

April 8, 2019

Mike Draper  
Sustainable Resources Legislation Advisor and Negotiator  
Energy Mines and Resources  
Yukon Government

Dear Mr. Draper,

Thank you for the opportunity to provide comments on the Government of Yukon's proposed regulatory framework for off-road vehicles (ORVs). The Yukon urgently needs proactive ORV regulations to protect the territory's wildlife, and our alpine, wetlands, and backcountry. Yukoners have been calling for such laws since the 1980s. CPAWS Yukon is glad to finally see regulations in the works.

Please see CPAWS Yukon's responses to each survey question below.

## 1. What and who would an ORV regulation apply to?

### Proposed Approach

*1.1 ORV use would be regulated only within designated ORV Management Areas. These areas would have management tools in place, such as restrictions or prohibitions on the use of ORVs.*

**Neutral.** ORV Management Areas could provide effective protections in some areas, but shouldn't be the Yukon's sole regulatory tool. ORV Management Areas are insufficient to address wide-ranging impacts from ORVs, such as damage to wetland ecosystems across the territory, and the proliferation of backcountry trails outside the ORV MAs.

The Government of Yukon must find ways to protect the alpine, wetlands and backcountry — on a territory-wide scale. For example, the Yukon should consider:

- a. Using the *Territorial Lands (Yukon) Act* (Land Use Regulation clause 7(h)) to restrict the cutting of new trails by changing maximum allowable trail width from 1.5 to 1.0m, and/or making new trail cutting illegal without a land use permit.
- b. Working with Environment Yukon to formalize existing maps of backcountry trails and using this data as the basis for regulations and/or legislation to designate trails as either open or closed to ORVs over broad regions outside of ORV MAs.
- c. Including measures to restrict ORV disturbance of wetlands within the Yukon wetland policy that is currently being developed.
- d. Using the *Environment Act* to impose seasonal closures to the use of ORVs for hunting in sensitive areas.

e. Creating a single ORV MA beginning at set elevations that would encompass the entirety of the Yukon's alpine.

*1.2 A new ORV regulation would apply to all ORV users (subject to treaty and Aboriginal rights). Persons with pre-existing legal rights within specific ORV Management Areas (e.g. owner of cabin) would have their access needs and interests addressed through area-specific provisions.*

**Agree.**

## **2. How would ORV Management Areas be established?**

### **Proposed Approach**

*2.1. A proposal to designate an ORV Management Area can originate from many sources:*

- *through a public (individual or organization) or First Nation request;*
- *from within government; or*
- *from a government-approved land or natural resource management plan (e.g., regional land use plan, Special Management Area plan).*

**Agree.** A broad spectrum of people, governments and organizations should be empowered to propose ORV MAs and other ORV regulations. Language in the ORV regulatory framework should not limit potential sources of ideas and proposals.

In the event of a large volume of area nominations necessitating the prioritization of resources, the Yukon should first regulate areas where habitats and wildlife populations are most vulnerable to ORV use, or areas facing a heavy risk of disturbance from ORV use.

*2.2. The process for designating an ORV Management Area would be led by the Yukon government. The process would be subject to public review and decisions would be based on evidence, expertise, and input from First Nations, stakeholders and the public.*

**Agree.**

*2.3. Criteria to help determine which areas should be designated as ORV Management Areas would be set by policy, rather than being included in the regulation.*

**Neutral.** CPAWS Yukon answers neutral because we see merit in both options. Using policy to set criteria for ORV MA designation is more flexible. A policy approach would allow criteria to evolve as the Government of Yukon gains experience in regulating ORVs and as any loopholes or other weaknesses come to light.

On the other hand, using regulation to set criteria would have the benefit of being stringent and enforceable. Changing language in regulation would be more difficult, meaning that the wording would need to be right from the get go.

*2.4. The ORV regulation would enable an ORV Management Area to be divided into different geographic sections reflecting different rules for each section, if needed.*

**Agree**, providing that different sets of rules for areas would not cause undue confusion.

### **3 How would rules (restrictions or prohibitions) be established within ORV Management Areas?**

#### **Proposed Approach**

*3.1. The process of determining restrictions or prohibitions within ORV Management Areas would be led by the Yukon government. The process would be subject to public review and decisions would be based on evidence, expertise, input from First Nations, stakeholders and the public and subject to treaty and Aboriginal rights.*

**Agree.** While it is appropriate for the Government of Yukon to oversee the process of determining restrictions and prohibitions, the Yukon government should not be the primary source of ideas. First Nations, the public, boards (e.g. RRCs, the YFWMB), processes (e.g. land-use planning processes) and experts (e.g. regional biologists) should be empowered to provide proposals for restrictions and prohibitions.

*3.2. Restrictions and prohibitions for ORV Management Areas could also originate from a government-approved land or natural resource management plan that includes ORV-related recommendations (e.g., local area plan, habitat management plan).*

**Agree.**

*3.3. An area-specific regulation would specify some elements to be included in the permitting process, including:*

- *General permit required to use an ORV in an ORV Management Area;*
- *Special permit for users with certain rights/authorizations to use an ORV in a specific ORV Management Area with customized terms and conditions;*
- *Duration of permit (e.g., annual, multi-year);*
- *Permit fees;*
- *Application requirements;*
- *Scope of permit terms and conditions; and*
- *How permits are issued.*

**Agree.**

## 4 Establishing Regional ORV Restrictions or Prohibitions

### Proposed Approach

*4.1. Include (in the ORV regulation) the immediate designation of one or more ORV Management Areas where certain management tools such as prohibitions and/or restrictions would apply. For example, an approved regional land use plan may include an area where ORV use is restricted and this could become an ORV Management Area that we designate at the same time as the new ORV regulation comes into force.*

**Agree.** It is critical that the Government of Yukon expediently designates ORV Management Areas and other regulatory tools. CPAWS Yukon supports the immediate designation of ORV MAs in regions such as the Peel, Tombstones and Kusawa. The Yukon must provide the resources and support necessary to ensure a smooth and timely process for continued establishment of ORV MAs and other necessary regulations.

## 5 ORV Registration

### Proposed Approach

*5.1. In the near term, require the registration of all ORVs that are to be used in a designated ORV Management Area.*

**Agree.**

## 6 Compliance and Enforcement

### Proposed Approach

*6.1. The ORV regulation would include prohibitions and offences, such as including the rule that no one is allowed to operate an ORV within an ORV Management Area unless their ORV is registered.*

**Agree.**

*6.2. The ORV regulation would outline powers of enforcement officers, such as the power to stop an ORV, to issue a ticket.*

**Agree.**

*6.3. The ORV regulation would clarify that the Minister can appoint enforcement officers (within the Yukon government), including from the Department of Energy, Mines and Resources (i.e., Natural Resource Officers) and Department of Environment (i.e., Conservation Officers and Parks Officers).*

**Agree.**

*6.4. Penalties in the ORV regulation would include:*

- *Tickets and fines to be set between \$100 and \$800, depending on the offence; and*
- *Permit cancellation.*

**Agree.**