

Mackenzie Valley Environmental Impact Review Board Environmental Assessment (EA) Practitioner's Workshop



March 1 & 2, 2005
Katimavik Rooms B & C
Explorer Hotel, Yellowknife



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1.0 INTRODUCTION- PROJECT BACKGROUND

The Mackenzie Valley Environmental Impact Review Board (MVEIRB) hosted the second Environmental Assessment (EA) Practitioner's Workshop in Yellowknife, on March 1 & 2, 2005. The purpose of this workshop was to provide a venue for the various parties who participate in an EA to acquire better understanding and insight into the internal processes of other organizations. It also provided an opportunity for participants to talk openly about the EA process and to identify things that are working well as well as areas that need improvement and some potential suggestions for these improvements. The intended objectives of this workshop were:

1. To share the internal processes of MVEIRB;
2. To identify the parties involved in an EA and to gain a better understanding and appreciation of these parties;
3. To review the EA process;
4. To identify the things currently working well in the EA process, as well as areas in the EA process that need improvement;
5. To acquire valuable input from practitioners that may improve the EA process; and
6. To recognize the necessity of cooperation, co-management and communication among EA practitioners.

A wide variety of participants were invited to this workshop. The workshop was open to any interested parties- however the focus the workshop was first and foremost directed at participants who have had experience in the conduct of an EA under the MVRMA. To get a good cross mix of experience, invitations were sent to a variety of non-government, Aboriginal, industry and government organizations. Facilitation for the workshop was provided by GeoNorth.

The workshop agenda is provided in Appendix A. Prior to the workshop, participants were asked to provide a one page summary that described the internal process of how an EA is handled internally by their organization. These summaries were a resource tool and provided relevant background information on the various organizations who attended the workshop. The one page summaries were included in the resource folders that were distributed to all participants at the workshop. In order to create an atmosphere of sharing and communication participants were assigned to a specific table upon arrival to the workshop. The seating arrangement was generated randomly and brought people together from a variety of backgrounds to discuss and share experiences and ideas on the EA process.

The opening prayer was given by Florence Catholique. Gabrielle Mackenzie-Scott, Vice-Chairperson of the MVEIRB, welcomed participants and thanked DIAND for

financial assistance for the workshop. An MVEIRB video, outlining the steps of the environmental impact review process was then presented. The video is available upon request from the MVEIRB.

Hal Mills presented the agenda. Mary Tapsell, MVEIRB Environmental Assessment Manager, outlined the theme and objectives of the workshop and encouraged participants to share their experiences in the EA process. Participants were asked to examine what is working in the process and where improvements are needed. Mary invited participants to look for solutions and provide recommendations on where the EA process could be improved.

2.0 PANEL DISCUSSIONS

From the participant's list four major groups emerged:

- Non-governmental Organizations (NGO)
- Aboriginal/Community
- Industry
- Government/Regulatory

Participants from each of the four groups were asked to participate on a panel. The panel discussions were conducted in an informal round table settings as a "talk show" format. Each panel member was provided with a list of possible questions related to their specific group, prior to the workshop. After these questions were answered the audience was invited to ask questions of the panel or to provide additional comments.

Directly following each panel discussion, the participants were given ten minutes to work at their group tables to answer a question related to the prior panel discussion. Answers and comments were recorded and later collected. Summaries of these round table talks are presented below under the heading "Round Table Question".

The following is a summary of key answers, comments and remarks from the four panel discussions:

2.1 Non-Government Organization (NGO) Panel

Barbara Saunders
Northwest Territories Status of Women

Jennifer Morin
Canadian Parks and Wildlife Society
(CPAWS)

Kevin O'Reilly
Independent Environmental Monitoring
Agency (IEMA)

Shelagh Montgomery
Canadian Arctic Resources Committee
(CARC)

Question: As your organization is National, what challenges are there with bringing a national perspective into a regional EA process?

- The driver of an EA is at the local level, National chapters are there to provide feedback;
- Some NGOs focus on EAs with respect to protected areas. However, they work with communities collaboratively to identify and protect those areas; and
- NGOs are national, but they strive to address regional concerns. There are national concerns with issues such as climate change and international shipping, but many EA issues are regional. The challenge is in finding the capacity to participate in the EA process in a meaningful way.

Question: For your organization, what are the most challenging parts of the EA process?

- The biggest challenge for monitoring agencies is in making sure they are involved, focusing on the right issues at the right time, and the ability to resolve issues.
- Another problem is access to funding and finding staff time to participate in the EA process. Capacity is a big problem.
- Getting the EA process to look at the big picture, and not short-term benefits of individual projects, is a challenge. There is a need for full-cost accounting of projects.
- NGOs try to look at the big picture and to make a connection with what is happening out on the land. The challenge is in keeping up with the pace of development, and how land use permit conditions are implemented and enforced.

Question: How do you address the need for jobs vs social and environmental impacts during the EA process?

- Most NGOs do not have a socio-economic mandate, but try to look at what is happening in the regions and what the communities really want;
- NGOs are not anti-development. They want to promote an integrated approach to development which looks at long-term jobs and jobs going to Northerners;
- The need is for a balance of jobs that reflects the diversity of the North, respect for the mixed resource economy of Aboriginal peoples, and an understanding that not everyone in the North wants to be trained for jobs in industry; and
- Environmental monitoring agencies have no mandate to be public watchdogs for economic development, there are separate Socio-Economic agreements for that.

Question: How does the Status of Women communicate with the different communities, and how do you view equity issues in the EA process?

- It communicates by telephone and by providing written materials in plain language, with explanations if necessary. It distributes forms that can be photocopied, faxed and e-mailed.; and
- Equity is sorely lacking in the EA process. Federal and Territorial legislation requires gender evaluation but that seldom happens, so that equity is seldom considered in EA decisions.

2.1.1 Audience questions and answers for the NGO panel

What is your (NGO) definition of community?

- “Community” encompasses plants, trees and animals;
- All aspects of a community are connected.

2.1.2 Round Table Question

What is the most interesting issue/factor/idea you learned from the NGO panel?
<ul style="list-style-type: none"> • Women’s issues have not been properly addressed in the EA process; • The issue of whether or not NGOs adequately represent NWT residents and their issues; • The actuality that NGOs may not have enough financial support to fully participate in the EA process; and • The challenge of applying southern approaches and models in a northern context.

2.2 Aboriginal/Community Panel

Rachel Crapeau,
Yellowknives First Nation (YKFN)

Greg Nyuli,
Deh Gah Got’ie First Nation

Florence Catholique,
Lutsel K’e First Nation

Robert Sayine,
Deninu Kue First Nation

Question: What happens within your organization when you receive an EA application?

- Communities try to find out what the project is about and determine who should be involved in the community; ideally the youth, elders, and hunters and trappers would be contacted. They visit the MVEIRB office to find additional information and get answers to our questions;

- Seek advice from NGOs and government agencies to try to find out priorities for the specific project;
- Communities need to hire specialists (aquatics biologists, etc) to assess impacts and EA reports, but have little money to do so;
- Ensure everyone in the community understands what is going on. This is done through translation and further explanation;
- EAs can trigger a very stressful moment in a community;
- Visit the site of the proposed project;
- Address baseline research information;
- Translate technical reviews which are not always easily understood;
- Ensure that youth and community members have priority in training to gain employment in areas of development; and
- In Fort Providence, EAs are brought up at council which are then referred to the Fort Providence Resource Management Board (FPRMB). It gathers information on the project, and then returns the EA back to council. After the EA has been returned to council it is sent to the Elder's council and finally it is sent to the Band council for approval.

Question: What parts of the EA process do you find most challenging?

- Timelines. By the time an EA reaches the community the project is close to the deadline;
- Lack of skilled people in small communities;
- Lack of resources to implement necessary research;
- Technical aspects of a project;
- Politics behind a project;
- Responsibility of making certain that a community's way of life is going to continue;
- Ensuring that all information resources are made available;
- Dealing with the boards because they have the last say in an EA;
- Lack of funding; and
- Lack of trust between communities and other parties;

2.2.1 Audience questions and answers for the Aboriginal panel

A participant from industry agreed that communities should speak for themselves, as it is difficult for communities to deal with outside help at times. A suggestion was made to have direct face-to-face discussions between communities and proponents upon initiation of a project, which in turn, could help reduce the need for outside consultants.

2.2.2 Round Table Discussion

What issue/factor/concern was cleared up for you after listening to the Aboriginal/Community panel?

- Consultation with communities prior to the application process is necessary;
- The benefits of communicating and establishing relationships prior to the application process were emphasized;
- Challenges for communities to participate in an EA were identified, i.e. funding, language barriers, lack of technical support, and timelines; and
- Communities face challenges when trying to come to consensus on issues related to projects.

2.3 Industry Panel

Chris Hanks
BHP Billiton

Robin Johnstone
De Beers Canada

Jim Hawkins
Imperial Oil

Shirley Maaskant
Paramount Resources

Question: What are the most challenging parts of the EA process?

- Referral processes between boards are not well defined which can lead to a number of questions. MVEIRB needs to provide clarity for everyone;
- The volume of information, i.e. Terms of Reference (ToR). A risk assessment approach is required to ensure environmental assessment focuses on key issues, while managing volumes of information; and
- Lack of understanding and time.

Question: What are some of the lessons you have learned when dealing with Aboriginal communities during an EA process?

- The need to engage early and maintain good communication is key for communities to understand the project at hand;
- Consensus decision-making process among First Nations can be very time consuming, difficult, and expensive. But it is important as a developer to find consensus among constituents;

- Companies have an obligation to provide information in a timely manner to permit communities the time required to digest the information;
- Companies need to spend the time to answer community questions;
- The need for technical expertise so that decisions can be made. Aboriginal groups should not be dependent on third party information. The government should also help provide technical expertise; and
- That there is a lack of trust in the communities with regard to scientific information that is presented, as well as a lack of trust with the Board. Communities recognize that politics plays a role in industrial projects.

Question: Do you share your EA information with other companies and organizations?

- Yes, information is shared through a public registry process. MVEIRB and other industry members are looking into further developing this database;
- A better application is presented if information is shared among other stakeholders;
- Feedback from communities and others makes for a stronger application and is useful for project design;
- Improvements to EA and mitigation can be better achieved by sharing information;
- Information is shared on a need to know basis; and
- Information is shared with communities and regulators so they feel they are properly involved in developments.

2.3.1 Audience questions and answers for the Industry panel

Question: Project design often changes during the course of the EA process. How do you reflect these changes when addressing the Terms of Reference as received from MVEIRB?

- The EA process takes so long that industry has to enter early, before final design decisions have been made. If you want more certainty in Terms of Reference, the time frame for the EA process must be shortened.
- Free market forces apply and delays in the permitting process result. Projects are dynamic and changes to the project design may occur as new information is received and mitigation measures are considered

Question: Who determines what information should be shared?

- Most information is shared. For example, environmental baseline information would be shared, but information with competitive advantage would not.

Question: What should industries role be in cumulative effects assessment?

- Government has a responsibility to provide information on the environmental effects of projects and for setting the framework for cumulative impact assessment. But there is way too much emphasis on cumulative effects and not enough emphasis on land-use planning.

2.3.2 Round Table Discussion

What new information did you learn from the Industry panel?
<ul style="list-style-type: none">• Industry views land use planning as an effective tool to address cumulative effects;• Lack of consistency with respect to information sharing;• Industry recognizes the need to build trusting relationships, engage with communities early, and to relay information about their project in ways that community members can understand; and• Introducing the concept of using risk assessment for improving the Terms of Reference.

2.4 Government/Regulatory Agency Panel

David Livingstone
DIAND

John Korec
National Energy Board

Gavin More
Government of the Northwest Territories (GNWT)

Julie Dahl
Department of Fisheries and Oceans

Steve Harbicht
Environment Canada

Question: What part of the MVIERB EA process do you find the most challenging and why?

- Timing; it is difficult to fit things into a review schedule and also in-house experts are not available for all matters. Government, at times, must rely on national experts, and that can cause time constraints;
- Timing; government must meet with other agencies to sort out a response to the Board's EA report. It takes a very long time to come to consensus with all government groups;
- Complexity of an EA process and resource limitations in terms of human resources are some of the greatest challenges of an EA process;
- Determining the measure to effectively implement recommendations from an EA;

- Lack of certainty due to data systems that are falling behind; and
- Addressing cumulative effects through individual project assessments.

Question: How do you view government vs industry responsibilities for public consultation during the EA process?

- Industry is responsible for communicating with communities.
- Government needs to consult with communities because government issues the permits, but it should be left up to communities to make the initiative to get governments to work with them;
- Companies/industry should consult with communities before the EA stage;
- Aboriginal interests need to be addressed and accommodated. More consultation is needed to perform necessary analyses;
- Environment Canada seldom issues permits, therefore the primary responsibility of consultation with communities is by industry. Government must work with existing bodies in the EA process (i.e. be present at hearings and information sessions) to take public concerns into consideration when making recommendations to MVEIRB; and
- It is the developer's project and they know it best, so DFO would not go out and promote someone's project. Once a project is received, DFO participates in the EA process and is open for input received through information sessions. DFO does not provide public hearing sessions, rather during an EA process DFO tries to address its mandate (e.g. how fish habitat issues relate to the project).

Question: How do you serve the public mandate, to ensure that you are speaking on behalf of the public?

- Working in the field (i.e. data gathering and environmental monitoring);
- Gathering information and understanding how land is being used (i.e. traditional knowledge);
- Hire professionals in order to give boards the very best advise when in-house expertise is not available;
- Providing some assistance to Aboriginal groups during the EA process; and
- Public engagement while trying to promote safety, environmental protection, and economic development.

2.4.1 Audience questions and answers for the Government/Regulatory Agency panel

Question: Do you agree that EA funding is a requirement for communities?

- The panel recognized that there is a need for intervener funding. However, it needs to be determined where the money is going to come from. Intervener funding was once provided by DIAND but it has not been reinstated.

Question: How is DIAND fulfilling its obligation to consult with communities?

- The amount of consultation that is needed with communities has yet to be determined. However, analysis of this is in the works and DIAND may have more of a presence in the communities in the future.

Question: Why have DIAND and NEB excluded communities from “consult to modify” meetings?

- The consult to modify process is carried out between the Crown and the Board. Communities were not typically involved in this process, however it is recognized that things may need to change;
- This requires a legal opinion and there is no mechanism in place for public involvement; and
- The legal responsibility for consultation is by the Crown, however there needs to be a joint effort by government and industry to communicate with communities on the development of guidelines with respect to TK into legislation.

The audience and panel offered the following comments regarding information resources:

- An alternative way of exchanging information, rather than resubmitting information, is to provide recommendations up front. There has been no response by government to respond to this recommendation. The EA process could be improved if regulators made recommendations directly to industry.
- The Information Request (IR) process has been formalized by NEB. The IR process allows for clarification as well as promotes company commitment.
- IRs used to be addressed by getting people together for Round Table discussions. Round table discussions are just as efficient and more amicable, but there is now a more legal and time-consuming aspect to the IR process.

- Regulators are becoming more academic and there is a less direct approach than in the past. Government wants to make sure that the project is understood. The more direct approach (i.e. round table approach) could save large amounts of time.

2.4.2 Round Table Discussion

What were you surprised to learn about from the Government/Regulatory Agency panel?
<ul style="list-style-type: none"> • Round-table discussions may be beneficial in the EA process; • There may be reconsiderations in the consult-to-modify process because of the Haida and Taku Supreme Court rulings; and • The information request process is not disciplined enough to limit repetition or non-related IRs to a project; and • How the Haida and Taku Supreme Court ruling may influence consultation in the Northwest Territories

3.0 PRESENTATIONS

Throughout the two day workshop a number of presentations were made by the MVEIRB staff. More detail on the presentations can be found in Appendix C. Written portions of these presentations can be found or full copies are available upon request. Presentation titles, presenters and comments are summarized as follows:

Title	Presenter	Comments
<i>Decision Making Process</i>	Martin Haefele	<ul style="list-style-type: none"> • MVEIRB acknowledged a need for participant funding, however it is not in their mandate to provide it; • A consideration could be to add one more level in an EA to provide parties an opportunity to comment on draft measures and thus possibly “smooth out hiccups in final reports”; and • Recognition that MVEIRB has not always gone back to communities to explain how a decision was made or finalized and this is something the Board is now committed to doing.

<p><i>The Snap Lake EA Decision</i></p>	<p>Patrick Duxbury</p>	<p>Lessons learned included:</p> <ul style="list-style-type: none"> • Benefits of incorporating Traditional Knowledge; • Relationship-building between stakeholders is a necessary element; • Baseline data is required for cumulative effects consideration; and • MVEIRB requires timely, accurate information and support from staff and consultants <p>Proposed solutions were provided to encompass:</p> <ul style="list-style-type: none"> • The EA process and sequence of steps; • Information management; • Incorporation of TK; • Communications; • The EA report; and • Administration
<p><i>Things We Took Away from the Northrock EA</i></p>	<p>Martin Haefele</p>	<p>Lesson learned included:</p> <ul style="list-style-type: none"> • Development of a ToR numbering system; • Mid-point scoping of issues; • Focus more directly on EA key issues; and • Recognition that listing early and late finishing dates was not a success.
<p><i>Drybones Bay/Wool Bay EAs – Lessons Learned</i></p>	<p>Renita Schuh</p>	<p>Lessons learned included:</p> <ul style="list-style-type: none"> • MVEIRB needs to conduct its own careful scoping on issues; • Make the process fit the “scale of the issues” not the scale of the development; • Small companies need more prescriptive Terms of Reference, not less prescriptive; • TK can be used effectively in EA; and • Community and small developer capacity issues remain a challenge for the EIA process.
<p><i>Problems Identified! – Lessons Learned?: Imperial Deh Cho Geotechnical Program EA</i></p>	<p>Alistair MacDonald</p>	<p>Identified issues included:</p> <ul style="list-style-type: none"> • Defining the scope of EA; • Lack of baseline data;

		<ul style="list-style-type: none"> • Problematic communication; • Determination of “parties” in an EA; and • Time length <p>Recommendations included:</p> <ul style="list-style-type: none"> • Timeline tracking and process control measures; • Use of databases to control information management; • More teamwork among EAOs; and • Foster greater input from government experts.
Draft Two: Traditional Knowledge Guidelines <i>Incorporating Traditional Knowledge into the Environmental Assessment Process</i>	Renita Schuh	<ul style="list-style-type: none"> • MVEIRB is working with the Mackenzie Valley Land and Water Board to develop TK guidelines as the MVLW will impact the process of guideline development. • Spirituality and social concerns are part of the elements of TK described in the TK guidelines.
Development of Social and Economic Impact Assessment n (SEIA) Guidelines	Alistair MacDonald	<ul style="list-style-type: none"> • MVEIRB is developing SEIA Guidelines between February and August of 2005 • SEIA is an under-utilized tool for assessing key impacts on the environment under the MVRMA • Public assistance with the development of these guidelines is being extensively used

4.0 IMPROVING THE EA PROCESS

In round table groups, participants were asked to identify the top five areas that are working in the EA process and the top five areas that need improving. Topic 4.1 and 4.2 highlight the most frequent responses. In order to not lose any information a summary of all responses from the round table groups can be found in Appendix

4.1 TOP AREAS THAT ARE WORKING IN THE EA PROCESS:

The following are the top areas that workshop participants believe are working in the EA process:

- MVEIRB staff are accessible, flexible, and helpful;
- Information management and the public registry are well managed and accessible;
- Self-assessment through workshops and public input is a positive step;

- Development of community liaisons;
- Technical sessions and terminology workshops;
- The Board is taking community concerns more seriously;
- Improved communication between the Board and other parties;
- Public consultation process;
- Lessons learned workshops;
- Improving Board and staff capacity;
- The inclusion of Traditional Knowledge; and
- The use of consultants.

4.2 TOP AREAS THAT NEED IMPROVING IN THE EA PROCESS: GROUP PRESENTATIONS ON SELECTED THEMES

The last portion of the workshop had participants working in groups on one of the key themes that were identified as needing improvement in the EA process. Participants had the opportunity to select which theme they wished to work on and were asked to report back on their discussions. The following tables capture the key issues and possible solutions for each theme.

SCOPING :

<p>Key Issues</p>	<ul style="list-style-type: none"> • Scoping should focus on unique aspects of each development; • Projects are referred to assessment because of lack of understanding of a specific project; • Many referrals are done because there is not enough trust in the regulators; • A possible problem with community use of consultants was identified but later disputed (see comments below); • Volume of information is conversely related to quality; board should look at tightening and reducing IR; and • Within an EA the scope broadens; there are many projects that in fact do not require an EA.
<p>Solutions</p>	<ul style="list-style-type: none"> • More education for the Board; • It would be possible to narrow the scope of an EA if more authority was given to staff and their expertise; • Risk assessment should be addressed (applied?) to a project - a project should be narrowed right from the beginning; • Use information from past EAs as a resource and for forecasting possible issues that could develop; • No news is good news approach – if an issue on a topic is not raised during the initial scoping/screening then it may not be necessary to include it in the Terms of Reference for a more detailed analysis.

Additional Comments

Participants had additional comments regarding scoping:

- One concern when discussing narrowing ToR and narrowing EA is that it does not serve an analytical approach to the environment. When looking at a project it is important to look at the environment as a whole.
- One participant claimed that remarks regarding the use of community consultants was unfair. The scoping group had raised the issue that at times communities must get outside help, and that sometimes the hired “help” may not be interested in the issues at hand.

CAPACITY

<p>Key Issues</p>	<ul style="list-style-type: none"> • Looked at organizational capacity; few community organizations have sufficient staff to review EAs; whereas some government departments have more capacity; • DIAND has limited capacity funding, but it is only available once a year. • Concluded that there is always limited personnel. If people had greater confidence in the system, the need for capacity funding would be reduced. If government had more experts available this problem would not be so great.
<p>Solutions</p>	<ul style="list-style-type: none"> • A committee within communities would help to build the funding and knowledge capacity. • There is an obligation through land claims and resource development to build community capacity. • DIAND and MVEIRB have a responsibility to build community capacity and should be in communities to explain roles and examine how communication is done. • The use of plain language can assist with the capacity/communication barrier. • MVEIRB used consultants to help expand its own capacity which eases capacity issues all around, and therefore increases efficiency of the EA process.

COMMUNICATION & CONSULTATION

<p>Key Issues</p>	<ul style="list-style-type: none"> • How people react to communities from the beginning of the EA process; • Who do you talk to; how do you alleviate consultation fatigue; • When people go to communities assumptions can be made or the wrong people are consulted; personal opinions can get mixed up with the policy/idea of the organization as a whole; • Where and how can it be determined if consultation has been adequate?; and
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	<ul style="list-style-type: none"> • Where in the EA is stakeholder involvement determined?
Solutions	<ul style="list-style-type: none"> • An inter-organizational group would provide one consulting group that would act as a liaison i.e. a “one-stop shop”; • Industry should be more proactive; people come into communities and sometimes a larger policy that could put things into perspective is missing; • After the board submits the EA report to the minister, he/she should be able to clarify the board’s intent if there are any questions of interpretation; • Provide more information on why certain information is dropped or changed.

IMPROVING WORKING RELATIONSHIPS

Key Issues	<ul style="list-style-type: none"> • Trust; and • Difficulty in gaining back trust once something has gone wrong.
Solutions	<ul style="list-style-type: none"> • Earlier involvement by industry and government would help create better relationships with communities; • Hire someone from the community who is trusted to represent the community; • Clarify the consult to modify process – define the responsibility of the GNWT; • Early and active facilitation between parties to discuss issues before the EA process has progressed very far; and • Clarify mandate responsibilities- the Board needs to clarify who is responsible for involvement at different stages of the EA process and ensure all parties are aware of their responsibilities; each party is responsible for explaining its own mandate and for deciding what level of participation they will put into an EA.

TRADITIONAL KNOWLEDGE

Key Issues	<ul style="list-style-type: none"> • Understanding what TK is – a way of life for an individual, family, or community; • Trying to define TK territorially; • TK is a teaching mechanism for a person and is necessary for one’s survival; • TK as an important relationship builder; and • Sharing fieldwork information with Aboriginal communities.
Solutions	<ul style="list-style-type: none"> • Understand that TK is an important aspect of land-use planning; • Acknowledge that TK is used for training – survival skills and capacity building;

	<ul style="list-style-type: none"> • Understand the necessity of respecting TK/cultural practices when developing processes, for example in ceremonial practices: (when we had an EA our elders gave us the advice that if we want to do this project a ceremony must be performed with all parties involved first and then the development process can resume); • Share information of fieldwork with Aboriginal communities; apply the same approach to developers – (Aboriginal communities want to know what is being done on the land and when development is occurring); and • ensure that Aboriginal communities/groups are involved in any type of development and/or process: (Aboriginal communities are saying they don't see applications and they don't issue permits; Aboriginal communities understand the need to use resources, they just want the respect of being informed).
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Additional Comments:

Participants had additional comments regarding TK:

- One participant felt that it was important to keep TK separate from technical development.
- A participant was concerned about TK policy development and whose perception is being used.
- A number of participants felt that communities must be involved when developing TK policies.
- The Gwich'in Settlement has developed a TK policy and is available for use through the Gwich'in Social and Cultural Institute.
- If guidelines are being drafted, Aboriginal Communities should be given time to review the guidelines, especially for communities that do not have a TK policy in place.
- A participant felt that Aboriginal organizations should push for funding to do a workshop to gather information on TK.
- EAs are supposed to be open and available to the public, raising questions about access to private TK information. Industry tries to use TK without violating 'privacy' issues.
- TK is researched prior to a submission of application and is incorporated in the project planning stage. For example, TK is utilized in determining project site locations and is used to address issues about migration routes and hunting paths.
- A participant felt that the building of capacity has been that local researchers have developed more skill on TK projects by building regional databases. Technical training is provided to build the capacity to finish projects more quickly and efficiently and that it is getting much easier to develop comparative information between TK and technical knowledge.

IR PROCESSES

Key Issues	<ul style="list-style-type: none"> • Unclearly defined developers reports; • IRs tend to be cumbersome and non-interactive; and • Issues of fair play and equal participation by all groups.
Solutions	<ul style="list-style-type: none"> • Accurate information needs to be provided to the board right away when a referral is passed; • Facilitate inter-party discussions between developers and communities; • Put into practice Risk Assessment Analysis which would cut out “less important” issues; and • Eliminate/replace IR with technical sessions/meetings. This would reduce the delay of the EA process and shorten timelines.

EA MEASURES – FEASIBILITY OF IMPLEMENTATION

Key Issues	<ul style="list-style-type: none"> • Are the measures required by the MVEIRB in its EA reports feasible to implement, monitor and regulate? • Measures are criticized by regulators charged with their implementation, either for being too specific (thus potentially fettering the regulator), or for being too vague for regulators to implement; • Regulators are concerned that measures directed towards them don't fit under their existing mandates; • Some types of measures (especially socio-economic ones) are not governed by any existing regulations; • Public concerns – because of the default push of a finding of ‘significant public concern’ up to the EIR level, the MVEIRB has been imposing measures related to ‘significant adverse environmental impacts’ that are in fact due largely to public concerns. • Timeline of implementation – concerns that government permitting process, implementing required measures, is holding up developers who have no control over government implementation timelines.
Solutions	<ul style="list-style-type: none"> • There is a need to link each measure to a significant environmental impact: if there is public concern the project will then go to an EIR; • There is a need to have measures that are linked to a system of measurement of their effectiveness; currently, some lack any measure to clarify whether measures are effective; <p>Three key ways to fix the system:</p> <ol style="list-style-type: none"> 1. Release draft measures after deliberation by Review Board and findings of significant impacts, for distribution <i>only to</i> regulators to assess feasibility of measures; 2. Regulators to issue draft conditions on specific measures to show whether they are feasible to implement, and how they will be interpreted by the

	<p>regulator (e.g., can NEB model of issuing draft conditions be adopted for the MVLWB?)</p> <p>3. Educate each other on what responsibilities are under each organization's mandates. More informal round tables and lunch-time meetings.</p>
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EA FOLLOW-UP

Key Issues	<ul style="list-style-type: none"> • When an EA report is produced it goes on to a Federal minister who then distributes it to all responsible ministers. A report may also be sent to the NEB for a decision. Each decision-maker is responsible for ensuring that a measure related to its authority is implemented. Should there be only one "gatekeeper"? • In some cases, organizations (ie land and water boards, local government, etc) are required to implement measures yet they are not necessarily the decision makers. • Some measures have no regulatory home, so what happens to the implementation and follow-up of these measures/ • Adaptive management; if a measure is not working how do we adapt it? Need a feedback loop/mechanism to evaluate effectiveness of measures.
Solutions	<ul style="list-style-type: none"> • Implement a more frequent audit (every 2 years instead of every 5 years) This would assist in making necessary changes and modifications to existing measures; • Feedback is needed to ensure effective and feasible measures; • Need a better understanding of how different parties are interpreting measures. There is a matter of communication and interpretation of mandates; and • Adaptive management: Parties would provide data necessary for audit and apply adaptive management as/if required.

4.3 ADDITIONAL AREAS OF IMPROVEMENT.

In addition to the themes that were worked on in the workshop, participants identified other areas that needed improvement. A summary of all responses that came from the group discussion

5.0 FINAL COMMENTS

Many participants expressed their appreciation of the workshop and were encouraged by the good will and intentions of the Board and its staff.

Hal Mills thanked the participants for working so hard during the workshop, commenting that it had been an interesting and productive session. Hal thanked everyone for sharing their information and coming up with suggestions and solutions. Mary addressed the workshop participants stating that she appreciated their efforts, and that MVEIRB will be looking carefully at information coming from the workshop.

APPENDIX A: AGENDA

***Mackenzie Valley Environmental Impact Review
Board Environmental Assessment (EA)
Practitioner's Workshop
“CO management . . . COoperation . . . COmmunication”
March 1 & 2, 2005
Katimavik Rooms B&C
Explorer Hotel, Yellowknife***

Workshop Agenda

***Day One
Tuesday, March 1st***

<i>9:00 - 9:15am</i>	<i>Welcome</i>	<i>MVEIRB</i>
	<i>Introductions, Review Agenda</i>	<i>Hal Mills, Facilitator</i>
<i>9:10 – 9:30am MVEIRB</i>	<i>Objectives</i>	<i>Mary Tapsell,</i>
	Improve understanding of internal processes of the various participants in an environmental assessment. Identify areas needing improvement, and come up with some creative solutions!	
<i>9:30 – 10:00am</i>	<i>MVEIRB Internal Process Presentation</i>	<i>MVEIRB</i>
	To open the lines of communication, the workshop will begin with the host's review of their internal processes. A question and answer period will follow.	
<i>10:00 – 10:15am</i>	<i>Coffee Break</i>	
<i>10:15 – 12:15pm & 1:30 -- 3:45pm</i>	Panel “talk shows” will be conducted in informal round-table settings. The idea is for other groups to gain insight into how the EA process works for other parties. The facilitator will guide the beginning portion of each segment followed by a question and answer period. This will provide an opportunity for people to ask questions about another group's working process.	
<i>10:15 – 11:15am</i>	<i>Non-Government Panel</i>	
<i>11:15 – 12:15pm</i>	<i>Aboriginal/Community Panel</i>	
<i>12:15 – 1:30pm</i>	<i>Lunch</i>	

1:30 – 2:30pm Industry Panel

2:30 – 2:45pm Coffee Break

2:45 – 3:45pm Government Panel

3:45 – 4:30pm Recap of Panel discussions . . . Thoughts for tomorrow . . .

Day Two **Wednesday, March 2nd**

9:00 – 9:10am Summary of Day 1, Review Agenda for Day 2 **Hal Mills**

9:10 – 10:15am Experience of Environmental Assessments: A MVEIRB Perspective
The Board would like to take this time to share what they've learned through past EAs. The discussion will focus on what is working, what has not worked and what changes have been made to the process.

10:15 – 10:30am Coffee Break

10:30 – 12:00pm The Good News . . . and the Bad News . . .
Tables will brainstorm and identify the top five areas that are working in the EA process and the top five areas that need improvement.

12:00 – 1:30pm Lunch

1:30– 1:45pm The TOP TEN LIST **Hal Mills**
The facilitator will identify the top ten issues identified by the groups. People will be asked to “sign” up to a group that they wish to participate in for recommending change and solutions.

1:45 – 2:30pm Improving the EA Process (Part 1)
Participants will work with others to address the issue they have chosen.

2:30 – 3:15pm Improving the EA Process (Part 2)
Participants will move to a different group and participate in addressing another issue.

3:15 – 3:30pm Coffee Break

3:30 – 4:30pm Suggestions to Ponder . . . Pathways to Follow . . .
Each group will present any findings, recommendations and suggestions they have on their topic. All participants will have an opportunity to add their observations.

4:30pm Closing Remarks, Adjournment

APPENDIX B: WORKSHOP PARTICIPANT LIST

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APPENDIX C: PRESENTATIONS

NOTE: Presentations are available as separate pdf files and must be downloaded separately from this document.

See our website: www.mveirb.nt.ca

MVEIRB Internal Processes:

Presented by: Martin Haefele

The Snap Lake EA Decision:

Presented by: Patrick Duxbury

Things We Took Away From the Northrock EA:

Presented by: Martin Haefele

Traditional Knowledge Guidelines: Incorporating Traditional Knowledge into the Environmental Assessment Process:

Presented by: Renita Schuh

Problems Identified! Lessons Learned?: Imperial Deh Cho Geotechnical Program EA:

Presented by: Alistair MacDonald

Drybones Bay/Wool Bay Environmental Assessments – Lessons Learned:

Presented by: Renita Schuh

MVEIRB Socio-Economic Guidelines Development: an Introduction

Presented by: Alistair MacDonald

APPENDIX D: TOP FIVE AREAS THAT ARE WORKING IN THE EA PROCESS

Participants were asked to work in groups to identify the top five areas that are working in the EA process. The following is a list of all responses that came from the groups:

- Administration and document distribution is improving (from a government prospective)
- The Board is taking community concerns more seriously but there is still a lot more work to be done.
- Community liason position is a good start
- The Board is doing more work on lessons learned eg. Practitioner's Workshop.
- The Board is willing to be more flexible – open to new ways of doing things.
- It is good that EA is outside of DIAND now. ..the inspection should be as well.
- People are recognizing that Traditional Knowledge is important – much more work is still to be done.
- Holding technical sessions in advance of technical reports being submitted.
- Good communication from MVEIRB.
- Good public registry and document management.
- Formalize developers commitments in final decision report.
- The Board Staff is doing conformity check; like the idea of midway focusing of the scoping.
- Inclusion of TK and other alternative sources of information into the EA.
- One window approach – public registry, information request etc.
- Public interest workshops like this one.
- Using a numbering system for referencing.
- Starting early consultation and midway review of ToR and Scope of Project to focus the EA.
- The Board is sensitive to community concern/capacity. Greater knowledge in the socio-economic side that is directly affected in the EA process.
- Public consultation process. It is vital that the public have a say in the EA process to review reports and provide input.
- Lessons learned workshops.
- The Boards willingness to use consultants.
- Better efforts in including TK into the EA process.
- Improvement in the management of EA files. The availability of information is very good.

- Improvement in transparency of all steps in the EA process.
- The Board is doing a good job of self improvement assessment.
- The Board and its staff capacity is improving.
- Have a good start on guideline development for informing the developers and reviewers of the process.
- Information management is very good. The website is state of the art and participants can find information they need.
- Process is clear, well-defined and transparent. The process is also sensitive to community needs. Staff are accessible, flexible and helpful.
- MVEIRB is willing to “raise the bar” and encourage government and industry to do the same.
- MVEIRB guideline documents are important and useful to participate in the EA process.
- EA process is very inclusive and diverse organizations and groups have the opportunity to comment.
- Use of maps in EA report is good.
- Mutli-party meetings and technical discussion.
- Communication / Public Registry are pretty good.
- Pretty good turn around time.
- Pretty good staff – they try to make the extra effort.
- We like the Board's philosophy- that they are here to make a difference with sound development.
- Like the fact that the Board also assesses things like social, cultural, and health issues in the context of development (very unique in the world).
- Like how the Board is making a great effort to laying out how developers etc. can and should use TK (TK Guidelines).
- Community Relations Person as a full time staff member.
- The willingness of the Board to analyze their own process and to look for ways to improve. Willingness of the Board to “come clean’ with mistakes and to ask for more input from all the stakeholders.
- Getting “community awareness’ program developed for better awareness and understanding.
- More detailed outcome – more comfort regarding projects.

APPENDIX E: TOP FIVE AREAS THAT NEED IMPROVEMENT IN THE EA PROCESS

Participants were asked to work in groups to identify the top five areas that need improvement in the EA process. The following is a list of all responses that came from the groups:

- TK utilization and employment by the MVEIRB staff is incorrect or limiting effective assessment.
- The communities require better communication and summaries of the perspective projects and EA information – the Board needs to go to the communities.
- TK is not scoped adequately by the MVEIRB as it is different for all communities.
- All of the guidelines and procedures on cumulative effect impacts for developers is not working = a fundamental problem
- EA process cannot work until land claims, CEAM, CIMP, and PAS are in place.
- Treaty 8 – people do not recognize the MVRMA
- The Board needs to weigh all the evidence equally, and not misquote the information.
- Differences in interpretation of events at sessions - a lot of personal opinion gets noted then taken out of context. Personal opinion gets confused with departmental policy, band by-laws etc.
- Scoping the IR process and restrictions in the IR process.
- Bridging the gap between governments, agencies, boards and the Aboriginal communities.
- Consult – to – modify process “the recommendations”.
- Cumulative Impact Assessment “data repository”
- Baseline data collection.
- IR process is onerous, inefficient and time consuming.
- Need clearer scoping and refined terms of reference to focus EAs on key issues – requires some upfront consultation with affected parties to better judge range of depth of issues.
- Test feasibility and clarity of measures before report is finalized – issue a draft report.
- Increase capacity for communities and non-governmental organizations to effectively engage in the EA process – more hearings in affected communities, more technical meetings versus IR process.
- Working relations between Board and other parties: federal, Aboriginal, government, industry etc.

- No transparency and accountability in the EA referral process – reasons for referral must be specific and real.
- Level and extent of scoping exercise must be tightly linked to the reason for referral.
- Not enough communication at the community level to ensure communities understand how the process works and how the current legal/regulatory process protects the environment.
- MVEIRB must make decision: hear the arguments, listen to concerns, assess the positives and negatives and make decisions. MVEIRB should not be in the business of trying to create consensus among the parties.
- No apparent concern for the very real needs and wants of both communities and companies – focus seems to be on meeting the needs of other groups.
- Recommendations are made for which there is no legislative authority.
- Early communication and consultation with all parties regarding scope of project and ToR.
- Scoping a project to the project not the project issues – defining the scope of project to a detailed refinement.
- Recommendations infringe on the existing legislation and other agencies' mandates – should consult other experts for technical advice before/during drafting the final report.
- Avoid vexatious relationships.
- Better communication between land and water boards and MVEIRB to avoid duplication and ensure communities are properly and fully consulted.
- Very concerned with MVEIRB “scoping issues” rather than “scoping project”. Issues can be political, dollars etc.
- EA may not be the most appropriate tool or mechanism to deal with topics raised in an EA i.e. socio-political – maybe land use planning should be considered.
- Other mechanisms should be developed to deal with many of the ‘issues’ seen in projects.
- Reports should better reflect the evidence and commitments. Accurate tier to significance.
- Post-EA: Make the consult to modify process more efficient and timely e.g. provide a draft of the recommendation for discussion.
- Improved understanding of the mandate and legislated authority of the regulators to: a) provide measures within legislated regulated authority, b) formulate better measures
- “Post EA” : An ongoing process for follow-up of implementation of EA recommendation.

- “EA Engagement” : Mechanism to enable community capacity building and participant funding.
- Demonstrating the linkage between the significant impact and how the measure would prevent the significant impact.
- The tasks given to the Board is very broad as defined in the ACT. The capacity of the Board and its staff to cover all of this (the Act) is limited in certain areas i.e. social science.
- Guidelines or direction for the Terms of Reference
- Narrowing the issues down for the EA – this process is not clearly defined. Need to develop this into guidelines.
- Technical/conformity review.
- Communication between participants and coordination between participants could be improved – perhaps earlier and with more technical sessions/round tables.
- Need for more plain language summaries of MVEIRB documents and publications for the communities.
- Need more clarity and perhaps more rigorous review of reports of EA and recommendations before release – this would save time at back end of the process.
- Monitoring and evaluation of recommended measures after the EA – were measures implemented and how effective were they? – communicate measures implemented to all parties to the EA.
- Participant funding – promotion of provision of participant funding by the Board – this might but the responsibility clearly lies outside the Board.
- Resources – capacity building at community and First Nations level – enable communities to participate in the EA process.
- Greater effort to recognize and respond to the uncertainties with unsettled land claim areas..

APPENDIX F: EA INTERNAL PROCESSES OF ORGANIZATIONS

Mackenzie Valley Environmental Impact Review Board

Canadian Arctic Resources Committee

Independent Environmental Monitoring Agency

NWT Status Of Women Council

Gwich'in Renewable Resources Board

National Energy Board

Department of Fisheries and Oceans

Department of Indian Affairs and Northern Development

Parks Canada

Natural Resources Canada

Environment Canada

DeBeers

Paramount

Team members: EA involves the following staff members from the MVEIRB:

- Lead EAO: coordinates the EA, with the following responsibilities drafting documents, ensuring public registry is up to date, briefing the board, organizing hearings, etc.
- Other EAO: assist lead EAO as required, provide technical expertise.
- Manager of EIA: oversees EA operations, quality control, liaison to Board.
- Communications Manager: assists with publications, edits reports for style, makes sure the computers are running.
- Community Liaison Officer: assists with hearing logistics and presentations etc.
- Administration personnel: assists with filing, maintaining public registry and distributing material.
- Legal Counsel: legal review of documents, assists with conduct of hearings and pre-hearing conferences, advises Board on legal issues.
- Executive Director: oversees entire operation, final quality control, provides Board with all Materials.
- Board members: give direction to staff and make all the decisions, approve all major documents

MVEIRB's Role in the EA Process:

- Within an EA the MVEIRB as an organization is responsible for:
- Coordinating the entire process in open and fair manner.
- Determining information needs.
- Recording evidence submitted by parties or members of the public and maintaining the public record.
- Making the public record available to all parties and the public
- Weighting the evidence.
- Determining - based on the evidence - whether significant adverse impacts on the environment, or public concern, are likely
- Providing a report of assessment and reasons for decision

Approval Process

- Generally the lead EAO drafts all documents. Standard correspondence, such as the notification sent out at the start up of the EA, does not require approval. Other correspondence may require approval by the manager of EIA or the executive director, depending on the issue. This approval process is informal. Any expenditure requires approval from the manager of EIA, the executive director or the Board, depending on the amount. This process is more formal and requires written authorization.
- Milestone documents, such as Terms of Reference, Information Requests, and the Report of Assessment require Board approval. The EAO drafts these documents with input from other staff members as required. Prior to submission to the Board documents are reviewed by the manager of EIA, the executive director, and in most cases legal counsel. The Board reviews all documents and directs staff to make changes as necessary. Depending on the scope of revisions the same pre-board approval process may be required.

The Canadian Arctic Resources Committee (CARC) was set up in 1972 as a non-profit organization to represent the interests of those concerned about the North. CARC has always promoted long-term sustainability, making sure that the policies and decisions of today do not take away the ability of future generations to enjoy a healthy environment and to make economic choices. Our advocacy work is supported by research and communications to promote public debate and better decisions.

CARC's funding comes from individual donors and from charitable foundations, mostly tied to specific projects.

CARC focuses on activities such as:

- Policy Development - CARC carries out research that serves as a foundation for local and regional policy, as well as for Canada's national and international obligations to northern peoples and environments.
- Research - CARC's research is focused on policy analysis and design - ways to strengthen northern policies. Basic physical, biological or socio-economic data gathering is the responsibility of many other researchers. CARC will, however, assemble such data as it exists, link it to human activities, and thus address problems of oversight and neglect in public and private sector agendas. By doing so CARC will illuminate critical public policy issues and choices.
- Public Information and Education - As a national voice on Arctic issues, CARC's programs of public information and education are key to achieving its mission. CARC remains an independent body of informed and concerned Canadians who endeavour to ensure the widest possible appreciation and attention to Arctic issues.
- Capacity Building - From its inception CARC has shared both its expertise and its information with all Canadians, but especially northern peoples. CARC remains committed to continuing and expanding its capacity-building role to ensure even fairer and more equitable arrangements for the development of policies and promote human well-being and environmental sustainability in the North.

CARC team members:

- CARC has offices in Ottawa and Yellowknife – an Executive Director works out of Ottawa and two research staff work from the Yellowknife office. CARC is guided by a volunteer Committee made up of individuals from across Canada.

Role in the EA process:

As was the case during the BHP hearings, CARC's focus during an EA process generally relates to the following:

- Targeting a portion of revenues from the development for economic diversification;
- Proper monitoring and enforcement, the need for land use planning and independent oversight;
- Negotiation of completed impact and benefit; environmental; and socio-economic agreements before construction of the project;
- A significant contribution from the proponent to Traditional Knowledge research by communities;

- Consideration of alternatives, including phased development;
- The lack of a systematic approach to the identification and protection of special areas across the North;
- Inadequate requirements for cumulative effects assessment; and
- The need for participant funding.

CARC pushes for rigorous, comprehensive, and open review processes where the “big picture” is examined and where public interest groups and communities are provided adequate resources to meaningfully participate. As such, CARC will often question government direction as much as the plans of the developer.

INDEPENDENT ENVIRONMENTAL MONITORING AGENCY**EA team members:**

- The Board of Directors, each with his or her own area of expertise, and the staff of the Agency would comprise our environmental assessment team. If there are areas of expertise not covered internally, some consideration may be given to retaining outside expertise. Our current board has expertise in aquatics, wildlife, use of Traditional Knowledge in regulatory processes, and general environmental management.

Role in the EA process:

- The role of the Agency is set out in the January 6, 1997 Environmental Agreement amongst Canada, GNWT and BHP Billiton Diamonds. The Agency is to “serve as a public watchdog of the regulatory process and the implementation of this Agreement”, through participation as an intervenor, dissemination of information to Aboriginal peoples and the general public, and providing an effective means to bring to BHPB and governments the concerns of Aboriginal peoples and the general public about the Ekati mine and monitoring and regulation of the mine. The Agency has been established as a non-profit society in the NWT with the above parties and Aboriginal governments as full partners in appointing Directors to the Board.

The Agency has been involved in one environmental assessment to date—the 1998-99 expansion of the Ekati mine to include the Beartooth, Pigeon and Sable pipes and associated infrastructure. During that environmental assessment, the Agency offered to assist BHPB in better environmental management of its expansion plans. The Agency also raised issues around development in a new drainage system, road alternatives and impacts on wildlife. Should operations at the mine lead to further environmental assessments, the Agency has a mandate to be involved.

Approval Process:

- The Agency does not have authority to issue or provide any form of approval. The Agency provides advice and assistance. The Agency is required to report annually and to submit other reports and findings to BHPB, Canada and GNWT. The party to whom a recommendation is made, shall implement the recommendations it considers appropriate or respond with written reasons for not accepting the recommendations. The Agency also has other responsibilities under the Environmental Agreement, many of which are less relevant to environmental assessment.
- Generally, the agency receives environmental assessment documents, circulates them amongst the Directors and staff. Decisions are made by the Directors as to the appropriate form of intervention, whether outside expertise would be sought, and Agency positions on any matters related to the environmental assessment. The Agency has experienced increased requests from our Aboriginal society members to provide assistance and advice on various matters related to the mine, including issues before regulatory proceedings. Individual Directors and/or staff review some or all of the documents but a meeting of the Directors (in

person or by conference call) is used to determine Agency positions presented in interventions (either in writing or through a verbal presentation).

The Agency has generally focused on two major areas of concern in its interventions in the past—water and caribou. The Agency has experienced increased requests from our Aboriginal society members to provide assistance and advice on various matters related to the mine, including issues before regulatory proceedings.

The mandate of the Status of Women Council of the Northwest Territories is to work for the political, social and economic equality of all women in the NWT, through advice to the Territorial government, research, public education, advocacy on behalf of women, and assistance to women's groups. The Council is a GNWT arms-length agency created in April 1990 under the NWT Status of Women Council Act.

The Council encourages and supports women to voice their views and concerns regarding important issues that affect families and communities, including the environmental assessment of proposed non-renewable resource development projects. The Council also believes that effective environmental assessment must take into account the perspectives of women, and must utilize gender analysis in keeping with federal government policy commitments. The Council has therefore consulted with women and participated in the following environmental assessment processes:

- Review of BHP Diamonds Project 1995-96
- Review of Diavik Mines Project 1998-99
- Review of Mackenzie Gas Project draft Terms of Reference 2004
- Current: Phase II of MGP environmental assessment.

The Council's process in each instance involves: preparation of background information; consultations with women in communities through focus groups and individual interviews; analysis of documents and other research; preparation of reports which are first reviewed by participants; and participation in hearings or other public processes. As a small organization with limited staff, the Council's ability to carry out environmental assessment activities is dependent on the extent of additional financial resources received through participant funding.

The Council is made up of six Members appointed by the NWT Minister Responsible for the Status of Women, and has four staff. For more information please contact:

Barbara Saunders, Executive Director
Status of Women Council of the NWT
P.O. Box 1320, 4th Floor Northwest Tower
Yellowknife NT X1A 2L9
Tel. (867)920-6177 Toll-free 1-888-234-4485
Fax. (867)873-0285
Email: council@statusofwomen.nt.ca
www.statusofwomen.nt.ca

The Gwich'in Renewable Resource Board is the main instrument of renewable resource management in the Gwich'in Settlement Area. We hold no regulatory authority but we participate in the review of development projects proposed within the Gwich'in Settlement Area. We review and comment on applications for access to Gwich'in private lands administered by the Gwich'in Land Administration and applications for water and land use permits administered by the Gwich'in Land and Water Board and Mackenzie Valley Land and Water Board. We also participate in environmental reviews of proposed developments coordinated by the Mackenzie Valley Environmental Review Board and by the Joint Review Panel. We are registered interveners in the Joint Review Panel review of the proposed Mackenzie Gas Project.

Our team members for environmental assessment include our environmental biologist (lead), wildlife biologist, and fisheries biologist. In the past we have also had a community knowledge coordinator on staff who participated in the review of environmental assessments. The environmental biologist coordinates our internal review by circulating environmental assessment information to the team, soliciting comments and concerns, and then preparing and submitting our comments to the agency coordinating the review.

The NEB is an independent regulatory tribunal that makes administrative and quasi-judicial decisions based on the evidence presented to it. The NEB administers the Canada Oil and Gas Operations Act (COGOA) and the National Energy Board Act (NEB Act).

NEB's purpose:

- The purpose of the NEB is to promote safety, environmental protection and economic efficiency in the Canadian public interest within the mandate set by Parliament in the regulation of pipelines, energy development and trade.

Regulated oil and gas operations:

- In the Mackenzie Valley the NEB regulates Oil and gas exploration, production and transportation operational activities. Activities such as drilling, facility construction, production operations, oil and gas pipelines and geological and geophysical surveys.

Inspections & Audits:

- The NEB confirms compliance with project authorizations commitments, conditions and legislation through inspections of project activities and audits of company's management systems.

NEB's role under the MVRMA:

- In the Mackenzie Valley the NEB is:
 - An "independent regulatory agency" under the land claim agreements
 - A "designated regulatory agency" under the MVRMA rather than a regulatory authority
- For oil and gas developments, the NEB:
 - is a preliminary screener
 - may refer a proposal to the Review Board for an EA
 - as the designated regulatory agency, is a responder to the Review Board's EA Report recommendation, independent of the DIAND Minister and Responsible Ministers

NEB review staff:

- Depending on the nature of the development, a NEB review team may include: Project Manager, Environmental specialists, Legal specialists, Engineering, economic or technical specialists, and Decision makers (the Chief Conservation Officer or a Board Panel).

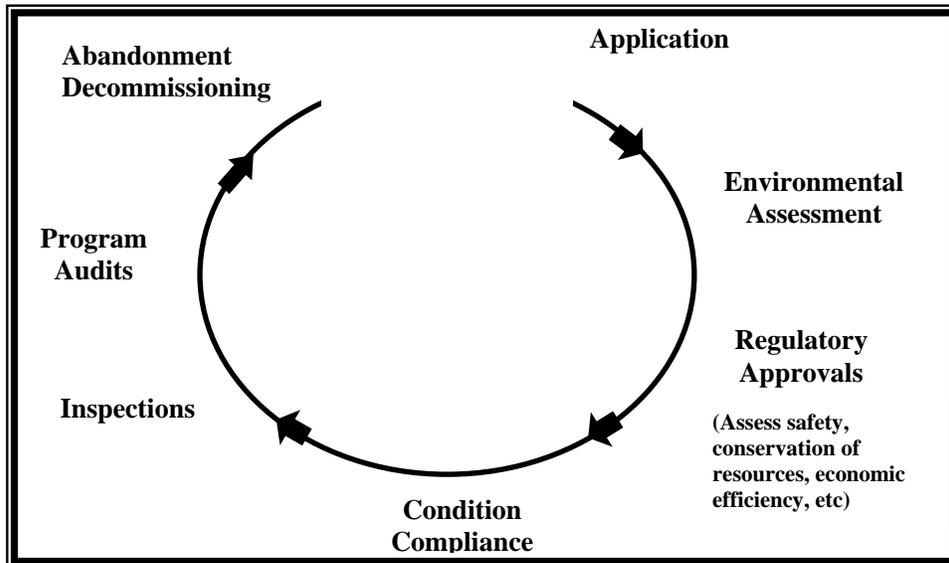
How does the NEB make decisions:

- In order to make a regulatory decision, the NEB considers the life cycle of the development and assesses each proposal for factors such as: public and worker safety, protection of the environmental, engineering specifications, oil and gas resource conservation, economic efficiency, and geological and geophysical information

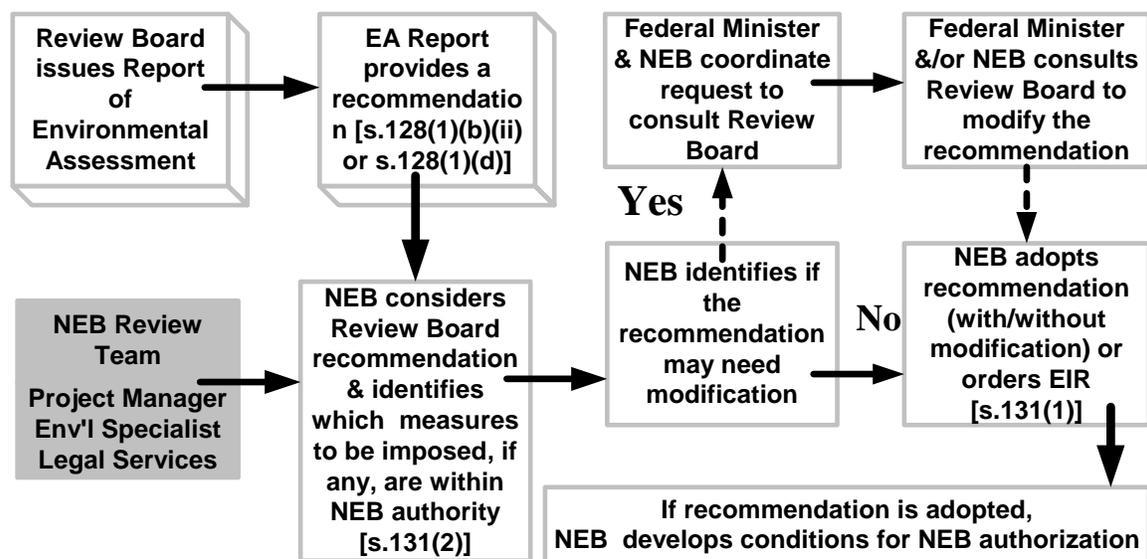
- When the Review Board conducts an EA, its determination {MVRMA s.128(1)(a)} or recommendation {MVRMA s.128(1)(b(ii) or 128(1)(d)} is taken into consideration by the NEB along with the other factors.

NEB Life Cycle Approach for Regulating Developments and NEB Process for MVRMA Environmental Assessment Report Recommendations is shown in the following Diagrams

NEB Life Cycle Approach for Regulating Developments



NEB Process for MVRMA Environmental Assessment Report Recommendations



Team members:

- Our team members in the Yellowknife office are comprised of an Area Chief of Habitat and several Habitat Biologists. Our staff address referral reviews and participate in EAs based on 4 broad subject areas: Oil and Gas, Diamonds, Contaminated Sites/Transportation/General Referrals, and Mackenzie Gas Project.
- We call on other DFO team members as necessary from Science and Fisheries Management as well as Legal services, Communications, Policy, and Operations.

Role in the EA process:

- The Habitat Management (HM) Branch of DFO is responsible for participating in the EA process for the department. HM Biologists review EA documents, seek internal input to an EA from groups such as Fisheries Management and Science, and provide departmental technical comments and advice to the Review Board. HM also utilizes the EA process to facilitate a DFO-specific project review related to the Fisheries Act – specifically to determine if the project is likely to impact fish habitat and whether those impacts can be mitigated.

Approval process?

- Currently the internal approvals process occurs in the Yellowknife office. Signoff of RM decisions by DFO is via either the Area Chief, Habitat or the Area Director. DFO has, however, recently developed a National Signoff protocol for key steps in the EA process (currently CEAA-specific). In the Yellowknife office, we are examining whether this protocol is applicable to EAs conducted pursuant to the MVRMA. It is likely that this protocol will apply hence, signoff for such things as information requests, EA conclusion, and concurrence with the decision expressed by the Federal Minister, will require signoff by Regional and National Headquarters.

Department of Indian Affairs and Northern Development

What is DIAND's internal process?

- Clear internal coordination within INAC and among responsible departments is the key to providing a comprehensive and timely feedback to the Review Board. The Environmental Assessment and Agreements (EAA) section of the Environment and Conservation Division, Renewable Resources and Environment Directorate coordinates INAC's contributions throughout the environmental assessment and environmental impact review process. All affected directorates in the Region, plus representatives from HQ and the Department of Justice are involved in developing INAC submissions. Divisions contributing to an environmental assessment in the region typically include Water Resources, Minerals, Oil and Gas, Lands, Operations, Environment and Conservation and Aboriginal and Territorial Relations.
- Internal protocols have been established which guide internal consultation procedures for the different phases of the EA process.

What expertise or assistance does DIAND bring into the EA process?

- Indian and Northern Affairs Canada (INAC) participates in the assessment process in the Mackenzie Valley as a technical expert, Crown Land Manager, and "Responsible Minister" and exercises the authority of the "Federal Minister" (FM) as defined in the MVRMA.
- Areas of lead or shared expertise and responsibility with other Departments or Governments related to environmental assessments and environmental management include: water quality, crown land management and dispositions, minerals, land claim implementation responsibilities, oil and gas development, protected areas establishment, cumulative effects monitoring and management, land use planning, mine reclamation and legislative responsibilities (ie the NWT Waters Act, Territorial Lands Act, Northwest Territories Act, MVRMA, DIAND Act, CEAA, Gwich'in Land Claim Settlement Act, Sahtu Dene and Metis Land Claim Settlement Act etc) In addition to the skills and expertise of INAC staff, the department may retain expert contractors to provide specific technical advice to the Review Board during an environmental assessment.

Internal approval process:

- The first phase one of the EA process begins with notification from the Board that it has initiated an EA, and ends when the Review Board submits its Environmental Assessment report to the Federal Minister. When notification of an EA is received from the Review Board, the Environmental Assessment and Agreement section designates a project lead for the EA. The EA lead: establishes an internal INAC EA Team comprised of individuals representing the affected divisions, HQ and Justice; creates a file and schedules meetings of the EA Team. The Team objectives are to respond to the Review Board's EA timelines, and prepare and coordinates INAC's presentations during technical meeting and/or hearings.
- Coordinated by the project lead, the EA team analyzes the impacts of the proposed project, reviews and comments on the project EA Terms of Reference,

prepares or responds to information requests (IRs) as required; and prepares for pre-hearing conferences, technical submissions and presentations for hearings, as required. Time must be taken to ensure all INAC interests, as represented by the many Divisions and HQ, are reflected in submissions to the Review Board or when making decisions on the recommendations in the EA Report. INAC is continually looking for ways to expedite the EA process.

- A new phase (the post-EA process) starts when the Federal Minister, every Responsible Minister (RM), and, if applicable, the NEB receives the EA report from the Board. The RMs must then respond to the Review Board's Report of EA pursuant to sub-paragraph 130(1) of the MVRMA. INAC coordinates the process of developing an RM response to the Review Board's recommendations using an inter - and intra - departmental team process. Consensus among all the RMs is required on the final decision on the EA Report. Coordination with the NEB is also essential.
- During this second phase, the EAA section coordinates INAC's internal EA Report analysis using the EA Team. The EAA section also coordinates RM meetings and facilitates RM consensus on the final decision.

When an EA comes to your organization, what happens?

- Received by Chuck Blyth (superintendent) at Nahanni National Park Fort Simpson office and by Suzanne Richards at the Parks Canada Service Centre in Winnipeg.
- Suzanne Richards looks at the EA in a broader perspective in terms of the Parks Canada mandate. “On behalf of the people of Canada, we protect and present nationally significant examples of Canada’s natural and cultural heritage and foster public understanding, appreciation and enjoyment in ways that ensure their ecological and commemorative integrity for present and future generations.”
- Parks Canada in the Mackenzie Valley includes National Parks, National Historic Sites, Heritage Rivers, potential marine protected areas, and proposed park expansion areas. Parks Canada is also designated as a specialist advisor on cultural resources.
- Suzanne Richards and Nahanni National Park Warden (Kim Schlosser) look at the EA and divide the workload appropriately for technical review and comments.
- Technical information is supplemented by the resources below.

What expertise does your organization bring into an EA?

- Technical information comes from:
 - Doug Tate, Park Conservation Biologist (Nahanni National Park)
 - Suzanne Richards, Assistant Manager Planning (Winnipeg Service Centre)
 - Kathryn Cumming, Acting Environmental Science and Assessment Coordinator (Winnipeg Service Centre)
 - Steve Catto, Park Expansion Officer (Nahanni National Park)
 - Kim Schlosser, Park Warden-Environmental Assessment position (Nahanni National Park)

Approval process:

- Executive Director for Northern Canada (Kathryn Emmett) must be involved in decisions that involve elements of policy, pushing beyond the Parks Canada mandate, are ministerial in nature, or involve intervening in front of a Panel.
- EA process types of decision can be dealt with at the Service Centre and Field Unit level (which is Suzanne Richards, Chuck Blyth, and/or Josie Weninger).

EA Team:

- The Environmental Assessment (EA) Team of Natural Resources Canada (NRCan) is part of the Deputy Ministers Office in the Sustainable Development and International Affairs unit. The EA Team's role is to assist NRCan's Responsible Centre Managers (in the 6 sectors) to fulfill their EA responsibilities under the Canadian Environmental Assessment Act and under other provincial and territorial EA regimes.
- The EA Team is the single window into and out of the Department on EA matters. EA Officers coordinate the EA process (including written submissions) on behalf of NRCan. They offer advice and expertise on EAs involving NRCan and represent the department on EA matters at various venues and make presentations at panel reviews on behalf of the department.

Initial project information and all general EA information should be sent to the NRCan EA Information Manager at the following E-mail address: OEA-EA/BAE-EE@nrcan.gc.ca. Projects are then assigned to an EA Officer within our group who will then be the NRCan point of contact for the project.

EA Team Members:

- Director: Ann Van Dusen (613) 995-8161
- Team Leader: Catherine Badke (613) 995-7609
- Senior Environmental Assessment Officers:
 - Livain Michaud (613) 995-2848
 - John Ramsey (643) 947-1591
 - Iannick Lamirande (613) 943-0773
 - Rennie Tupper (613) 943-8088
- Environmental Assessment Officers:
 - Dominic Cliché (613) 992-8791
 - Jean-Philippe Croteau (613) 996-0055
- EA Information Manager:
 - Micheline Turpin (613) 996-3086

Role in the EA process:

- NRCan's involvement in EA, among others, results from the application of certain Acts under the authority of the federal Minister of Natural Resources Canada. NRCan has responsibility for the Explosives Act, which regulates the manufacturing, testing, sale, storage, transportation and importation of explosives as well as the use of fireworks. By virtue of this Act, NRCan could become involved as a "Responsible Minister" (RM) in the EA of projects by issuing, if required, a licence for the manufacturing and/or storage of explosives. In this case, our role could best be described as "Directly Affected Party" under the MVEIRB Rules and Procedures for Environmental Impact in the Mackenzie Valley.
- In addition, when NRCan is not identified as a RM, it can still provide its scientific and technical expertise to the RMs as an "Intervener".

Approval process:

- Although the EA Team is the centre of expertise at NRCan on the operation of CEAA and other EA regimes the Responsible Centre Managers have the final decision as to whether or not a project has significant environmental effects and whether or not they will provide federal support to the project. In essence the final decision rests with the RCMP

When an EA comes to your organization, what happens?

- The Environmental Assessment Coordinator is the departmental point of contact for all environmental assessment referrals. The Coordinator assigns the file lead, and may work with that person to set up the review team. The review team consists of staff from Prairie and Northern Region, and sometimes Headquarters, and may include personnel from Yellowknife, Edmonton, Saskatoon, Regina, Winnipeg, Burlington and/or Ottawa.
- The review team consists of staff from several divisions including: Environmental Protection Branch (Assessment and Monitoring Section, Emergencies and Hazardous Materials Officers, Departmental Affairs Branch, Environmental Affairs Branch); Environmental Conservation Branch (Canadian Wildlife Service); and the Meteorological Service of Canada. Other specialists may be brought in from the National Hydrology Research Institute.

Role in the EA Process:

- Environment Canada's role is generally as a Responsible Minister. The department provides specialist / expert information and knowledge in the areas of aquatic quality, hydrology, ground water, air quality, pollution prevention, hazardous materials management, migratory birds, species at risk, biodiversity, and cumulative effects.

A list of the potential legislative responsibilities and policies of Environment Canada that EPB staff must be aware of while carrying out their environmental assessment work includes:

- Department of the Environment Act
- Canadian Environmental Protection Act (CEPA)
- Fisheries Act – Pollution Prevention Provisions; Canada Water Act
- Migratory Birds Convention Act; Migratory Birds Regulations
- Canada Wildlife Act
- Species at Risk Act
- Federal Policy on Wetland Conservation
- A Wildlife Policy for Canada
- Wild Animal and Plant Protection and Regulation of International and Inter-provincial Trade Act
- Wild Animal and Plant Trade Regulations
- Canada Wide Standards for Particulate Matter and Ozone
- Competitiveness and Economic Sustainability Framework
- Convention on Biological Diversity

Approval Process:

- EC's approval process for technical reports and other public submissions typically involves review and approval at the level of Section Head, Northern Manager, and / or Regional Director, depending on the nature of the assessment. For reviews that are at the panel level the process would most likely involve approval from Ottawa.

De Beers Canada Team Members:

- John McConnell, VP NWT Projects
- Robin Johnstone, Manager, Environmental Affairs- NWT Projects
- Kim Horrocks, Permitting Coordinator- Snap Lake Project
- Glenn Allan, Environmental Coordinator- Gahcho Kue Project
- Consultants
 - AMEC
 - Golder Associates Ltd.
 - Points West Archaeology
 - Itasca HCI Hydrologic Consultants

Role in the EA Process:

- Proponent

Decision-making local in most cases.

Paramount, as a Proponent, internally manages Environmental Assessments as follows:
Paramount Team members:

- All land use permit and water licence applications are managed by Paramount's NT Surface Land Department, with input provided by one or more of the departments affected by the proposed activity (drilling department; facility department; geophysical department; production department; corporate compliance department).

When an application is referred to EA, the Surface Department assembles the appropriate team (made up of one or more departments depending on the permit scope ie: drilling, seismic, pipeline, etc)

- As an example, a permit scope including drilling, pipeline and production would include the following:
 - Regulatory & Community Affairs Coordinator
 - Consulting team of biologists, air experts, etc (like Golder Associates)
 - Paramount drilling engineers, pipeline engineers, production manager, corporate compliance representative
 - Legal counsel
 - Corporate Operating Officer

Role in the EA process:

- My role as the Regulatory & Community Affairs Coordinator, is to manage the EA process which includes assembling the appropriate team, assigning responsibility for each section of the EA, develop and ensure adherence to timelines, ensure appropriate team members review documentation prior to submission to ensure continuity, adherence to corporate policy and team consensus.

Approval process:

- Paramount ensures a team approach in the EA process. Team members focus on the sections of the EA within their expertise, seeking input from drilling, facilities, production, corporate compliance and land as required. Regulatory & Community Affairs ensures appropriate departments and experts support the documentation prior to submission.

APPENDIX G: EVALUATION

To gain feedback from the workshop participants, evaluation sheets were placed in the resource binder. The following is a summary of answers from those participants who responded to the evaluation:

1. All the participants who filled out the evaluation sheet found the workshop to be helpful. Further explanations included:

- Exposed the rules of the Boards and regulatory groups within the EA process;
- Found the “lessons learned” presentations to be very valuable;
- Provided a common understanding of issues;
- Gained a better understanding of global issues in the area;
- Understood the limitations of all involved parties;
- Generated constructive discussion and ;
- Helped identify key issues;
- Provided useful information on how the Board operates and gave insight into the workings, process, etc. of an EA; and
- Enjoyed the talk show format

2. Topics participants would like to discuss in future workshops include:

- Gender impact assessment;
- Traditional Knowledge and EA;
- EA follow-up, monitoring, and ensuring feasibility of measures;
- Socio-economic impact assessment;
- Cumulative impact assessment;
- Community involvement (workshops should be held at the community level before being held territorially to determine what communities perceive their role and responsibilities to be);
- The same topics could be looked at in further detail;
- Species at risk legislation and EA; and
- Scoping

3. Additional comments and observations included:

- Aboriginal people today know what their rights are and therefore, government and independent agencies must accept this and adopt their processes to capture this involvement;
- For many the Board is a faceless entity – would like to hear from them directly;
- A two-year audit is a good idea for implementation of measures; and
- The table discussions were useful as were the coloured sheets and questions to foster discussion among members.

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