

Practitioners Workshop New Tools for New Rules

Agenda

Feb 16 – 17, 2015

Yellowknife

Katimavik Rooms, Explorer Hotel

8:30 – 4:00

Monday Feb 16

Time	Topic	Presenters
8:15 – 9:00	REGISTRATION	
9:00 – 9:20	Introduction to the Workshop Devolving Government – Evolving Review Board <ul style="list-style-type: none"> Welcome Opening Remarks Overview of Workshop 	Mark Cliffe-Phillips and Alan Ehrlich
9:20 – 9:40	The EA Process in Brief	Alan Ehrlich
9:40 – 10:00	The Mighty “Might Test”	Alan Ehrlich
10:00 – 10:30	The Review Board – Adapting to Change Mark will describe how the Review Board is adapting the EA process to accommodate changes in the MVRMA and to reflect best practice. This will include a process overview, legislated changes, implications of devolution, project certificates and timelines.	Mark Cliffe-Phillips
10:30 – 10:45	Refreshments and Stretch	

MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD

10:45 – 11:15	GNWT – Devolution: The Role of the GNWT in EA	Lorraine Seale Dept. of Lands
11:15 – 11:45	Government of Canada- Continuing Roles in EA	David Alexander, NPMO
11:45 – 1:15	Lunch (not provided)	
1:15 – 1:45	The Cumulative Impact Monitoring Program and the EA Process	Julian Kanigan, CIMP
<p>There are five workshops which <u>repeat in each</u> of five slots- two on Day 1 and three on Day 2. Practitioners will rotate through all five workshops.</p> <p>Workshop 1 –Adequacy vs. Conformity (with Alan Ehrlich)</p> <ul style="list-style-type: none"> This workshop will explore the similarities and differences between conformity reviews (done in past EAs) and adequacy reviews (the new and improved approach to initially evaluating Developer's Assessment Reports). <p>Workshop 2 – Improved Scoping and Terms of Reference (with Simon Toogood)</p> <ul style="list-style-type: none"> This workshop will provide an overview of how scoping occurred in the past and a detailed discussion of how the Review Board scopes the issues and the development now. Simon will include innovations such as the <i>Developer's Proposed Terms of Reference</i>, and information requirements for project descriptions. <p>Workshop 3 – Development Certificates (with Mark Cliffe-Phillips)</p> <ul style="list-style-type: none"> This is a new tool that is coming for tracking, implementing and enforcing EA measures. Mark will describe how these are used in other jurisdictions and facilitate a discussion about how they may be used here. <p>Workshop 4 – How to be involved in the EA process (with Sachi DeSouza and Stacey Menzies)</p> <ul style="list-style-type: none"> This workshop will walk you through the EA process, highlighting how your organization can best get involved in each step. Learn how to make the most of the opportunities in the process! <p>Workshop 5 – Commitments (with Chuck Hubert)</p> <ul style="list-style-type: none"> This workshop will give participants insights into the benefits and challenges of including, tracking and encouraging commitments to mitigate impacts in the EA process. It will showcase a new tool and a new approach that will be used to track commitments throughout the EA process. 		
1:45 – 2:30	All Workshops (run simultaneously)	

MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD

2:30 – 2:50	Refreshments and Stretch	
2:50 – 3:35	All Workshops (run simultaneously)	
3:35 – 4:00	Day 1 summary	

Tuesday Feb 17

Time	Topic	Presenter
8:30 – 9:00	Welcome and refreshments	
9:00 – 9:15	Opening remarks	Mark Cliffe-Phillips
9:15 – 10:00	All Workshops (run simultaneously)	
10:00 – 10:15	Refreshments and break	
10:15 – 11:00	All Workshops (run simultaneously)	
11:00- 11:45	All Workshops (run simultaneously)	
11:45 – 1:15	Lunch (not provided)	
1:15 – 1:45	Open plenary discussion	
1:45 – 2:15	Summary of workshop sessions, closing remarks	Workshop facilitators
2:15 – 2:30	Refreshments and break	
2:30 - 4:00	Networking and Open Space Meetings Meeting space is provided for participants to meet and discuss subjects of their own choosing.	Participants
(Same time as Open Space Meetings)	Orientation to the Online Review System (ORS) and the Registry (with Mark Cliffe-Phillips) Mysteries of the Online Review System revealed! Join Mark for a hands-on tour of the	Mark Cliffe-Phillips



MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD

	Board's most efficient and transparent system for commenting on <i>Draft Terms of Reference</i> , Developer's Assessment Reports and resulting information requests.	
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The Environmental Assessment Process in a Nutshell

Alan Ehrlich, Manager of EIA
February 16, 2015



Mackenzie Valley
Review Board



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
- Board must do EA when it receives referrals from preliminary screeners or others



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.**



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 1st 2014
 - Run **fair** processes
 - Make decisions **based on the evidence**
 - Operate in a **transparent** manner



EA Process

- Scoping→ Terms of Reference
- Developer's Assessment Report
- Analysis
- Hearings
- Decision



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



Mackenzie Valley
Review Board



Developer's Assessment Report (DAR)

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



EA Analysis

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



Technical analysis

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



Hearings



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...

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



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



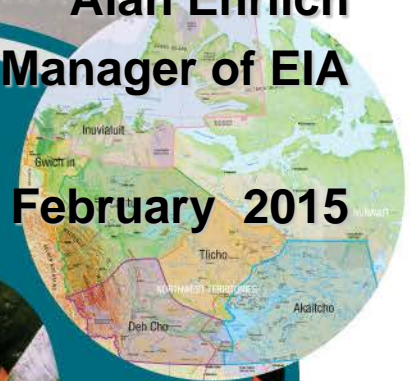


The Mighty “Might Test”

A Review Board Perspective on Preliminary Screening

Alan Ehrlich
Manager of EIA

February 2015



Outline

- General intro to PS in the EIA system
- Review Board's involvement in PS
- Scoping challenges faced by regulators in PS
- The “Might Test”
 - What it is
 - General criteria
 - How to apply it

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

What's it to us?

Review Board does not conduct screenings, so why is it involved?

- Responsible for writing guidelines
- Screeners must send results to Review Board
- Review Board may conduct an EA regardless

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
 - Lets screeners adopt others' reports
 - Fishing: Why the hook?
- Take off your regulatory hat when you screen



Cultural

Socio-
economics

Cumulative
impacts



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

- Decides if project might cause impacts or concerns (might \neq likely)
 - If **no** \Rightarrow project gets permits
 - If **yes** \Rightarrow Review Board (for EA)

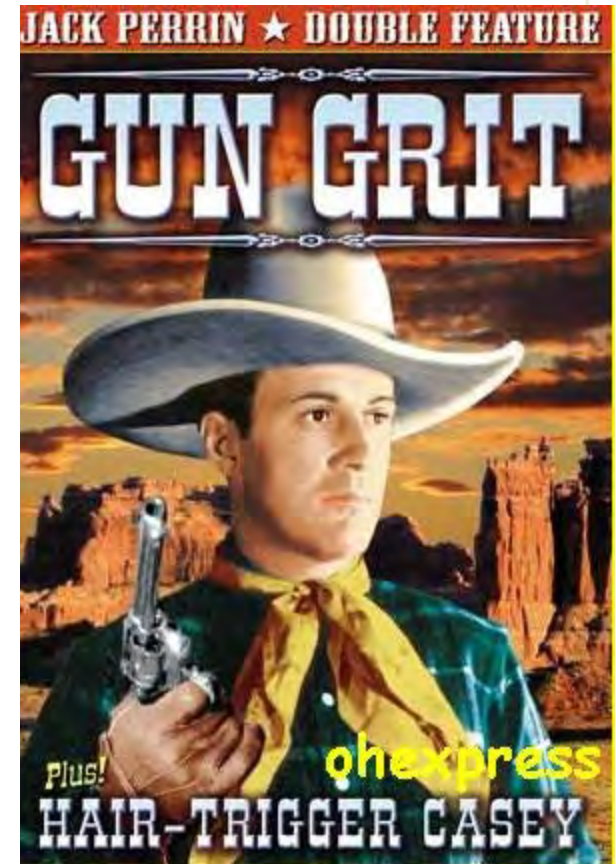
You determine:

1. Whether the development **might** have a *significant* adverse impact on the environment, or



How do you do this?

- “Might” is a sensitive trigger
- The world is a complex and chaotic place that is hard to predict
- Are there relevant unanswered questions about the development?
- If yes, consider referral



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

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



Not the test



Screeners should use their professional judgment:

**Should the
development go to
environmental
assessment?**

Mackenzie Valley Environmental Impact Review Board

Adapting to Change

*Environmental Assessment Process Updates
Post MVRMA Amendments*

Practitioner's Workshop

Mark Cliffe-Phillips – Executive Director

February 16-17, 2015



Mackenzie Valley
Review Board



Outline

1. Drivers for Change
2. Timelines
3. What we have done
4. What we are working on
5. What we need to do
6. What we need from others



Drivers for Change

- MVRMA Amendments – Timelines!
- Devolution
- New Board and Management
- Maturing System



Coming into force - MVRMA

- Upon royal assent/devolution – Timelines and delegation of authority
- April 2015 – the authority to make regulations regarding cost recovery and crown consultation
- April 2016 – sections dealing with development certificates and pause periods



Timelines – without extensions

Process	Review Board Time	Ministerial Time	Total Time
Environmental Assessment, no hearing	9 Months	3 Months	12 Months
Environmental Assessment with hearing	16 Months	5 Months	21 Months
Environmental Impact Review	18 Months	6 Months	24 Months



Timelines

- Timelines do not include 'Developer Time'
- Ministerial time includes any potential consult-to-modify process
- No timelines for Tlicho Decisions
- All EA's currently have Public Hearings scheduled



Timelines

- Online Tracking Tool
- Currently being updated – LWB process
- Notification throughout the process at EA milestones to developer and parties





Mackenzie Valley Review Board



[Home](#) » [Public registry](#) » [Giant Mine Remediation Directorate, AANDC](#) - [Giant Mine Remediation Project](#) - [EA0808-001](#) [2008]

GIANT MINE REMEDIATION ENVIRONMENTAL ASSESSMENT TIMELINE EA0808-001

Proposed project to reclaim the Giant Mine site, located 5km north of Yellowknife. The development includes the containment of 237,000 tonnes of arsenic trioxide dust currently stored underground.

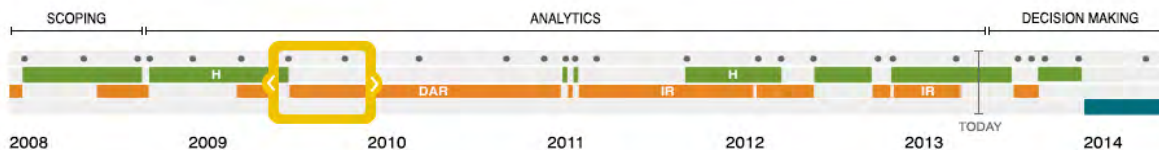
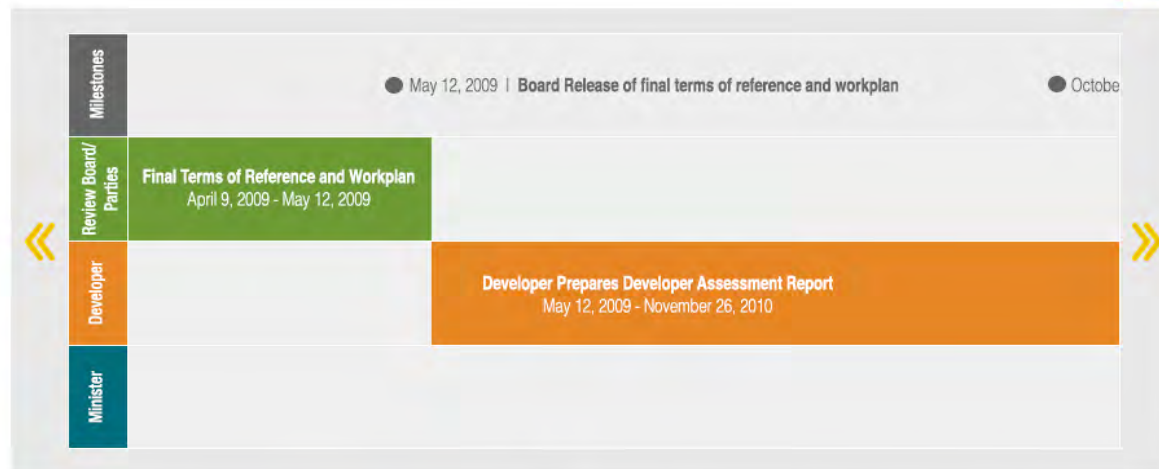
28 Months Review Board/Parties

52 Months Developer

12 Months Minister

92 Months Total

Help



[Back to Project](#)

Updated December 5, 2014



Scoping Phase

- Review Board develops an industry/project specific framework for a Terms of Reference
- Proponent produces a *Developer's Proposed Terms of Reference*
- Board sends the DPToR out for review



Scoping Phase

- DPToR used to structure the agenda for the Community and Technical Scoping Sessions
- Board uses the online review comments and scoping sessions to draft the Board's Terms of Reference that is sent for review before final issuance



Adequacy versus Conformity

- Is there enough detail to determine potential impacts and to develop predictions
- Are predictions reasonable and follow from project description, are uncertainties defined and mitigations described
- Framework for significance determination clearly defined, reflect values identified through community engagement and provide thresholds for significant impacts



Reasons for Decision

- The Board is issuing Reasons for Decision on Scoping and other board decisions as required throughout the process
- Intent is to provide clarity and transparent decisions in a timely fashion



Online Review System

- The Review Board has adopted the online review system developed by the Land and Water Boards
- Efficient and transparent system for parties to comment on documents and for submitting information requests
- Allows for developer to respond in real time to comments from parties
- Need to adapt to Review Board specific processes and terminology



Commitments Tracking

- Board will require a commitments table from the Developer in the DAR
- Board will consolidate key commitments and continue to track throughout the process
- Mitigate concerns or issues raised during EA or Community Engagement
- Will confirm commitments at Technical Sessions and Public Hearings



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Parties versus Interveners

- Review Board is evaluating the roles of what we currently call 'parties' to the process
- Investigating the separation between parties to the EA process and interveners to the public hearing process



Minimum Information Requirements

- Review Board intends to draft minimum information requirements for Project Descriptions - *Project Type Specific*
- These documents will outline the types and level of information required prior to the Board commencing an Environmental Assessment Process



Development Certificates

- The Review Board will be able to issue enforceable development certificates
- Development certificates will include all final measures of the report of EA or EIR, making the measures enforceable
- Prohibits the developer from carrying out a project that has gone through an EA or EIR from not complying with the measures of EA, including measures that were previously ‘orphaned’



Development Certificates

- Review Board is looking at framework for the development and implementation for Development Certificates
- Looking at other jurisdictions – NIRB
- Need to work with GNWT and AANDC
- Inspection and enforcement?



Pause Period

- S. 126(3) of the *MVRMA* enables the Board to conduct an EA upon its own motion notwithstanding the determination of a preliminary screening decision
- The amended Act now allows for a 10 day pause period between the end of the screening decision and the issuance of the authorization
- Board is looking at ways of notifying screeners and parties of the outcomes of their considerations



What we need from Others

- Cumulative Effects Assessments
- Regional Studies – Who and how? Monitoring/Research or Strategic Assessment?
- Details on other MVRMA Amendments not the responsibility of the Review Board
- Regulations to clarify roles and responsibilities for Aboriginal consultation, cost recovery and administrative monetary penalties





Mackenzie Valley
Review Board

Thank You!

Questions

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GNWT and EA in the Mackenzie Valley

MVEIRB Practitioners' Workshop



February 16, 2015

GNWT EA roles before Devolution

- Provide advice and recommendations to MVEIRB based on departmental mandates
- Participate in the EA decision process as a Responsible Minister – provide concurrence to AANDC on final decision letter
- Work with Canada to ensure Crown consultation obligations are fulfilled, with reliance on board processes
- Coordinated by ENR



GNWT EA roles after Devolution

- Provide advice and recommendations to MVEIRB based on departmental mandates
- For projects on territorial lands, the Minister of Lands builds consensus among all Responsible Ministers and signs the EA decision letter
- Other GNWT Ministers will usually be RMs
- Work with Canada to ensure Crown consultation obligations are fulfilled, with reliance on board processes
- Coordinated by Lands



What's changed? Mandates

Examples of GNWT EA interests pre-Devolution:

Wildlife; air quality; spill and fuel management; forestry; education, training, and employment opportunities; archaeological sites; social and economic benefits; economic and business development; GNWT budget; health care services; public health; policing, courts, corrections, and justice system; housing needs; community governments; transportation systems; Aboriginal rights; lands, resources and self-government agreements



What's changed? Mandates

- EA participation includes new mandates:
 - Land, Water, Minerals, Oil and Gas
- AANDC staff → ENR, ITI, Lands
- AANDC legislation → mirrored as GNWT legislation
- AANDC policies → many adopted on interim basis



What's changed? Decisions

- MVRMA remains federal legislation
- For projects not on federal land, AANDC has delegated some decisions to GNWT:
 - Minister of Lands builds consensus among Responsible Ministers and signs the EA decision letter
 - Minister of ENR signs Type A water licences and Type B, if a hearing has been held



What's changed? Lands

- new Department
- Land Use and Sustainability Framework sets out principles for GNWT land use decisions
- Works with other GNWT strategies and initiatives



NORTHERN LANDS NORTHERN LEADERSHIP

The GNWT Land Use and Sustainability Framework

Our Lands, Our Interests,
Our Future

Operational priorities

- Meet all MVRMA and board process requirements
- Internal organization and governance (devolve - evolve)
- Working relationships with other EA participants



Next 1-2 years...

- Applying the LUSF in EA
- GNWT as proponent
- Input to MVEIRB process updates
- Input to new regulations under the MVRMA
- Development certificates
- Regional studies
- Other?





Regional Studies

- Part 5.1 of MVRMA expected to come into force April 1, 2015
 - “study of the effects of existing or future physical activities carried out in a region of the Mackenzie Valley”
- To be delegated to the Minister of Environment and Natural Resources

LUSF Vision

Land is life –
it sustains and nourishes us spiritually,
culturally, physically, economically and
socially. Working together, Northerners will
responsibly and sustainably manage the
lands, waters and natural resources of the
Northwest Territories for the benefit of
current and future generations.





***Government of Canada
participation in
Environmental Assessments
in the
Mackenzie Valley***

***EA Practitioner's Workshop
February 16, 2015***

Overview



- NPMO role
- Other federal departments' roles
- Crown consultation in an EA

Northern Projects Management Office (NPMO)

- Coordinate federal efforts related to northern regulatory review processes
- Coordinate federal Crown consultation related to environmental reviews
- Issue resolution for industry and Aboriginal communities



Federal Departments

Generally, federal departments participate in EAs if:

- They have a statutory or regulatory requirement; and/or
- Have expert or specialist advice to offer the Board

These departments potentially include:

- Environment Canada
- Fisheries and Oceans Canada
- Transport Canada
- Natural Resources Canada
- Aboriginal Affairs and Northern Development Canada
- Health Canada
- Parks Canada

Environment Canada

Environment Canada is responsible for the following acts and regulations:

- *Department of the Environment Act*
- *Canadian Environmental Protection Act*
 - Air quality
 - Spill contingency planning
 - Waste management
- *Fisheries Act* – Pollution prevention provisions
 - Water quality
 - *Metal Mining Effluent Regulations* (MMER)
- *Migratory Birds Convention Act*
- *Species at Risk Act* (SARA)



Fisheries and Oceans Canada

- Fisheries and Oceans Canada's Fisheries Protection Program (FPP) is responsible for ensuring that projects in or near water are undertaken in compliance with the applicable provisions of the *Fisheries Act* and the *Species at Risk Act*.
- Section 35 of the *Fisheries Act* states that no person shall carry on any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery.
- An Authorization might be required if the project is likely to result in serious harm to fish as defined by the Act – if so, DFO would be a regulatory authority and a Responsible Minister during an EA.
- The FPP is also involved in EAs and reviews proposals to determine their potential impacts on fish, marine mammals and their habitat, and measures to avoid, mitigate or offset those impacts.

Transport Canada

- Transport Canada is responsible for the *Navigation Protection Act*.
- The Schedule to the Act lists waterways that require approval prior to building items that substantially impede navigation (waterways not listed in the Act are subject to common law public right of navigation).
- Additionally, dewatering and depositing in all navigable waters in Canada is prohibited – without authorization.
- When authorizations are required, Transport Canada is expected to be a Responsible Minister with respect to any decision related to a Report of EA.



Natural Resources Canada

- Natural Resources Canada (NRCan) issues explosives factory and magazine licences under the federal *Explosives Act*.
- Explosives **factory** licences are exclusively authorized by NRCan;
- In the NWT, explosives **magazine** licences can be authorized by NRCan or the Workers' Safety and Compensation Commission
- NRCan does not authorize or regulate the use of explosives
- When NRCan licences are required, NRCan may represent a Responsible Minister under the MVRMA.
- NRCan may, on a case by case basis, provide scientific expertise in areas such as surficial geology and terrain hazards, seismicity, permafrost, hydrogeology, and mine waste management.

Aboriginal Affairs and Northern Development Canada (NWT Region)

- Post devolution, about 8.5 percent of the NWT remains with Canada, including approximately 100 contaminated sites and two Reserves.
- For those lands, AANDC remains responsible :
 - for leases and licences as well as managing sub-surface rights
 - Inspecting land use permits, water licences, lease interests and mineral claims.



Health Canada

- Health Canada may provide its expertise to the Review Board, which subsequently determines how the information will be used in its evaluation of the project. Health Canada does not approve a project or issue licences, permits or authorizations in relation to a project.
- Upon request of the Board or NPMO, Health Canada can provide information on human health issues related to the potential environmental impacts of a proposed project in the following areas:
 - Human Health Risk Assessment including the assessment of multi-media exposure
 - Air Quality
 - Drinking and Recreational Water Quality
 - Country Foods
 - Radiological impacts
 - Noise
 - Electric and magnetic fields (EMF)

Parks Canada Agency

- For all sites administered by Parks Canada (National Parks, National Park Reserves, National Historic Sites and National Marine Conservation Areas), Parks Canada is the regulatory authority for all activities, including:
 - water licences
 - lands authorizations (leases, licences of occupation, easement and land use permits)
- Parks Canada provides specialist advice on potential impacts to natural or cultural resource within Parks Canada administered sites.



Section 130 Related Roles

Three scenarios:

- 1) No federal responsible ministers (RMs)
- 2) Federal RMs; GNWT Minister of Lands has been delegated the authority to coordinate the RM decision process
- 3) Federal and GNWT RMs; AANDC Minister retains section 130 responsibilities

NPMO as Crown Consultation Coordinator

When there is a federal decision related to an EA, the NPMO coordinates the efforts of federal departments and works with GNWT counterparts to ensure that potential consultation obligations are met.



Use of the EA Process



For those matters within its mandate, the Government of Canada relies on the consultative processes of the Review Board, as well as the engagement conducted by a developer, as the primary means for consulting potentially-affected Aboriginal groups.

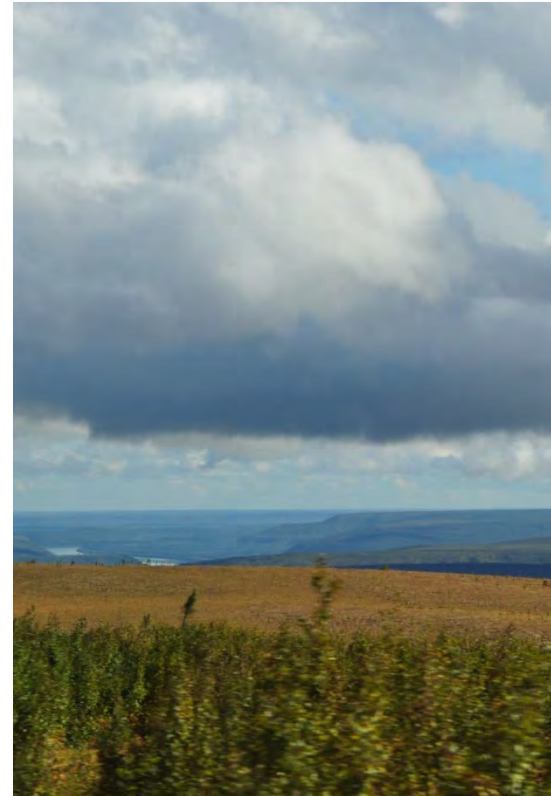
Developer's Engagement

The MVLWB has developed Engagement Guidelines which require developers to prepare an engagement plan for affected communities and maintain an engagement record. In addition to the EA process, direct engagement with the developer is one of the principal means through which groups can:

- fully understand the nature and scope of the Project;
- identify any potential adverse impacts of the Project;
- explore alternatives to eliminate or mitigate such impacts; and,
- offer local knowledge or advice on the Project.

Communicating Concerns

- Indicate whether any adverse impacts on Aboriginal established or asserted rights are anticipated as a result of the project
- If so, indicate the specific right(s) that may be affected, the specific impacts on those rights(s), how those impacts can be mitigated as well as evidence that will help in understanding those impacts.
- Support the MVEIRB in understanding the evidence, including traditional knowledge, with respect to both potential impacts and mitigations.





Conclusion



Questions?

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NPMO Yellowknife
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david.alexander@cannor.gc.ca





Northwest Territories Cumulative Impact Monitoring Program

NWT Cumulative Impact Monitoring Program

NWT CIMP and the EA Process

Julian Kanigan, Manager NWT CIMP

February 16, 2015



Environment and Natural Resources

Key Messages

- The main role of NWT CIMP is to provide information that enables sound land and water use decisions to be made
- NWT CIMP is focused on the monitoring priorities of MVEIRB and the LWBs of the Mackenzie Valley





Outline

- 1. Link to MVRMA**
- 2. Explain the program**
- 3. Monitoring and research priorities**
- 4. Program successes**
- 5. Opportunities for further collaboration**

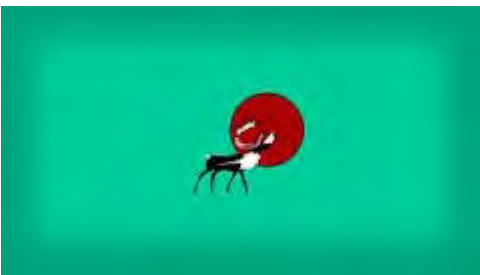


What is NWT CIMP?

- **An environmental monitoring program that provides cumulative impact information to decision-makers and communities of the NWT**
- 9 ENR staff administer the program
- Approximately \$2M operating budget
- Results are achieved through partnerships
- Former AANDC program since 1999, changes in 2010

Rooted in land claims & legislation

- **Cumulative impact monitoring is a shared government obligation**
 - Part 6 of the MVRMA and settled land claims
- **ENR is the Responsible Authority** under Part 6
- ***MVRMA: The Responsible Authority shall monitor the cumulative impacts of land and water use on the environment***



NWT CIMP Vision

*“To watch and understand the land
so that it can be used respectfully forever”*

– NWT CIMP Steering Committee



NWT CIMP principles

- **Advance our understanding of cumulative impacts**
- **Use all sources of knowledge**
 - Particularly science and traditional knowledge
- **Engage decision-makers**
- **Engage communities**
 - Community-based monitoring, capacity building



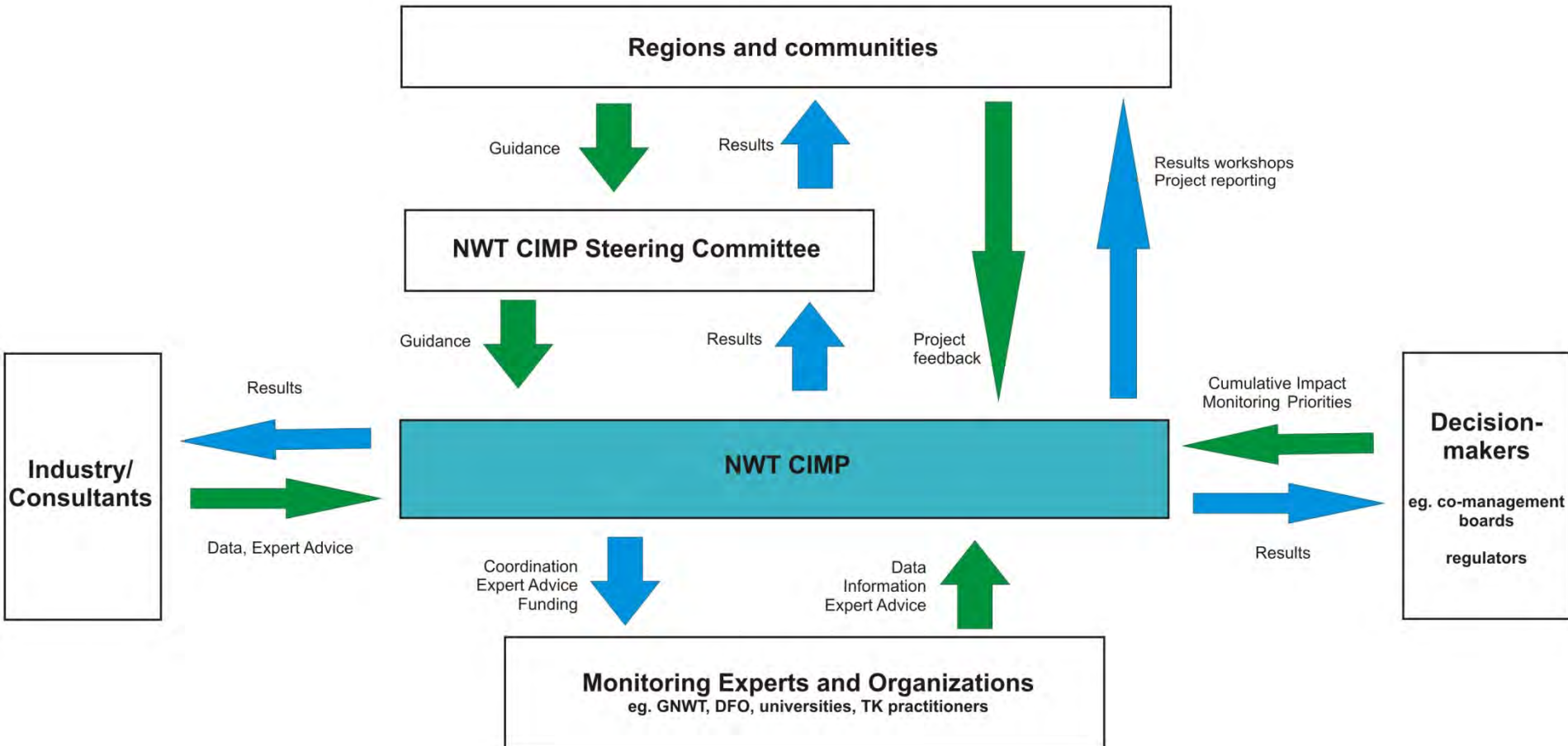
Aboriginal governments guide the program

- **NWT CIMP Steering Committee**

- MVRMA requires meaningful involvement of Aboriginal governments (GTC, SSI, TG, NWTMN, NSMA, IGC (MOU), DCFN, ATG)
- Observers have an opportunity to influence the program (MVEIRB, CAPP, ARI, DFO, EC)



Where does NWT CIMP fit?



NWT CIMP Activities



1. Establish monitoring and research priorities



2. Conduct key environmental monitoring and research



3. Deliver information to decision-makers and the public



4. Facilitate the NWT Environmental Audit

1. Establish monitoring & research priorities

- **Caribou, water, and fish in geographic “hot-spots”**
 - Chosen in 2011 by NWT decision-makers
 - Verified by NWT CIMP Steering Committee
- Refining priorities
 - **Caribou Monitoring Blueprint 2012 & 2014**
 - A cumulative effects monitoring approach for boreal & barren-ground caribou
 - **Guidance from NWT CIMP Steering Committee**
 - **Focus on priorities of MVEIRB and LWBs of the Mackenzie Valley:**
surface and groundwater in the CMV, barren-ground caribou & TK
 - Traditional Knowledge monitoring



2. Conduct key environmental monitoring and research

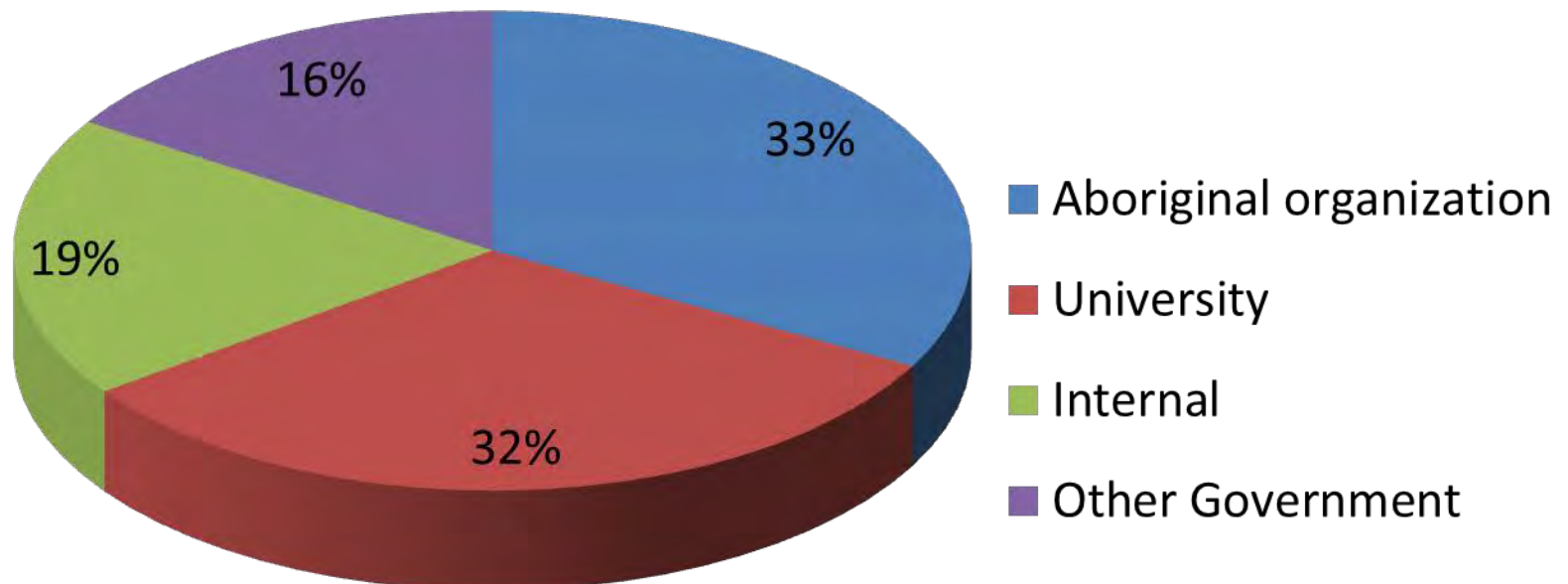
How?

1. Partnership Approach

- NWT CIMP funds partners to conduct projects

2. NWT CIMP staff lead or support priority projects

NWT CIMP 2014/15 funding recipients



*Partnership projects **directly** inform current EA and regulatory decisions*

Canadian Zinc - Prairie Creek Mine EA

Parks Canada	Quantifying the cumulative effects of mining on the ecological health of rivers in the South Nahanni watershed
DFO	Assessment of Critical Bull Trout Habitat in the South Nahanni Watershed

Giant Mine EA

DFO	Environmental baseline conditions of habitat and fish tissue at a proposed effluent discharge site, Yellowknife Bay, NWT
EC	Changing hydrology in the Taiga Shield: Geochemical and resource management implications
EC	Cumulative Impacts Monitoring of Aquatic Ecosystem Health of Yellowknife Bay, Great Slave Lake

Conoco Phillips, Husky Oil – Sahtu Region Licensing

University of Calgary	Community-based monitoring of wildlife health: Stress and pathogens in a changing landscape
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Fortune Minerals - NICO Mine Licensing

Tlicho Government	Marian watershed community-based aquatic effects monitoring program
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*Partnership projects **indirectly** inform current EA and regulatory decisions*

- Since 2010 an additional 70 projects have been supported that **address broader questions of interest to regulators**
 - Barren-ground and boreal caribou management
 - State and health of aquatic ecosystems
 - Community-based monitoring
- **NWT CIMP supports partners to conduct LT monitoring**
 - 9 projects supported for 4 or more years
- **NWT CIMP supports traditional knowledge monitoring**
 - 5 projects TK-focus, 4 projects integrate science and TK



NWT CIMP staff lead or support priority projects that address cumulative impacts and inform regulatory decisions

Giant Mine EA

Legacy contaminants in the Yellowknife region

Conoco Phillips, Husky Oil – Sahtu Region Licensing

Establishing a watershed framework for assessing cumulative impacts of development

Strategic Oil and Gas – Cameron Hills Licensing

Investigating the cumulative effects of environmental change and human activity in the Tathlina watershed

Jay Project EA, Diavik and Ekati AEMP – Lac de Gras Region

Lac de Gras cumulative effects assessment and publically available hydrodynamic model

Tibbitt to Contwoyto Winter Road

Establishing a water quality dataset for cumulative effects assessment in the North Slave

Landscape Change

A multi-scale assessment of cumulative impacts in the Northern Mackenzie Basin

The cumulative impacts of rapid environmental change in northwestern NWT

Inventory of Landscape Change

NWT CIMP staff and partners bring information directly to regulatory processes

- Human disturbance data for multiple EAs
 - Giant Mine EA
 - Inuvik to Tuktoyaktuk Highway EA
 - Prairie Creek mine water licensing
 - Strategic Oil and Gas licensing
-
- NWT CIMP staff review, comment and provide information on regulatory submissions
 - Mackenzie Valley Highway
 - Jay Project



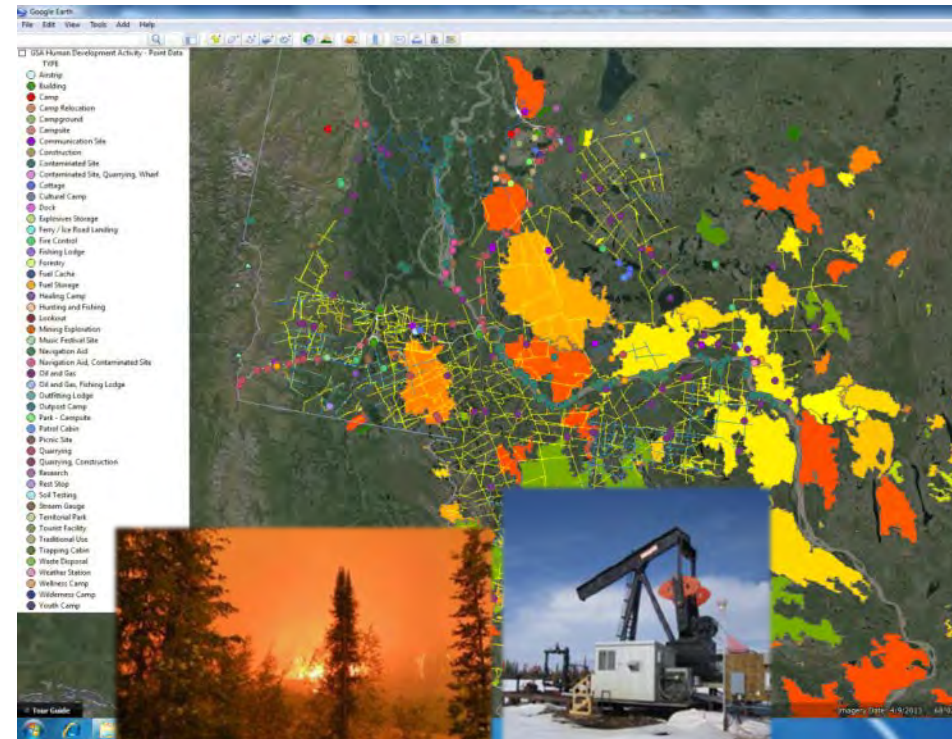
NWT CIMP leads regional-scale monitoring initiatives

- Analyzing the cumulative effects of two diamond mines on water quality in Lac de Gras
- Multi-party working group – including Boards and industry



NWT CIMP supports understanding cumulative impacts at a territorial-scale

- Requires information on past and present human and natural disturbance
- **Inventory of Landscape Change - Strategic Plan**
- Activities this year
 - Human disturbance in the range of Bathurst caribou:
Used for range management planning
 - ILC viewer



NWT CIMP analyzes environmental trends

- Partnership: Access to LT monitoring data involves collaboration with other agencies
- Analysis of >30 years of Water Resources Division WQ data
 - Peel and Mackenzie Rivers
- NWT CIMP analysis contributes to 2015 GNWT SOE report
 - Water quality of major rivers in the North Slave region
 - Fish abundance and health
 - Shrub changes above treeline



3. *Deliver information to decision-makers & the public*

- **Multiple communication methods**
 - Territorial and Regional Results workshops
 - Direct input and advice to Boards
 - Key CIMP publications
 - Annual report
 - Abstract volume
 - plain language presentations
 - peer-reviewed scientific and TK papers



[HOME](#) [ABOUT](#) [SEARCH](#) [BROWSE](#) [LINKS](#)

The **NWT Discovery Portal** is the most comprehensive online source for NWT environmental monitoring knowledge. As an information repository, the portal is a search and share tool that allows users to both access data and reports as well as contribute by uploading research and monitoring information. [\[Learn More...\]](#)

**Start
Collaborating
Not Registered Yet?**



SPECIFIC INFORMATION

[Cumulative Impact Monitoring
Program \(CIMP\)](#)
[Canadian Cryospheric Information
Network](#)
[Inventory of Landscape Change](#)



What's New?

The NWT CIMP Annual Report for 2013-14 is now available on the NWT Discovery Portal. Click [here](#) to view the report: [CIMP Annual Report](#)

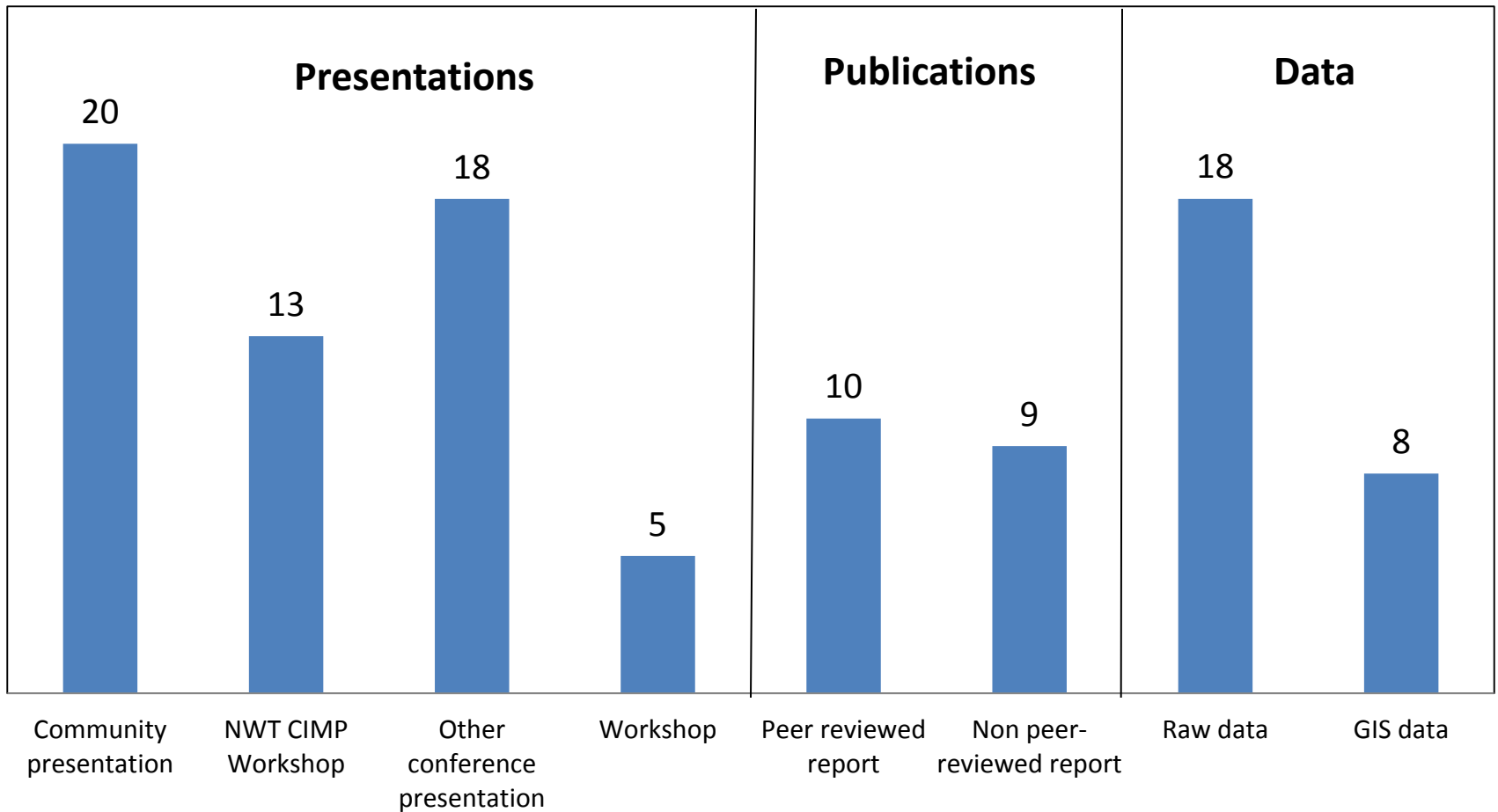
Through Discovery Portal, you are now connected to hundreds of entries from the Polar Data Catalogue established by the Canadian Cryospheric Information Network.

Looking for maps or spatial data? You can now connect to the NWT Centre for Geomatics Spatial Data Warehouse map viewer or find map layers directly using the same Discovery Portal search tools.

6-month period (Jul 14 – Jan 15)

- 1,136 sessions
- 37% new users
- 10 min/session

Deliverables 2013/14 (31 projects)




4. *2015 NWT Environmental Audit*

- MVRMA: Audit occurs every 5 years
- Auditor is independent (SENES)
- **Audit objectives**
 1. Review MVRMA regulatory regime
 2. Review NWT CIMP
 3. Evaluate analysis of environmental trends
 4. Review responses to previous Audit recommendations
- Audit Steering Committee: develops TOR, provides guidance



You are a key participant in the 2015 NWT Environmental Audit



Activity	Projected Date
Audit Work Plan Completed by Auditor	January 2015
Interview and survey phase	February – July 2015
Audit Release	Mid 2016

- **Key audit recommendations have had a major impact**
 - Implementation of land use plans and NWT CIMP
 - But many recommendations carried from 2005 to 2010
- **Improve follow-up on audit recommendations**
 - Respond to recommendations within Audit



Opportunities for NWT CIMP to further integrate with EIA

- Continue to focus on and refine monitoring priorities of MVEIRB and Land and Water Boards of the Mackenzie Valley
- Encourage Board staff to advise on key projects
 - Continue to use established informal relationships with Board staff
 - Small, focused Working Groups with tangible projects and benefits
- Collaborate to establish a framework for regional aquatic monitoring
 - Data collection and analysis protocols, baseline monitoring & AEMP guidance
- Work together to make spatial and analytical data available to the public

Practitioners Workshop New Tools for New Rules

Agenda

Feb 16 – 17, 2015

Yellowknife

Katimavik Rooms, Explorer Hotel

8:30 – 4:00

Monday Feb 16

Time	Topic	Presenters
8:15 – 9:00	REGISTRATION	
9:00 – 9:20	Introduction to the Workshop Devolving Government – Evolving Review Board <ul style="list-style-type: none"> Welcome Opening Remarks Overview of Workshop 	Mark Cliffe-Phillips and Alan Ehrlich
9:20 – 9:40	The EA Process in Brief	Alan Ehrlich
9:40 – 10:00	The Mighty “Might Test”	Alan Ehrlich
10:00 – 10:30	The Review Board – Adapting to Change Mark will describe how the Review Board is adapting the EA process to accommodate changes in the MVRMA and to reflect best practice. This will include a process overview, legislated changes, implications of devolution, project certificates and timelines.	Mark Cliffe-Phillips
10:30 – 10:45	Refreshments and Stretch	

MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD


10:45 – 11:15	GNWT – Devolution: The Role of the GNWT in EA	Lorraine Seale Dept. of Lands
11:15 – 11:45	Government of Canada- Continuing Roles in EA	David Alexander, NPMO
11:45 – 1:15	Lunch (not provided)	
1:15 – 1:45	The Cumulative Impact Monitoring Program and the EA Process	Julian Kanigan, CIMP
<p>There are five workshops which <u>repeat in each</u> of five slots- two on Day 1 and three on Day 2. Practitioners will rotate through all five workshops.</p> <p>Workshop 1 –Adequacy vs. Conformity (with Alan Ehrlich)</p> <ul style="list-style-type: none"> This workshop will explore the similarities and differences between conformity reviews (done in past EAs) and adequacy reviews (the new and improved approach to initially evaluating Developer's Assessment Reports). <p>Workshop 2 – Improved Scoping and Terms of Reference (with Simon Toogood)</p> <ul style="list-style-type: none"> This workshop will provide an overview of how scoping occurred in the past and a detailed discussion of how the Review Board scopes the issues and the development now. Simon will include innovations such as the <i>Developer's Proposed Terms of Reference</i>, and information requirements for project descriptions. <p>Workshop 3 – Development Certificates (with Mark Cliffe-Phillips)</p> <ul style="list-style-type: none"> This is a new tool that is coming for tracking, implementing and enforcing EA measures. Mark will describe how these are used in other jurisdictions and facilitate a discussion about how they may be used here. <p>Workshop 4 – How to be involved in the EA process (with Sachi DeSouza and Stacey Menzies)</p> <ul style="list-style-type: none"> This workshop will walk you through the EA process, highlighting how your organization can best get involved in each step. Learn how to make the most of the opportunities in the process! <p>Workshop 5 – Commitments (with Chuck Hubert)</p> <ul style="list-style-type: none"> This workshop will give participants insights into the benefits and challenges of including, tracking and encouraging commitments to mitigate impacts in the EA process. It will showcase a new tool and a new approach that will be used to track commitments throughout the EA process. 		
1:45 – 2:30	All Workshops (run simultaneously)	

MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD

2:30 – 2:50	Refreshments and Stretch	
2:50 – 3:35	All Workshops (run simultaneously)	
3:35 – 4:00	Day 1 summary	

Tuesday Feb 17

Time	Topic	Presenter
8:30 – 9:00	Welcome and refreshments	
9:00 – 9:15	Opening remarks	Mark Cliffe-Phillips
9:15 – 10:00	All Workshops (run simultaneously)	
10:00 – 10:15	Refreshments and break	
10:15 – 11:00	All Workshops (run simultaneously)	
11:00- 11:45	All Workshops (run simultaneously)	
11:45 – 1:15	Lunch (not provided)	
1:15 – 1:45	Open plenary discussion	
1:45 – 2:15	Summary of workshop sessions, closing remarks	Workshop facilitators
2:15 – 2:30	Refreshments and break	
2:30 - 4:00	Networking and Open Space Meetings Meeting space is provided for participants to meet and discuss subjects of their own choosing.	Participants
(Same time as Open Space Meetings)	Orientation to the Online Review System (ORS) and the Registry (with Mark Cliffe-Phillips) Mysteries of the Online Review System revealed! Join Mark for a hands-on tour of the	Mark Cliffe-Phillips



MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD

	Board's most efficient and transparent system for commenting on <i>Draft Terms of Reference</i> , Developer's Assessment Reports and resulting information requests.	
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Adequacy vs. Conformity

EA Practitioners Workshop
Alan Ehrlich– Manager of EIA
April 16 + 17, 2015



Mackenzie Valley
Review Board



Outline

1. Conformity- What we used to do
2. Adequacy- What we're trying out now
3. Why adequacy?
4. When does it happen?
5. Adequacy tests



Conformity Check

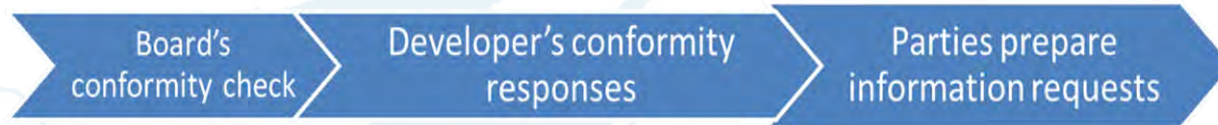
- Response in DAR for every ToR item?
- Deficiency statement
- Conformity statement
- IRs ensure quality



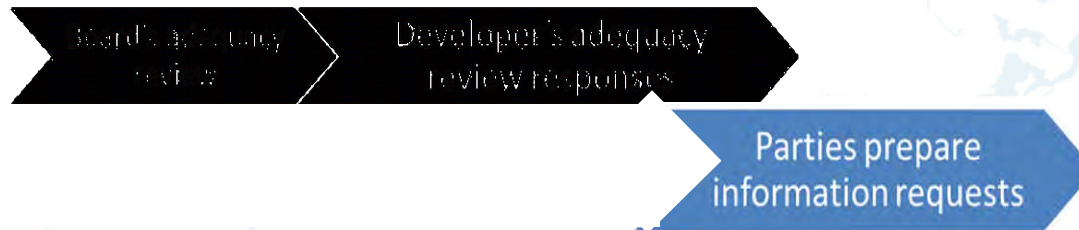
DAR Adequacy

- Good enough for IRs?
- Adequacy Review
- Adequacy Statement

Adequacy versus Conformity



After a conformity check, no IRs until DAR is in conformity



- Parties prepare IRs on some subjects while awaiting adequacy responses on other subjects.
- The amount of time that the developer and parties each have has not been reduced.



Adequacy review asks:

Does the DAR provide
adequate information
to understand **the project**
and the developer's **impact predictions**
well enough to produce
meaningful and relevant
information requests?



Why review adequacy?

- Whole EA increases focus on unresolved important issues
- In past, many first round IRs dealt with basic quality
- Getting fundamentals right early should:
 - Help inform parties sooner
 - Focus IRs better and sooner
 - Reduce number of initial IRs
 - Allow more depth in later IRs and tech session
 - Engage people earlier in the process
- More efficient EA, better quality information



Adequate for *what*?

- Adequate for proceeding to IRs does NOT mean adequate for a hearing!
- Still needs further analysis
- Is it good enough to provide a reasonable basis for analysis?
 - project description
 - impact predictions
 - significance determinations



Questions for the project description:

Is there enough detail to determine the potential impacts?

Does the project description describe the project in enough detail to serve as a basis for predictions?

Are aspects of the project that are relevant to the impacts still not described?



Questions for impact predictions:

Are the assumptions explicit and unambiguous? Reasonable? Defensible?

Do the developer's predicted impacts reasonably follow from the described project?

Are the uncertainties explicit and acceptable?

Are mitigations described?



Questions for significance determinations:

Does the developer provide its views on the significance of impacts?

Do the views on significance reflect values identified by parties about the acceptability of impacts heard during engagement and consultation, or if not, why?

Does the developer describe its methodology for significance determination?

Is significance terminology (e.g. high, moderate, or low) clearly defined?

Does the developer propose and describe a threshold beyond which, in its opinion, predicted impacts would be significant?



For discussion

- What features stand out to you?
- Pros and cons of this approach vs conformity?
- Are we missing important questions?
- Are there questions here that are not appropriate for adequacy?



Development Certificates

Workshop Session #3

Practitioner's Workshop
Mark Cliffe-Phillips, Executive Director
February 16-17, 2015

Mackenzie Valley
Review Board



Outline

- What are Development Certificates?
- Why are we talking about them?
- What is their role in EAs?
- How do we write them?
- How are they implemented?
- How are they monitored and enforced?
- How are they amended?
- Other jurisdictions



Development Certificates!



What are Development Certificates?

- Enforceable tool for the Review Board to implement measures of an EA
- Developments that undergo EA or EIR can not proceed if they do not conform with conditions of the development certificate
- Measures may be directed towards other organizations or government besides the developer, such as federal and territorial government departments/agencies, First Nations, local governments and regulators



Why are we talking about Development Certificates?

- Amendments to the *MVRMA*
- Coming into force in April 2016
- New to the EA Process in the NWT
- Consistent with *CEAA(2012)* and Nunavut

What is their role in Environmental Assessment?

- If the Board determines that a project has likely significant adverse impacts that require mitigation for the project to proceed, measures will become conditions of the Development Certificate
- Conditions are more global than the conditions you may find in a land use permit or water licence (or other authorizations)



What are their role in Environmental Assessment?

- “Orphan Measures”
- Wildlife, Socio-Economic, Aboriginal Way of Life, Air Quality
- Monitoring and amendment
- Review Board and parties can revisit impact predictions and adapt conditions accordingly
- Links to adaptive management

How do we write them?

- All measures accepted by the Minister in the Report of EA or EIR needs to be included in the Development Certificate
- Review Board needs to issue the certificate within 30 days of the Minister's Decision
- Consultation



How are they implemented?

- Developer must comply with conditions of the development certificate
- The terms and conditions must be implemented by all government departments and agencies in accordance with their authorities and jurisdictional responsibilities
- The terms and conditions of the development certificates must be incorporated into relevant permits, certificates, licences or other government approvals



How are they implemented?

- Limited shelf life
- Development certificate is only valid for 5 years if the development has not yet commenced
- Amendments valid for 5 years
- If certificate becomes invalid a new EA is required



How are they enforced?

- Federal (or Territorial?)
Inspection
- Board Monitoring
- Administrative monetary
penalties – individuals \$25k,
Others \$100k
- Reviewed by Minister



How are they amended?

- Amendments can be instigated by the Board, Minister, Developer or other parties, if they meet one of the following:
 1. Not achieving intended purpose
 2. Project has changed
 3. New technology or information

Other Jurisdictions

- CEAA(2012) – New Gold - Rainy River Project – NW Ontario
- Conditions for: fish, migratory birds, Aboriginal health, archaeological, heritage, and cultural resources, and traditional land uses



Other Jurisdictions - Nunavut

- Project certificates
- Enforceable under NuPPAA
- Previous certificate released by NIRB for Mary River iron mine project
- Conditions not normally found in measures of projects in the NWT

Other Jurisdictions - Nunavut

- Meteorology and climate, inc. climate change
- Air quality
- Noise
- Wildlife
- Socio-economic
- Education and training
- Community Infrastructure and public services
- monitoring



QUESTIONS

- What concerns or issues have you seen not addressed through the current measures of an environmental assessment? – land, wildlife and people
- How can development certificates address some of these concerns?
- What gaps do you foresee that may not be addressed in Development Certificates?



QUESTIONS

- How do you see your role in the development or monitoring of Development Certificate?
- What other programs , monitoring or reporting can help with the implementation of development certificates?





Thank you!



MVEIRB Practitioner's Workshop

February 16-17, 2015

Commitments in EA

Defining commitments

Tracking commitments

Following-up



What's a commitment worth?



The evolution of commitments in
environmental impact assessment in the
Mackenzie Valley, Canada



What's a commitment?

- Things the developer promises it will do to address a concern/mitigate an impact during the EA
 - generally items not in the project description
 - addresses issues raised during an EA
- Commitments involve consultation between parties and the developer during EA phases
 - Information requests
 - Technical sessions
 - Hearings

"Fortune Minerals commits to active refilling of the open pit after operations to reduce length of closure time"

-NICO report of EIA

De Beers will install downward directional and low impact lighting to reduced light pollution

-Gahcho Kué Report of EIR



Evolution of commitments in EA

- Review Board started identifying, itemizing and tracking commitments during EA
- Review Board asked developer to document commitments themselves
- Review Board started to include “implementation of commitments” as conditions of project approval



Where we're at now

- Developer and parties discuss and refine commitments throughout the EA process
- EA decision report includes the commitments in an appendix
- Considered as part of the project mitigation
- Considered in the determination of significance of impacts



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Appendix B: List of Developer's commitments



Why use commitments in EA

- Demonstrates developer is willing to address issues, mitigate impacts during EA
- Results in a better project based on changes to project made during the EA
- May increase social license to operate
- Likely fewer measures for developer in Report of EA



Why use commitments in EA

- Tend to be more detailed than measures
- Process of wording a commitment is iterative,
 - involves face to face meetings (tech sessions)
- Can lead to mutually agreeable wording in commitment
 - acceptable to the developer because they agreed to it
- Addresses any type of impact, including issues that often are not included in permits
 - socio-economic, cultural, wildlife



Challenges in implementing commitments

- Need to be clear to prevent different interpretations (define your terms)
- requires tracking and follow up over project life – who does it?
- May not fit into licenses/permits
- Possible lack of enforcement
 - requires trust in the developer
 - risk of commitments not being fulfilled



Applying commitments in EA

- Commitments require careful evaluation
 - Will it get done?
 - Will it be effective?
 - Does it go far enough to address the issue?
- Measures in EA decisions can build on commitments to provide specifics or reinforcement
- Commitments can link adaptive management to the EA decision



In conclusion...

- Commitments give developers the opportunity to address issues directly
 - simplifying process by taking issues off the table
 - increasing certainty in EA decisions
- Commitments need to be well defined with clear rationale and systematically considered:
- Can be an important tool in EA by:
 - Making projects better
 - Mitigating impacts throughout EA steps





A commitment is worth a lot if...

- ✓ It is clearly worded
- ✓ It will achieve its intended effect
- ✓ It is followed through

Given the right scrutiny, this is a valuable and versatile addition to the impact assessment toolkit



Today's Workshop discussion topics

1. Defining commitments
2. Tracking commitments during EA
3. Following-up on commitments after the EA



1. Defining commitments

Current practice:

- Terms of Reference requests list of commitments
- Developer submits list of commitments in DAR
- Some “commitments” in list are project design, policies, regulatory requirements...

Questions for participants:

- What is a commitment?
- What is not a commitment?



2. Tracking commitments

Current practice:

- Board staff track commitments and include complete list from DAR through all EA phases in Report of EA

Proposed practice:

- Only track commitments made by developer after DAR submission

Question for participants:

- How best to track and review commitments during EA phases?



3. Following-up on commitments

Current practice:

- Existing regulatory instruments, WL, LUP (legally binding)
- Independent environmental monitoring agencies
- Agreements between developer and Government (not legally binding)

Question for participants:

- Suggest other ways to follow-up on commitments?

