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s.16

Crockett, Janine EMPR:EX

From: Forman, Ryan EMPR:EX
Sent: November 13, 2019 4:49 PM
To: Robb, Peter L. EMPR:EX; Coley, Simon J EMPR:EX
Cc: Hunt, Melanie EMPR:EX; Fleming, Chris S EMPR:EX; Anthony, Jennifer EMPR:EX
Subject: Kaska IPCA Review
Attachments: Kaska and TRT workplan_BC response.docx; s.16; s.17
s.16; s.17

Hi Peter,

I understand you are joining an ADM meeting with Kaska tomorrow regarding their IPCA proposal. I am attaching response letter that we provided to the feds on this as additional background.

s.13; s.16; s.17

Ryan



Reference: xxxxx

November 5, 2019

Ken Brock
Manager, Conservation Planning and Stewardship
Canadian Wildlife Service, Pacific Region
Environment Canada and Climate Change Canada
5421 Robertson Road
Delta, BC V4K 3N2

Dear Ken Brock:

Taku River Tlingit and Dena Kayeh Institute Target 1 Challenge Fund Work Plan Review: British Columbia Comments.

On October 10, 2019, British Columbia submitted comments on the Tahltan Target 1 work plan. In that response, BC outlined comments by two groups. First, broad overview comments that are applicable for all IPCA proposals, and secondly specific comments related to the work plan.

Under this review, we are using the same approach to organize comments resulting from review of the proposals by the ministries of Forests, Lands, Natural Resource Operations and Rural Development; Environment and Climate Change Strategy; Energy, Mines and Petroleum Resources; and Indigenous Relations and Reconciliation.

Overview Comments:

- BC has achieved the Target 1 goal of 17% protection of terrestrial lands and inland waters. BC currently estimates 20.8% of the land base qualifies towards the Target 1 goal.
- There has been no Cabinet mandate or commitment by the BC Government to continue to add or designate new protected areas. BC is currently unable to commit to establishing new protected areas. No work under any work plan should assume eventual protection designation.
- While IPCA is a term commonly used in discussions about Target 1, the concept of IPCAs remains largely undefined and subject to the interpretation and interests of individual Indigenous Nations. As such there are currently no designation tools specific to IPCA implementation in BC. Development of the necessary legislative tools and policies will require time to develop and will only emerge through dialog with Nations.

- No Cabinet mandate exists for BC's broad participation under the Canada Nature Fund program for new IPCAs as BC has not only achieved but has surpassed the target. Notwithstanding this, BC recognizes that federal funding under this program does provide capacity and support that assists Indigenous Nations explore their interests in land stewardship and management.
- New protected areas may have significant impacts on existing and future economic activities. Assessments of these current and future impacts, including probable costs associated with tenure acquisition or compensation, is fundamental to all assessment work prior to considering and new land designations.
- BC maintains the position that all costs associated with the establishment of protected areas as an outcome of the Canada Nature Fund, should they occur, must be borne by the federal government. This includes assessments and information gathering, planning and governance, and establishment costs including tenure acquisition or compensation where required.
- Provincial Crown lands are under the jurisdiction of the provincial government and therefore not subject to federal designations (e.g., National Park Reserve) without transfer of the lands to the federal government.
- BC has an established treaty process. New protected areas including IPCAs will be available for consideration in treaty land settlement discussions.
- BC recognizes that the public, stakeholders, local governments, industry and non-government organizations will have interest in any proposed new designations and any designation process must include robust public consultation.
- BC has recently introduced a modernized approach to land use planning in BC. The program is modest and can only proceed with a small number of projects at any one time. Land use planning is the logical and preferred process by which large land use social decisions, such as converting lands from primarily economic use to protection, can be considered in a process that includes a partnership approach with First Nations and includes public involvement. Consideration for aligning land use planning processes with funding to support assessment of proposed IPCAs would allow for a well coordinated and consistent approach.
- BC recognizes that an IPCA may vary between Nations and each Nation will need to determine what is allowable and appropriate from their perspective. This includes any economic opportunities that the Nation would support.

Notwithstanding the comments above, there are times when the Province does designate lands for protection purposes. The following outlines examples of those situations:

- Areas as important components in higher level First Nation agreements (e.g., treaty agreements or comprehensive reconciliation agreements).
- Government-to-government land use planning.
- Resolution of long-standing land management disagreements.
- Broad support by a wide cross-section of the public.
- Impacts can be minimized or mitigated.
- Support specific land objectives such as restoring species at risk.
- Championed by MLAs, mayors, or other prominent community representatives.

Work Plan Comments:

Taku River Tlingit Work Plan

- BC is not currently involved in land use planning processes with the Taku River Tlingit (TRT) or Kaska First Nations. Land use planning is an important government-to-government process for determining social decisions on the land base including protected lands and waters. BC appreciates the funding by Canada to these Nations will assist them in identifying and developing interests that could come to future land use planning processes.
- The TRT work plan provides funding for data gathering and assessment work. It does not appear to provide funds for socio-economic analysis and for analysis on socio-economic impacts from a proposed IPCA. A fulsome socio-economic base case and analysis of an IPCA proposal is critical for discussions between the TRT and the Province.
- The TRT area for assessment contains significant mining and mineral resources. It is less important for oil and natural gas resources. A full assessment of mineral potential in this area should be included in the work plan and funded under the federal allocation. Mineral based activities are important for local economies and any consideration for protection will need assurances for existing and future compensation and lost revenues.
- Forestry in the area, although generally light, will need further assessment and analysis. Similar to mining and mineral implications, forestry impacts would need compensation for existing tenures and future lost revenues.
- The TRT plan references engagement with the Province to refine the IPCA proposal and management regime. While BC is supportive of understanding TRT land use interests, assumptions relating to a designated IPCA are premature. This phase should be broader to support TRT and the Province sharing information on land management in general, without an assumption based on a proposed IPCA.

Dena Kayeh Institute - Kaska

- The proposed Kaska IPCA area is almost 4 million hectares and represents an estimated 4.1% of the province. This area is very important for mining and mineral activities which support both local and provincial economies.
- Full assessment of the mining and mineral potential has not been completed. Preliminary work indicates the proposal may impact mineral potential, active mineral title and operations at the existing Silver Tip mine. Additionally, there are currently 355 Mineral Claims and 21 Placer Claims within the proposed Kaska IPCA. Based on previous average compensation estimates to buy out mineral tenures, mineral tenure compensation in the Kaska IPCA could be in the range of \$24M to \$40M. A full assessment of mineral potential in this area should be included in the work plan and funded under the federal allocation.
- Forestry activities would be impacted in this area and loss of revenues would not be insignificant. The Kaska IPCA has 46,200 hectares in Timber Harvest Land Base. The Cassiar Forest Group holds one non-renewable 10 year forest licence for 120,000m³ per year and is currently harvesting under 10,000m³ annually. The operations employ

approximately 20 people of which 5 are First Nations. Compensation would also be a consideration for existing and future tenure holders in the area.

- The Kaska proposal overlaps with asserted territory of Treaty 8 First Nations. It is expected that Treaty 8 Nations will demand participation and resources in any work related to a proposed IPCA.

General Work Plan Comments Applicable to TRT and Kaska

- BC is broadly supportive of working with TRT and Kaska on land stewardship interests but in the context of existing processes such as the Collaborative Stewardship Framework and the Government-to-Government tables (enabled through strategic agreements). Provincial support and dialogue with Nations should not be construed as a commitment to creation of new protected areas.
- Given the funding for TRT and Kaska is exploratory in nature, and that Canada has confirmed the funding does not lead to protected land designations, the references to “negotiating” should be removed in favour of language that reflects the intent of the work.
- Socio-economic impacts are foundational to any consideration for new protected areas. Work plans should include steps for assessing and reporting on potential socio-economic impacts across all applicable natural resource activities.
- There is no mention of how new IPCAs would be managed or enforced. Depending on the management model, BC is concerned that new costs will fall upon Provincial resources. BC does not currently have resources to apply to ongoing management or enforcement.

BC is not providing more detailed comments on work plan line items at this time. We anticipate further engagement with the TRT and Kaska governments and Canada at a more detailed level should funding be released to support the proposal.

Regards,

Tom Ethier
Assistant Deputy Minister
Ministry of Forests, Lands, Natural Resource
Operations and Rural Development

Jim Standen
Assistant Deputy Minister
Ministry of Environment and Climate
Change Strategy

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