

Yukon Environmental and Socio-economic Assessment Board

2004 – 2005 Annual Report

June 7, 2004 – March 31, 2005

Overview

The *Yukon Environmental and Socio-economic Assessment Act* (YESAA) came into effect May 13, 2004. YESAA is to establish a process for assessing the environmental and socio-economic effects of certain activities in Yukon. The YESAA is the direct result of Chapter 12, the Development Assessment Process of the *Umbrella Final Agreement* (the UFA) the framework comprehensive land claim agreement made between the Government of Canada, the Council for Yukon Indians (now the Council of Yukon First Nations - CYFN) and the Government of Yukon.

The enactment establishes a Yukon Environmental and Socio-economic Assessment Board (the YESAB) with assessment staff in six or more designated offices in communities throughout Yukon. They serve as the main instruments for the assessment of the environmental and socio-economic effects of activities in Yukon.

On June 7, 2004, the federal minister appointed six persons of the seven member Board. The current Board is comprised of a three member executive committee, one of which is appointed on the nomination of CYFN, another following consultation by the federal minister with the territorial minister and the third, being the Chairperson of the Board, following consultation by the federal minister with the other two executive committee members. Of the four remaining members, two were appointed on the nomination of CYFN, one on the nomination of the territorial minister and the remaining member is yet to be appointed.

The Board held its first meeting on June 18, 2004 and identified critical actions and activities required to move the Board toward meeting its obligations under YESAA and to becoming operational. The Board's Work Plan contained the critical actions and activities for the short, medium and long term that needed to be accomplished prior to the implementation of the regulations. The main items identified are as follows:

- ® Preparation and submission of a YESAB Annual Budget (June 07, 2004 – March 31, 2005) in support of a signed Contribution Agreement between Canada and the YESAB.
- ® Preparation and submission of a YESAB Annual Budget (April 01, 2005 – March 31, 2006) in support of a signed Contribution Agreement between Canada and the YESAB.

- ® Both Annual YESAB Budgets mentioned above included an Annual Work Plan and detailed explanation of budget line items.
- ® As part of the Work Plan, the following is a list of key activities and accomplishments of the YESAB from June 07, 2004 through March 31, 2005 with details and rationale provided later in this report.
- Please Note – The original Work Plan changed considerably over the time period mentioned here due to the fact YESAA Regulations implementation date changed several times. After each date change the YESAB changed its Work Plan accordingly.
- Establishment of financial management systems and audit requirements defined.
 - Detailed organization chart for the YESAB Office and Designated Offices.
 - Preparation of detailed job descriptions relative to the organization chart and schedule for staff hiring.
 - Development of terms and conditions of employment and staff benefits package.
 - Locating temporary and permanent offices for the YESAB and Board staff including Designated Office locations in the communities.
 - Identification of YESAB and staff development and training and implementation.
 - Determination of YESAB Information and Technology (IT) and communications requirements.
 - Designing of the assessment process and drafting Board rules of procedure, primarily as per the “shall” provisions of the YESAA.
 - Transition planning and implementation, moving from current environmental assessment process to the environmental and socio-economic effects assessment process.

The following will detail the Board’s actual activities, to be referred to as the transition period. The Board remains fully committed to being ready to conduct full environmental and socio-economic effects assessments upon the regulations under YESAA coming into full force and effect. The Board was advised of regulations effect date changes as follows:

- November 13, 2004
- December 31, 2004
- March 31, 2005
- August 30, 2005

2004 – 2005 Budget and Financial Management

Through a transfer agreement with Canada, the Board received 2.5 million dollars for its setup and first year of operations. Within the first three months from appointments the Board prepared a detailed budget to fiscal year end (Appendix A) that was presented to Canada. The budget clearly identified all expenditures and monthly cash flow projections based on a designed work plan pre and post regulation implementation date of November 13, 2004.

In an attempt to meet this date the Board initiated a number of contracts to assist in meeting these tight time lines, such as; hiring an Executive Director on contract; legal counsel on contract to assist in Rules of Procedure development and contract design; human resources development contractor; YESAA assessment design contract; and financial management and audit with a private sector agency.

This budget also anticipated the needs and requirement for all six Designated Offices including salaried positions, office space, office equipment and field equipment.

Also attached to this report is the year-end financial report detailing expenditures to year-end including all variances. Due to delays in regulation implementation, the Board returned approximately 500K dollars to Canada (Appendix B).

Organizational Structure and Human Resource Development

The original YESAB organization chart proposed by Canada was modified slightly to better meet the practical needs. After reviewing historical information on the number and size of projects that have occurred annually throughout Yukon the Board prepared a new organization chart (Appendix C).

Job descriptions for all Board staff positions were completed with the understanding some further adjustments in the future may be required. The Executive Assistant and the Finance and Administration Manager required slight changes from the original description to more closely describe the duties and responsibilities related to the actual working conditions. A classification system has been implemented to ensure equity between Board staffing positions and similar positions within the Yukon Government and to ensure the Board meets the concept of pay equity. Because of the classification exercise, staff salaries now fall within salary ranges to similar positions within the government. The Board is well along the way in developing its own Staff Benefits package.

The whole Board, out of necessity, has been very involved in these activities, from creating newspaper advertisements, to application screening, to interview scheduling and conducting interviews on the following staff positions: Project

Assessment Manager, Finance and Administration Manager, two Senior Project Assessment Officers, and six Designated Office Project Assessment Managers. Interviews and hiring occurred in August for the following staff positions: The Executive Assistant and Receptionist / Clerk, who both started early September; the Records Officer in mid November. The Project Assessment Manager was hired and started in the position in early November. The Finance and Administration Manager and two Senior Project Assessment Officers have been hired and started working for the Board in early January. Four of the six Project Assessment Officers for the Designated Offices have been hired and started working for the Board in January and March of 2005. At the end of this fiscal year, there are still two Project Assessment Officers not hired for the Watson Lake and Teslin Designated Offices.

Although the Board is satisfied with the qualifications of the individuals hired to date, there is a requirement for additional staff training, in particular the requirements of conducting the socio-economic assessment aspects of the Board's mandate. The Board and staff are currently developing training and information programs to assist, not only new staff hire, but also current staff and Board members.

As mentioned earlier, the original work plan identified bringing on most if not all required staff for the Board and Designated Offices this fiscal year. Most have been hired this fiscal year.

YESAB and DO Locations and Setup

The YESAB moved into its permanent office located at 3059 – 3rd Avenue, Whitehorse, Yukon at the end of March 2005. All major office and IT equipment were purchased prior to fiscal year end.

On September 30, 2004, the DIAND Minister announced Designated Office Boundaries and the communities where the offices would be located. Whitehorse, Haines Junction, Teslin, Watson Lake, Mayo and Dawson City are where the community offices are located. After the Minister's announcement, the Board and staff began looking for adequate office space to meet future needs of additional Board staff in each of these communities. At fiscal year end office space in each community had been located and interior modifications made as required. All office equipment and IT connectivity equipment has been purchased. Only the Whitehorse Designated Office was ready for occupancy at fiscal year end. Other Designated Offices will be prepared for occupancy on an as required basis.

Communications

Communications has been a critical tool in providing information about the Board and what the Board has been doing since being created and most importantly, why. In order to maintain consistent messaging on the sometimes confusing and complex aspects of environmental and socio-economic effects assessment of projects in Yukon, the Communication Officer position was established. It is also necessary to maintain constant contact with communications persons of the Parties (CYFN, Canada and the Yukon Government).

The Communications Officer has prepared for the Chair, and other Board members as required, presentation notes and guidelines so that messaging will remain consistent to provide clarity on potentially confusing and complex issues. There is always the need to prepare handout information when opportunities for the Board to attend meetings and conferences such as the Geo-Science Conference held in November and the Roundup Conference in Vancouver at the end of January and a Socio-economic Assessment workshop sponsored by the Yukon Government in February 2005.

Board member biographies have also been prepared to provide general information to interested public. This information is also easily available by visiting the YESAB web site at www.yesab.ca.

The Board and the Communications Officer continues to plan communication strategies in anticipation of community visits by the Board. The purpose of planned community visits is to introduce the Board as well as provide direct information on YESSA and its environmental and socio-economic assessment process through implementing its Rules of Procedure. This activity is scheduled to occur during the summer months into the early fall of 2005. There is the potential for up to three meetings per community and communications will need to be tailored to each specific audience. Preparatory work has been underway this fiscal and will continue until community visits are complete.

IT Requirements, Records Management and Public Register Development

Significant progress has been made in identifying and ensuring the right hardware and software is being utilized to meet the needs of the Board and Designated Offices for Records Management and requirements for the Public Register. Board staff and consultants have examined systems currently in place elsewhere such as at the Water Board, National Energy Board, and Canadian Environmental Assessment Agency offices, and with further enhancements is building a system that will service the needs of the Board Office and the six Designated Offices throughout Yukon. Most Yukon communities are connected via high speed Internet so access to the Board's web site and the on line register will keep Yukoners informed on all project assessment activities. Users such as proponents, interveners, regulatory agencies, stakeholders, all Decision

Bodies as well as the general public can be automatically informed of any ongoing project assessment occurring as determined by their registered on line information request. In the future, they will also be able to seek information on past project assessments.

Testing of the new on line register is expected to occur the second quarter of the next fiscal year, likely in July, August and September.

Best practice in Records Management is also being examined and implemented with the assistance of the guidelines outlined in the *Library and Archives Act* and the *Access to Information Act and the Privacy Act*. This will ensure there will always be a complete set of hard copy records located in the Board's main records library being housed in the Whitehorse Designated Office.

The Board has developed a comprehensive, interactive YESAB Web site that will not only be informative to the public at large as to the activities of the Board and Designated Offices but also provide for applicants (e.g. online forms and guidelines for assessors and applicants as well as project notices).

The development of the YESAB Web Site, Public Register, On Line Register and the Records Managements systems are all works in progress that will continue through the next fiscal year.

YESAB and Staff Training

Board members individually and collectively continued to receive training from consultants as well as specific courses offered by Yukon College. Board members also are upgrading their skills in Negotiations, Conflict Resolution, Rules of Natural Justice, Decision Writing and other relevant courses. Workshops have provided focus on "Conducting an Assessment" to give the Board an understanding of what is involved and what are the requirements of conducting environmental and socio-economic effects assessments. Reviews of other training opportunities and workshops are ongoing and discussion will occur with the Board as material becomes available.

As mentioned earlier new Board Office and Designated Office staff will require training, particularly on the socio-economic aspects of conducting assessments on projects throughout Yukon. It will be imperative that all environmental and socio-economic effects assessments be conducted consistently throughout the Territory; therefore, current Senior Assessment staff will be creating training materials and training programs that will be provided to all assessment staff the in next fiscal year. YESAB staff will also be taking advantage of training opportunities offered by government agencies such as the Public Register design, development and management program sponsored by the CEAA in Vancouver.

Assessment Process Design and Rules Development

Another major activity that has involved the entire Board and staff is the development of the required Board Rules of Procedure. With the assistance of the legal advisor, the Board has developed draft Rules for Designated Office Evaluations, Executive Committee Screenings and has commenced on Rules for Board Panel Reviews. The strategy employed in the development of these Rules has been to address the “shall” provisions of the YESAA to ensure the Board and all staff will be ready to start conducting assessments in the fall of 2005. The Board has also garnered input from both government and public practitioners and a review of Rules resulting from similar legislation in other jurisdictions. Presentations to, and discussions with, a number of focus groups such as government agencies, First Nation groups, private sector groups (including industry and environmental groups) have helped to complete a near final draft of the Rules. The draft Rules will be available for full public review during the gazetting period scheduled during the summer months. Final adjustments to the Rules will occur prior to approval by the Board to formalize them through the Canada Gazette. Later in 2005 the Rules of the “may” provisions of YESAA will be developed.

An important task assigned to Board staff was to create Guide Books to support the Rules and to provide instruction, explanation and direction. The primary purposes of the Guide Books are for use by Board Staff Assessors to ensure assessments are conducted consistently across Yukon and that recommendations forwarded to Decision Bodies are consistent in form and content across Yukon. These Guide Books will be available for public review during the summer.

There are very unique situations and requirements that the Board has to address within its Rules such as issues of confidentiality, especially respecting the Yukon First Nations cultural traditions and traditional knowledge. This issue is groundbreaking, and great care has been taken to ensure the Board adequately addresses this need while at the same time meets the test for Rules of Natural Justice.

The obligation of the Board to collaborate with the Designated Office Project Assessment Officers on the Rules as they apply to them in the conduct of their evaluations, prior to the Rules going to gazette, was met. The exceptions are the Designated Office in Teslin and Watson Lake, as the two Project Assessment Officers will not have been hired prior to the gazette notice.

'05 – '06 Budget Planning and Preparation

The 2005 - 2006 Budget preparations started in the fall of 2004, along with a preliminary work plan to accompany the budget. The Board was expecting to be fully operational, conducting environmental and socio-economic effects assessments in the spring of 2005. The completed budget was presented to the Board for approval in January

2005. After minor adjustments and final approval by the Board the budget was presented to Canada with line-by-line review in early February 2005. Canada accepted the 3.4 million dollar budget and a Contribution Agreement was signed in late March.

When the Contribution Agreement was signed the Board was advised the Regulations implementation date was postponed until the fall of 2005.

Transition Planning and Implementation

In February 2005, the Board and the Parties (CYFN, Canada and Yukon Government) agreed to hold regular meetings to present ongoing activities within each organization in moving toward full implementation of the YESAA. The Board and the Parties agreed to collectively work together to assist proponents in the transition of current regulatory environmental assessment processes through to the YESAA environmental and socio-economic effects assessment process. The reason for combined efforts is to assist proponents, and to the extent possible, mitigate duplication of effort between respective legislation. Staff from each agency has been directed to assist the “Transition Team” in support of addressing technical issues as they arise.

Plans for the coming Fiscal Year

The overall plan of the YESAB is to be ready to conduct full environmental and socio-economic effects assessments on all projects requiring assessments under the YESAA Regulations. During the gazetting period the Board and DO staff will be traveling throughout Yukon to inform the public of the Board’s purpose and provide explanation of the Board’s Rules of Procedure. We will also be assisting proponents whose project application may require an assessment under the YESAA once the Regulations are finally implemented.

Main actions and activities the Board will be focusing on are:

- ® Approving and gazetting the Rules of Procedure for Designated Office Evaluations, Executive Committee Screenings and Board Panel Reviews in the Canada Gazette at the end of October.
- ® Developing Rules of Procedure on the “may” provisions of the YESAA.
- ® Drafting By-laws for the Board and Designated Offices.
- ® Developing standard mitigative measures for the Board and Designated Offices.
- ® Creating and providing training opportunities for Board and staff.
- ® Maintaining direct contact with the Parties and Decision Bodies.
- ® Completing the hire of Board staff as identified on the organization chart.