

**Mackenzie Valley Land and Water Board**  
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FILE NUMBER: 1000-20-006

Date: January 28, 2008

To: Vern Christensen

Organization: MVEIRB

Fax Number: Speed Dial #50

Copied To: Chairs & ED's GLWB, SLWB, WLWB  
Trish Merrithew-Mercredi, INAC 669-2703

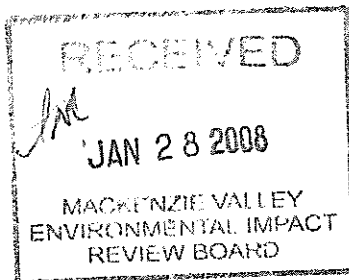
From: Janna Ward for Willard Hagen, Chair, MVLWB

Number of pages including cover 4

Remarks:

**MVEIRB's DRAFT Bulletin regarding Section 126 of the Mackenzie Valley Resource Management Act**

- Enclosures
- As requested
- For your information
- For your comment
- For your action
- For your approval



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January 28, 2008

File: 1000-20-006

Mr. Vern Christensen  
Executive Director  
Mackenzie Valley Environmental Impact Review Board  
P.O. Box 938  
YELLOWKNIFE NT X1A 2N7

Fax: (867) 766-7074

Dear Mr. Christensen:

**MVEIRB's DRAFT Bulletin regarding Section 126  
Of the Mackenzie Valley Resource Management Act**

Thank you for providing the opportunity to review and provide comments on the Review Board's draft bulletin referenced above, dated December 2007. In order to achieve the objectives of the Land Claims that gave rise to the *Mackenzie Valley Resource Management Act* (MVRMA) and subsequently the Land and Water and Environmental Impact Review Boards, we believe it is important that we undertake our respective responsibilities as effective and cooperative partners.

The Mackenzie Valley Land and Water Board (MVLWB) recognizes the efforts of the Review Board for initiating this valuable work. However, the draft bulletin also acknowledges that MVRMA s.126 referral powers extend well beyond just MVEIRB. With this in mind, we are providing only some initial comments at this time as we believe that our additional, in depth comments would best be dealt with at a combined meeting or forum of the various MVRMA Section 126 referral authorities, particularly those authorities listed in ss. 126(2).

It is our view that MVEIRB, along with MVLWB, the other Regional Land and Water Boards and the ss. 126(2) referral authorities could effectively participate in a meeting or forum that will assist the Review Board in the development of an inclusive and mutually acceptable approach to this issue. However, any approach to be developed must ensure that the internal MVEIRB process to refer an application to an environmental assessment is consistent with other referral authority processes as well. We would be most willing to discuss our substantive comments and provide our support to such a meeting.


Our view is that MVEIRB should not issue this bulletin at this time. Rather, the Review Board should consider other approaches or mechanisms that would more appropriately and effectively involve and include input from all parties who influence and could be directly affected by the content of this bulletin.

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Should you have any questions or require additional clarity of these comments, please call Wanda Anderson, Executive Director, or myself at (867) 669-0506.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'W. Hagen', with a stylized flourish at the end.

Willard Hagen  
Chair, Mackenzie Valley Land and Water Board

Attachment

cc: Chairs & ED's – GLWB; SLWB; WLWB  
Trish Merrithew-Mercredi, INAC-Yellowknife

### MVLWB's Initial Comments

- Between the Land and Water Boards and the Review Board, there are examples of inconsistent approaches; concerns / misunderstandings about the interpretation of the legislation; and the timeframe in which the Review Board renders its decision regarding the need for an environmental assessment. Establishing a consistent, transparent approach with clear timelines would be quite valuable to enhancing existing working relationships. Discussions regarding the need for regulatory amendments or defined timelines prior to the issuance of a regulatory permit or licence are critical.
- With regard to the "might" test applied by Land and Water Boards in their preliminary screening decision processes, it is clearly defined in the legislation. However, the same cannot be said for the process or specific test that the Review Board would initiate to make its determination for the need for an environmental assessment.
- The statute indicates that the Review Board has jurisdiction to call up an application on its own motion prior to the onset, and notwithstanding the completion of a preliminary screening decision. While the MVLWB understands the Review Boards interest in reviewing a preliminary screening decision by a Land and Water Board, it does not prevent the Review Board from initiating its own review to assist in the EA call-up decision and, as a matter of general statutory provision, the "might" test thresholds should guide the Review Board accordingly. This could potentially reduce the number of days required to develop a defined timeframe for final review of a preliminary screening decision adding clarity, transparency and consistency to the process.
- The premise that the MVRMA makes provision for the Review Board to "oversee" a preliminary screening decision and "supersede or override" such a decision is arguable. The MVLWB does not believe the Review Board is established as a review body for preliminary screening decisions. The fact that the Review Board may, on its own motion, call-up an application for an environmental assessment without necessity of a preliminary screening being completed would support this position.

In closing, we hope that these limited comments are helpful. As previously indicated, we would be most willing to discuss more detailed comments in a meeting or forum format with all affected and interested parties.

Ensuring the consistent, coordinated and timely completion of all relevant Parts of the MVRMA prior to licencing or permitting is in our respective Board's best interests. Working together to achieve this objective should be our common goal...and initiating an opportunity to move forward on this matter is something that the MVLWB could contribute both financial and human resources toward.