the Mediation Notice (or such other period as the Parties may agree);
  - B. the Parties to the Dispute agree to participate in a maximum of 6 hours of mediation and may extend that time by further written agreement;
  - C. the mediation must be completed within 60 days of selection of the Mediator (or such other period as the Parties may agree);
  - D. each Party to the Dispute will pay an equal share of the remuneration and expenses of the mediator; and
  - E. each Party to the Dispute is responsible for its own costs of mediation.
- vi. Notwithstanding the Dispute resolution provisions of this Agreement, any Party to a Dispute may at any time apply to the Yukon Supreme Court for such interim relief as that Party may deem appropriate.

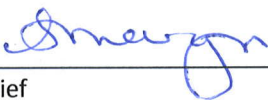
(g) **Schedules.** The Parties agree that the following schedules form part of this Agreement:

- a. Schedule "A" – Map of the Planning Area;
- b. Schedule "B" – Map of the Prohibition Order Area; and
- c. Schedule "C" – Map of the ATAC Harvest Prohibition Area.


**IN WITNESS WHEREOF** the Parties have caused this Agreement to be executed in their respective names by their duly authorized representatives.

**FIRST NATION OF NA-CHO NYÄK DUN**

**GOVERNMENT OF YUKON**

Per:   
Chief

Per:   
Minister of Environment

Per:   
Deputy-Chief

Per:   
Minister of Energy, Mines and Resources

Per:   
Councilor

A M

Per: Shonem A. P. [Signature]  
Councilor

Per: Melody [Signature]  
Councilor

Per: Ronald P. [Signature]  
Councilor

Per: [Signature]  
Elder Councilor

Per: N/A  
Youth Councilor

M

**SCHEDULE "A" and "B" – MAP OF THE PLANNING AREA AND PROHIBITION ORDER AREA**

(Recital (A) + section 1 of the Agreement)

(subsection 1(g))

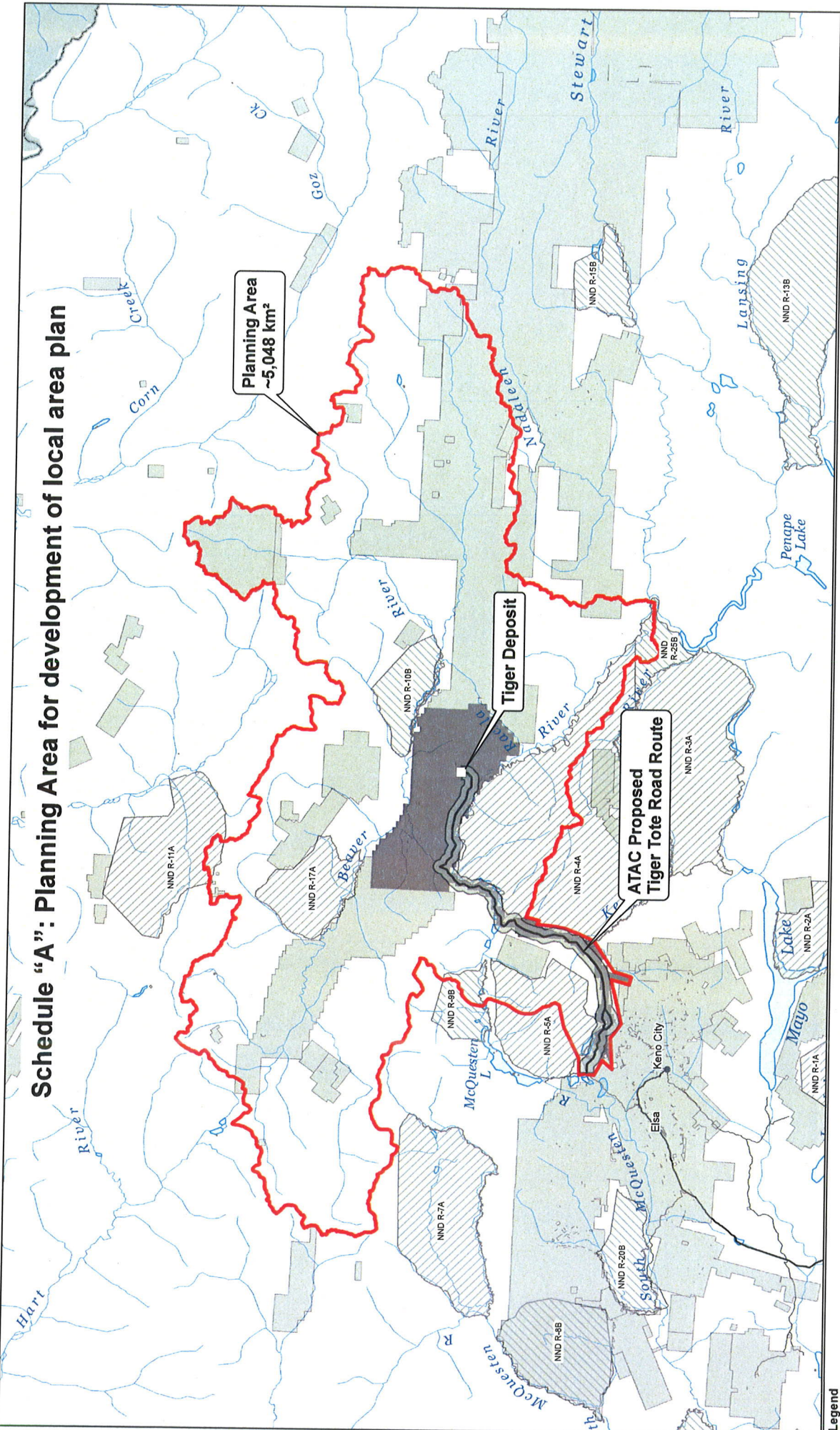
**SCHEDULE "C" – ATAC HARVEST PROHIBITION AREA**

(subsection 1(h))



Handwritten initials: "fb" and "MA"

# Schedule "A": Planning Area for development of local area plan



**Legend**

- Roads**
  - Type Deposit
  - Highway
  - Local Road
  - Proposed Tote Road
  - Resource/Recreation Road
  - Watercourse - 1M
- First Nation Settlement Lands - Surveyed**
  - Surface and Subsurface Rights
  - Surface Rights
  - Planning Area
  - Position of Entry Area
- Other Features**
  - Badly Eroded Project
  - Quartz Claims - 1M
  - Waterbody - 1M

Scale: 1:500,000  
 0 10 20 40 60 80 km

Created By: CMI (HR)  
 Date: Jan. 12, 2018  
 File: ScheduleA.mxd  
 Projection: Yukon Albers





Handwritten initials or marks in the top left corner.

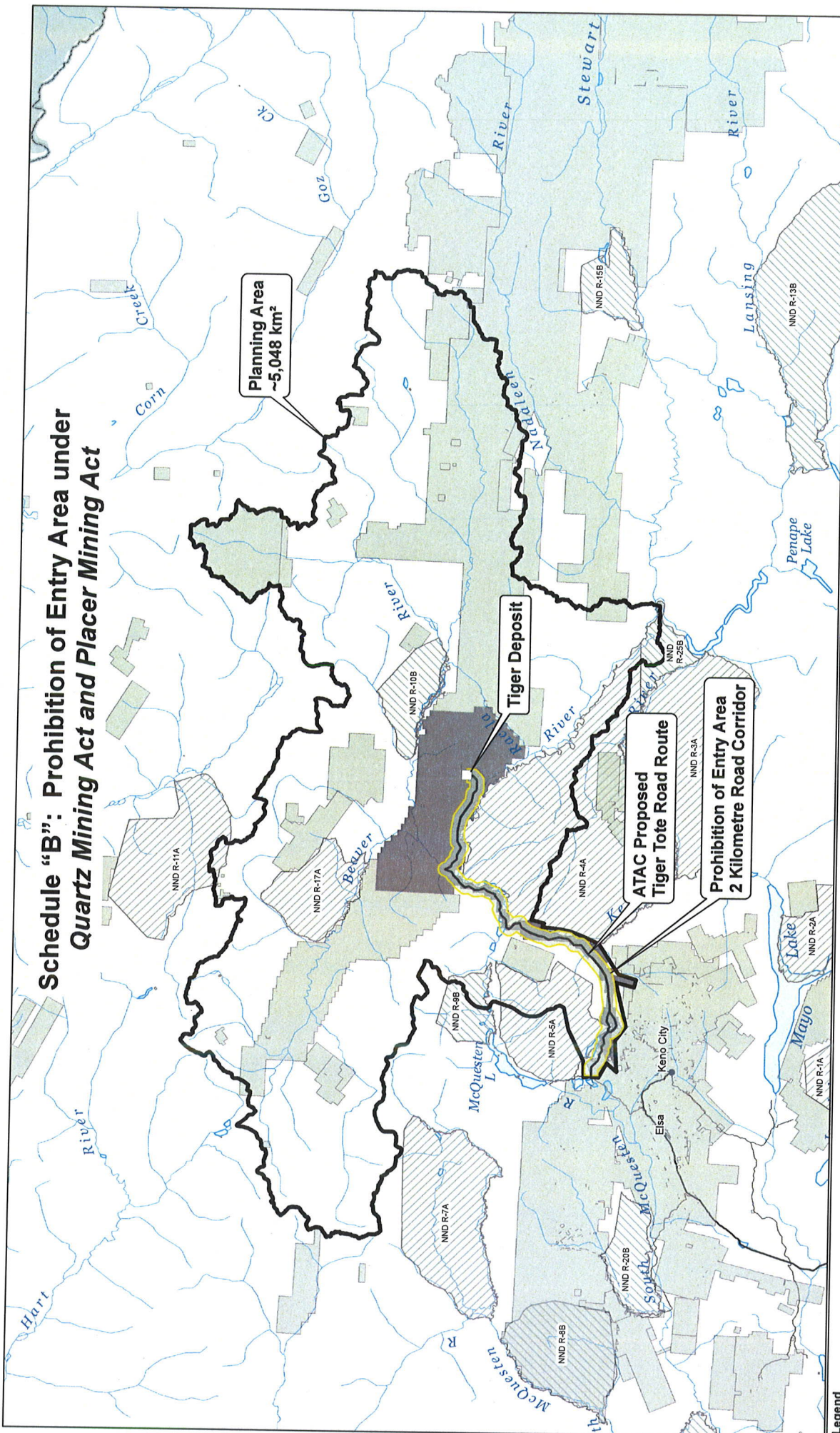
# Schedule "B": Prohibition of Entry Area under Quartz Mining Act and Placer Mining Act

Planning Area  
~5,048 km<sup>2</sup>

Tiger Deposit

ATAC Proposed Tiger Tote Road Route

Prohibition of Entry Area 2 Kilometre Road Corridor



Created By: CMI (HR)  
Date: Jan. 16, 2018  
File: ScheduleB.mxd  
Projection: Yukon Albers



1:500,000

### Legend

- Tiger Deposit
- Settlement
- Proposed Tote Road
- Yukon Borders - Surveyed
- Roads
  - Highway
  - Local Road
  - Reservoir/Roadway Road
  - Watercourse - 1M
- First Nation Settlement Lands - Surveyed
  - A Surface and Subsurface Rights
  - B Surface Rights
- Backs Gold Project
- Quartz Claims - 1M
- Waterbody - 1M
- Planning Area
- Prohibition of Entry Area (2km Road Corridor)





Schedule C - ATAC Harvest Prohibition Area (2 Kilometre Road Corridor)

Handwritten initials or marks at the top left of the page.



Proposed Tiger Tote Road Route  
with  
2 Kilometre Road Corridor



