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UNAUTHORIZED OCCUPANCY OF YUKON LANDS

Monitoring and Enforcement Guidelines

INTRODUCTION

Activities on Yukon Crown Land must be supported by some form of authorization or tenure. For example, short term activities such as resource exploration are usually authorized through a Land Use Permit issued by the Energy, Mines and Resources Lands Branch.

Infrastructure of a more permanent nature can only be authorized through a specific program such as the Trapping Cabin Policy or the Big Game Outfitter Land Tenure Policy with tenure being secured through a lease or license on the land.

Before occupying Yukon land, in addition to obtaining the proper form of tenure, applications that include new construction, modifications or expansion must also be submitted for a review under the *Yukon Environmental and Socio-economic Assessment Act* (YESAA), which came into force November 2005.

The information in this paper is intended to promote an understanding of the various Yukon government roles in managing unauthorized occupancy of crown land.

The lead role and responsibility for managing unauthorized occupancy of Yukon land rests with the Lands Branch of the Department of Energy, Mines and Resources. The support roles of other Yukon government departments through their areas of responsibility are also outlined.

The management objectives are to use the established process to respond to unauthorized occupancy and to explore every opportunity to achieve voluntary compliance outside of formal court procedures.

The Yukon government has the overall responsibility to manage Yukon land to ensure fairness and consistency for the benefit of all Yukoners.

BACKGROUND

Consistent and longstanding procedures have been utilized by the Yukon Lands Branch in addressing unauthorized occupancy of Yukon lands.

The devolution of former federal land and resource programs requires that the same procedures be applied to unauthorized occupancy of all land under Yukon government control in the same proactive, transparent and integrated approach.

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YUKON GOVERNMENT PROGRAM LINKAGES

Efforts are made to ensure a coordinated approach to managing unauthorized occupancy.

While the Lands Branch may assume the lead role in managing and processing cases of unauthorized occupancy in conjunction with the Client Services & Inspections Branch (CS&I), it is important to note that co-ordination with other departments is maintained in order to ensure an integrated approach.

Appendix A –YG Land Programs lists government departments, along with their areas of responsibilities that could be called upon for assistance or involvement.

EMR LINKAGES

The Land Use Section of the Lands Branch has the legislative authority to manage all instances of unauthorized occupancy of crown land.

Final resolution of all situations on vacant crown land, including options for cleanup or removal, is under the authority of the Manager of Land Use or the Director of Lands Branch.

Incorporated municipalities are responsible for land use infractions as per their zoning bylaws.

The EMR Client Services & Inspections Branch (CS&I) provides education, compliance and inspection services to the Lands Branch.

GUIDELINES

A. Unauthorized Occupancy - Standard Operational Procedures

- ✓ All reported instances of unauthorized occupancy of Yukon Lands are documented.
- ✓ Copies of CS&I inspection reports are provided to the Manager, Land Use for immediate review and recommendations on next steps.
- ✓ Inspection reports must include all relevant information including occupant's name, photos, maps, GPS co-ordinates, and site conditions.
- ✓ A timely review of each situation will be completed upon acceptance of the Inspection Reports.
- ✓ The Manager, Land Use will promptly contact the unauthorized occupant in writing to enquire about their legal status and will request any information that would support an interest in the land in question.
- ✓ Follow-up inspections may be carried out by CS&I, or as directed by the Manager of Land Use.
- ✓ In all cases, every effort is made to resolve trespass situations outside of court procedures while maintaining a fair and consistent approach.
- ✓ In cases that may result in the need for removal or relocation, the file must demonstrate that every effort has been made to achieve an out of court resolution



and the initiation of legal filings must be approved in advance by the Director, Lands Branch.

B. Big Game Outfitting Industry

- ✓ New structures built by Big Game Outfitters after devolution (April 2003) must be documented, investigated and managed as an unauthorized activity consistent with all other unauthorized occupancies.
- ✓ Sites established prior to 2003 are to be documented but are considered inactive files with no immediate action to be taken. The Big Game Outfitter Land Tenure Policy provides an opportunity for outfitters to submit licence/lease applications for these pre-existing sites.
- ✓ Inspections by CS&I will occur on a regular basis or as directed by Manager, Land Use.
- ✓ Outfitting Concessions are issued pursuant to the *Wildlife Act* managed by the Department of Environment.

C. Commercial Wilderness Industry

- ✓ All new Commercial Wilderness occupations must be documented, reported and managed as an unauthorized activity.
- ✓ If it is determined that the improvements were established prior to devolution, a search of inherited devolution files will be part of the information gathering process to determine historical documentation that may or may not support an interest in the land.

D. Trapline Concessions

- ✓ All new cabins built after devolution (2003) must be approved through a public application review process.
- ✓ Cabins built after 2003 without the benefit of a public application review process or an approved lease are considered unauthorized occupancies and will be managed consistent with other unauthorized occupancies.
- ✓ Trappers must obtain a lease to cover new cabins prior to construction.
- ✓ Cabins built prior to 2003 and not under lease can be considered for application if they are being used in support of the trapping concession. Applications for tenure should be submitted to the Manager of Client Services.
- ✓ If a cabin was constructed before 1980 and is owned by the pre-1980 concession holder, the Lands Branch would not consider it an unauthorized occupancy. However, Lands Branch encourages that concession-holder apply for a lease.
- ✓ If the ownership of a trapline concession is transferred to a new owner, tenure is required at transfer for all structures or the sites will be considered unauthorized occupancy.
- ✓ Inspections by C S&I will occur on a regular basis or as deemed necessary by the Manager of Land Use.



- ✓ Trapline concessions are issued pursuant to the *Wildlife Act* managed by the Department of Environment.

E. Mineral Claims

- ✓ Any reports of unauthorized occupancy of mineral claims are forwarded to the Minerals Management Branch, Manager of Mining Lands.
- ✓ If it is determined that occupancy of the mineral claim is not authorized under the Yukon Placer Act/Quartz Act and Mining Land Use Regulations, Lands Branch may be requested to assist in managing the issue.
- ✓ Sites forwarded to Lands Branch will be managed as an unauthorized occupancy and standard procedures will be followed.

GOVERNMENT AUTHORITIES
Acts / Regulations
<i>Yukon Lands Act / Regulations</i>
<i>Territorial Lands (Yukon) Act / Regulations</i>
<i>Subdivision Act / Regulations</i>
<i>Area Development Act / Regulations</i>
<i>Municipal Act / Regulations</i>
<i>Building Standards Act / Regulations</i>
<i>Public Health and Safety Act</i>
<i>Public Health Regulations</i>
<i>YESAA / Regulations</i>
<i>Wildlife Act / Regulations</i>
<i>Waters Act / Regulations</i>
<i>Navigable Waters Protection Act / Regulations</i>
<i>Fisheries Act / Regulations</i>

Appendix A

YG LAND PROGRAMS

Programs and responsibilities are listed for agencies as they presently exist. Government of Yukon surface land programs are presently located in Energy, Mines and Resources, Community Services, Environment, Highways & Public Works and Justice.

ENERGY, MINES AND RESOURCES

a) Agriculture Branch

- Agriculture/Grazing application review and final decision on dispositions
- Carry out all associated work relating to Agricultural land and grazing lease disposition and development (e.g. Policy & Legislation development, Inspections and enforcement, soil and vegetative assessment, farm development plans, land development recommendations)
- Also provide advice to clients on land use, water and irrigation development, range improvement recommendations and grazing management plans
- Provide extension program including farm visits, seminars, conferences, newsletters, research publications and workshops

b) Lands Branch (Mirrored TLA, Yukon Lands Act)

- Responsible for management, orderly disposition and use of land under administration of the Government of Yukon
- Acts as agent for YG departments on land requirements (purchases/reserves, legal surveys, etc.)
- Maintains a comprehensive inventory of government land holdings
- Facilitates municipal land transfers and supports municipal land administration
- Provides use of public lands with the issuing of land use permits for a variety of uses (site clearing/earth work, new roads/trails, geo-technical studies, NWT/YECL work).
- Manages unauthorized land use compliance (trespass, unauthorized occupants, etc.)
- Issues Quarry Permits for the removal of Granular material from Quarry Sites
- Manages and facilitates the development of new private Quarry sites
- Marketing of developed lots for various classes to general public (lotteries and ongoing sales)
- Coordination of spot land applications for commercial, industrial and enlargements to title properties. Also respond to other applications associated to the varying land needs of the public
- Maintenance of YG non-titled land registry and mapped digital data base of rights administered (private leases, licenses and mortgage registrations)
- Responsible for the implementation of land related land claim implementation (land exchanges, map reviews, Settlement Land Committee, land withdrawals for Special Management Areas and Heritage Sites, administration of encumbering rights)



- Responsible for the implementation of the “Land Development Protocol” signed by Government of Yukon and the City of Whitehorse. Part of this implementation is a process document that addresses the review of spot applications within the city of Whitehorse
 - Policy development for land related matters
- c) Forest Management (Mirrored Forest Timber Regulations –TLA)**
- Responsible for issuance of land use rights within the designated cutting area eg. Roads
- d) Mineral Resources (Mirror Placer and Quartz Act/MLUR)**
- Responsible for issuance of mineral rights and approvals for land use activities on mineral claims
 - Linkage with the TLUR permitting process
- e) Oil & Gas Management (Oil and Gas Act)**
- Responsible for the sale of oil and Gas rights
 - Linkage with the TLUR permitting process
- f) Land Use Planning/ Corporate Policy and Planning**
- YG regional planning co-ordination
- g) Client Services and Inspections**
- Provides a operational field service to various Branches within EMR (storefront) by providing information, receiving applications and collecting fees
 - Issues various types of permits on behalf of the Departments (e.g. Energy, Mines & Resources –Timber Permit, Community Services –Burning Permit)
 - Conducts inspections on various Branch applications recommending approvals, mitigations and terms/conditions for permits
 - Conducts/implements and inspections program on land/mining dispositions
 - Conducts monitoring and enforcement/compliance program for Departments including mining, lands and water use
 - Provides community link for the Department
 - Unauthorized occupancy inspection and enforcement
 - Conducts water quality research programs that often are in cooperation with other departments and governments

Department of Community Services

- a) Property Assessment and Taxation (Assessment and Taxation Act)**
- Property appraisal services for YG
 - Property taxation outside of municipal boundaries
 - Property assessment services for 9 taxing authorities
 - Home Owner Grant Program
 - Senior Property Tax Deferral Program
 - Rural Electrification and Telecommunication Program
 - Mapping Inventory of titled lots
 - Property Assessment Taxation Title System –electronic registry of all titles and agreements/leases

b) Community Land Planning (Area Development and Subdivision Act)

- Community planning and zoning outside of municipalities
- Zoning applications/approvals
- Subdivision review process (YG, private land and all municipalities except Dawson and Whitehorse)
- YG community land tenure mapping
- Responsible for the implementation of the “Land Development Protocol” signed by Government of Yukon and the City of Whitehorse.

c) Community Infrastructure

- Planning & Development of municipal infrastructure needs in unincorporated communities
- Development of policies, standards, guidelines, and operational programs
- Assistance to incorporated communities and First Nations relating to municipal infrastructure issues
- Manage 19 solid waste dumps in unincorporated communities and unorganized areas
- Manage 4 water supply facilities and water delivery services in Old Crow, Carcross, Ross River and Keno
- Manage 3 water supply facilities at Tagish, Marsh Lake Firehall & Klondike Valley Firehall & Klondike Valley Firehall
- Monitor drinking water quality at all 7 water supply locations
- Manage 9 sewage treatment facilities in unincorporated communities
- Manage annual mosquito control program including training of local applicators

d) Yukon Housing Corporation

- ‘Agreement for Sale’ financing program for surveyed lots

e) Consumer and Safety Services/Building Safety (Area Development Act)

- Enforcement of Zoning Regulations through Development Officer
- Building Inspections

f) Land Development

- Planning, design and construction for planned lot development
- Responsible for the implementation of the “Land Development Protocol” signed by Government of Yukon and the City of Whitehorse.
- Quarry Development and restoration

Department of Highways and Public Works

a) Transportation Engineering & Maintenance (Highways Act)

- Work within Right of way permits for maintained and non-maintained ROW's

b) Property Management (Asset Control Management Board Directive)

- Tender or resale of building improvements located on lease and Agreement for Sale turnbacks



c) Aviation Branches (Lands Act)

- Aviation Branch land tenure/airports administration which includes Permitting, lease agreements, collection of fees/charges

d) Supply Services (Management of Capital Assets and Disposal of Surplus Public Property Management Board Directive)

- Arrange for the disposal of properties acquired by YG from time to time in the course of other program activities

Department of Justice

a) Land Titles Office (Land Titles Act)

- Registration of individual titles within the Yukon
- Registry of all titles in the Yukon
- Public Information source for titled property

Department of Environment

a) Parks Branch (Parks and Land Certainty Act)

- In designated Territorial Parks, preparation and Implementation of Park Management Plans and Issuance of Park Development and Use Permits

b) Environmental Programs (Environment Act)

- Identify impacts and mitigation for project proposals and coordinates departmental responses and positions on development project proposals
- Regulating, permitting, monitoring and inspections of the following land based activities: Contaminated Sites, Special Waste, spills of hazardous substances, solid waste, used tires, beverage container recycling, pesticides, littering, other land based activities that may have a impact on air quality or the ozone layer

c) Information Management and Technology

- GIS Mapping product support to department programs, Resource Councils and First Nations