

Hosted by the Mackenzie Valley Review Board, the Land and Water Boards, and the Government of the Northwest Territories



# Mackenzie Valley Resource Management Act 2016 Workshop Summary Report FINAL Report

March 23, 2016



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# 1 INTRODUCTION

The onset of Devolution in the Northwest Territories has raised questions from stakeholders and proponents about potential changes to the current regulatory framework. To address these questions, and to provide an open venue for discussion, the Mackenzie Valley Review Board (MVRB), the Land and Water Boards (LWB), as well as the Government of the Northwest Territories (GNWT) hosted a workshop for interested and affected parties from across the Territory.

The Mackenzie Valley Resource Management Act (MVRMA) Workshop was held on January 12<sup>th</sup> and 13<sup>th</sup> 2016 at the Explorer Hotel, Yellowknife, Northwest Territories. The event saw over 200 participants from the GNWT, Aboriginal Government Organizations, Municipal Governments, the Government of Canada, and industry members.



A series of presentations examined each component of the MVRMA system in turn. Two panel discussions, and five interactive break-out sessions provided avenues for discussion between participants, presenters, stakeholders, and those with extensive experience and knowledge of the MVRMA.

This summary report provides an overview of each presentation, panel discussion, and break-out session. The views and opinions of the participants have been synthesized and incorporated throughout the document.

The goal of the workshop was to inform participants about the MVRMA, provide insight on how they could increase and encourage participation within the system, and describe how land, water, and resource management in the Northwest Territories may change in the future. Feedback from participants and organizers summarized in the last section of this report suggest that the workshop was a success and the objectives met.

A list of presenters and copies of the presentation slides are provided as Appendices to this report.

## 2 KEYNOTE SPEAKER: THE EVOLUTION OF THE MVRMA

Brian Crane, currently a senior partner with Gowlings (Ottawa), has worked extensively in the negotiation of native land claims and self-government agreements and related litigation, as well as in arbitration and mediation throughout Canada and the NWT. Brian provided an overview of the origins of the MVRMA, to help establish the context for the January 2016 workshop. The following summarizes Brian's keynote address.



While the Mackenzie Valley Resource Management Act did not become law until 1998, the stage was set during the 1970's and 1980's by the comprehensive land claim agreements. The 1973 Calder<sup>1</sup> case opened the door for comprehensive land claim negotiations for native groups who had never negotiated lasting treaties with the Crown. The James Bay and Northern Quebec Agreement (1975) and the Inuvialuit Agreement (1984), were products of this era.

It was during this period that the Dene-Métis Land Claim Negotiations were initiated. A 1978 presentation by Indian Affairs Minister Hugh Faulkner to the NWT Council (predecessor to the NWT Legislative Assembly) stated that the Government of Canada would recognize the participation of indigenous people in lands and resources decision making. The Dene Nation and the Métis Association of the NWT then formed the Dene/Métis Negotiations Secretariat, led by Bob Overvold throughout most of the 1980's, to negotiate a single land claim with Canada and the GNWT.

At this time, co-management was already recognized as a key element in the negotiations. Proposals advanced by the Dene/Métis negotiations included a number of co-management measures including:

- Land Use Planning
- Impact Assessment and Review
- Land and Water Management
- Heritage Resources Management
- Equal Representation on a Wildlife Management Board

The Dene/Métis Agreement-in-Principle (1989), the Gwich'in (1992), and Sahtu (1994) regional land claims provided the framework for the new MVRMA system. By this time, Regional Renewable Resources Boards and Councils were fully established. However, land and water management still required legislation. This was accomplished via a unique tri-partite coordinating group (the Government of Canada, the GNWT, and the Gwich'in, with the Sahtu participating as observers). The legislation creating the MVRMA was enacted in 1998, amended in 2005 (to accommodate the Tlicho Agreement), and again in 2013 with the Devolution legislation.

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<sup>1</sup> Calder v. A.G. British Columbia (1973) SCR 313

Overall, the principals that govern the MVRMA are similar to those that were originally outlined in the land claim agreements:

- A system integrating land and water management, licensing, planning, and environmental assessment
- The coordination of land and water management
- Regulatory boards established as institutions of public government
- With all lands and waters, including settlement lands being subject to the system
- Nomination of 50% of board membership by land claim groups



While the land claim agreements recognized that legislation could reallocate functions between the regional Land and Water Boards, environmental assessment had to remain with the Mackenzie Valley Environmental Impact Review Board (MVEIRB), and any merger of Land and Water Boards with the Mackenzie Valley Land and Water Board would be subject to consultation with the land claim organizations.

### 3 THE BIG PICTURE

The Mackenzie Valley Resource Management Act is a regulatory system designed to effectively implement a co-management strategy between the Government of the Northwest Territories and the Territories' residents. The process is unique in Canada, and is dependent on the efforts of an integrated network of individual components. Communication between entities and stakeholders is a cornerstone of the MVRMA, and encourages constant feedback and improvement.

Figure 1 is a representation of the integrated resource management system used in the Northwest Territories. Wildlife and Renewable Resource Management, Environmental Assessment/Land and Water Regulation and Permitting, and Land Use Planning, are all administered by the co-management boards. Land Ownership and Access is overseen by the Federal, Territorial, and Aboriginal Governments and Organizations.

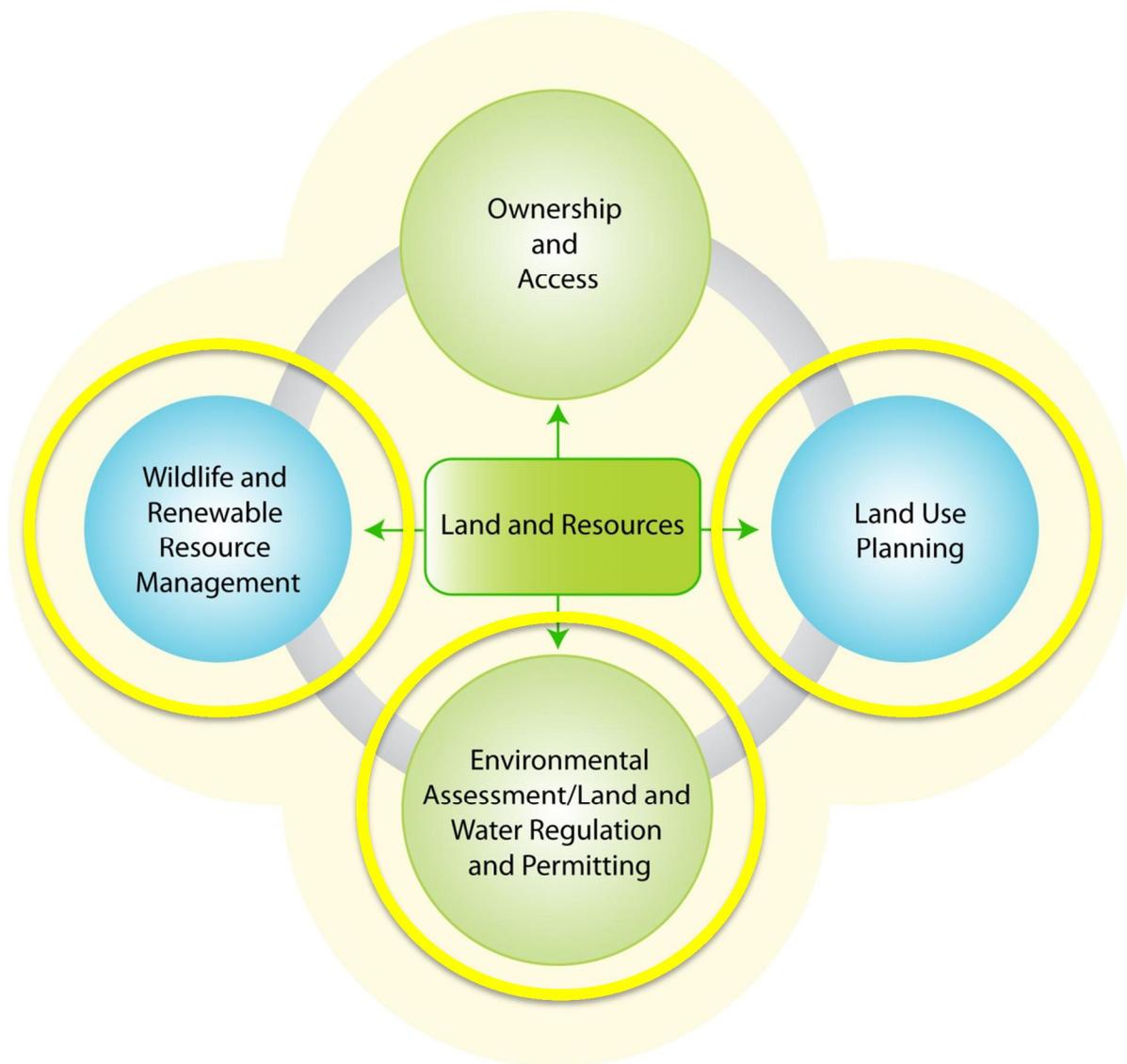


FIGURE 1: THE MVRMA INTEGRATED RESOURCE MANAGEMENT SYSTEM.

Lands in the Northwest Territories are divided into categories based on ownership:

- Commissioner's or Territorial Land (owned by the Government of the Northwest Territories)
- Crown Land (owned by the Government of Canada)
- Aboriginal Land (owned by Aboriginal Governments or land operations)
- Private Land (owned by private interests)

There are two separate jurisdictions of land management in the Northwest Territories:

- Inuvialuit Settlement Region
- Mackenzie Valley Region

There are currently four settled comprehensive agreements in the Northwest Territories:

- The Inuvialuit Final Agreement (1984)
- The Gwich'in Comprehensive Land Claim Agreement (1992)
- The Sahtu Dene and Métis Comprehensive Land Claim Agreement (1993)
- The Tlicho Land Claims and Self-government Agreement (2005)

The MVRMA applies to the Mackenzie Valley Region, but not to the Inuvialuit Settlement Region. Areas without a land claim agreements (e.g., southern NWT) are subject to Treaties 8 and 11, and are recognized and protected by the Constitution.

Two main principles govern the Land and Resource Management system outlined in the MVRMA. The first is that regulation of land, water, and wildlife in the settlement area and in adjacent areas should be co-ordinated, including the management of land and waters. The second is that the system should be one of co-management.

Devolution has resulted in the transfer of surface and subsurface rights for large areas of land from Canada to the GNWT. Applications to access these lands, or utilize the resources in, on, or under the ground surface must comply with all the regulations and Acts associated with that land's use. The Federal Government retains ownership of legacy contaminated sites, the Norman Wells Proven Area, Federal Parks, and reserves.

The Sahtu, Gwich'in, and Tlicho manage large areas of land, gained through land, resource, and self-government agreements, with a combination of surface and sub-surface rights. Land administration systems have been developed by each Aboriginal government, composing the Boards that make-up the framework for all lands in the Mackenzie Valley. Figure 2 shows the current finalized Aboriginal agreements.

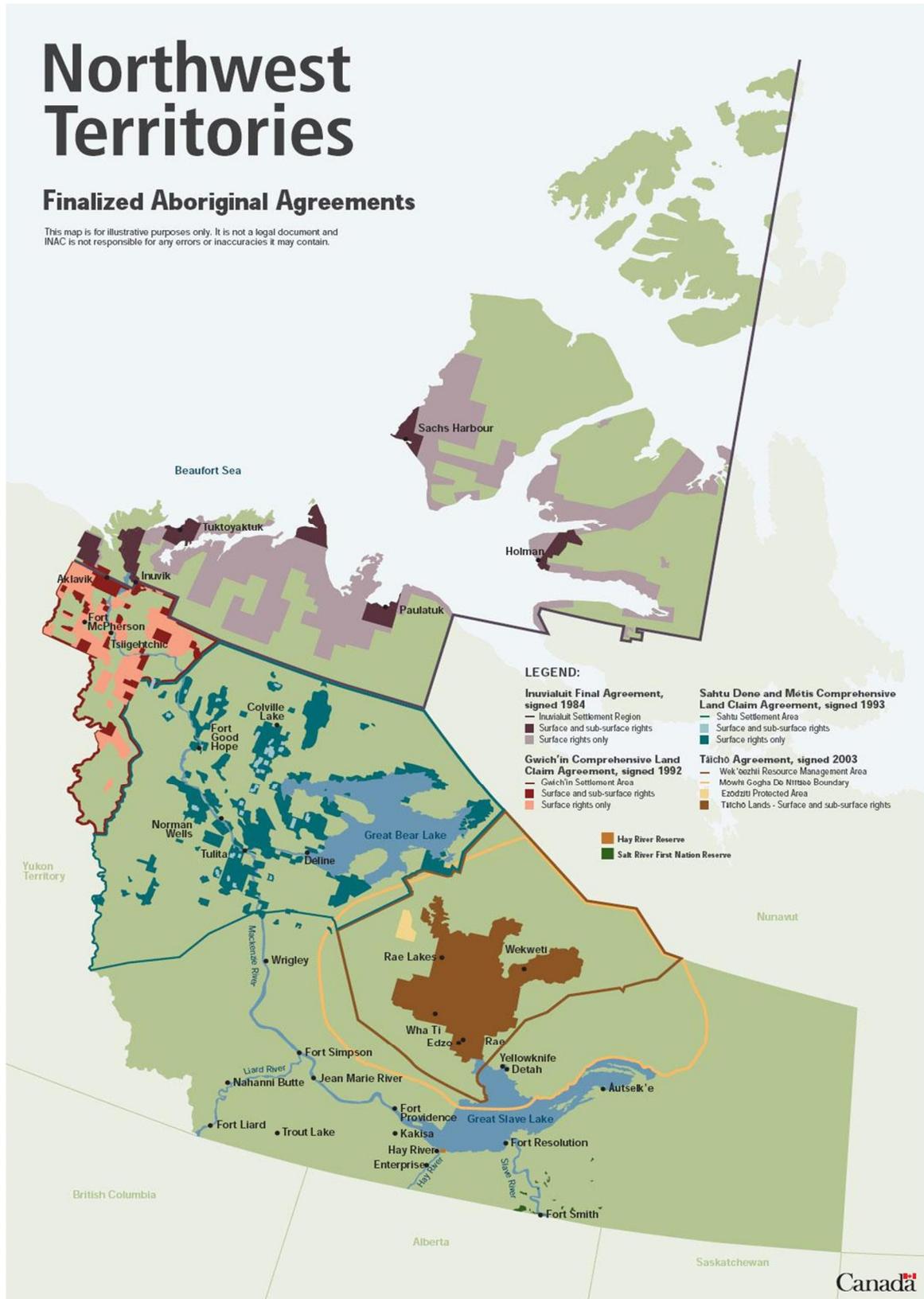


FIGURE 2: FINALIZED ABORIGINAL AGREEMENTS IN THE NORTHWEST TERRITORIES

In total, there are seven public boards that make decisions regarding land, water, and resources under the MVRMA, as seen in Figure 3. These include the four Land and Water Boards responsible for preliminary screening of development proposals, land use permits, and water licence issuances. Environmental Assessment and Impact Reviews are the responsibility of the Mackenzie Valley Environmental Impact Review Board, while the Sahtu and Gwich'in Land Use planning boards are responsible for land use in their management areas. The Tlicho Government, while having no co-management board, is directly responsible for the completion of the Tlicho Land Use Plan (LUP). The Boards are further supported by the Gwich'in, Sahtu, and Wek'èezhii Renewable Resource Boards.

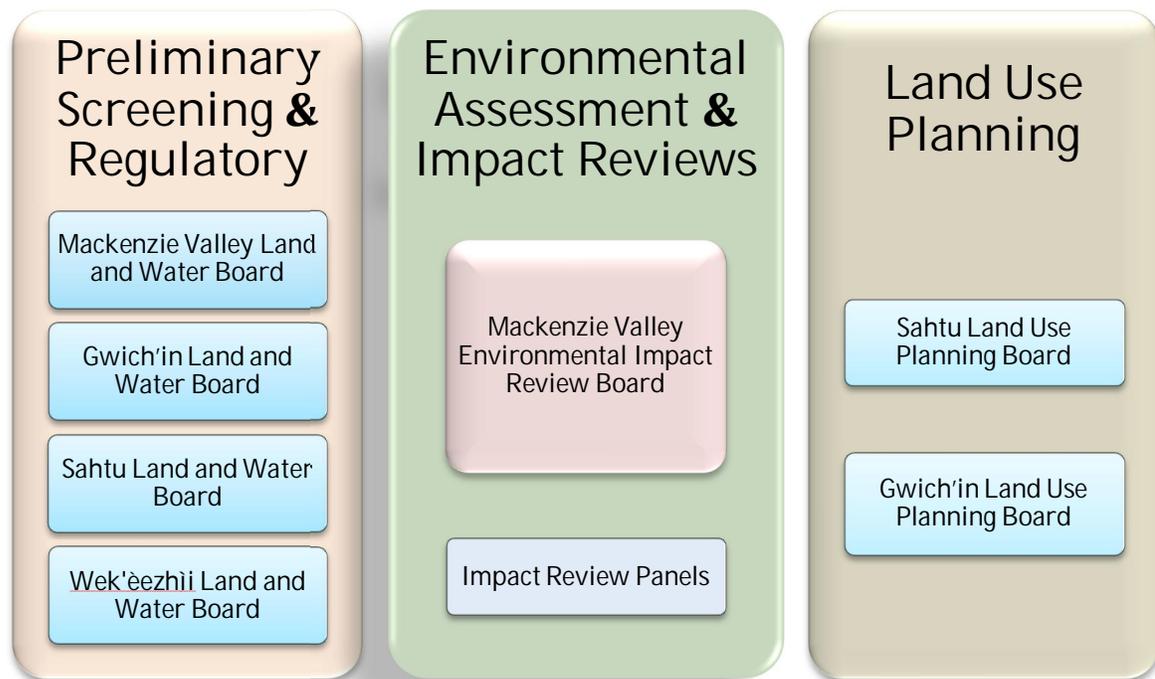


FIGURE 3: THE PUBLIC BOARDS AND THEIR FUNCTION UNDER THE MVRMA

All Board members are nominated by Aboriginal organizations, the Government of Canada, and the GNWT respectively.

The objectives of the MVRMA system are to guarantee consultation and participation, by providing significant say to Aboriginal groups in the land, water, and environmental management decision making process.

## 4 A CLOSER LOOK

Six presentations provided an overview of the individual components of the MVRMA. These included Land Use Planning, Preliminary Screening, Land Use Permits, Wildlife and Renewable Resource Management, Compliance, Inspection and Enforcement, and finally, the Northwest Territories Cumulative Impact Assessment Program.

### 4.1 Land use planning

Scott Paszkiewicz, Executive Director at the Sahtu Land Use Planning Board presented an overview of Land Use Planning in the Northwest Territories.

The MVRMA sets three guiding principles for land use planning (Section 35):

- The purpose of land use planning is to protect and promote the social, cultural, and economic well-being of residents and communities in the settlement area, having regard to the interests of all Canadians
- Special attention shall be devoted to the rights of the Gwich'in and Sahtu First Nation under their land claim agreements, to protecting and promoting their social, cultural, and economic well-being and to the lands used by them for wildlife harvesting and other resource uses
- Land use planning must involve the participation of the First Nation and of residents and communities in the settlement area



The guiding principles of the Gwich'in and Sahtu Comprehensive Land Claim Agreements encompass co-management and participation as fundamental policies. Land Use Planning Boards develop the plans, with the Chair of each Board being nominated by the Board members, who are appointed by the Minister of Indigenous and Northern Affairs Canada for three year terms.

The Gwich'in Land use plan came into effect on August 7, 2003, and the Sahtu Land Use Plan came into effect on August 8, 2013. Both were the result of several years of planning and negotiations.

Once the plans are approved, the Land Use Planning Board is responsible for overseeing:

- Considerations of exceptions to the plan
- Trans-boundary planning
- Conducting conformity determinations on referral
- Considering amendments to the plan
- Keeping public records of applications and decisions
- Conducting planning activities leading towards 5-year reviews

The Land Use Plans must be adhered to and be implemented by any department/agency of the Federal, Territorial, or Aboriginal governments, and anybody having authority to issue licences, permits, or other authorizations to use land, water, and/or deposit waste. The Boards are essentially the stewards of these plans.

## 4.2 Preliminary screening and environmental assessment

Alan Ehrlich, Manager of Environmental Impact Assessment at the Mackenzie Valley Review Board, provided a presentation on the Environmental Impact Assessment process, from Preliminary Screenings up to Environmental Impact Reviews.

There are three levels of environmental impact assessment (Figure 4), with greater than 95% of development proposals remaining in the first level; *Preliminary Screening*.

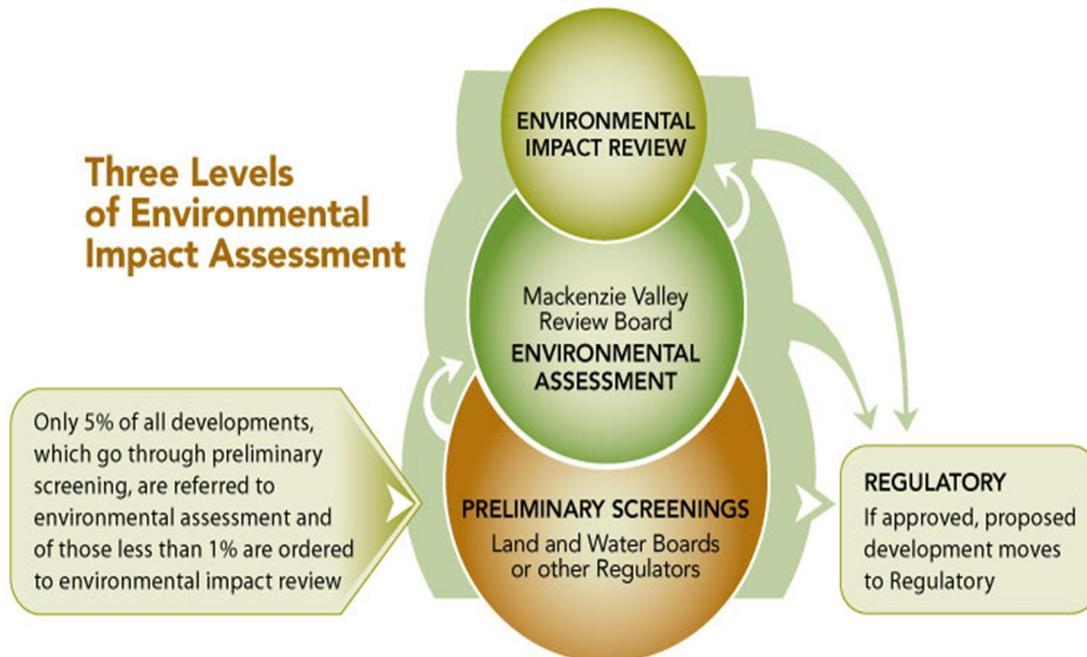


FIGURE 4: THE THREE LEVELS OF ENVIRONMENTAL IMPACT ASSESSMENT IN THE MVRMA

Throughout Preliminary Screening, the Boards examine the development as whole, not solely from a regulatory perspective. For example, equally important to assessing future developments are understanding the cultural, socio-economic and cumulative impacts over time. The intent is to consider all aspects of the proposal, with the objective of making the best decision for the residents of the Northwest Territories.

Factors that influence those impacts are the scale, location, and nature of the activity. Typically, larger developments will have a greater impact, while some locations may have special cultural or ecological significance. Further, some activities are associated with infrastructure requirements, chemical or hazardous impacts, or ultimately, varying 'worst case scenarios.' All must be considered in the review process.

In general, the review process is as follows:

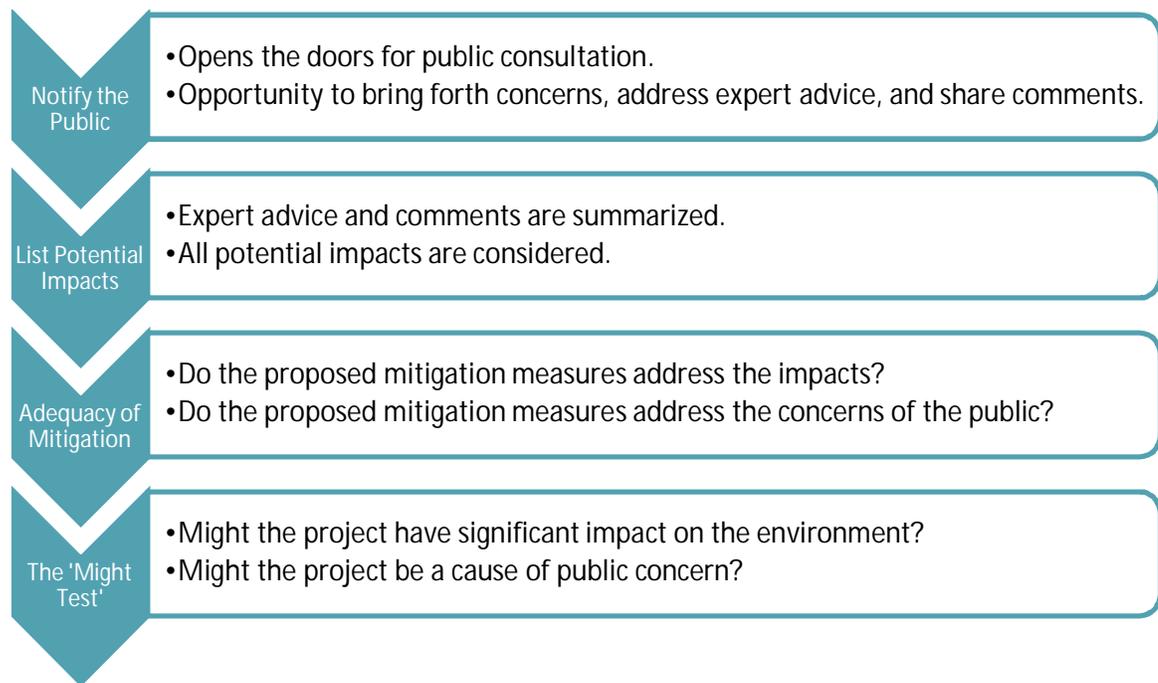


FIGURE 5: THE GENERAL REVIEW PROCESS

If the answer to the 'Might Test' is yes, under any circumstance, the proposed development advances to the next stage; *Environmental Assessment (EA)*.

The same factors (magnitude, spatial extent, nature of impacts, etc.) are considered, though to a more rigorous extent in the Environmental Assessment phase. Legally, the EA must address the protection of the environment, the protection of the social, economic, and cultural well-being of Aboriginal peoples and their way of life.

Similar to the Preliminary Assessment, the EA process must address public concerns, make decisions based on the evidence, and operate in a fair, timely and transparent manner. The EA is a multifaceted analysis of the project that identifies key issues, predicted impacts, technical reviews, and public hearings, the results of which are presented in Board decision documents. There are three possible outcomes:

1. Approval of the proposed project (typically with mitigation measures)
2. Rejection of the proposed project
3. Advancement to the highest level of assessment; the *Environmental Impact Review*

This system of rigorous review ensures that projects are designed appropriately from the outset, with issues and concerns identified, and mitigation measures put in place. Follow-up programs monitor compliance, and hold responsible parties accountable. Ideally, the worst projects never get off the ground.

### 4.3 Land use permits and water licences

Rebecca Chouinard, Regulatory and Technical Director of the Mackenzie Valley Land and Water Board, provided an overview of the permitting and licensing system of the MVRMA.

The four regional Land and Water Boards, presented in Figure 6, each have a Chair plus four members who are responsible for decision making within their management areas. Trans-boundary applications are managed by the Mackenzie Valley Land and Water Board using trans-boundary panels whose members are selected from each respective Board. Recall that Board members are appointed or nominated by Aboriginal Governments, the Territorial Government, and the Federal Government.



FIGURE 6: REGIONAL LAND AND WATER BOARDS

The Boards regulate land and water use by a permit and licence issuing system in accordance with the MVRMA, Mackenzie Valley Land Use Regulations, the Waters Act, Waters regulations, and the NWT Water regulations. Figure 7 describes some examples of when a permit or licence would be required.

### Examples of When a Land Use Permit is Required:

- If explosives, vehicles, or machinery will be used
- If there is need for fuel storage
- If there is need for land clearing
- If there are buildings or campsites being constructed
- If there is any drilling activity

### Examples of When a Water Licence is Required:

- If water use will exceed the threshold
- If there is use, alteration, or diversion of water crossings
- If waste will be deposited

FIGURE 7: EXAMPLES OF WHEN A LAND USE PERMIT OR WATER LICENCE IS NEEDED

Once the need for a Land Use Permit or Water Licence is identified, the regulatory sequence is initiated with the Pre-Application stage as outlined in Figure 8 below.

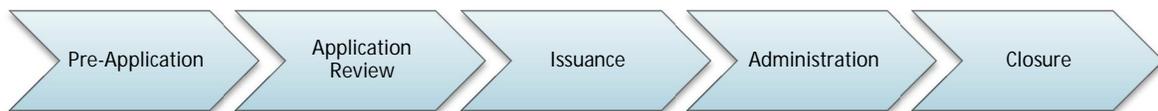


FIGURE 8: LAND USE PERMIT AND WATER LICENCE PROCESS IN 5 STEPS

**Pre-Application:** Affected parties are identified, and their input and feedback is requested. Baseline and site specific data are collected, Right of Access obtained (if required), and the Land and Water Board staff is contacted to answer questions regarding the process.

**Application Review:** Once the application is complete, it will be subject to review and comment from affected parties, and undergoes Preliminary Screening by the respective Land and Water Boards, potentially being advanced to Environmental Assessment. Although public hearings are unlikely for Land Use Permits, they are likely for 'Type A' Water Licence Applications.

*Note that the Boards have 42 days to make a decision regarding Land Use Permits, and nine (9) months (not including proponent time) regarding Water Licence applications.*

**Issuance:** Both Land Use Permits and Water Licences will be issued with conditions to minimize impacts, monitoring programs and/or special considerations. Closure and Reclamation plans are included, along with terms of up to five years for Land Use Permits, and up to the life of the project for Water Licences. The Minister of INAC must sign off on Type A and Type B Water licences that include a public hearing for Federal lands, while the Minister of Environment and Natural Resources must sign off for developments in non-Federal areas.

Administration: Government of Canada and the new GNWT Inspectors are responsible for ensuring compliance to the Land Use Permits or the Water Licence requirements. Amendments or renewals are addressed in time and based on the review and approval of management plans and ongoing activity reporting.

Closure: Land Use Permits require a final closure plan before the end of operations, while Water Licences may require preliminary, interim, and final Closure and Reclamation plans.

Over recent years, the Land and Water Boards have prepared several policies, guidelines, and procedures to provide increased clarity and consistency in the regulatory process. They include Waste Management Guidelines, Closure and Reclamation Guidelines, and Consultation and Engagement Policy and Guidelines, among others. These documents are available on the Mackenzie Valley Land and Water Board website. These resources are supplemented by the Online Review System and the Online Registry.

*On-line applications will soon be available.*

#### 4.4 Managing wildlife and other renewable resources

Jody Pellissey, Executive Director of the Wek'èezhii Renewable Resources Board presented on the Board's role within the integrated management system.



The Gwich'in, Sahtu, and Wek'èezhii each established a Renewable Resources Board (RRB) under their respective land claim agreements. The WRRB's mandate is to work together to take care of wildlife, forests, plants and protected areas in their regions for present and future generations. This mandate considers the inter-relatedness of wildlife with the land and people. As such, the WRRB considers Traditional Knowledge (TK), scientific knowledge, and expert opinions to make balanced and informed decisions regarding all aspects of wildlife and wildlife habitat, including commercial activities.

The WRRB works with the Tlicho Government, the Government of the Northwest Territories, and the Government of Canada to manage wildlife and wildlife habitat in Wek'èezhii, under Section 64 (2) *Wildlife Resources* of the MVRMA.

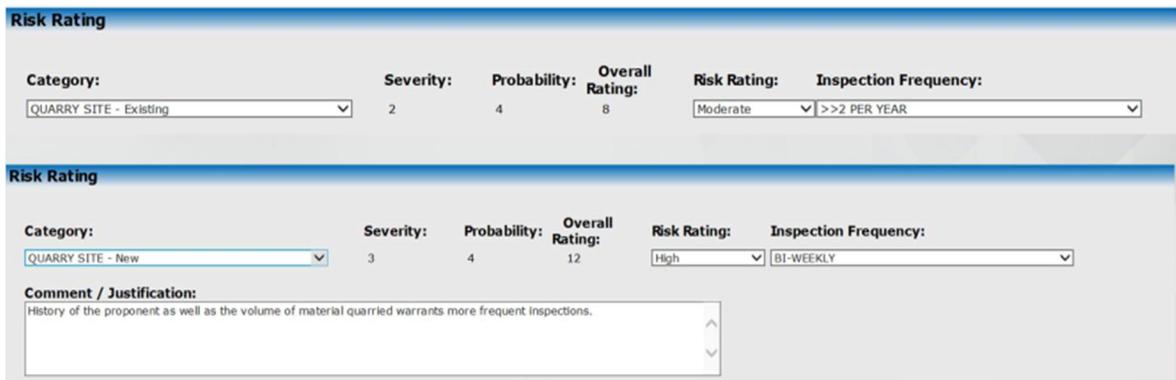
The WRRB works with the Tlicho Government, the Government of the Northwest Territories, and the Government of Canada to manage wildlife and wildlife habitat in Wek'èezhii, under Section 64 (2) *Wildlife Resources* of the MVRMA.

The WRRB also consults with the MVLWB on trans-boundary applications, and provides advice to the Mackenzie Valley Environmental Impact Review Board.

## 4.5 Compliance, inspection, enforcement

Conrad Baetz, Regional Superintendent (Department of Lands) of the Beaufort/Delta Region described the inspection, compliance, and enforcement methods of the MVRMA in the GNWT.

The GNWT, via the MVRMA and the Waters Act, utilizes a risk assessment model to ensure a consistent approach in identifying and prioritizing projects that require the greatest inspection frequency. The risk assessment is based on the severity of impacts, the probability of an event occurring, and professional considerations from a jury. The jury accounts for known activities or potential impacts from similar projects. The result is an overall Risk Rating and an associated inspection frequency, within low, moderate, or high risk categories, as seen in Figure 9.



**Risk Rating**

Category: QUARRY SITE - Existing    Severity: 2    Probability: 4    Overall Rating: 8    Risk Rating: Moderate    Inspection Frequency: >>2 PER YEAR

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**Risk Rating**

Category: QUARRY SITE - New    Severity: 3    Probability: 4    Overall Rating: 12    Risk Rating: High    Inspection Frequency: BI-WEEKLY

**Comment / Justification:**  
History of the proponent as well as the volume of material quarried warrants more frequent inspections.

FIGURE 9: EXAMPLE OF PROJECT RISK DETERMINATION

The inspection frequency can be modified based on environmental conditions, sensitivity, project challenges, and the historical or current record of compliance from the proponent. Factors taken into consideration are:

- Potential impacts on the environment
- Potential impacts on people
- Potential impacts on property or traditional lifestyle
- Potential impacts on financial or legal responsibilities

The inspections are conducted by Department of Lands and Environment and Natural Resources personnel.

Inspectors visit the site in person, preparing inspection reports that note unacceptable conditions, or compliance issues. This could lead to directions and orders, or stop work orders and suspension. Suspensions can be lifted by the inspector should compliance be achieved. Further action can be taken by launching an investigation and seeking subsequent prosecution. There is a clear timeline associated with each direction or order, and the documents are copied to the respective Board.

While mainly a method of monitoring compliance, the inspections also provide the opportunity to assess the status of the project, and to educate the associated parties about regulations resulting from the MVRMA.

## 4.6 Cumulative Impact Monitoring Program

Julian Kanigan, of the Cumulative Impact Monitoring Program (CIMP) provided an overview of the program. Under Part 6 of the MVRMA, and as an obligation of the land claims agreements, cumulative impacts associated with development and environmental trends must be monitored.

NWT CIMP seeks to work with regulators and have meaningful involvement with Aboriginal partners to establish key monitoring priorities each year. The results of the monitoring programs help highlight the cumulative impacts and environmental trends associated with projects across the Territory. The results are then communicated directly to environmental decision makers, as well as the public through the NWT Discovery Portal found online.

Since 2012, the focus of CIMP has been on caribou, water and fish in development 'hot spots.' The program seeks to coordinate, conduct and fund data collection and analysis related to cumulative impacts and environmental trends across the Territory, with the objective of supporting better land and water resource decision-making. It has also been the responsibility of the NWT CIMP to facilitate the NWT Environmental Audit every 5 years in accordance with the MVRMA.

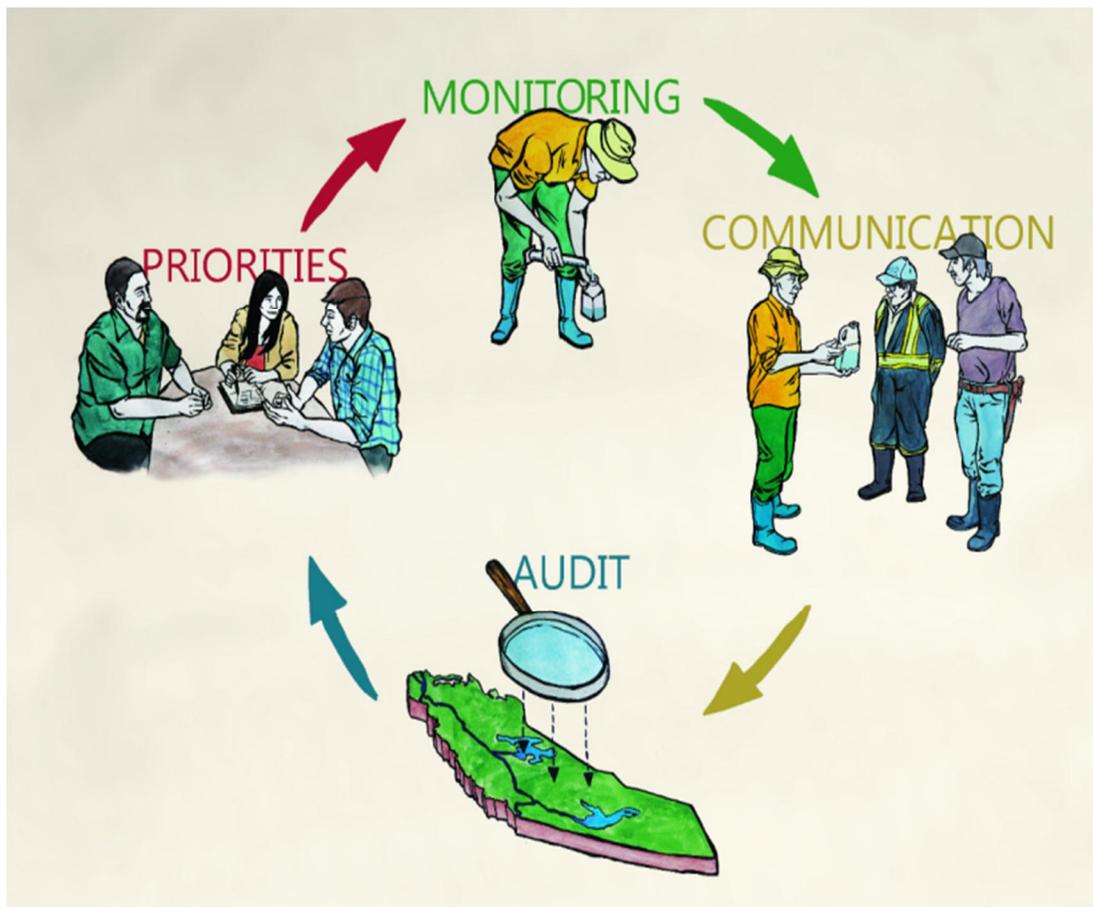


FIGURE 10: SIMPLIFIED REPRESENTATION OF CIMP ACTIVITIES

While the GNWT is the responsible authority, CIMP has developed partnerships with Aboriginal organizations, universities, co-management boards, governments, and NGO's, and receives 1.8 million in annual funding. Over 30 projects have been funded since 2010, and 16 peer reviewed papers were published last year. NWT CIMP has directly contributed information to nine regulatory processes, and has analyzed cumulative impacts in seven regions, and uncovered 18 environmental trends in the Northwest Territories.

One of CIMP's primary focuses is developing capacity and partnerships with communities across the Territory. Last year, 80% of the projects were in direct response to community concerns, while 80% of the NWT CIMP projects were led by or partnered with Aboriginal, community, or co-management organizations. This resulted in 66% of the projects creating or enhancing community capacity. Further, the results are frequently presented by project-leads directly to the communities, thereby keeping communities informed.

## 5 A BIRD'S EYE VIEW – PANEL DISCUSSION

The first of two panel discussions addressed the big picture of the MVRMA, with insight from experienced individuals familiar with the history and continued implementation of the system. Panelists were available to answer questions from the audience related to the MVRMA process, goals, and management. By way of introduction, the panelists were asked to describe their involvement with the MVRMA, and how it has changed.



### Brain Crane

*Brian Crane is a partner in Gowlings' Ottawa office. As a senior member of Gowlings' Advocacy Law Group, he practices in constitutional, administrative and Aboriginal law. Brian appears as counsel before the Supreme Court of Canada, the Federal Court and the Ontario Courts. He has worked extensively in the negotiation of native land claims and self-government agreements and related litigation, and in arbitration and mediation throughout Canada, including the NWT. Mr. Crane (with co-authors Robert Mainville and the late Martin Mason) is the author of First Nations Governance Law (2<sup>nd</sup> Edition) LexisNexis Canada (2008).*

Brian's opening remarks: Brian believes that with the development of new local governments, the interaction between the Boards and the regulatory system must increase, as the system constantly evolves.

### Larry Wallace

*Larry moved to the Northwest Territories in 1969 and resided in both Inuvik and Norman Wells. In private business since 1985, he is still a property and business owner in the Sahtu and has held a number of positions in business and volunteer organizations including the Chamber of Commerce, NWT Softball, Community Association, and Curling Club. He is presently Chairperson of the Sahtu Land and Water Board, a position he has held since November of 1996.*

Larry's opening remarks: Larry commented on the excellence and professionalism of the staff responsible for implementing the MVRMA since the beginning. Without them, the policies and procedures that implemented the Act would not be where they are today.

Danny Bahya

*While living in Deline, Danny has operated an auto repair shop and general contracting business since 1993. Danny attended and graduated from Grandin College in Fort Smith, received his heavy duty mechanics licence, and worked for the NWT Power Corporation from 1992 to 1995. Danny returned to school and received his Bachelor of Science degree from the University of Calgary in 1998, and was appointed to and served as a Board member of the Mackenzie Valley Environmental Impact Review Board from 2000-2012. Danny has previously served on the Deline First Nation Council and the Deline Education Council. Since 2005, Danny has been a Board member and is current Vice Chair of the Sahtu Land Use Planning Board. Additionally, Danny is the Vice Chair of the Deline Land Corporation and the Chair of the Sahtu Health and Social Services Authority. Danny was recently appointed to NWT Surface Rights Board.*

Danny's opening remarks: Danny highlighted the importance of communication within the MVRMA system, as that is one of the principles on which it is based. He also addressed the need to assess the current status of the system, and where it is going. Challenges like climate change require that we work together, and form a clear path forward.

Rachel Crapeau

*Rachel Crapeau managed the Yellowknives Dene First Nation Land and Environment Department for over 10 years. While there, she participated in the development of the Cumulative Effects Assessment and Management Framework, the creation of the Independent Environmental Monitoring Agency, and the Bathurst Caribou Monitoring Board. Rachel is well-versed in the legislation establishing the framework for environmental assessment and monitoring in the NWT. Rachel Crapeau was a Board member of the Mackenzie Valley Environmental Impact Review Board from 2010 until 2013.*

Rachel's opening remarks: Rachel described how the Act has provided a voice, but that voice must be used to be effective. The land is changing, and Traditional Knowledge must be communicated along with technical information in setting policies, guidelines, and in assessing new developments. Rachel also expressed the need to work together within the system, for the benefit of the people of the Northwest Territories.

John B. Zoe

*John B. Zoe is a former Chief Negotiator for the Tlicho, who along with a negotiations team and Elder Advisors completed negotiations of a land claim and self-government agreement, the Tlicho Agreement. He presently serves as the Senior Advisor to the Tlicho Government.*

John's opening remarks: John reminded the attendees that for many land areas, once the land is used it may not recover. Traditional Knowledge allowed the Dene to grow and prosper with the land. Despite the fact that so much has changed, it is important to remember that we have similar interests, and that co-management means working together.

### *Questions and Discussion*



The audience was presented with the opportunity to ask the panelists for their input on various issues they had identified in working within the MVRMA system. Recurring themes were as follows:

#### *Capacity*

Some panelists remarked that securing funding is a recurring issue, as is finding the expertise required to organize and disseminate information through public consultation. Sharing information between communities plays a key role in addressing this issue. The future may provide opportunities for consultation funding in the NWT, similar to systems in Quebec and Ontario.

#### *Traditional Knowledge*

How knowledge and information is shared has not changed. Observations and discoveries are made, and then reported upon. Traditional Knowledge and scientific data can be shared with each other, to support the decision making process.

#### *Superboard*

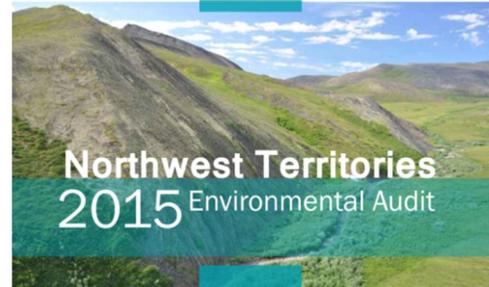
It is important to recognize that the current injunction has not been lifted by the new Liberal Government, and that the idea of a 'superboard' was mainly a media creation originating from the McCrank Report (2008) that was never truly envisioned. Currently, those who have actually worked within the NWT system have become more comfortable as they become more familiar with it.

#### *Decision Making*

The Boards have an obligation to consider the values and considerations of the community. It can often take time, but ultimately the Boards ensure that all opinions are taken into consideration, such that the decisions are based on consensus, and not the ideas of one party. Therefore, it is necessary for communities to contribute to this process, by engaging with the Boards in the consultation process. Advancing this community based model will contribute to the success of the system.

## 6 THE MVRMA REPORT CARD

The ongoing success and progress of the MVRMA process is monitored by an independent review every five years. The goal of the review is to provide policy makers and the public with an overview of the effectiveness of the MVRMA, identify gaps in knowledge or outstanding issues, and to provide formal recommendations for future improvement. While there is no requirement to respond to these recommendations, the results of the 2010 audit may have led directly to funding increases for the Cumulative Impacts Monitoring Program, a key component in assessing the impacts of development on the environment.



Four key areas are examined by the audit:

- The effectiveness of the MVRMA regulatory system
- The effectiveness of the cumulative impact monitoring program
- Any gaps in environment information
- Any responses to previous audit recommendations

Beyond the legal requirements set out in the Gwich'in, Sahtu, and Tlicho agreements, as well as the MVRMA itself, the audit serves to support sustainable resource use, sets benchmarks for subsequent audits, and can be a catalyst for change.

A steering committee of eight regional Aboriginal governments and organizations, and the Territorial and Federal governments guide the audit, though the auditor is independent of all parties (the auditor for the 2015 environmental audit is Arcadis). Regional and community input is combined with questionnaires and interviews with government, co-management, Aboriginal governments and organizations. The 2005 and 2010 audits produced recommendations across ten (10) categories, including land use planning, environmental assessment, capacity, funding, and traditional knowledge among others. Many were directed at AANDC and the MVEIRB, and many recommendations go unanswered.

In 2015, audit parties will be responding to the recommendations, gaps in knowledge regarding caribou and fish will be identified, and the public will have the opportunity to participate through online surveys. The GNWT expects the public release of the audit to occur in 2016/2017, followed by GNWT communication of audit recommendations and responses. Recommendations from the 2005 audit that were successfully implemented according to the 2010 audit include:

- Sahtu LWB implemented a Record of Dispositions Summary Sheet, thereby adding clarity to the decision making process
- Nomination of new sitting members at least four months prior to a current sitting member completing their term
- Comprehensive training for Board members
- Higher degrees of awareness regarding the MVRMA process
- Increased awareness from the MVLWBs regarding enforceable terms and conditions

## 7 TOOLS FOR SUCCESS: POLICIES AND GUIDELINES

To implement the MVRMA, the Land and Water Boards use a set of policies and guidelines throughout the Environmental Review process. These tools, along with public consultations help guide the review in the decision making process. Understanding the policies and guidelines set forth helps facilitate effective participation within the MVRMA system.

It is important to recognize that all parties have a role to play within the Act, and that the Boards' policies and guidelines are tools that can support participation in co-management. To facilitate effective and efficient review processes, the Boards publish documents so that proponents know what to expect before they apply, and that stakeholders have a clear understanding of how they can contribute. Some of the published guidelines are listed in Figure 11 below. A full list of guidelines, including draft documents can be found on the Mackenzie Valley Land and Water Board website. Further information can be found at Mackenzie Valley Review Board website, or by contacting Board staff.

Guidelines for Engagement and Consultation

EA Methods: Traditional Knowledge Guidelines

EA Methods: Socioeconomic Impact Assessment Guidelines

Guidelines for Closure and Reclamation

Guidelines for Developing a Waste Management Plan

FIGURE 11: EXAMPLES OF GUIDELINES AVAILABLE FOR PROPONENT AND STAKEHOLDER REVIEW

The Review Board is placing an increased emphasis on prioritizing the creation of guidelines and policy documents such as those listed above. For its part, the Mackenzie Valley Land and Water Board will be publishing a Guide to Water Licensing Process, and Municipal Landfill Guidelines, among others.

The guidelines are in place to support effective participation in the MVRMA process. They are intended to clarify expectations and explain roles within an integrated resource management system.

## 8 BREAKOUT SESSIONS

One goal of the MVRMA Workshop was to encourage awareness and participation within the MVRMA process. Five break-out sessions were designed for participants to get an in-depth look at the different components that make up the MVRMA. Attendees were separated into groups, with each group beginning their rotations in one of the sessions, and proceeding to the others throughout the morning.

### 8.1 Let's Get to Work!

This session used a scenario and role-playing exercise where attendees participated in the review process of the MVRMA system. Participants were divided into sub-groups representing the different players in the process (Developer, Preliminary Screener, EA Scoping, EA Hearing, Licensing and Permitting).



The scenario involved a proposed mining development seeking a 35 year water licence. The mine would be situated near a local community known for its tourism and moose harvesting background. The mine would also be adjacent to a major river with known fish and avian species-at-risk habitat. Further, there is an existing copper mine already in place up-stream.

#### *Outcomes*

Using what they had learned about the MVRMA process on day one of the workshop, the attendees identified issues and concerns with the proposed development from the perspective of their assigned roles. For example, it was the duty of the developers to ensure that proper consultation had taken place, before preparing the application. It was also noted that consultation should occur throughout the life of the project.

Three potential impacts were consistently identified during the initial screening:

- Water quality
- Wildlife and species-at-risk
- Cultural and social Impacts

By applying the 'Might Test', it was clear to the participants that this proposed development might have significant adverse impacts, and therefore, was advanced to the Environmental Assessment stage, at which time, various mitigation measures were put in place. These ranged from water quality and cumulative impact monitoring, to preventing the processing of samples on-site. In many cases, a 35 year licence was deemed too long, as there were too many gaps in the data and unknown impacts. Further, it was suggested that baseline studies should always be considered before a project proceeds, to quantify environmental changes resulting from the development.



This scenario, and the responses and considerations of the workshop attendees highlight the many factors, issues, and opinions that are considered during the review process. At each stage, stakeholders are consulted and the information gathered feeds into the next level, ultimately influencing the final decision. It was also noted that when submitting an application, it is important to think like the reviewers by identifying the information they would likely want to know beforehand.

## 8.2 What's New?

Since 2012, changes in legislation and the onset of Devolution have affected land and water management in the Mackenzie Valley. This break-out session examined recent changes to the MVRMA framework, and how those changes will affect regulations.



As of April 1, 2014, the GNWT became responsible for managing public land, water, and subsurface resources for the majority of the NWT, a task formerly the responsibility of the Federal Government. This transfer came shortly after the Federal Government made changes to several environmental laws in 2012 (including the Fisheries Act, Species at Risk Act, and the National Energy Board Act, among others).

Changes currently IN FORCE include:

- The Minister of the INAC can give policy directions to the Land Use Planning Boards, and the Mackenzie Valley Environmental Impact Review Board
- Provisions in place for water management in Federal areas
- Time limits for water licensing and Environmental Assessment processes
- Requirement of the MVEIRB to have a public registry
- Higher fines
- Water Boards can issue 'Life of Project' water licenses

Proposed changes that are NOT IN FORCE include:

- Combining the Regional Boards into one Board
- Cost recovery provisions for water licenses and Environmental Assessments/Environmental Impact Reviews
- Authority to make regulations about Aboriginal consultation
- Enforceable Development Certificates
- Administrative Monetary Penalties

As far as the changes are concerned, it is business as usual for land and water management. The Boards still have the same functions, with continued participation from governments, communities, applicants, and the public. Land, resource, and self-government agreements are still the foundation on which the MVRMA system is based, and policies and guidelines will continue to be updated as needed.

Further, the GNWT now has an expanded role in land, water, and non-renewable resources, and has generated two new organizations: the Department of Lands and the Office of the Regulator of

Oil and Gas Operations (OROGO). At this stage, the location of the project, determines whether INAC or the GNWT makes the decision on Board recommendations. Essentially, if a project is on Federal land, there is Federal involvement.

#### *Discussion*

There is concern regarding how the Minister of the INAC's policy directions will be implemented. This remains an unknown however, as the change was put forth by the previous Federal government, and the details remain unclear.

There were questions regarding whether terms and conditions used by the LWBs related to wildlife impacts and if they would be implemented through the licensing process. In fact, there are terms, however they have not been formalized or combined with GNWT guidelines.

The changes to timelines are also a concern, as it is often difficult for communities to meet the response to deadlines as it is. As a result, proper consultation is often neglected. Ideally, there should be no issue with lack of consultation time.

### 8.3 Cumulative Impact Monitoring Program: A Closer Look

This break-out session built on the CIMP presentation from the previous day. The focus of the session was on getting feedback from and brainstorming with the workshop participants about how the program examines the impacts of projects in the Mackenzie Valley, where the program is going, and how it can be improved.



In the interest of time, participants were asked to limit their discussion to one of CIMP's focus areas; caribou, water, or fish.

Key issues that were raised included:

- Maintaining quality standards across projects
- Engaging and encouraging community participation
- Project selection
- Project results and influence

#### *Discussion*

Each monitoring program is generally site specific, but consistency must still be maintained across projects. The question is how can this be achieved? CIMP is hoping to shift towards hiring and training community members, providing them opportunity for employment, and creating

community based monitoring programs. A challenge here is in selecting the appropriate methods for one analysis. While one technique may apply to one site, it may fail to address the specifics at another. Community projects would be overseen by qualified researchers, and there is opportunity for the Boards to help coordinate. Ideally, CIMP is seeking to acquire regional scale data that can be applied to multiple projects, not just one.

As funding is limited, CIMP can only fund about 30 projects a year, with proposals coming from academia, government, and communities. Currently, a Letter of Intent system has been put in place, whereby the effort to generate a proposal can be minimized. Selection of these projects is based on the relevance to CIMP's guiding topics of caribou, water, and fish. As cumulative impact monitoring is required under the MVRMA, CIMP prioritizes based on regulator needs. The results of the projects are submitted to the Land and Water Board review process. CIMP's direct participation has been increasing over the years.

## 8.4 Enhance Your MVRMA Participation

This session provided a description of how and when to participate in the MVRMA preliminary screenings, environmental assessments, land use permitting, and water licensing. It highlighted the fact that proponents and stakeholders should be meeting to address concerns well before applications are submitted. This can help ensure that the issues and values of all parties are understood before entering into the more formal aspects of Board proceedings. It is the responsibility of the proponent to ensure that the public is informed, and their concerns identified. Therefore, proponents are encouraged to engage stakeholders early in the process.



Some tips to enhance to effective participation in the MVRMA include:

- Connecting concerns to the language or context of the Act can help deliver a position or argument more effectively to the Boards
- As participant funding is typically limited or unavailable, partnering with groups who have a common objective can also help in addressing an issue
- Maintaining focus on the issue(s) of concern, while allowing other groups or departments to address their own concerns
- Most importantly, actively participate in public engagements

### *Discussion*

Who determines the meaning of the word significant? According to the MVRMA, the Boards opinion is what determines significance. However, the Board's mandate is to address the concerns

of all parties, and consider their respective definition of what is significant to them. This often means comparing the opinions of stakeholders with the available evidence.

There is concern that all of these opinions and evidence are inconsequential, as the MVRMA essentially makes a 'best guess' at the future impacts. Therefore, participants view adaptive management throughout the life of any project as a necessity. Further, stakeholders have a responsibility to *actively* engage to effectively participate in the process. It was also noted that participant funding was raised as a major issue limiting their effective participation in Board processes.

## 8.5 Land Use Planning in Action

This session was a discussion of how Land Use Plans set the stage for resource management within the Mackenzie Valley, and a detailed look at the Gwich'in and Sahtu Land Use Plans.

Critically important to Land Use Planning in the North are the challenges associated with it. These include:

- Geography (area size)
- Data availability (Traditional knowledge and scientific)
- Agreement on shared economic, social, cultural, and environmental priorities
- Public understanding of land use planning principles
- Logistics and administration of limited resources

These challenges are reflected in the ten years (2003-2013) it took for the Sahtu Land Use Plan to be finalized. However, it also reflects the spirit of co-management, in that the final plans and any changes therein, require the approval of three groups (council, the Territorial, and Federal Governments).

Following approval of the Land Use Plan it becomes the responsibility of the Land Use Planning Board to consider any amendments or exceptions to the plan, to coordinate trans-boundary planning, conduct conformity determinations on referral, and to plan for an upcoming five year review. Land Use Plans are in effect until they are amended.

Ultimately, Land Use Plans will contribute to all aspects of regulation (wildlife, water, etc.) and proponents should consult the land use plans before submitting applications to the regulators.

### *Discussion*

It is believed that the GNWT is in a 'regulatory pause', providing time to reassess the current state of land use in the Territory. In particular, participants questioned if there would be considerations for changes to the plan, with respect to oil and gas development, for example. This is an opportunity for stakeholder participation, as it would be up to the stakeholders to bring these issues forth and present their opinions.

## 9 MVRMA ON THE GROUND – PANEL DISCUSSION

The second set of panel discussions dove deeper into the MVRMA system, drawing on the knowledge and experience of panelists who have participated directly in environmental assessments, land use planning, and permitting and licensing. Panelists were available to answer questions from the audience, as well as offer their insight into the MVRMA process.



The panel was composed of the following members, each of whom was asked what they thought was working well with the MVRMA:

Robert Jenkins

*Robert Jenkins is the Director of Water Resources with the Department of Environment and Natural Resources, Government of the Northwest Territories. Robert has been actively involved in the assessment and licensing of major projects in the NWT since moving to Yellowknife in 2001, and has represented both the Federal and Territorial Government at Environmental Assessment and Water Licensing Public Hearings for mineral, oil and gas, hydroelectric, and municipal undertakings. In his current role, Robert is responsible to lead the delivery of ENR's water management programs and water stewardship initiatives, including the ongoing implementation of the Northwest Territories Water Stewardship Strategy.*

Opening remarks: The Boards have worked well together, as well as with government and other parties to develop guidance documents for stakeholders and proponents. Where the system can improve is by greater incorporation of Traditional Knowledge and science into the decision making process. It has sometimes been a struggle to ensure that all the information is available to make an informed decision. Using the provisions in place to develop further regulations and guidelines would help advance the system.

Gord MacDonald

*Gord Macdonald has been engaged in the NWT Regulatory system for the last 17 years with Diavik Diamond Mines. While Diavik's Environmental Assessment pre-dated the MVRMA, Gord managed Diavik's Water License applications and implementations under the NWT Water Board, MVLWB and currently WLWB. Gord has a Masters Degree in Mathematical Modelling of Aquatic Ecosystems and 15 years of regulatory experience outside the NWT as a consultant before joining Diavik.*

Opening remarks: Effective legislation should limit flexibility, leaving no ambiguities and clear regulations and standards. These gaps make it difficult for regulators and the Boards to complete their mandate. However, the decision making process has become much more transparent and inclusive. The Act's only appeals process is the courts, which is a disproportionate escalation.

Zabey Nevitt

*Zabey Nevitt is a Senior Policy Advisor with the Tlicho Government. Prior to this Zabey spent ten years as the Executive Director of the Mackenzie Valley Land and Water Board and the Wek'èezhii Land and Water Board. Before he joined the WLWB, he held the position of Executive Director of the Dogrib Treaty 11 Council and, on establishment of the Tlicho Government, worked as the Acting Director of the Tlicho Lands Protection Department. Zabey has also worked as the Manager of the Independent Environmental Monitoring Agency—the public watchdog for the Ekati Diamond Mine. Zabey has a degree in Civil and Environmental Engineering and twenty years' experience working in northern communities and with the people of the North.*

Opening remarks: Zabey commented on the fact that the uniqueness of the MVRMA system, and perhaps one of its successes, are in its ability to bring regulators, technical and traditional knowledge experts together to make evidence based decisions. Although, the system is not complete, and is still fragmented, sometimes allowing for some projects to advance to environmental assessment when they should not.

Scott Stewart

*Scott is a lifetime northerner who started his career in Nunavut as a Water Resource Officer with the Federal government. Scott gained valuable experience travelling and conducting inspections on exploration camps, mining operations and municipalities throughout Nunavut. Scott moved back to Yellowknife as a Water Resource Officer in 2005 and gained further experience inspecting Industrial Operations under the NWT Waters Act and the MVRMA in the NWT. He spent 2011-2014 as the District Manager for the South Mackenzie District including Yellowknife, Hay River, Fort Smith and Fort Simpson. He joined the GNWT on April 1, 2014 as a Regional Superintendent in the newly created Department of Lands.*

Opening remarks: Scott believes that the powers and authorities given to the inspectors are sufficient to enforce the licences and measures under the Act. However, there is a gap between enforcement and the courts that could be closed by issuing administrative monitoring penalties, though there is no regulations within which to apply this authority. Scott further believes that authority should be with the GNWT and not with the Federal Government.

Stephanie Poole

*Stephanie Poole has worked for the NWT Treaty #8 Tribal Corporation in their Akaitcho IMA Implementation Office for eight years. Stephanie is Denesuline, a member of the Lutsel K'e/Kache Dene First Nation and lives in the community of Lutsel K'e with her family.*

Opening remarks: Stephanie thinks that the MVRMA is meeting its objective of the co-management approach envisioned in the comprehensive land claim agreements. That being said, the authority of the MVRMA is not recognized in her work. She would like to see the MVRMA respect the rights of indigenous peoples, including their right to informed consent.

John Donihee

*John was retained by the MVEIRB in 1997 before the MVRMA came into force, and by the MVLWB in 2000. He continues to act for these tribunals. Since 1998 John has, at one time or another advised all MVRMA boards on matters related to implementation, day to day operations and amendments to the legislation. John has extensive experience working with co-management tribunals in the NWT and Nunavut. He is counsel with Willms & Shier Environmental Lawyers LLP.*

Opening remarks: John believes that the Board's efforts to create guidance documents to get through the application and environmental assessment process are working well to fill in the gaps of the Act. Although there are 150 sections, a lot of material is covered. The greatest challenges are the constant changes and keeping up with them. He would like to see these changes become the responsibility of the GNWT and not Ottawa.

### *Discussion*



### *Gaps*

The fact that there are gaps in the system was mentioned frequently during the panel introductions. What are the gaps exactly? The gaps relate to missing rules, regulations, and guidelines. For example, management plans are being developed without guidance, which leads the next management plan to be based on the one before it, instead of on the regulations. Industry has actually raised these standards however, as funding has ceased to flow into developing these guidelines. The Boards are currently working to develop these guidelines in response, and to help improve the MVRMA process.

### *Appeal Process*

The question arose about the possibility of incorporating an appeal process to the Board's decisions, as currently the only real recourse is to address the courts. However, the panel suggested that an extra layer of appeals may only limit the effectiveness of the MVRMA and the Board's ability to make decisions. Instead, a system where the Board has the ability to review their own decisions would be more efficient and effective.

### *Challenges Faced by a Lack of Land Use Plans*

Land Use Plans are an excellent guidance tool in planning and moving forward with an application. Areas without an LUP generally have longer application times and broader discussions. There was suggestion that public LUPs limit the need for proponents to consult with communities and stakeholders. It was suggested that LUPs be private, requiring a request to view them. Generally, it is challenging to move forward without an LUP in place, and it would be a flaw in the system if a proponent were to invest and proceed with an application, only to find that the land is inaccessible.

### *Process for when the views of the GNWT do not match with the Community*

The Boards encourage meetings between groups to identify and discuss concerns and issues. The intent is that they remain independent of those parties so as to make an informed decision.

### *Minister Appointed Inspectors should appoint Indigenous Inspectors*

To bridge the gap between monitors and inspectors, a training program began last spring to support community members, whereby the education and training they need is paid for and delivered at a college.

### *Post-Devolution, the Federal Minister can still direct changes to the Boards. How will these responsibilities translate to the GNWT in the future?*

When the Devolution agreement was signed, the GNWT committed to upholding the 26 pieces of legislation for 5 years. This is advantageous to the GNWT in that it grants time to transition, which so far has been relatively smooth. The nature of the MVRMA system requires extensive consultation, and provides the opportunity for residents of the NWT to influence the decisions of Government, something that is unique in Canada. That being said, the priorities of the new Federal government remain to be seen, but the forum is still established.

*Traditional Knowledge still appears to be taking a back-seat to scientific. To what degree is the MVRMA allowing Traditional Knowledge to be incorporated?*

While the MVRMA does go further than other institutions in incorporating Traditional Knowledge, it still remains a challenge. Some plans have gone into action before meaningful TK is considered, leading to attempts to amend it later on, or even borrowing TK from one plan and incorporating it into another. It has been identified as an area for improvement. Although, some industry has found ways to incorporate TK, for example, by running an annual TK panel designed to bring forth recommendations.

*What are the challenges in expanding science capacity in the Northwest Territories?*

CIMP is providing the opportunity to expand scientific knowledge, however it could still be improved in numerous ways (e.g., standardized sampling protocols, regional expansion, etc.). Of particular importance is the need for a centralized control point and access point for the data.



## 10 ROUND TABLE DISCUSSION/WRAP UP



Nearing the end of the MVRMA workshop, participants met with fellow attendees in a roundtable session to discuss what they had learned about the MVRMA, and were asked to discuss the following questions:

What would you change about the MVRMA system?

- Selection of Board Members: some members of the NWT are underrepresented in the MVRMA system (e.g., Akaitcho participate but cannot appoint a member, and the Deh'cho and Métis should be represented as well)
- Smaller Fines: current fines are unmanageable, and could be replaced with smaller, more frequent fines, to assist in enforcing regulations
- Complete Land Use Plans: this would provide guidance for future developments in the Territory, and inform proponents of land use before the application process

What is the most interesting or surprising thing you have learned from this workshop?

- Socio-economic impacts appear to be secondary to environmental considerations;
- CIMP prioritizes caribou, water, and fish, instead of examining the whole ecosystem
- There is no Federal representative on the Boards

What is something about the MVRMA that works well?

- Bringing the system online has made the system more accessible, and provides access to educational resources
- Those working within the system are creative and truly care about co-management

What do you understand the least about the MVRMA system?

- The timing is too fast, limiting the ability of communities to respond and participate fully
- The system sometimes appears to favour industry considerations and not those of the people

## 11 FINAL THOUGHTS AND FEEDBACK

The MVRMA workshop provided a venue for participants working within the system to meet, discuss, and learn from one another. In particular the workshop presented an opportunity for those less familiar with the MVRMA to better understand how they can work within it. The workshop was organized to give participants an understanding of the history of the MVRMA, an overview of the integrated and co-management approach, and then used break-out sessions for a more in-depth look at each of the components. Panel sessions were used to demonstrate the range of perspectives and expertise that guide the regulatory system established by the MVRMA.

General themes that surfaced throughout the workshops included:

- The importance of passing on knowledge about the history of the MVRMA so that people appreciate that the system was designed by, and for the people of the NWT
- Alterations to processes and methodologies that should be addressed as part of an ongoing program of continuous improvement
- Concerns for the future application of co-management principle because of uncertainties around devolution, and initiatives to reform the regulatory system
- Affirmation of the strengths of the co-management system and the importance of building trust and relationships

Ultimately, the workshop was an opportunity to put the entire MVRMA system in context, inform participants on the goals of the MVRMA co-management system, and to prepare participants to be better engaged in future.

Several opportunities for feedback were provided to participants outside of the panel discussions, presentations, or break-out groups. These included a 'ballot box' available during the workshop where participants could submit responses to some general questions anonymously. A focus group of participants was held following the workshop, and the event organizers also met to evaluate how well the workshop had met the goals set out for it. Summaries of the responses from each feedback approach follow.

### 11.1 Participant Comments

Using a ballot box, participants were asked to comment about their expectations for the workshop on day one, and then to comment on their experience and recommendations for day two.

Day One: What is the one thing you hope to learn from this workshop?

Above all, responses indicated that the workshop participants wanted to gain a more solid understanding of the MVRMA process. In particular, respondents wanted to know:

- What are the different components of the system, and how do they interact
- How Devolution will change the MVRMA process
- The roles and responsibilities of communities and aboriginal governments in the system
- How the review process works
- How Traditional Knowledge is incorporated into reviews

Day Two: What did you like about the workshop?

Participants were enthusiastic that the event was taking place, and enjoyed that it brought people together from across the Territory. Recurring themes included:

- Learning about the history of the MVRMA
- The range of information presented
- The knowledgeable presenters
- The break-out sessions
- The networking opportunities

Day Two: If you could change one thing about the workshop, what would it be?

For many participants, the workshop was too short for the content covered, and the presentations and break-out sessions felt rushed. Many participants commented that there were not enough opportunities to network. Many people also commented that questions needed to be better moderated to respect time constraints. Recurring themes included:

- Allowing more time for small group discussions and dialogue
- Better time management of Q&A's
- Making the first day more interactive
- Providing more breaks for networking
- Incorporating some lessons learned

## 11.2 Post Workshop Focus Group Feedback

The response of the focus group generally reinforced the comments collected through the ballot boxes. Overall, the workshop was very well received and appreciated. There were however a number of suggestions for improvement for future workshops.

- Because of the tight schedule, participants often found they did not have time to speak, and suggested that future gatherings allow for more networking time – possibly using a pre-conference social event and poster session format
- There could be more interactive activities throughout the workshop, particularly to help with understanding the review process, and because these activities help people get to know each other
- The set up could be changed to help encourage questions, balance the need to control time, and to respect people's need to provide some background as part of their questions - such as using a question table where people are invited to sit so that it would be more obvious to speakers that others were waiting
- A session devoted to Traditional Knowledge should be considered for a future workshop;
- Some information could be presented in a poster session format in a pre-workshop social gathering - this could reduce the amount of presentation time during the workshop and allow more time for discussion
- Future smaller workshops could be held in regions where they could focus on lessons learned and issues most relevant to the specific region

### 11.3 Organizing Committee Feedback

Generally the organizing committee felt that the goals of the workshop had been achieved and that it was a very positive contribution to the system. Reviewing what went well, and what kinds of improvements could be considered, several themes emerged that in many ways mirrored those of participants:

- The level of interest and engagement of participants was evidence of the need for such a workshop
- Generally the logistics worked well, with very good support from the Hotel and Pido Productions
- Presenters were all very well prepared
- There was a good variety of presentation topics and styles
- It was not always clear how each part fit into the whole, and a way of connecting them could be to use a consistent graphic image
- Key messages and the theme of working together seemed to emerge spontaneously
- There could have been better balance of participants, with more industry and Government of Canada representation
- Q&A sessions needed to be better moderated – a careful balance of cultural respect and giving audiences what they want
- Should consider holding more targeted engagement events in future – potentially at a regional or community level – with larger events held intermittently
- Could consider allowing participant selection of break-out group options in future
- Ways to encourage more networking and building new relationships should be considered - session design, break timing, and pre-conference activities can all be ways to achieve this

## APPENDIX A

## MVRMA Workshop Presenter Contact Information

Name	Role	Presentation Given	Contact
<b>Brian Crane</b>	Partner, Gowling WLG	Keynote	Tel: 613-786-0107 Fax: 613-563-9869 Email: brian.crane@gowlingwlg.com
<b>Alan Ehrlich</b>	Manager of Environmental Impact Assessment, Mackenzie Valley Review Board	Introduction, Preliminary Screening and Environmental Assessment Processes in a Nutshell	Tel: 867-766-7056 Fax: 867-766-7074 Email: aehrlich@reviewboard.ca
<b>Mark Cliffe-Phillips</b>	Executive Director, Mackenzie Valley Review Board	Land and Resource Management in the MVRMA	Tel: 867-766-7055 Fax: 867-766-7074 Email: mcliffephillips@reviewboard.ca
<b>Scott Paszkiewicz</b>	Executive Director, Sahtu Land Use Planning Board	Land Use Planning	Tel: 867-598-2055 Fax: 867-598-2545 Email: exec_director@sahtulandu.seplan.org
<b>Rebecca Chouinard</b>	Regulatory and Technical Director, Mackenzie Valley Land and Water Board	Land and Water Boards of the Mackenzie Valley – an Overview	Tel: 867-766-7459 Fax: 867-873-6610 Email: rchouinard@mvlwb.com
<b>Jody Pellissey</b>	Executive Director, Wek'èezhii Renewable Resources Board	The Wek'èezhii Renewable Resources Board and Integrated Resource Management System	Tel: 867-873-5740 Fax: 867-873-5743 Email: info@wrrb.ca (General Inquiries)
<b>Conrad Baetz</b>	Regional Superintendent, Department of Lands, Beaufort/Delta Region	MVRMA Compliance Inspections and Enforcement	Tel: 867-777-8900 Fax: 867-777-2090 Email: Conrad_Baetz@gov.nt.ca
<b>Julian Kanigan</b>	NWT Cumulative Impacts Monitoring Program	NWT Cumulative Impact Monitoring Program; The MVRMA Report Card	Email: Julian_Kanigan@gov.nt.ca
<b>Brett Wheler</b>	Senior Policy Advisor, Mackenzie Valley Review Board	MVLWB and Review Board – Policy Tour	Tel: 867-766-7072 Fax: 867-766-7074 Email: bwheler@reviewboard.ca

## APPENDIX B



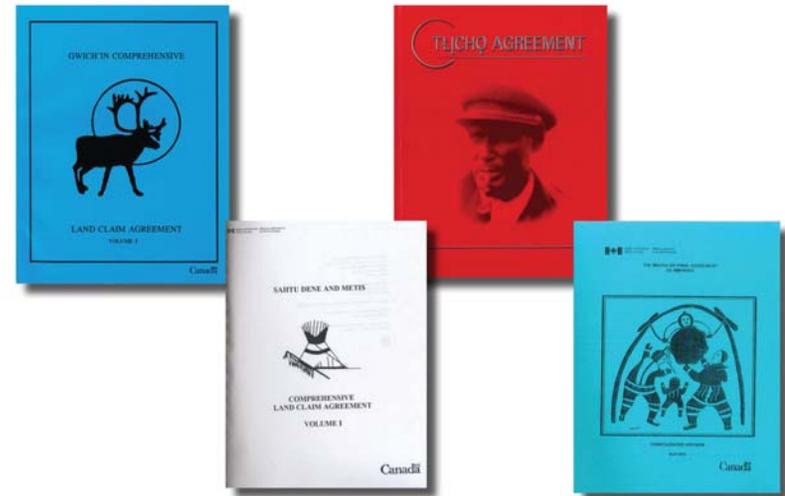
## Overview of

# Land and Resource Management in the Mackenzie Valley

[www.nwtboardforum.com](http://www.nwtboardforum.com)

## Overview of Land and Resource Management in the NWT

### Background of the regulatory system in the NWT



## Overview of Land and Resource Management in the NWT

### Introduction

- Background
- Jurisdictions of land and resource management
- Principles
- Overview of land and resource management
- Land ownership
- Boards under the MVRMA

## Overview of Land and Resource Management in the NWT

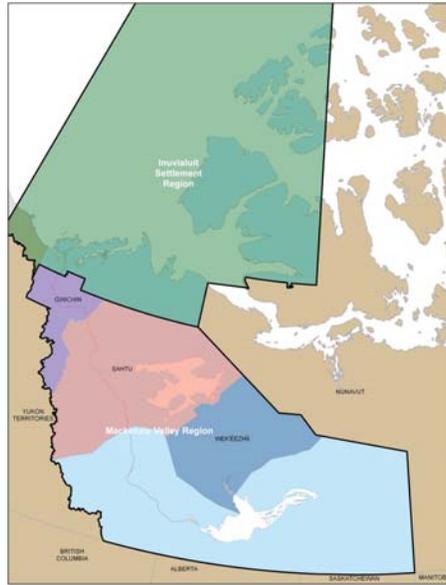
### Jurisdictions of land management in the NWT

There are two separate jurisdictions of land management in the NWT:

- Inuvialuit Settlement Region
- Mackenzie Valley Region

## Overview of Land and Resource Management in the NWT

### Jurisdictions of land management in the NWT



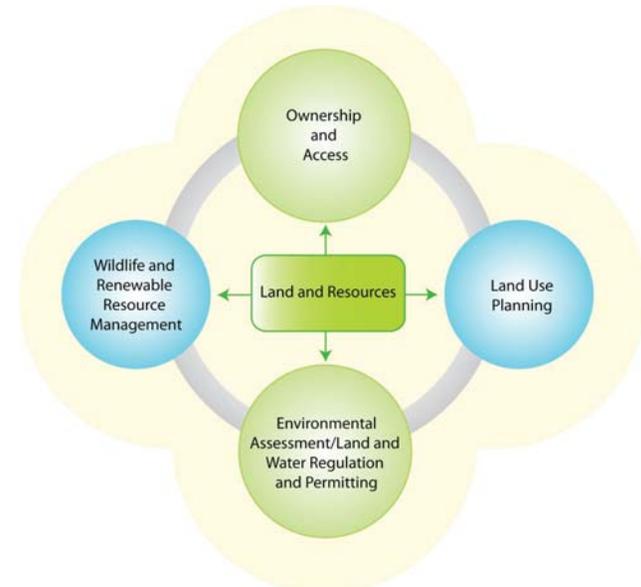
## Overview of Land and Resource Management in the NWT

### Principles of Land and Resource Management

- Integrated and coordinated system
- Based on principles of co-management

## Overview of Land and Resource Management in the NWT

### Land and Resource Management – Overview Diagram



## Overview of Land and Resource Management in the NWT

### Land Ownership

- Territorial (Commissioner's and Territorial Land)
- Federal (Crown Land)
- Aboriginal
- Private

## MVRMA Boards Overview

### General functions of the MVRMA boards:

- Prepare regional land use plans
- Conduct environmental assessment and environmental impact review processes
- Issue water licenses and land use permits
- Ensure protection of the environment from significant adverse impacts of projects and other developments
- Consider economic, social and cultural well-being of residents, including the recognition of Aboriginal rights

## Types of Boards

Land and resources in the Mackenzie Valley are managed under the MVRMA through three different types of boards:

- Land use planning Boards – SLUPB, GLUPB
- Environmental assessment Board - MVEIRB
- Land and water Boards – GLWB, SLWB, WLWB, MVLWB

As well as Renewable Resource Advisory Boards

- GRRB, SRRB, WRRB

Members are nominated and/or appointed by federal, territorial and Aboriginal governments.

## Types of Boards

Land and resources in the NWT are managed through four different types of boards:

- Land use planning Boards
- Environmental assessment Boards
- Land and water regulation Boards
- Renewable resource Boards

Members are nominated and/or appointed by federal, territorial and Aboriginal governments.

## Additional Information

**More information on land and resource management in the NWT can be found on the NWT Board Forum website at:**

[www.nwtboardforum.ca](http://www.nwtboardforum.ca)

Thanks you!

Merci!

Masi Cho!

Mahsi Cho!

Marsi Cho!



Scott Paszkiewicz  
Executive Director  
Sahtu Land Use Planning Board

## MVRMA: A Closer Look Part 2- Land Use Planning

Presentation for the  
Mackenzie Valley Resource Management Act  
Workshop

January 12-13, 2016  
Yellowknife

## Guiding Principles



24.2.4 The following principles shall guide land use planning in the settlement area:

- (a) the purpose of land use planning is to protect and promote the existing and future well-being of the residents and communities of the settlement area having regard to the interests of all Canadians;
- (b) special attention shall be devoted to:
  - (i) protecting and promoting the existing and future social, cultural and economic well-being of the Gwich'in;
  - (ii) lands used by the Gwich'in for harvesting and other uses of resources; and
  - (iii) the rights of the Gwich'in under this agreement;
- (c) land use planning shall directly involve communities and designated Gwich'in organizations; and
- (d) the plan developed through the planning process shall provide for the conservation, development and utilization of land, resources and waters.



25.2.4 The following principles shall guide land use planning in the settlement area:

- (a) the purpose of land use planning is to protect and promote the existing and future well-being of the residents and communities of the settlement area having regard to the interests of all Canadians;
- (b) special attention shall be devoted to:
  - (i) protecting and promoting the existing and future social, cultural and economic well-being of the participants;
  - (ii) lands used by participants for harvesting and other uses of resources; and
  - (iii) the rights of participants under this agreement;
- (c) water resources planning is an integral part of land use planning;
- (d) land use planning shall directly involve communities and designated Sabin organizations; and
- (e) the plan developed through the planning process shall provide for the conservation, development and utilization of land, resources and waters.

## Comprehensive Land Claim Agreements



*"The Planning Board shall have jurisdiction, in accordance with the provisions of this agreement, for developing a land use plan for the settlement area and for reviewing and proposing approvals, exceptions and amendments to the Plan."*

SDMCLCA S. 25.2.1  
1993

*"A Planning Board shall be established and shall have jurisdiction, in accordance with the provisions of this agreement, for developing, reviewing and proposing approvals, exceptions and amendments in respect of a land use plan for the settlement area. The Planning Board shall have regard to any land use plan which is in effect for the settlement area at the date of the establishment of the Planning Board."*

GCLCA S. 24.2.1  
1992



## Mackenzie Valley Resource Management Act (MVRMA)

Part 2  
Land Use Planning  
Sections 33-50.1  
1998



## Guiding Principles (S. 35)



Guiding principles

35. Land use planning for a settlement area shall be guided by the following principles:

(a) the purpose of land use planning is to protect and promote the social, cultural and economic well-being of residents and communities in the settlement area, having regard to the interests of all Canadians;

(b) special attention shall be devoted to the rights of the Gwich'in and Sahtu First Nations under their land claim agreements, to protecting and promoting their social, cultural and economic well-being and to the lands used by them for wildlife harvesting and other resource uses; and

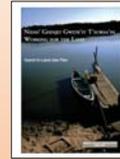
(c) land use planning must involve the participation of the first nation and of residents and communities in the settlement area.

## Plan Development (S. 41) and Approval (S.43)

Effective Dates:

August 7, 2003

August 8, 2013



Approval Parties:

SSI/GTC  
GNWT  
Canada

## Board Members (S. 38)



Heather Bourassa, Chair

Danny Bayha

Bob Overvold

Rick Hardy

Vacant

(Nominated by Board members)

(GNWT Nominee)

(Canada Nominee)

(SSI/GTC Nominee)

(SSI/GTC Nominee)



Bob Simpson, Chair

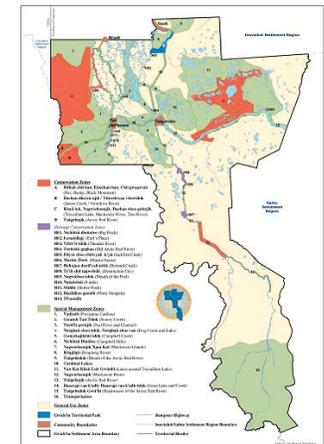
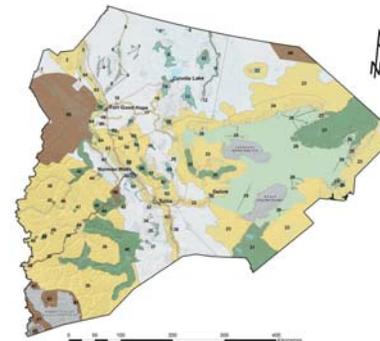
Fanny Greenland

Arthur Boutilier

Eliza Greenland

Vacant

All nominees are submitted to the Minister of Indigenous and Northern Affairs Canada. The Minister makes appointments for 3-year terms.

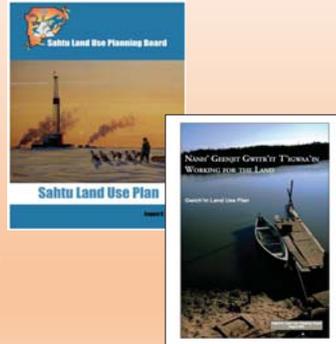


NANAI'GEENIT' QWERTIT' TIGWAA'IN / Gwich'in Land Use Plan

## Monitoring and Implementation

Following approval, the Boards' core functions as mandated by the MVRMA:

- Consider Exceptions the Plan (S. 44)
- Trans-boundary Planning (S. 45)
- Conduct Conformity Determinations on Referral (S. 47)
- Consider Amendments to the Plan (S. 48)
- Keep Public Records of Applications and Decisions (S. 49)
- Conduct Planning Activities leading towards 5-Year Review (S. 50)



MAHSI



[www.sahtulanduseplan.org](http://www.sahtulanduseplan.org)

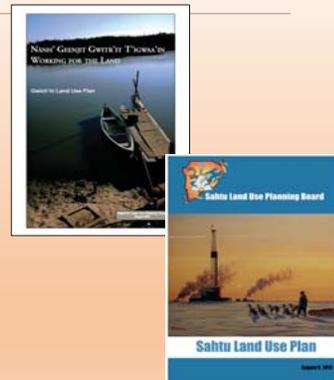
[www.gwichinplanning.nt.ca](http://www.gwichinplanning.nt.ca)



## Shared Responsibility for Plan Implementation [S. 46(1)]

### First Nations, governments, and licensing bodies

*The Gwich'in and Sahtu First Nations, departments and agencies of the federal and territorial governments, and every body having authority under any federal or territorial law to issue licences, permits or other authorizations relating to the use of land or water, or the deposit of waste, shall carry out their powers in accordance with the land use plan applicable in a settlement area.*



## Preliminary Screening and Environmental Assessment Processes in a Nutshell

Alan Ehrlich  
Review Board Manager of EIA  
January 12, 2016

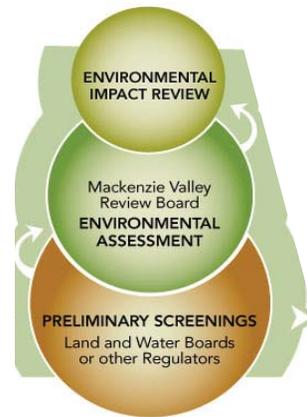


Mackenzie Valley  
Review Board



## Screening and the EIA System

- Three levels of EIA
- MVRMA delivers on land claims
- <95% of developments go only through PS
- *Mostly* done by Land and Water Boards
- Starts when developer applies for permits
- Cursory initial look at potential for impacts



## Development Scoping in PS

- Screeners must consider development as a whole, not just regulatory aspects, during PS
  - Some regulatory duties don't come from MVRMA
  - EIA includes important issues that are not regulated: "Impact on environment" is broadly defined
    - Fishing: Why the hook?
- Take off your regulatory hat when you screen

## General steps

- Notify the public and others
- Get and share comments, expert advice
- List potential impacts
- Consider adequacy of mitigations
- Conduct the "might test"

## The Might test

- might ≠ likely
- Decides if project **might** have a significant adverse impact on the environment
- Decides if project **might** be a cause of public concern
  - If **no**, project gets permits
  - If **yes**, Review Board does EA

## Criteria to consider

- Many factors can help inform you whether there **might** be a potentially significant impact:
  - Magnitude
  - Duration
  - Reversibility
  - Spatial extent
  - Likelihood
  - Nature of the impact
- The same factors are applied more rigorously during an EA

## General factors

- Development **scale**: Larger developments *often* have more potential for impacts
- Development **location**: Ecologically or culturally sensitive areas, protected areas, areas near communities or harvesting areas
- Nature of **activity**:
  - Degree of disturbance
  - Hazardous chemicals or effluents
  - Changes to access
  - Infrastructure needs
  - New tech or setting
  - Severity of worst case scenarios

## Not the test



Screeners should use their professional judgment:

# Should the development go to environmental assessment?

## Legal Requirements

The Review Board must have regard for:

- the **protection of the environment** from significant adverse impacts
- the **protection** of the social, cultural and economic **well-being** of Mackenzie Valley residents and communities.
- the importance of conservation to the well-being and **way of life of Aboriginal peoples.**

## Why do we do EIA?

- It is wise to consider unintended consequences before undertaking major projects
- Better to anticipate and avoid than to react and cure
- Review Board must do EA when it receives referrals from preliminary screeners or others

## Legal Requirements

- The Review Board is also required to:
  - ensure **public concerns** are taken into account
  - carry out its duties in a **timely manner**
    - New timelines as of April 1<sup>st</sup> 2014
  - Run **fair** processes
  - Make decisions **based on the evidence**
  - Operate in a **transparent** manner

## Scoping and Terms of Reference (ToR)



To **identify** and **prioritize** issues

- Developer proposes ToR
- Community scoping
- Technical scoping

- Issue Board's draft + final *Terms of Reference*
- Prioritized issues
  1. Key Lines of Inquiry
  2. Subjects of Note



## EA Analysis

- Adequacy review
  - Deficiency statement issued (if needed)
- Information requests by Board and parties
- Technical sessions
- May include community sessions



## Developer's Assessment Report (DAR)

- Gives details on:
  - Project
  - Alternatives
  - Setting
  - **Predicted impacts**
  - Mitigations - to avoid impacts

## Technical analysis

- parties provide their views and evidence
- finds and focuses on unclear issues
- uses in-house expertise and specialist advisors
- includes Traditional Knowledge
- considers public concern
- parties reach conclusions on impacts, significance, recommended measures

## Hearings



## At the End of the Day...

- Communities get more say on the projects that affect them
- worst projects never get off drawing board
- projects get designed better from the beginning

## Board Decision + Report of EA

- Board determines **significance** of impacts
- Recommends to Minister:
  - Approve the project (usually with measures)
  - Reject the project
  - Do EIR- Highest level of assessment (Review Panel)



## At the End of the Day...

- Conflicts are resolved
  - commitments can address impacts
  - projects get better community-buy in
  - less non-technical risk
- new mitigations prevent or reduce impacts
- follow-up programs track issues
- unacceptable projects can be rejected



# Land and Water Boards of the Mackenzie Valley – an Overview.



Rebecca Chouinard  
Regulatory & Technical Director, MVLWB

MVRMA Workshop  
Yellowknife, 2016



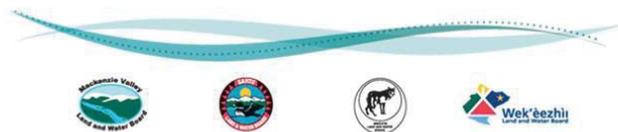
Mackenzie Valley Land and Water Board

# There are 4 Land and Water Boards in the Mackenzie Valley

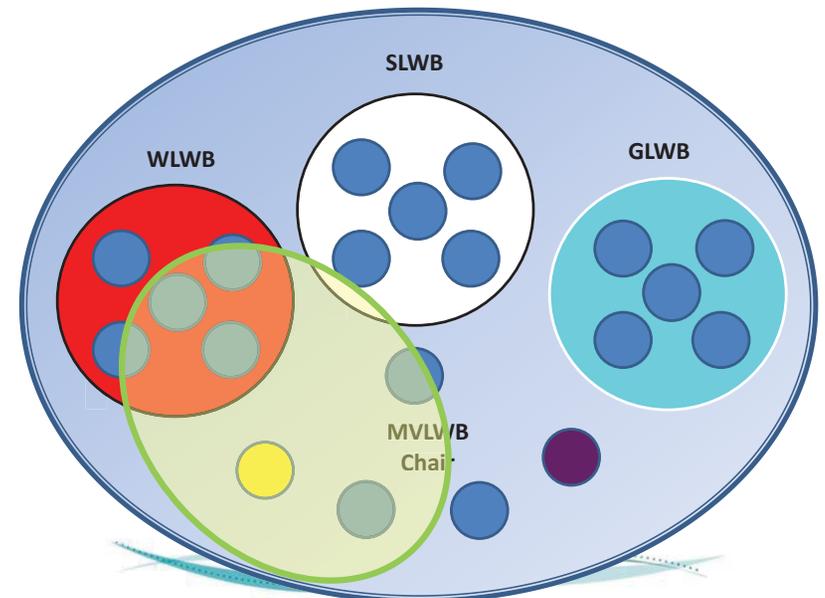


# Presentation Outline

- Land and Water Board Background and Responsibilities
- The Legislation & Recent Changes
- The Regulatory Process
- Land and Water Board Initiatives/Resources



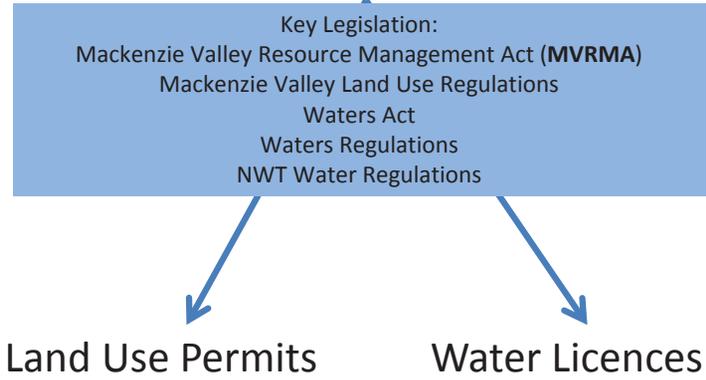
Mackenzie Valley Land and Water Board



Mackenzie Valley Land and Water Board

# What do the Land and Water Boards do?

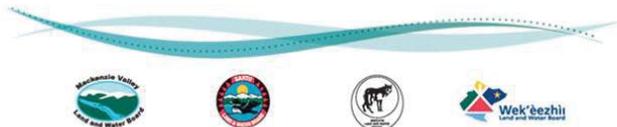
The Boards regulate the use of land and water and deposit of waste



# When do you need a Permit?



# Regulatory Process (a snapshot)

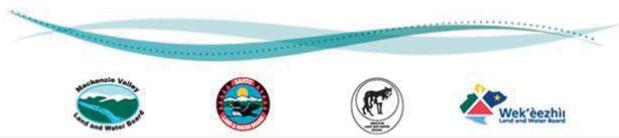


# When do you need a Water Licence?



# The Regulatory Process

(for Land Use Permits & Water Licences)



Mackenzie Valley Land and Water Board

## Application Review

### Land Use Permit

### Water Licence

Application deemed complete

**Application sent out for review and comment**

Preliminary screening – may get sent for Environmental Assessment

Public hearing unlikely

Public hearing likely (for Type A's)

<42 days for Board decision

**New: Timelines (9 months)**  
\*does not include proponent time



Mackenzie Valley Land and Water Board

## Pre-Application

### Land Use Permit

### Water Licence

Engagement – inform affected parties and seek feedback

Collect necessary site and/or baseline information

Contact Land and Water Board staff

Right of Access – obtain permission from landowner



Mackenzie Valley Land and Water Board

## Issuance

### Land Use Permit

### Water Licence

They will include conditions to minimize impacts:

Methods & Timing

Studies/Reports/Plans

Protection of habitat, historic/ archaeological/burial sites

Monitoring / Effluent Quality Criteria (EQC)

Closure and Reclamation

Security Deposits

Term up to 5 years

**New: Term up to life of project**



Mackenzie Valley Land and Water Board

## Administration

### Land Use Permit

### Water Licence

Compliance enforced by Inspectors  
(Canada / **New: GNWT**)

Amendments and renewals possible

Management plans: review and approval

Ongoing reporting of activities



Mackenzie Valley Land and Water Board

## Land and Water Board Resources

- Consultation and Engagement Policy and Guidelines
- Closure and Reclamation Guidelines (w/AANDC)
- Water and Effluent Quality Management Policy
- Waste Management Guidelines
- Standard Land Use Permit Conditions
- Guide to Land Use Permitting Process



Mackenzie Valley Land and Water Board

## Closure

### Land Use Permit

### Water Licence

Final closure plan due before end of operations

Preliminary, interim and final Closure and Reclamation Plans may be necessary

MVLURs (S. 32)

WA (S. 35) and MVRMA (S. 72.11)



Mackenzie Valley Land and Water Board

## Land and Water Board Resources (coming soon....)

- **Municipal Landfill Guidelines (w/GNWT)**
- Municipal Operation & Maintenance Templates (w/ GNWT)
- **Standard Water Licence Conditions**
- **Guide to Water Licensing Process**

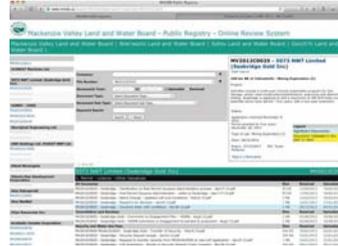


Mackenzie Valley Land and Water Board

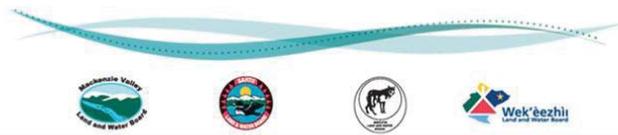
# Website

[www.mvlwb.com](http://www.mvlwb.com)

- Online Review System
- Online Registry



- Coming Soon – **ONLINE APPLICATIONS**



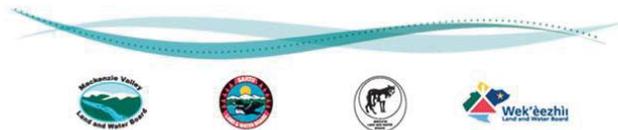
Mackenzie Valley Land and Water Board



## The Wek'èezhì Renewable Resources Board & Integrated Resource Management System

Jody Pellissey, WRRB Executive Director  
MVRMA Workshop, Yellowknife  
January 12, 2016

# THANK YOU



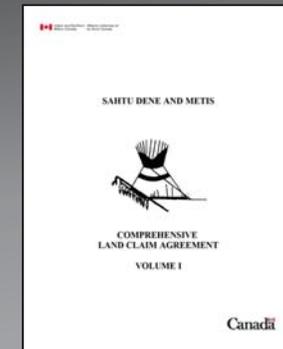
Mackenzie Valley Land and Water Board



## Renewable Resource Boards

Gwich'in Renewable Resources Board

Sahtú Renewable Resources Board





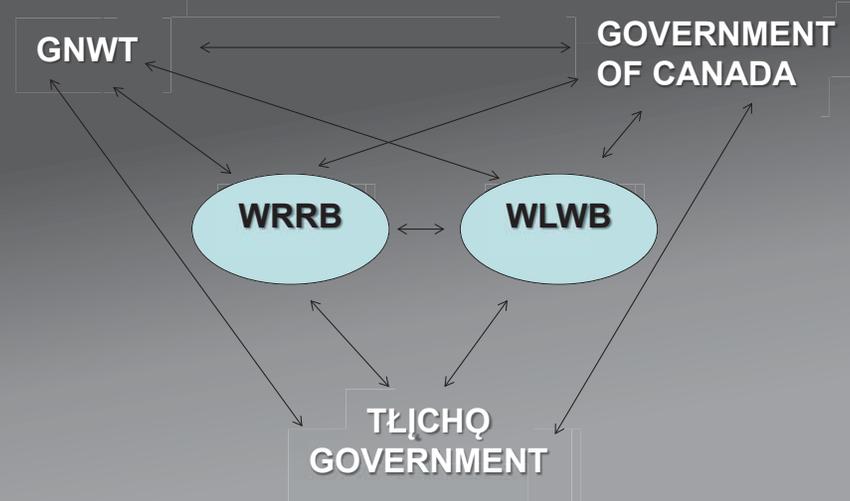
## Considerations

- Inter-relatedness of wildlife, land and people
- Conservation and precautionary principle
- Use of best information available to inform decision making
  - Tłı̄chǫ knowledge
  - Scientific knowledge
  - Expert opinion



*“Strong Like Two People”*

## Co-Management in Wek'èezhì



## Integrated Resource Management System

### MVRMA Section 64 (2) Wildlife Resources

*“... shall seek and consider the advice of the renewable resources board respecting the presence of wildlife and wildlife habitat that might be affected by a use of land or waters or a deposit of waste...”*



## Other Key Interactions



### Mackenzie Valley Land & Water Board

- Provide advice on trans-boundary applications

### Mackenzie Valley Environmental Impact Review Board

- Provide advice on environmental assessments
- Information requests

## Thank you



WRRB contact info:  
102A, 4504-49th Ave, Yellowknife  
jpellissey@wrrb.ca, 873-5740

## Inspections, Compliance & Enforcement

- Mackenzie Valley Resource Management Act and the Waters Act
  - The two key instruments that allows for development to occur in most the NWT
  - Accountability in ensuring due diligence is carried out when applying for authorizations
  - Ensures community concerns and environmental challenges are heard
  - Boards to set terms and conditions



## MVRMA Compliance Inspections and Enforcement

January 12<sup>th</sup>, 2016

## Inspections, Compliance & Enforcement

- Application and review
- Risk Assessment
- Compliance tools
  - Inspections
  - Directions/orders
  - Investigations/prosecutions



## Inspections, Compliance & Enforcement

- ❑ Key GNWT authorities under the Act include
  - ❑ Designation - S 84(1) MVRMA & 65(1) WA.
  - ❑ Inspector powers - S 85(1) MVRMA & 66(1) WA
  - ❑ Inspectors Orders & Directions- S 86(1)&(2) MVRMA & 67(1) WA.
  - ❑ Non compliance with Order - S 86.2(1) MVRMA & 67(3) WA.



## Inspections, Compliance & Enforcement

- ❑ Application and Review
  - ❑ DoL and ENR review all applications submitted to the Board
  - ❑ Request information and clarification.
  - ❑ Communicate our concerns to the Board
  - ❑ Makes recommendations with respect to terms and conditions



## Inspections, Compliance & Enforcement

- ❑ Key DoL authorities under the Regulations include
  - ❑ Requirement to give time to comply – S 34(1)
  - ❑ Ability to order cessation – S 34(1)



## Inspections, Compliance & Enforcement

- ❑ Application and Review
  - ❑ On more complex projects...
  - ❑ Participation in Environmental Assessment
  - ❑ Participation at hearings and public proceedings



## Inspections, Compliance & Enforcement

- ❑ Risk Assessment and Inspection Frequency
  - ❑ A severity and probability rating
  - ❑ An overall numeric risk rating
  - ❑ Where the file fits with respect to the low, moderate or high risk categories
  - ❑ And a baseline inspection frequency



## Inspections, Compliance & Enforcement

- ❑ Risk Assessment and Inspection Frequency
  - ❑ Probabilities (or frequencies)
    - ❑ also weighted from a low to very high potential of something occurring
    - ❑ It is Jury driven as well based on their knowledge of known activities that normally occur on projects



## Inspections, Compliance & Enforcement

- ❑ Risk Assessment and Inspection Frequency
  - ❑ severity
    - ❑ potential impact on the environment
    - ❑ potential impact on people
    - ❑ potential impact on property or traditional lifestyle
    - ❑ potential impact on financial or legal responsibilities



## Inspections, Compliance & Enforcement

- ❑ Risk Assessment and Inspection Frequency

**Risk Rating**

Category:	Severity:	Probability:	Overall Rating:	Risk Rating:	Inspection Frequency:
QUARRY SITE - Existing	2	4	8	Moderate	>>2 PER YEAR

**Risk Rating**

Category:	Severity:	Probability:	Overall Rating:	Risk Rating:	Inspection Frequency:
QUARRY SITE - New	3	4	12	High	01-WEEKLY

**Comment / Justification:**  
History of the proponent as well as the volume of material quarried warrants more frequent inspections.



## Inspections, Compliance & Enforcement

- ❑ Risk Assessment and Inspection Frequency
  - ❑ Modification of inspection frequency
    - ❑ Environmental conditions
    - ❑ Environmental sensitivity
    - ❑ Project challenges
    - ❑ Record of compliance (to date or historical)



## Inspections, Compliance & Enforcement

- ❑ Compliance
  - ❑ Inspections
    - ❑ conducted by DoL and ENR personnel
    - ❑ Primary mode of education
    - ❑ Primary mode to assess project status
    - ❑ Primary mode to assess environmental conditions and challenges in direct relation to the project activities
    - ❑ The time and the place to provide Departmental feedback to the permittee/licencee on their performance



## Inspections, Compliance & Enforcement

- ❑ Compliance
  - ❑ Inspections
    - ❑ In person
  - ❑ Inspection reports
    - ❑ Unacceptable noted conditions
  - ❑ Directions/orders/stop work/suspension
  - ❑ Investigation and prosecution



## Inspections, Compliance & Enforcement

- ❑ Compliance
  - ❑ Inspections
    - ❑ Do we achieve the inspection frequencies identified in the plans? Yes
    - ❑ Do we inspect 100% of the open and active files in the NWT? No
    - ❑ The intent of the risk assessment model described in the previous slides, is to ensure a consistent approach is employed in identifying and prioritizing the projects that need to see the greatest frequency of inspections.



## Inspections, Compliance & Enforcement

### ❑ Compliance

- ❑ Inspection Reports are the primary vehicle used by Inspectors to:
  - ❑ Communicate to the licensee/permittee
  - ❑ Stipulate expectations where necessary
  - ❑ Communicate to issuing authorities such as the Boards
  - ❑ Communicate to other regulating authorities



## Inspections, Compliance & Enforcement

### ❑ Compliance

#### ❑ Directions and Orders

- ❑ When Inspections and instruction within the reports do not achieve the desired results, our ability to issue direction and orders is often exercised.
- ❑ They are issue specific
- ❑ A separate document from an inspection report
- ❑ Have a clear timeline to comply within
- ❑ Copied to the respective Board



## Inspections, Compliance & Enforcement

### ❑ Compliance

#### ❑ Inspection Reports

[MV2014X0027\\_March19-2015\\_Prohibition&GBRiver.pdf](#)

[MV2005L4-0008 Bluefish Inspection 16-Jul-15 .pdf](#)



## Inspections, Compliance & Enforcement

### ❑ Compliance

#### ❑ Stop Work Orders and Suspensions

- ❑ When previous attempts to gain compliance fail, Inspectors have the ability to order the cessation of the operation, or any part of it.
- ❑ On the Inspectors satisfaction that compliance has been achieved, he or she may lift the order to allow the operation to proceed.



## Inspections, Compliance & Enforcement

### ❑ Compliance

#### ❑ Investigation and prosecution

- ❑ Generally the tool of last resort when other methods of gaining compliance have been exhausted but;
- ❑ The tool of choice in situations where significant negligence has occurred or;
- ❑ In situations where serious environmental impacts have occurred.



## Inspections, Compliance & Enforcement

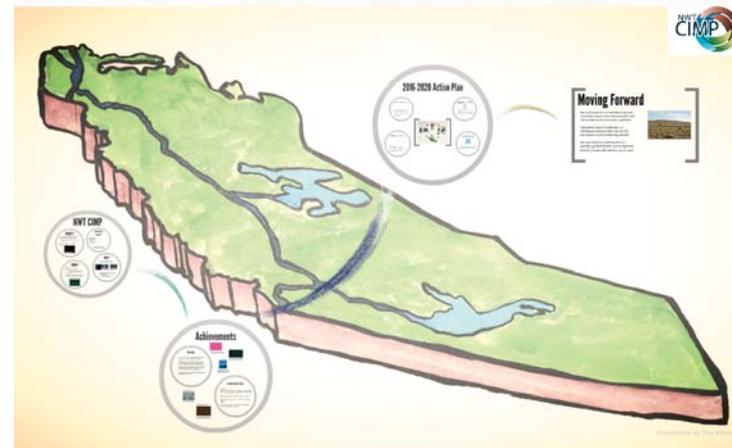
### ❑ In Conclusion

- ❑ The inspections, compliance and enforcement programs the GNWT is responsible for is healthy, robust and working well.
- ❑ Is it perfect? Probably not
- ❑ Are we making it better? Every opportunity we get.

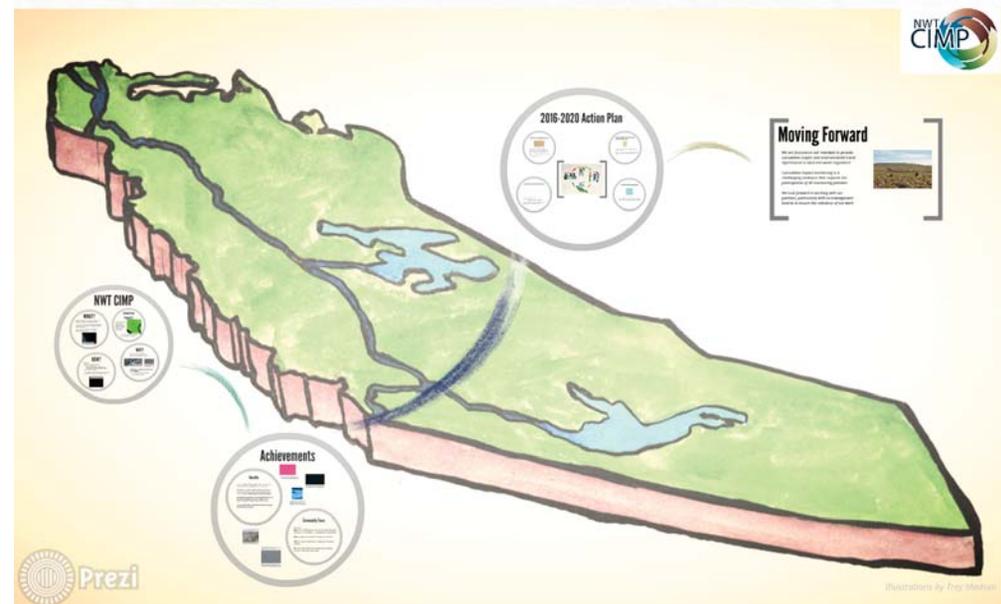
**THANK YOU**



## NWT Cumulative Impact Monitoring Program



## NWT Cumulative Impact Monitoring Program



# NWT CIMP

## WHAT?

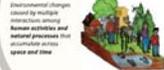
NWT CIMP conducts environmental monitoring to support **better land and water resource decision-making**

We coordinate, conduct and fund the collection, analysis and reporting of information related to **cumulative impacts and environmental trends**

Since 2012, focused on **caribou, water and fish in development "hot spots"**



## Cumulative Impacts?



Environmental changes caused by multiple activities and natural processes that accumulate across space and time

Cumulative impacts are a challenge to monitor, understand and manage

## WHY?

- Better resource management
- Build partnerships and capacity



Obligations of **settled land claims and Part 6 MVRMA**

- cumulative impact monitoring
- environmental trends

## HOW?

- Partnerships:
- GNWT is the responsible authority
  - 29 partnership agreements in 2014/15:
    - universities, Aboriginal organizations, co-management boards, governments, NGOs
  - \$1.8M in funding annually

- In consultation with First Nations and Tlicho Government
- Using science, TK and other sources of knowledge



# Cumulative Impacts?

Environmental changes caused by multiple interactions among **human activities and natural processes** that accumulate across **space and time**



Cumulative impacts are a challenge to monitor, understand and manage

# WHAT?

NWT CIMP conducts environmental monitoring to support **better land and water resource decision-making**

We coordinate, conduct and fund the collection, analysis and reporting of information related to **cumulative impacts and environmental trends**

Since 2012, focused on **caribou, water and fish in development "hot spots"**



Prairie Creek Mine public hearing

# HOW?

Partnerships:

- GNWT is the responsible authority
- 29 partnership agreements in 2014/15:
  - universities, Aboriginal organizations, co-management boards, governments, NGOs
- \$1.8M in funding annually

- In consultation with First Nations and Tlicho Government
- Using science, TK and other sources of knowledge



NWT CIMP Steering Committee

# WHY?

- Better resource management
- Builds partnerships and capacity



Fortune NICO Mine



Local lab assistant in Norman Wells

## Obligations of settled land claims and Part 6 MVRMA

- cumulative impact monitoring
- environmental trends



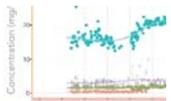
# Results

Since 2010: NWT CIMP has funded about 30 projects for \$1.5M each year, leveraging funds at a ratio of 3:1

NWT CIMP is one of the territory's best sources of high quality information to support evidence-based decision making. **16 peer-reviewed papers published last year.**

**NWT CIMP has identified 18 environmental trends and analyzed cumulative impacts in 7 regions.** Many projects contribute to environmental baseline data

**Last year NWT CIMP contributed information directly to 9 regulatory processes**



Water quality trends on North Slave rivers. Contributed to 2015 GNWT SOE report



Cumulative development strategies



# Achievements

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## Community Focus

- Last year:
- **80%** of NWT CIMP projects were led by or partnered with Aboriginal, community or co-management organizations
  - **80%** of projects responded to a community concern
  - **66%** of projects created new or enhanced community capacity
  - **48** results presentations were given by project leads directly to interested communities



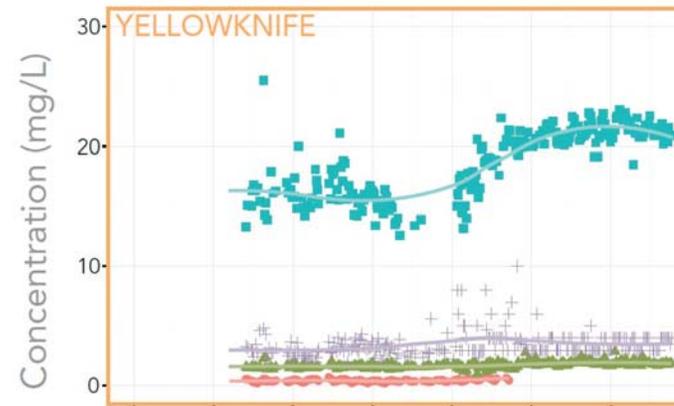
Treated & held and the outcome



Comprehensive effects of all water quality management or baseline data



# MAJOR IONS



Water quality trends on North Slave rivers. Contributed to 2015 GNWT SOE report





Cumulative impacts of diamond mines on water quality in Lac de Gras. **Jay Project**



Cumulative effects of oil and gas development on Tathlina Lake. **Strategic Water License renewal**



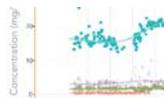
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Water quality trends on North  
Contributed to 2015 GNWT



Cumulative  
development  
Strategic

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# Aquatic health monitoring in the Central Mackenzie Valley, Sahtu region



**Trained 3 field and lab assistants**



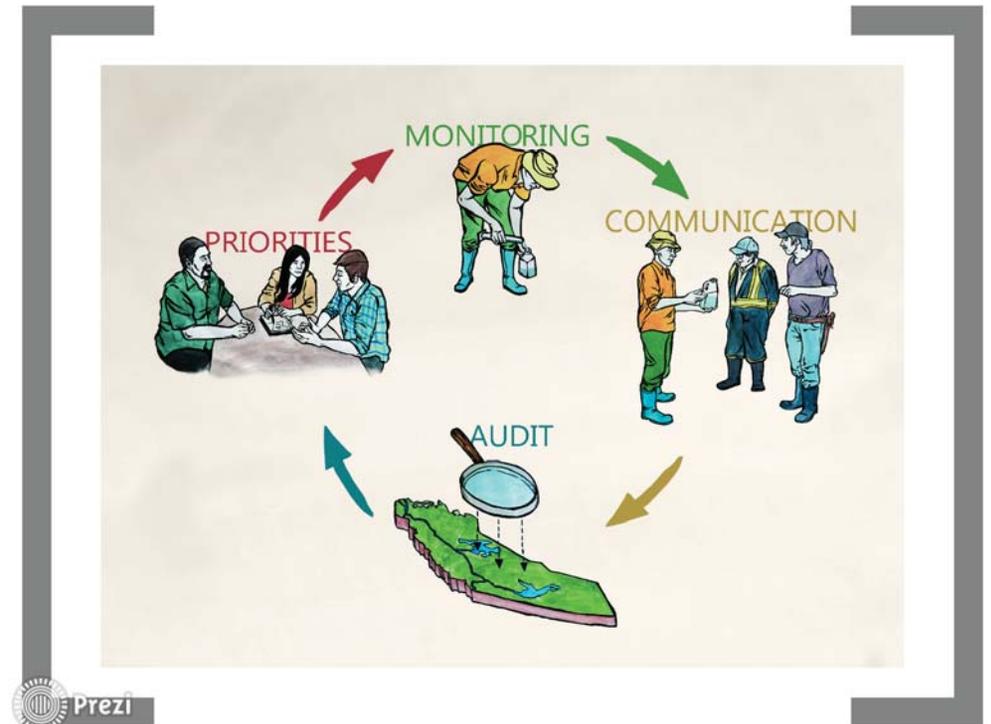
# 2016-2020 Action Plan



# Cumulative effects of oil and gas development on Tathlina Lake.



**Environmental monitoring, project management and field logistics training**



### 1. Work with Partners to Understand Key Monitoring Priorities



- a) Working with regulators to understand cumulative impact monitoring priorities for **caribou, water, and fish - NEW BLUEPRINTS**
- b) Meaningful involvement of Aboriginal partners
- c) Increased support for TK



### 3. Communicate Results to Decision-makers and the Public



- a) NWT CIMP monitoring results are accessible to communities and the public  
**NWTCIMP.ca & DISCOVERY PORTAL**
- b) Relevant NWT CIMP-supported monitoring is reported **directly to environmental decision makers**



### 2. Coordinate, Conduct, and Fund Cumulative Impact Monitoring, Research and Analysis



- a) Address high priority **cumulative impact** questions for caribou, water, and fish
- b) Determine **trends in environmental quality**, potential contributing factors, and the significance of trends



### 4. Facilitate the NWT Environmental Audit



- a) The NWT Environmental Audit is conducted every 5 years, in accordance with the MVRMA

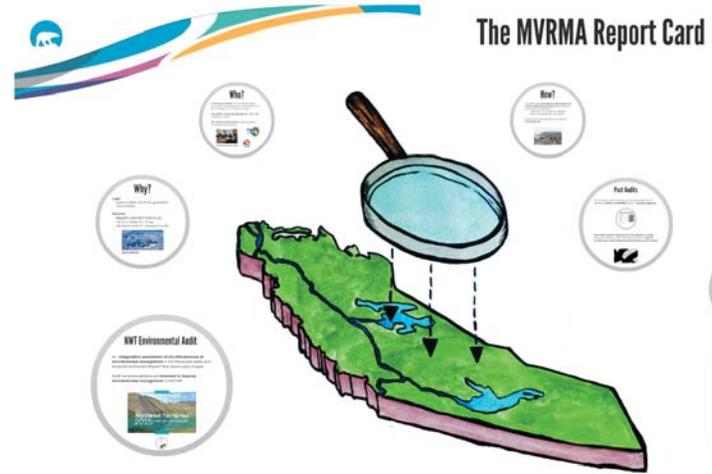


# Moving Forward

We are focused on our mandate to provide cumulative impact and environmental trend information to land and water regulators

Cumulative impact monitoring is a challenging endeavor that requires the participation of all monitoring partners

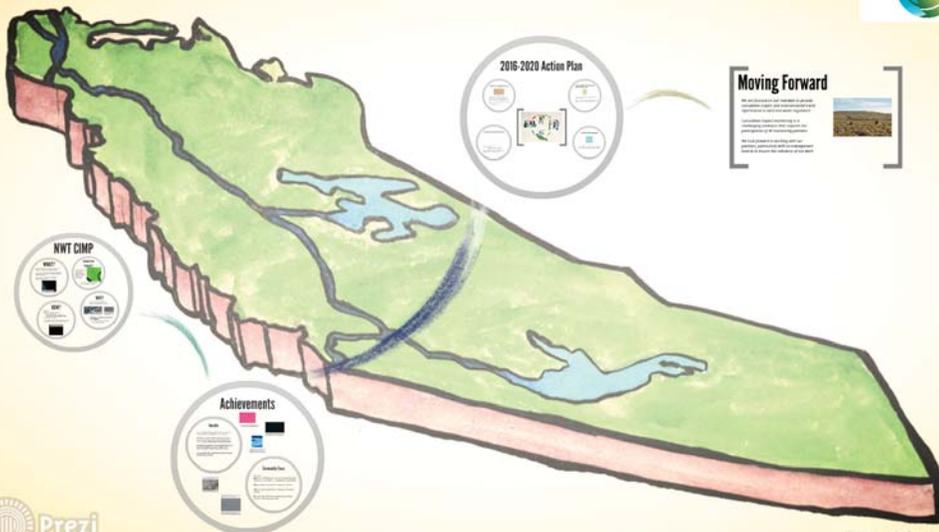
We look forward to working with our partners, particularly with co-management boards to ensure the relevance of our work



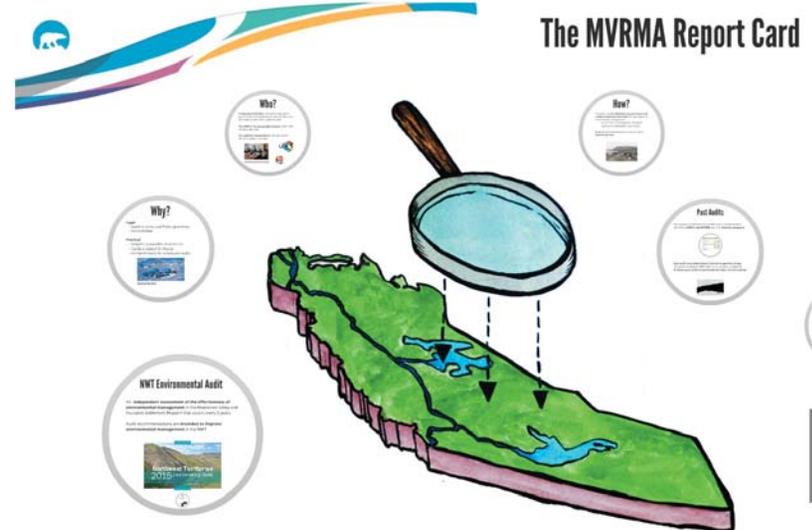
Illustrations by Trey Mathew



## NWT Cumulative Impact Monitoring Program



Illustrations by Trey Mathew



Illustrations by Trey Mathew



## NWT Environmental Audit

An **independent assessment of the effectiveness of environmental management** in the Mackenzie Valley and Inuvialuit Settlement Region\* that occurs every 5 years

Audit recommendations are **intended to improve environmental management** in the NWT



## Why?

### Legal:

- Gwich'in, Sahtu, and Tlicho agreements
- Part 6 MVRMA

### Practical:

- Supports sustainable resource use
- Can be a catalyst for change
- Sets benchmarks for subsequent audits



Gahcho Kué mine



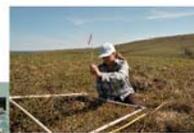
## Focus

The audit examines four key areas:

- effectiveness of the MVRMA\* regulatory system
- effectiveness of cumulative impact monitoring
- environmental information gaps
- response to previous audit recommendations



Map of land and water boards of the Mackenzie Valley



Environmental monitoring in the Gwich'in Settlement Area



## Who?

A **Steering Committee** of 8 regional Aboriginal governments and organizations, and the Territorial and Federal government guide the audit

The **GNWT is the Responsible Minister**. NWT CIMP facilitates the audit

The **auditor is independent** of all audit parties. The 2015 auditor is Arcadis



Audit Steering Committee meeting



# How?

The auditor widely **distributes questionnaires** and **conducts follow-up interviews** with participants in environmental management:

- *Government, co-management, Aboriginal government/organization, communities*

Regional and community input is also sought in **community visits**



# Categories of recommendations

- *Land use planning*
- *Regulation*
- *Environmental Assessment (EA)*
- *EA process*
- *Board governance & operations*
- *Capacity*
- *Consultation*
- *Funding*
- *Traditional Knowledge*
- *NWT CIMP*



# Past Audits

The majority of 2005 and 2010 audit recommendations were directed at **AANDC and MVEIRB** and fit in **10 broad categories**



**Past audit recommendations have led to positive change** (increased funding for NWT CIMP, land use plans completed).  
**In many cases audit recommendations have not led to action**



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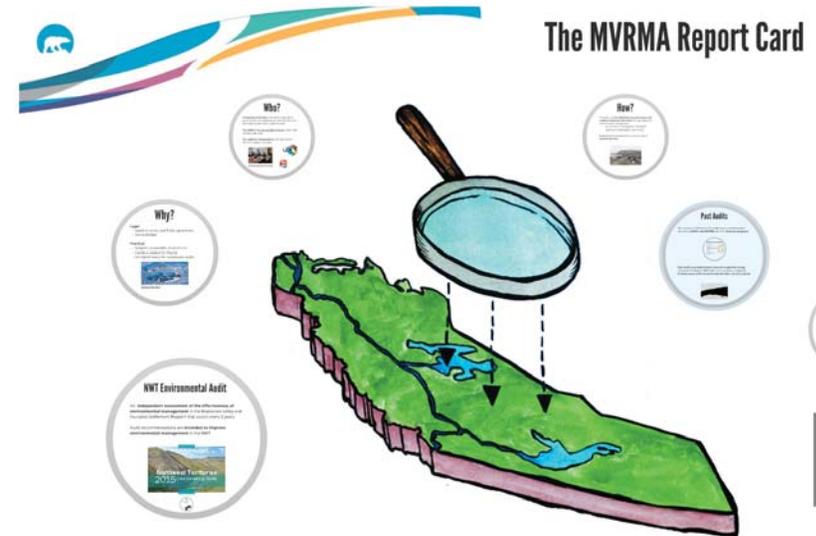


# New in 2015

Audit parties **respond to recommendations in the report**

Review of environmental information gaps to **focus on caribou, water and fish**

The general public could participate using an **online survey** linked to a Facebook page



## What's Next?

**First draft** of 2015 audit released for comment in November. Community visits still underway

**Second draft** to be released for response to recommendations in early February

GNWT **public release** of audit forecast for early FY 2016/17

Followed by GNWT **communication** of audit recommendations and responses



## MVLWB and Review Board Policy Tour

January 2016

*MVRMA Workshop*

Brett Wheler  
Senior Policy Advisor



Mackenzie Valley  
Review Board



## Outline

1. Purpose of Board policies and guidelines
2. Guidance on engagement
3. Guidance on Board processes
4. Guidance on technical content and methods
5. Looking ahead

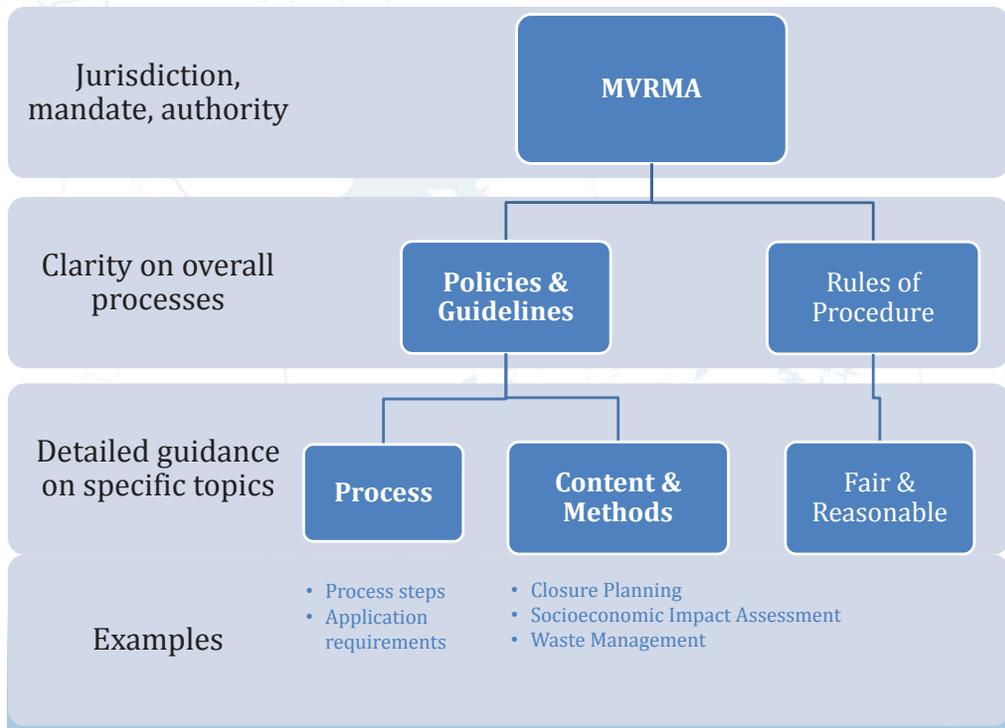
## Board Policies and Guidelines: Overall Goals

- Facilitate effective and efficient review processes!
- Explain Board expectations
  - More clarity, less uncertainty...
- Proponents will **know what to expect** before they apply
- Reviewers and stakeholders will **understand how they can contribute** to Board decision-making processes

## Introduction

- Integrated resource management system
  - Everyone has a role
- Boards publish guidance to:
  - Clarify expectations
  - Explain roles
- Understanding increases effectiveness of your participation

...and co-management as a whole!



# Guidance on Engagement



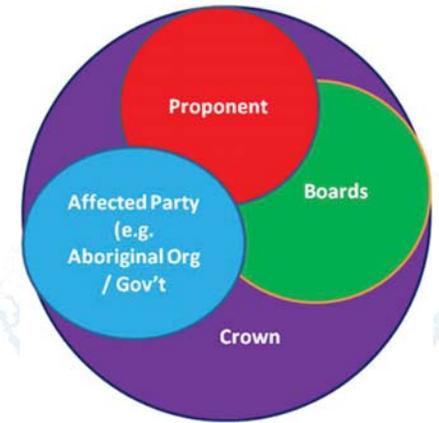
Mackenzie Valley  
Review Board

- **Crown** is ultimately responsible for ensuring the Duty to Consult is met

*Haida Nation v. British Columbia (Minister of Forests), 2004 SCC 73*

- **Proponent and administrative tribunal (Board)** consultation processes contribute to the discharge of the duty

*Taku River Tlingit First Nation v. British Columbia (Project Assessment Director), 2004 SCC 74*



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## MVLWB Policy and Guidelines for Engagement and Consultation

- All encompassing: application, EA, licence/permit
- Addresses process and content
- **Purpose:** to provide clarity
  - Pre-submission engagement requirements
  - Life of project engagement planning and action
  - Implementation of the Boards' responsibilities for statutory consultation under the MVRMA

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Review Board



## Benefits of Engagement

- Better understanding of social, cultural, and environmental conditions, including local and traditional knowledge
- Better understanding of views, concerns, interests, and expectations
- Potential adaptation and improvement of the project
- More effective participation in Board processes

Mackenzie Valley  
Review Board



## Engagement & Consultation Policy: Guiding Principles

- **Shared Responsibility** – coordinated responsibilities of Proponent, Canada, NWT, Aboriginal Gov/org, Boards
- **Appropriate disclosure** – all relevant info made available in timely manner and consider culture, language, and tradition of affected party
- **Inclusiveness** – potentially affected, incl. youth, elders, women given opportunity to be involved
- **Reasonableness** – all parties must be reasonable when setting expectations and enter in spirit of cooperation

## Guidance on Permitting, Licensing, and EIA Processes



## Engagement Guidelines: Expectations of Proponents

- Make genuine effort to seek out and understand parties' concerns
- Consider opportunities to mitigate impacts
- Scale engagement with activity and level of interest Appendix B
- Respond to concerns and work with affected parties to jointly resolve issues



## Process Guidance: Permitting & Licencing

- Guide to the Land Use Permitting Process
- Guide to WL Process (to be updated)
- Water Use Fee Policy
- Late comment policy
  - Linked to RoP
- Standard Land Use Permit Conditions Template
- Document submission standards
- GIS submission standards
- Online Review System User Manual

## EA Process Guidance

- **EIA Guidelines**

- Purpose: Help all parties understand the EIA process and its components
- Review Board's overarching guideline
  - Reflects the law and best practices
- Explains how impact assessment steps are implemented
  - Scoping issues, Identifying baseline conditions, Predicting impacts, Identifying mitigations, Evaluating significance, Applying mitigation and monitoring

## EA Process Guidance

- **Draft EA Initiation Guideline**

- Goals: thorough project description, informed scoping, EA focus, limited duplication
- Draft Guideline describes types of information and level of detail required:
  - Project Description
  - Description of Environment
  - Preliminary Impacts and Mitigations
  - Engagement Record and Plan
- Draft Guideline to be distributed for review soon

## EA Process Guidance

- **EIA Overview Booklet**

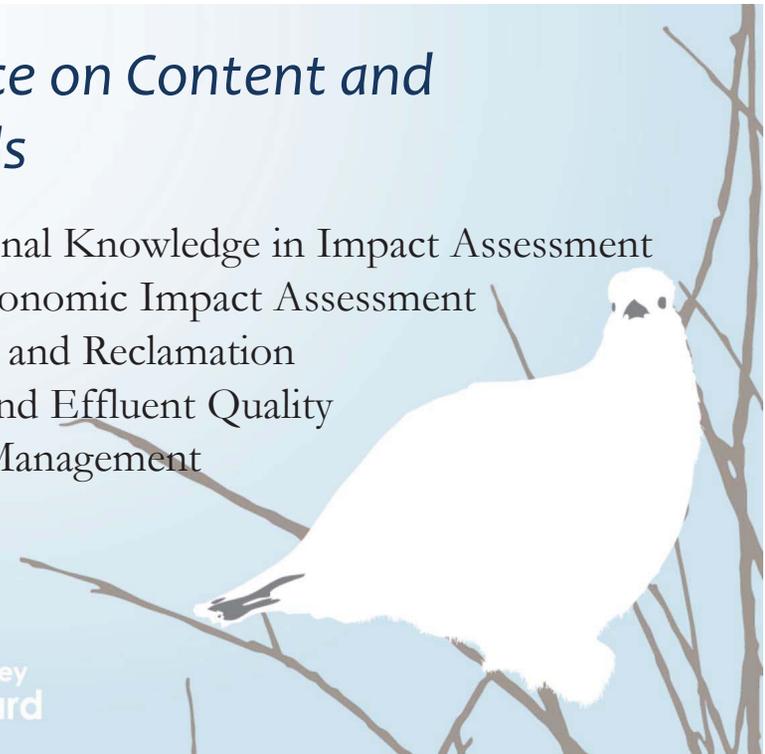
- Summary
- Available in many languages

- **Review Board reference bulletins**

- Timely guidance on new, evolving, or one-off issues

## Guidance on Content and Methods

- Traditional Knowledge in Impact Assessment
- Socioeconomic Impact Assessment
- Closure and Reclamation
- Water and Effluent Quality
- Waste Management



## EA Methods: Traditional Knowledge Guidelines

*"In exercising its powers, the Review Board shall consider any traditional knowledge and scientific information that is made available to it" (MVRMA s. 115.1)*

- **Purpose:** Incorporating TK contributes to a fair and balanced process, encourages public participation, and respects the value and benefits of TK for good environmental decision-making
- Guideline emphasizes importance of:
  - Context and cultural sensitivity
  - Gathering TK (community protocols & policies)
  - Relationships (Agreements, Prior Informed Consent)
  - Relevance and appropriateness

## EA Methods: SEIA Guidelines

- **Purpose:** to help developers and parties identify and propose mitigation for potential socio-economic and cultural impacts
- The *SEIA Guidelines* help developers and parties:
  - Understand and implement key concepts and goals of SEIA
  - Understand how SEIA relates to the requirements of the MVRMA
  - Understand the roles and responsibilities of all parties
  - Understand the Review Board's expectations for conducting SEIA
  - Access tools, methods, and other SEIA resources

## EA Methods: Socioeconomic Impact Assessment (SEIA) Guidelines

*Guiding Principle of EIA: "...the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley..." (MVRMA s.115)*

- SEIA is used to identify and evaluate the potential socio-economic and cultural impacts of a proposed development on the well-being of people, their families, and their communities
- SEIA follows standard impact assessment steps

## MVLWB/AANDC Guidelines for the **Closure and Reclamation** of Advanced Mineral Exploration and Mine Sites in the Northwest Territories

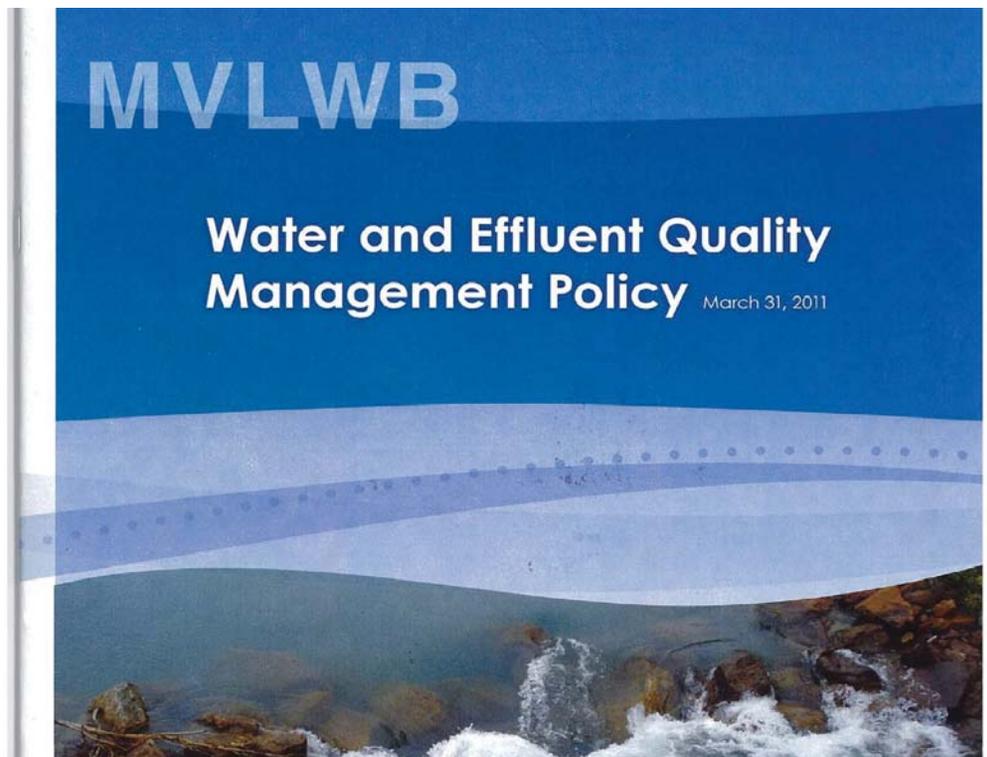
*Adopted by GNWT (interim)*

### **Objectives:**

- Clarify roles and expectations
- Communicate fundamental C&R concepts
- Outline requirements for CRP process & content
- Provide a single guidance document from AANDC & the Land and Water Boards

## MVLWB/AANDC Guidelines for the **Closure and Reclamation** of Advanced Mineral Exploration and Mine Sites in the Northwest Territories

- Part 1 – Expectations for Closure and Reclamation Planning
- Part 2 – Template for Preparing a Plan
- Part 3 – Technical Considerations



## MVLWB/AANDC Guidelines for the **Closure and Reclamation** of Advanced Mineral Exploration and Mine Sites in the Northwest Territories

- Approach to Closure and Reclamation for Mines within the Mackenzie Valley
- All three stages of CRP development
  - Conceptual (for initial application and EIA): planning for closure, objectives and end land use inform mine design....
  - Interim (plan is refined throughout operations)
  - Final (all details finalized prior to end of operations)
- Temporary and final closure

## Water and Effluent Quality Management Policy

- Policy is used by Boards during water licensing to:
  1. Evaluate water quality objectives
  2. Consider best available technology
  3. Set Effluent Quality Criteria
- The Boards' **Guiding Principles**
  - e.g. sustainable development, precaution
- **Information** requirements
- **Objectives** for regulating the deposit of waste...



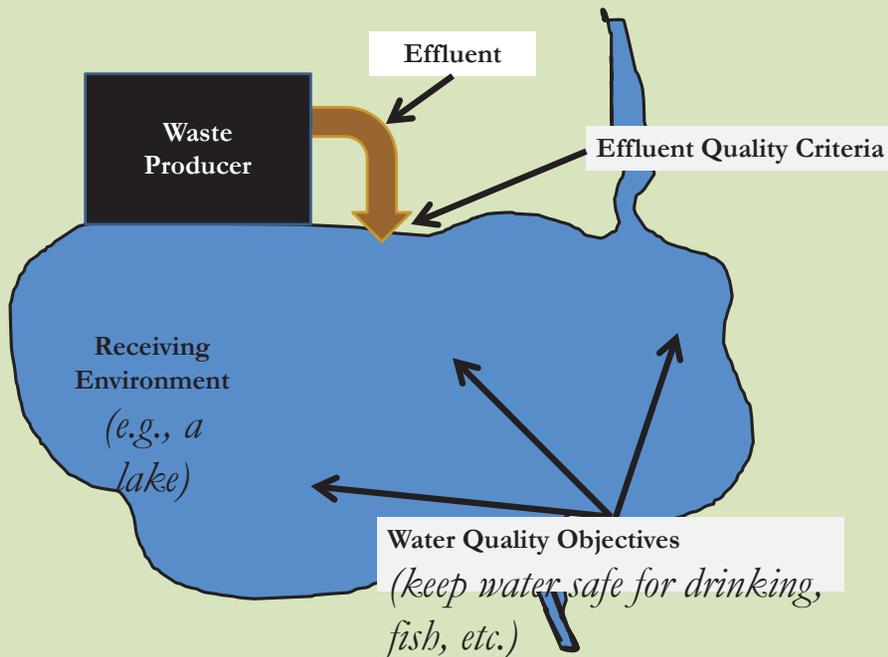
**2** Minimize the amount of waste deposited to the environment



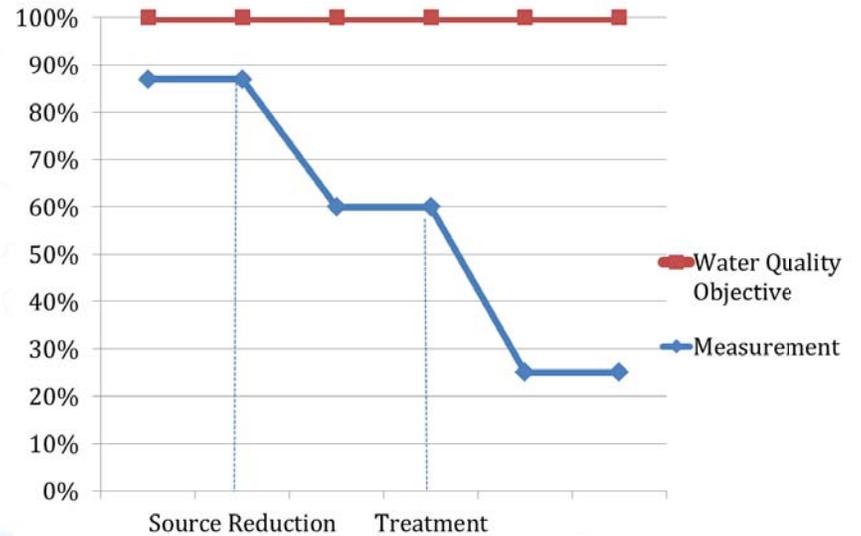
Review Board



**How to maintain water quality for current and future water uses**



**How to minimize pollution**



Mackenzie Valley Review Board



# MVLWB

## Guidelines for Developing a Waste Management Plan March 31, 2011



## Guidelines for Waste Management Plans

- Proponents must now submit a waste management plan to the appropriate Board as part of their application for both land use permits and water licences in order for the application to be deemed complete.

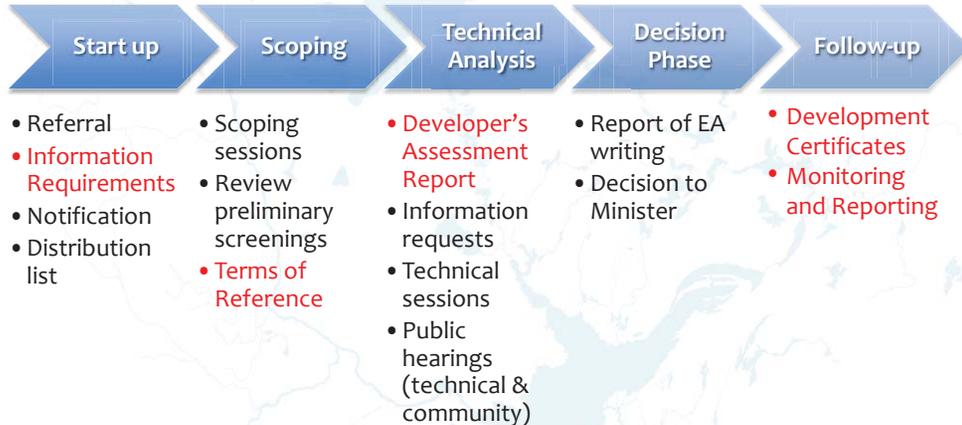
## Guideline for Waste Management Plans

- **Purpose:** establish Board's expectations for waste management plans & facilitate consistency
- Promotes waste management hierarchy
- Provides tools for creating a plan
  - guidance but not prescriptive
  - **template**

## Looking Ahead



# Looking Ahead: Overview of New & Future EA Policy Initiatives



Other initiatives to enhance clarity and effectiveness throughout the process

## So what...?

- Integrated resource management system
  - Everyone has a role
- Boards publish guidance to:
  - Clarify expectations
  - Explain roles
- Understanding increases effectiveness of your participation... and the whole system
  - Guidelines are tools for you

## Looking Ahead

- MVLWB and Review Board
  - Updating Rules of procedure
  - Prioritizing implementation and keeping guidance up to date
  - Collaboration and outreach to support the system of integrated resource management

## Where to find more information:

- [www.mvlwb.com](http://www.mvlwb.com) (or wlwb, slwb, glwb)
  - Resources
    - Policy and Guidelines
- [www.reviewboard.ca](http://www.reviewboard.ca)
  - Process
    - Guidance Documentation
- Contact Board staff