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May 12, 2006

*Your file - Votre référence*

*Our file - Notre référence*

Patrick Duxbury  
Environmental Assessment Officer  
Mackenzie Valley Environmental  
Impact Review Board  
P.O. Box 938  
5102-50th Avenue  
YELLOWKNIFE, NT X1A 2N7

Dear Mr. Duxbury:

**Re: Paramount SDL8 Environmental Assessment Round 1 Information Responses**

Please find attached, Indian and Northern Affairs Canada's responses to the Mackenzie Valley Environmental Impact Review Board's (Review Board) Round 1 Information Requests for the environmental assessment of Paramount Resources Ltd.'s SDL8 2-D Seismic Program.

If the Review Board has any questions or require additional information with respect to the information provided, please do not hesitate to contact me at 669-2647.

Sincerely,

David Livingstone  
Director,  
Renewable Resources and Environment

Canada

**11EA0506-007 Paramount SDL 8, 2D Geophysical Program (SDL8) - Information Requests**

**IR Number**                      **IR0506-007-10**

**Source:**                              **MVEIRB**

**To:**                                      **INAC**

**Scoping Hearing Report:**    Page 7, 15, 16

**Preamble**

During the Hay River Community Scoping Hearing, the issue of socio-economic benefits arising from the SDL8 exploration program was raised by a number of Parties to the environmental assessment. Section 115(b) of the *Mackenzie Valley Resource Management Act* requires that the Review Board have regard for “*the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley.*”

**Request**

1.     Are there conditions, policies or protocols enshrined in the *Canada Oil and Gas Operations Act*, the *Dehcho Framework Agreement* and the *Interim Measures Agreement*, or other applicable federal legislation or agreements that call for the establishment of a benefits plan, or similar socio-economic arrangement for a seismic exploration program such as the SDL8 program?

**INAC Response**

As a general rule, before the National Energy Board can authorize any work or activity related to Paramount’s proposed seismic exploration program, a Benefits Plan must be in place that is approved by the Minister of Indian and Northern Affairs. Subsections 5.2(2) and (3) of the *Canadian Oil and Gas Operations Act* (“COGOA”) states:

- (2)    No approval of a development plan shall be granted under subsection 5.1(1) and no authorization of any work or activity shall be issued under paragraph 5(1)(b), until the Minister has approved; or waived the requirement of approval of, a benefits plan in respect of the work or activity.
- (3)    The Minister may require that any benefits plan submitted pursuant to subsection (2) include provisions to ensure that disadvantaged individuals or groups have access to training and employment opportunities and to enable such individuals or groups or corporations owned or cooperatives operated by them to participate in the supply of

goods and services used in any proposed work or activity referred to in the benefits plan.

The "Benefits Plan" referred to in the COGOA is defined in subsection 5.2(1) as follows:

- (1) In this section, "benefits plan" means a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

Section 42 of The Deh Cho First Nations Interim Measures Agreement which states:

The Minister of IAND shall require a benefits plan for any work, activity or development that requires the authorization or approval of the National Energy Board under the *Canada Oil and Gas Operations Act* in the Deh Cho territory.

- a) the benefits plan submitted by the operator for the approval of the Minister of IAND shall be commensurate with the nature, scope, magnitude and duration of the proposed work, activity or development. The benefits plan may contain provisions for consultations, maximization of opportunities for employment, training, the supply of goods and services, and compensation for damage relating to resource harvesting.
- b) For minor, short duration geological and geophysical activities, the operator's written commitment to work to the Benefits Statement of Principles that appears in Calls for Bids for exploration rights shall be sufficient.

Section 70 of the Deh Cho First Nations Interim Measures Agreement which states:

This Agreement does not constitute a binding contract between the Parties.

### **Request**

2. If such benefits plans or socio-economic arrangements are required, what are the criteria that a developer must follow in exercising this responsibility and how does INAC ensure that the requirements of the benefits plan or socio-economic arrangement are fulfilled?

### **INAC Response**

Companies engaged in exploration on frontier lands are required to follow the Benefits Statement of Principles contained in all Calls for Bids referred to below:

# Northern Benefits Requirements Associated with New Exploration Programs

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## **A. BENEFITS STATEMENT OF PRINCIPLES**

Companies engaged in exploration on frontier lands are expected to follow the principles outlined below.

It is recognized that the nature and duration of work programs must be considered in determining the extent to which companies are able to implement the benefits principles.

### **Industrial Benefits**

The company is committed to obtaining its goods and services on a fair and competitive basis. The company will support and encourage the development of regional businesses by considering potential suppliers for work associated with the program on the basis of best value, competitiveness and benefits to the regional communities and by providing relevant information to the supply community. Within the context of its general procurement policy, the company will conduct its operations so as to optimize the short and long-term benefits accruing to the North by providing opportunities for involving northern businesses on a full, fair and competitive basis.

The company is committed to work with regional communities and government agencies to identify potential business development opportunities.

The company is committed to ensuring that its contractors follow the above with respect to all subcontracting opportunities.

### **Employment and Training**

The company is committed to the principles of fair and equal employment and training opportunities consistent with the Canadian Charter of Rights and Freedoms. This commitment will promote fairness in employment opportunities and avoid employment practices which result in employment barriers. The company will give first consideration to qualified individuals resident in the regional communities.

The company is committed to work with regional communities and government agencies to identify potential employment and training opportunities. The company is committed to ensuring that its contractors follow the above with respect to all employment and training opportunities.

### **Consultation**

The company is committed to providing appropriate information concerning its exploration programs to concerned individuals, groups and communities in the region. Exchanging

relevant information in a timely fashion will enable the company to assess the potential local economic and employment opportunities.

### **Compensation**

The company will provide fair and equitable compensation to individuals involved in hunting, trapping and fishing in the event of adverse impacts demonstrated to result from project-related activities.

## **B. ANNUAL REPORT REQUIREMENT**

The company will submit an annual report within three months of the completion date of its seasonal work program.

The report should contain the following information:

- (i) brief work program description;
- (ii) total program costs (total value of purchased goods and services, total direct wages and total direct work months);
- (iii) total direct wages by northern community of residence;
- (iv) total direct work months by community of residence;
- (v) number of northern community residents employed for each program component (e.g. seismic, drilling, support and construction);
- (vi) total value of purchased goods and services from each northern community, including a brief description of the goods and services purchased from each community;
- (vii) listing of consultations undertaken; and
- (viii) a brief description of any programs that may be undertaken in the next work season.

Annual reports are to be sent to:

Director  
Northern Oil and Gas Directorate  
Department of Indian Affairs and Northern Development  
OTTAWA, ONTARIO K1A 0H4

## **I. COMPREHENSIVE LAND CLAIM SETTLEMENT AGREEMENTS**

The comprehensive land claim settlement agreement for the Inuvialuit, Gwich'in, Sahtu and Nunavut areas contain provisions regarding consultation and benefits as well as other matters such as land and water use, environmental; review and surface access. When planning activities in these land claim settlement areas, companies are expected to familiarize themselves with the provisions of the relevant land claim settlement agreement and make early contact with the responsible aboriginal organization regarding procedures and time lines.

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Paramount will be expected to adhere to the reporting requirements set out in the Benefits Statements of Principles, above, and will be required to submit an annual report within three months of the completion date of its seasonal work program. The Annual Report is reviewed by INAC to ensure that the intent of the Benefits Plan has been met. Once it has been determined that the company has met the intent of the Annual Reporting Requirements as outlined in the Benefits Statement of Principles, the report is then accepted by INAC. Should the Annual Report fail to meet these requirements, INAC officials work closely with the company in efforts to gain INAC's acceptance.

Should a company choose to neglect their responsibilities in submitting an Annual Report, the Minister would have limited enforcement mechanisms in the short term. However, should that particular company want to engage in any new or additional work programs on frontier lands, INAC would be reluctant to approve any future Benefits Plans.

History has shown that companies, including Paramount Resources Ltd., do deliver on their commitments with respect to the annual reporting requirements as outlined in the Benefits Statement of Principles.

**IR Number** IR0506-007-11  
**Source:** MVEIRB  
**To:** INAC  
**Scoping Hearing Report:** Page 7

### **Preamble**

Concerns about revegetation, particularly the use of potentially-invasive reclamation species, was noted in the Hay River Community Scoping hearing, as well as in the GNWT's correspondence to the MVLWB during the screening of the SDL8 program. Paramount, in a letter dated October 13, 2005 responded to concerns about invasive species and identified the seed mix that it proposes to use in the Cameron Hills area.

The Review Board understands that it is the responsibility of the INAC inspector to determine if reseeding is required following seismic exploration activities.

### **Request**

1. Does INAC agree that the plant seed mix listed in Paramount's October 13, 2005 letter will not be competitive with local vegetation or otherwise significantly impact native vegetation in the SDL8 area?

### **INAC Response**

The species listed in the October 13, 2005 letter are a combination of bi-annuals, relatively short-lived perennials, and a sterile seeded cross. They would not be expected to persist, or to spread. As such, they pose no danger of out-competing local species, nor otherwise affecting vegetation native to the area.

### **Request**

2. Is the plant seed mix, approved for the Cameron Hills main developments, suitable for the SDL8 area, which has different topography, aspect, drainage, altitude, and ecological characteristics?

### **INAC Response**

In determining the suitability of a seed mix, it is important to have a clear purpose for the proposed seeding. Seeding will only be done on those portions of the proposed seismic lines where mineral soil has been exposed and where 'roll-back' of duff and woody debris is not

considered adequate to prevent erosion, or where roll-back would impede subsequent use of the lines. In these cases, the intent of seeding is to protect and stabilize the mineral soil, to allow natural processes to revegetate the sites. Hence, the attributes of a seed mix in this application are good germination, rapid growth, and within the mix, a tolerance of a wide range of micro-site conditions - wet, dry, acidic, shaded, to name a few. If only a portion of the mix succeeds on any one site, but that portion establishes a good root matrix, and if a good volume of leaves and stems shelter the soil, then the seeding will have been a success.

If it were intended to establish a more permanent vegetative cover, then factors such as altitude, aspect, drainage and soil acidity, and the ecological niche you intended the vegetation to serve - browse, shelter, nesting, for example, - would be of more importance. But for the purpose of reclaiming seismic lines, a too-good ecological match might in fact impede the natural processes we seek to enable.

### **Request**

3. Can INAC comment on the reasons why agronomic plant species are preferred for use in reclamation as opposed to species native to the area?

### **INAC Response**

There are three reasons for choosing agronomic species for the reclamation envisaged for this project. The first is one of availability. Agronomic seeds for Regreen wheat x wheatgrass, and fall rye are readily available. Secondly, agronomic species have been selected for their germination success, and their bio-mass productivity. Both of these characteristics are very desirable when seeding to create ground cover to prevent soil erosion and stream sedimentation. And, since agronomic species can be expected to diminish in abundance over time, they leave the way open for natural recovery. Rather than an artificially fostered colony of locally native species, chosen on the basis of seed availability, or some end design, which may not be successful or appropriate, natural processes will provide a diverse plant community, changing over time, as a stabilized site restores itself.





1. *The Board, for the purpose of this operation, designates April 1 as spring break up.*

This condition is used to establish a firm target date for completion of erosion prevention measures, specified elsewhere in the permit.

2. *The Permittee shall not conduct any overland movement of equipment and vehicles after 0800 hours local time on April 1, unless otherwise authorized in writing by an Inspector.*

This measure is intended to prevent rutting caused by vehicle movement over unfrozen ground. Rutted ground concentrates run-off, increasing the likelihood of erosion and subsequent sedimentation of receiving streams. By provided a fixed target date, the operator can plan a program with the intent of being out of the field by that date. Provision for the date to be extended is granted the inspector, because in years when spring is late the ground remains frozen, and snow covered, and no harm is done by extending the operating season beyond a calendar date.

3. *The permittee shall prior to spring break-up, complete all snow fill and ice bridge removals, brush and timber disposal, erosion control and all other restoration ordered in writing by an inspector.*

Some of the measures specified in this condition are directed at erosion control - removal (or notching) of snow fills and ice bridges, and brush disposal by roll-back, and specified erosion control measures ordered by the inspector. Requiring that they are planned for and are completed before spring break-up ensures they will be in place to have effect during a period of concern - the spring freshet.

4. *The Permittee shall construct and maintain winter roads with a minimum of ten (10) centimetres packed snow at all times during this land use operation. If this cannot be done, then the Permittee shall construct ice roads in a manner authorized by an inspector.*

Protecting the undisturbed organic soil layer with a layer of packed snow or ice helps to prevent rutting, and the subsequent risk of sedimentation. It also preserves the viability of the existing vegetation, thus preventing sheet erosion of what would otherwise be exposed soils.

5. *The land use operation shall not cause obstruction to any natural drainage.*

This condition extends the protection against blockage of streams beyond the Fisheries Act and NWT Waters Act, in that ephemeral draws and other intermittent drainages are also included. This will prevent scouring of new channels as obstructed flows find new paths, with the attendant sedimentation such scouring can entail.

6. *The Permittee shall not use any material other than water in the construction of ice bridges.*

In the event an ice bridge were necessary, this condition will ensure that no foreign materials possible harmful to water quality or with the potential to block or dam a downstream flow, are introduced. It is preventative in nature, because if the introduction of material other than water is prohibited, it will not then be necessary later to completely remove such materials before spring break-up.

7. *The Permittee shall not use any material other than snow in the construction of snow fills.*

This has the same effect as the condition discussed above, except that it specifies snow.

8. *The Permittee shall not use the bed of streams for access routes except for the purpose of crossing the streams.*

Although no longer a common practice, when it did occur, this practice stirred up sediments, and disturbed spawning beds. This condition simply prohibits such disturbance.

9. *The Permittee shall not cut any stream bank.*

A preventative measure, this ensures the integrity of the stream banks, and precludes either depositing bank material into the stream, or exposing previously stable material to erosive forces.

10. *The Permittee shall construct berms and /or ditches across the right-of-way at intervals of not less than thirty (30) metres on slopes exceeding five percent (5%) prior to the commencement of the first spring break-up after construction of the right-of-way.*

Water's erosive force on newly cleared slopes increases the further it flows, as it gathers both velocity and volume. By diverting run-off into surrounding undisturbed vegetation at frequent intervals, before it has gathered force, the potential for erosion is reduced.

11. *The Permittee shall not move any equipment or vehicles unless the ground is in a state capable of fully supporting the equipment or vehicles without rutting or gouging.*

Vehicle movement over soft ground causes ruts, in which run-off water is channelized, increasing erosion potential. This condition, coupled with the spring break-up date, prevents vehicle movement which could result in ruts, thus preventing channelization and erosion, leading to sedimentation.

12. *The Permittee shall dispose of all combustible waste petroleum products by incineration or removal.*

Proper disposal of waste petroleum helps reduce the risk of spills of products which could

impair water quality.

13. *The Permittee shall not allow petroleum products to spread to surrounding lands or into water bodies.*

Self-evidently, this conditions prohibits contaminating water bodies with petroleum products, thereby requiring an effective clean-up response in the event of a spill.

14 *The Permittee shall establish revegetation on all areas stripped to mineral soil during this land use operation, to a minimum of seventy percent (70%) ground cover, within one (1) year of the completion of the operation.*

Exposed mineral soils can be susceptible to water erosion. A quickly established vegetative cover reduces this potential through several mechanisms. First, any root mat helps to stabilize soils before they erode. Second, the leafy portion of plants intercepts and slows falling rain drops, thus reducing their impact energy. It is this impact energy that first loosens and makes fine soil grains available to erode. And, lastly, the leaves and stems of plants serve to slow run-off, allowing suspended soil particles to drop out of the flow. While the suggested operating condition numbered 4. above would normally preclude exposing mineral soil in the conduct of a seismic operation, in the event of an inadvertent exposure of mineral soil, establishing vegetation quickly will help prevent sedimentation of surface waters.

### **Request**

2. Can INAC comment upon how these terms and conditions are practically enforced in the field by INAC inspectors?

### **INAC Response**

INAC land use inspectors conduct physical inspections of seismic operations on a periodic basis, and on an as required basis. Follow-up inspections are scheduled to confirm that the necessary corrective actions have been implemented. The inspectors verify compliance with each operating condition, checking specifically for compliance with the conditions most germane to the current stage of activities. The inspector has at hand a broad range of potential corrective actions in the event of non-compliance with these, or any land use permit operating conditions. The decision of which action to choose is the inspector's, and it is made on a case by case basis, in light of all the pertinent facts.

Most common, and overwhelmingly the most effective, is to mention the matter personally in the field with the individual responsible for conducting the corrective action, and typically following this up with a discussion of the non-compliance and corrective action agreed to in a written report to the permittee.

The inspector may also choose to give a formal order pursuant to section 86(2) of the

*Mackenzie Valley Resource Management Act.* If the permittee fails to comply with this order, the Mackenzie Valley Land and Water Board (MVLWB) may suspend the permit, or even, should corrective action still not be undertaken, the MVLWB may cancel the permit.

None of these measures impair the ability of the inspector to commence proceedings from prosecution of violation of the legislation, should the inspector deem that appropriate.

### **Request**

3. Please describe any other actions that INAC inspectors may undertake, when inspecting seismic programs to ensure that impacts to water do not occur.

### **INAC Response**

Section 86(1) of the Mackenzie Valley Resource Management Act empowers the inspector to order measures the inspector considers necessary, on reasonable grounds, to mitigate, remedy or prevent adverse effects on the environment that has or is likely to result from the land use operation. In the event of some unforeseen occurrence, or should the normal preventative measures outlined above prove ineffective, the inspector can still require the permittee to implement any combination of a wide range of mitigative or corrective measures he might consider necessary and effective.

When an incidence of non-compliance to the terms and conditions of an authority or a violation of the Acts and Regulations occur, and depending on several other factors such as; they type and severity of the incident (minor, major, catastrophic), the impact on the environment, the intent of the operator, the history of the operation and the adequacy of the corrective measures, several courses of enforcement actions is available. The Inspector may, using discretion, professional evaluation and the expert opinions of department staff, other government agencies and Justice Canada, employ the following enforcement options; initial notification of non-compliance within an Inspection Report, a letter of notification of non-compliance, letter of warning, written suspensions, notices, orders, prosecution and to recommend cancellation of the authority.

INAC's compliance and enforcement policy (Appendix A) guides an Inspector in delivering the environmental protection and resource management mandate of the Northwest Territories Region.

### **Request**

4. If Paramount is made to adhere to the terms and conditions provided in Item #1. as well as those recommended by reviewers during the MVLWB screening phase, does INAC expect that a significant adverse impact to water is likely to occur from the SDL8 seismic program?

## **INAC Response**

INAC considers the conditions provided in response to Request Item #1, properly implemented, will be more than adequate to preclude significant adverse impacts to water, and indeed feels that these conditions will render impacts to water virtually undetectable. INAC has extensive experience in regulating and inspecting seismic operations on locations such the eastern approaches to the Cameron Hills, and has developed and demonstrated the recommended operating conditions through that experience.

## Appendix A

### DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

#### NWT REGION

### COMPLIANCE AND ENFORCEMENT POLICY

#### 1) INTRODUCTION

The Department of Indian Affairs and Northern Development (D.I.A.N.D.) is responsible for the management, protection, and enhancement of Land, Water, and Mineral resources in the Northwest Territories in a way that promotes the ecological, physical, and social well-being of all Canadians with the least possible impact on the environment. To fulfill this responsibility, the Director General, Northwest Territories (NWT) Region, acts for the Minister of Indian Affairs and Northern Development who is empowered by the Indian Affairs and Northern Development Act to administer all Acts, orders, and regulations pertaining to the use of Water and Federal Crown Land in the Northwest Territories. The prevention of avoidable environmental degradation, misuse of natural resources and its adverse effect on resource users is achievable through public education, prevention, and enforcement. The central focus of these efforts is voluntary compliance.

**Education** and **prevention** are the primary tools to achieve compliance. **Enforcement** is viewed as a tool of last resort. A guiding principle of the Policy is that compliance can best be maximized through cooperative inclusion of the public and stakeholders, building consensus in resource and environmental management decisions, activities, and regulatory initiatives. Preventive enforcement, including public education programs that encourage attitudes and values which promote compliance with environmental and resource laws, will be the major focus of our ongoing activities. Efforts to protect and improve the environment and resources require an effective regulatory base applied through sound compliance and enforcement strategies.

#### 2) DEFINITIONS

- |                   |   |  |
|-------------------|---|--|
| <b>Compliance</b> | - | Behaviour conforming with the Laws of Canada.  |
| <b>Direction</b>  | - | A verbal or written authoritative direction given to a person or corporation by an inspector under the Northwest Territories Waters Act. |

<b>Enforcement</b>	-	The process of investigating incidents of non-compliance with a view to taking steps to compel compliance or to punish non-compliance with the environmental and resource laws and regulatory requirements.
<b>Voluntary</b>	-	To achieve compliance through dialogue, education, persuasion, cooperation, written communication, and prevention activities.
<b>Compliance Orders</b>	-	A written authoritative direction given to a person or company by an inspector to suspend a land use operation if a default is not corrected within a specified time period.
<b>Suspension</b>	-	A notice given by an inspector or Board in writing to a person or company to stop a land or water use operation.
<b>Warning</b>	-	A verbal or written notice given by an officer and/or manager to a person or company of an infraction or non-compliance of an Act, Regulation or an authority issued pursuant to applicable legislation.

### 3) **OBJECTIVE**

The objective of this policy is to provide a consistent framework for the delivery of enforcement activities within the Operations Directorate of DIAND, NWT Region. Cooperation with other Federal and Territorial authorities through administrative and equivalency agreements and with other jurisdictions will be encouraged to promote consistency and limit duplication.

### 4) **PRINCIPALS OF COMPLIANCE AND ENFORCEMENT**

- I) Compliance with legislation, regulations, licences, and permits through education, prevention, and enforcement is mandatory. These activities are an integral part of natural resource management and environmental protection. The department prefers to ensure compliance by preventing incidents of non-compliance rather than pursuing prosecution after a violation has occurred.
- II) Resource Officers will apply the legislation with the emphasis on protecting human health, safety, and the environment as the highest priority; stressing pollution prevention rather than mitigation/reclamation; and preventing violations through education and prevention activities rather than relying solely on enforcement.



III) During all enforcement activities the primary consideration is the protection of life and the safeguarding of the health and safety of all individuals directly or indirectly involved. Once safety issues have been addressed, enforcement activities will be prioritized based on the value of the environment, resource, or property at risk. Endangered or vulnerable environments or resources will receive first priority. Highly sought after and valuable environments, property or resources will have second priority, and those of less value but subject to exploitation, will be of third priority. Enforcement will be conducted in a fair, firm, and consistent manner.

An Officer will select the compliance and enforcement options which will be most effective in stopping the violation from continuing or re-occurring, and shall be based on the following considerations:

- a) The option that is likely to best protect health and safety of the public, the environment, and ensure effective resource management;
- b) the effectiveness of past compliance options;
- c) the urgency of the situation;
- d) the reason for and seriousness of the non-compliance;
- e) the difficulty of correcting the situation;
- g) the previous record of the operator with respect to compliance;
- i) the attitude and cooperativeness of the operator; and
- j) the potential deterrent effect of the enforcement option proposed.

VI) In the event of non-compliance with the legislation, the following options may be available:

- a) Warnings, direction, and/or voluntary compliance (which may include education);
- b) orders in the case of emergencies, unsafe conditions and imminent harm to the environment and the public;
- c) suspension of operations;
- d) formal prosecutions.

## 5) **LEGISLATION**

The Compliance and Enforcement Policy applies to the following legislation administered by the Department of Indian Affairs and Northern Development:

- Territorial Lands Act
- Territorial Lands Regulation
- Territorial Land Use Regulations
- Territorial Quarry Regulations
- Canada Mining Regulations

- Northwest Territories Waters Act
  - Northwest Territories Waters Regulations
- Mackenzie Valley Resource Management Act
  - Mackenzie Valley Land Use Regulations
- Arctic Waters Pollution Prevention Act
  - Arctic Waters Pollution Prevention Regulations

A general knowledge of other legislation listed below may be useful to provide support.

- Canadian Environmental Assessment Act
- Canadian Environmental Protection Act
- Canada Water Act
- Canada Oil & Gas Lands Administration Act
- Fisheries Act
- Public Lands Grants Act
- NWT Public Health Act and Regulations
- NWT Travel and Tourism Act
- Transportation of Dangerous Goods Act

## 6) **POLICY GUIDELINES AND PROCEDURES**

Fair, equitable, and sustainable use of the NWT's land, water, and mineral resources is recognized as a fundamental component of the department's mandate. Three key tools associated with achieving success in this area include public and client education, prevention, and enforcement. The tools focus on educating, informing, and communicating with the public and stakeholders to improve compliance. Public involvement ensures that clients recognize and understand the department's policies and programs, and that department goals accurately reflect public concerns, values, and priorities. The central focus to this strategy is voluntary compliance, and reflects a continuum of activities running from education and awareness, to invoking specific terms and conditions of use, to inspection and monitoring compliance, to handling non-compliance.

Education, in its broadest definition, is the use of information and instruction to enhance awareness and understanding of natural resource management and environmental protection; to encourage more responsible environmental stewardship; and/or to encourage informed decision-making through better understanding of an issue, policy, program, or regulation. It includes informing the public, community authorities, industry representatives, Boards, land and water users, special interest groups and public bodies of applicable legislation as well as the programs, policies, and actions of D.I.A.N.D. It is

likewise a process of gathering information primarily at the field level, regarding concerns, potential developments, and local conditions and relaying this information to affected divisions and sections in government agencies to take whatever action is deemed appropriate. The majority of prevention activities include public/client involvement. By using their involvement in its day-to-day business, the department is positioned to adapt well to change and respond appropriately to evolving trends, public needs, and expectations. It is important to have an open relationship between the regulators and those being regulated to allow solutions to be developed to address problems. Enforcement is a tool of last resort, however, compliance is mandatory. It is an integral part of natural resource management and environmental protection. Not only do illegal activities pose a serious threat to sustainable development, but everyone should know the legal consequences and impacts associated with violating the legislation.

The inspector will advise and consult with the appropriate District Manager when an infraction or a potential problem has occurred which may lead to legal action. The District Manager will then advise and consult with the Director of Operations, who will in turn keep the Regional Director General, Regional Operations Committee, Land Administration, and Water Resources Division informed on such issues.

## 7) **GUIDELINES FOR THE USE OF COMPLIANCE AND ENFORCEMENT OPTIONS**

The Field Operations Manual sets out the approved operational guidelines for the compliance and enforcement aspect of the environmental protection and resource management mandate of the

N. W. T. Region for the Department of Indian Affairs and Northern Development. Education and prevention are the primary tools to achieve compliance. Prosecutions, fines, seizures, and other enforcement activities have only limited influences on behaviour modification. Nonetheless, efficient and quick prosecution of flagrant offenders is necessary.

Compliance and enforcement can be broken into four classifications of offenses:

**Administrative:** those sections of legislation (permits, licences, leases, etc.), which deal with the administration of a particular act;

**Technical:** sections which describe technical violations which are not serious in nature (no harm to the environment or resources);

**Safety:** sections which deal with safety of the public and

may include the safety of animals, plants, aquatic life, or property; and

**Environment/  
Resource Impacting:** sections which directly control activity which is harmful to the environment or resources.

Administrative and technical sections will be actioned by means which emphasize Education and Prevention. As a result, those strategies will carry a small Enforcement component, whereas Safety and Environment/Resource Impacting sections are more equally split between Education, Prevention, and Enforcement activities.

The following criteria will be applied by the Resource Officer when considering a course of action.

**Nature of Violation**

Whether there is a threat to human, animal, plant, or aquatic life or long-term harm to the environment.

**Effectiveness of Achieving Desired Results With Violator**

Compliance by the violator in a timely manner, with no further violation, is the desired result. Factors considered by the Resource Officer are the violator's history of compliance, willingness to cooperate with officers, and clear evidence of action already taken to achieve compliance.

**Equitable And Consistent Enforcement**

Guided by protocol, similar violations will be dealt with in a consistent manner throughout the NWT. Officers will therefore consider how similar situations were previously dealt with before deciding what action is necessary.

Most violations will be identified during regular inspection and monitoring duties, however, as environmental awareness becomes more prevalent concerns and complaints from the public will increase. The process of enforcing environmental and resource laws by DIAND follows a series of six steps which may ultimately lead to formal prosecution.

- Step 1 - Report of Occurrences
- Step 2 - Inspection
- Step 3 - Administrative Compliance Options
- Step 4 - Verification of Compliance
- Step 5 - Investigation
- Step 6 - Prosecution

**Step 1 - Report of Violation**

Information on a violation is received and documented according to established

departmental procedures.

### **Step 2 - Inspection**

The inspection service is a critical component of this policy and is to be conducted as per the department's approved Risk Assessment Program. As noted above, this work will identify most violations, however, when an outside complaint is received an inspection of the occurrence will be initiated depending on the availability of enforcement resources in the field and the priority of the situation.

### **Step 3 - Administrative Compliance Options**

The normal course of action is to use the following series of options prior to pursuing prosecution:

**WARNINGS / VOLUNTARY COMPLIANCE:** Warnings may be issued by officers if they have reasonable and probable grounds to believe that a violation of the law has occurred or is continuing. Officers may issue warnings when the harm or potential harm to the environment or natural resources, human life, or health is thought to be minimal, and will not result in significant long term irreversible environmental damage.

Where prompt action is required, an immediate verbal warning should be given and followed as soon as possible by a written warning containing the following information:

- a) The section of the Act, Regulation, Licence, Lease or Permit violated;
- b) a description of the offence;
- c) a time limit by which the warning must be complied with where appropriate; and
- d) a statement that if the warning is not heeded, further action will be taken to ensure compliance.

This schedule binds the person or company to comply within a specific time period.

**NOTICES AND DIRECTIONS:** If the alleged violator is unable to immediately comply with the law, a schedule of compliance may be drawn up. Inspectors under the appropriate Federal legislation have the authority to issue Notices and/or Directions for violations, stating that if the default is not corrected within the time specified in the notice the inspector may order the suspension of the operation. This avenue provides flexibility but binds the violator to comply within a specific time period.

### **Step 4 - Verification of Compliance**

The key element is to verify agreed upon actions. If there is compliance, the enforcement process ceases and becomes a monitoring function, while non-compliance results in further investigation.

### **Step 5 - Investigations**

Investigations are carried out by an Officer to gather evidence regarding a suspected violation. During an investigation, Officers may enter any area, land, place, or premise other than a private dwelling with or without warrant. Officers may then detain anything they reasonably believe will provide evidence of an offence, and will utilize their powers for the purpose of ensuring compliance with the appropriate legislation.

### **Step 6 - Prosecution**

Inspectors under applicable federal legislation have the authority to initiate formal prosecutions for violations. This action would usually only be initiated after all other avenues of obtaining compliance have been considered. Where it is decided by the inspector that a formal prosecution is to be initiated, the inspector shall prepare a brief relating to the offence and submit the brief with a request that a prosecution be initiated to the District Manager and the appropriate Crown Attorney.

Circumstances where formal prosecutions must be considered are:

- a) There is significant irreparable harm or risk to human health, the environment, or natural resources;
- b) there is serious misuse, and/or intentional abuse, or mismanagement of a natural resource;
- c) legislative standards are violated where the offender knew or should have known that the action constituted an offence;
- d) the alleged violator provides false or misleading information to an Officer, obstructs an Officer during his/her duties, conceals information of an offence, or interferes with any items seized by an Officer; or
- e) a person or company fails to comply with warnings, notices, directions and orders of the court, engineer or Officer.

The decision to prosecute initially rests with the Officer and is based on thorough examination of evidence and information gathered during the full investigation process. For situations of a sensitive nature or where the intent of the law is questionable or unclear, the Officer shall consult with senior staff and a Crown Prosecutor before laying charges.

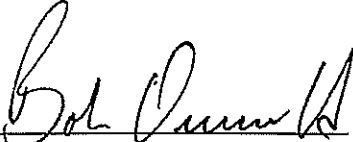
## **8) SUMMARY**

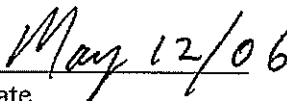
Achieving compliance with resource management and environmental protection legislation through **education, prevention, and enforcement** activities is the goal of this policy. Finn, fair, consistent, and timely enforcement actions must be taken when confronted with non-compliance.

Formal prosecution is a serious action, however, it must be considered when:

- a) There is significant irreparable harm/risk to human health or the environment, or serious misuse/mismanagement of a natural resource; or
- b) other options have been considered and not deemed to be appropriate.

Periodic amendments will be made to this policy to keep it current with operational practices, and will be approved by the Regional Director General.

  
\_\_\_\_\_  
Bob Overvold  
Regional Director General  
NWT Region

  
\_\_\_\_\_  
Date