

# NWT Board Forum

November 21, 2007

Mr. Neil McCrank,  
Special Representative of the Honourable Chuck Strahl,  
Minister of Indian and Northern Affairs Canada

Dear Mr. McCrank;

**Re: Northern Regulatory Improvement Initiative**

Congratulations once again, on behalf of the members of the Northwest Territories (NWT) Board Forum, on your appointment as Special Representative of the Honourable Chuck Strahl, Minister of Indian and Northern Affairs Canada (INAC), in advancing the Northern Regulatory Improvement Initiative which he announced on November 10<sup>th</sup> in Yellowknife. It was a pleasure to meet you at that time. Your presentation to the NWT Board Forum and openness to advice and comment from Board Forum members was appreciated.

Board Forum members welcome this initiative to improve the predictability, effectiveness and efficiency of the northern regulatory system. The Board Forum members accept the Minister's invitation to partner with you in seeking ways to improve the northern regulatory system.

The NWT Board Forum members have been working together for some time to identify common challenges and opportunities to improve our efficiency and effectiveness. While we look forward to meeting with you in the coming months, at this time we would like to offer the following initial comments for you to consider.

*Transparency*

In due course we look forward to better understanding the scope of your review of the northern regulatory system and the process and schedule you plan to follow in carrying out your review. We encourage you to be as transparent as possible in carrying out your review. Your review represents a unique opportunity for all interested parties to the northern regulatory system to explain and clarify problems, issues and possible solutions from their perspective and to similarly learn from the perspective of others. This will achieve a more comprehensive understanding of the scope of the improvements that may be possible.

### *Legislative Improvements*

Board Forum members have already identified improvements that can be made to relevant legislation. These legislative improvements would provide needed clarification of administrative provisions of the current regulatory system and process certainty without affecting the spirit and intent of the legislation. The concurrence of associated Aboriginal land claimant organizations in the NWT will be required to effect these improvements as most pertinent legislation are products of negotiated land claim and self government agreements with the Government of Canada. A number of these proposed improvements can be found in the 2005 NWT Environmental Audit conducted by the Department of Indian and Northern Affairs Canada. This Audit examined the state of the environment and the state of environmental management in the NWT. Many other needed improvements were identified in the 2005 NWT Environmental Audit Report as well.

We also draw your attention to two noteworthy gaps in the resource management legislation being the lack of enforceable legislation in respect to air quality impacts arising from proposed developments and the storage of fuel in water going vessels.

### *Capacity*

However, while legislative change can help improve the regulatory system, we believe the most critical barrier to the predictability, effectiveness and efficiency of the northern regulatory system is the significant lack of capacity to properly implement the system already in place. We believe that if the current system had the right capacity in the right places most concerns expressed by developers and other stakeholders would be removed.

You will hear from some parties that they see the northern regulatory system as cumbersome and slow. Please note that the portion of the regulatory system under the direct management control of Boards is largely completed on time following a schedule either prescribed by regulation or developed in collaboration with the developer and parties to the process.

On the other hand resource management Boards face a number of challenges beyond their control that make it very difficult to deliver environmental assessments, licenses, permits or authorizations in a quality and timely manner. These challenges include the uncertain disposition of lands in unsettled land claim areas; the lack of land use plans to clarify permissible land uses prior to development; the lack of capacity for potentially impacted groups to participate in Board processes; as well as the lack of financial, institutional and human resource capacity of aboriginal organizations to participate in the processing of development applications and to document and interpret traditional knowledge that can assist Boards in their resource management decision making. Added to that is the increasing resource development pressures in the NWT; the need for more readily available information regarding the cumulative effects of development on the northern environment; and the need to become fully compliant with the requirements of the *Official Languages Act*, including the provision of equitable aboriginal language

services. Last but not least is the lack of stable and adequate funding to carry out day to day Board operations.

All of these capacity issues affect the quality and timeliness of resource management Board decisions.

*Indian and Northern Affairs Canada*

The Department of Indian and Northern Affairs (INAC) has a large role in the regulatory regime in the North and the department's capacity and actions can significantly affect the efficiency and effectiveness of northern Boards. INAC and other responsible government Departments have been consistently unable to conduct those processes forming part of the regulatory system that are under their direct control in a timely manner. Those processes include the Board appointments process; conduct of "s.35 consultation"; the internal process by which Responsible Ministers respond to Reports of Environmental Assessment under Part 5 of the MVRMA prior to licensing and permitting being allowed to proceed; the effective implementation of socio-economic and cultural impact mitigation measures arising from Reports of Environmental Assessment; the inspection and enforcement of terms and conditions in licenses, permits or authorizations issued by Boards; and the associated monitoring, reporting and evaluation of measures, terms and conditions.

*Major Projects Office*

Finally we would like to offer an initial comment on the suggestion that a mechanism similar to the planned Major Projects Office for southern Canada may also have application in the NWT. Certainly extra effort will be required to coordinate and manage the regulatory process as it applies to the larger and more complex developments that will inevitably be proposed in the north. Boards will need time to study this possibility more carefully, however, an initial comment is that this role may, in fact, be complementary to the one that the NWT Board Forum has and continues to develop.

In closing, we would like to again thank you for meeting with us in Yellowknife. The members of the Board Forum collectively and individually possess a wealth of experience with the regulatory regime in the North and we look forward to working closely with you as the Northern Regulatory Improvement Initiative moves forward. Please be assured of our cooperation and assistance and our keen desire to partner with you on this timely initiative.

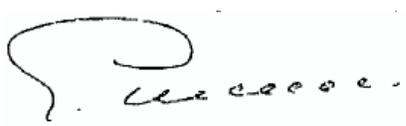
Sincerely,



Gabrielle Mackenzie-Scott, Chairperson  
Mackenzie Valley Environmental Impact Review Board



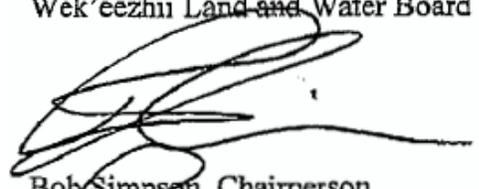
Willard Hagen, Interim Chairperson  
Mackenzie Valley Land and Water Board



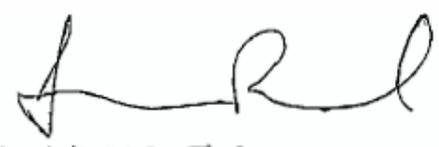
Larry Wallace, Chair  
Sahtu Land and Water Board



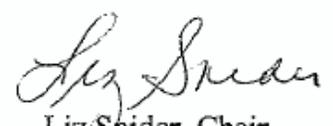
Violet Camsell-Blondin, Chair  
Wek'eezhii Land and Water Board



Bob Simpson, Chairperson  
Gwich'in Land Use Planning Board



Frank Pokiak, Chair  
Inuvialuit Game Council



Liz Snider, Chair  
Environmental Impact Review Board for the  
Inuvialuit Settlement Region



Walter Bayha, Chair  
Sahtu Renewable Resources Board



Alphonz Nitsiza, Chair  
Wek'eezhii Renewable Resources Board



Robert Charlie, Chair  
Gwich'in Renewable Resources Board

CC: Hon. Floyd Roland, Premier  
Government of the Northwest Territories

Nellie Cournoyea, Chair  
Inuvialuit Regional Corporation

Fred Carmichael, President  
Gwich'in Tribal Corporation

Mr. Larry Torangeau, President  
Sahtu Secretariat Inc.

George Mackenzie, Grand Chief  
Tlicho Government

Trish Merrithew-Mercredi, RDG  
INAC, NWT Region

Gordon Wray, Chair  
NWT Water Board

Fred McFarland, Chair  
Environmental Impact Screening Committee

Judith Wright-Bird, Chairperson  
Sahtu Land Use Planning Board