

MVRMA 2018

Breakout session

Enhancing public participation

during the EA

MVRMA Workshop
Yellowknife
February 13-14, 2018



**Mackenzie Valley
Review Board**



R

EA and Regulatory Process Overview

Preliminary screening

- <95% of developments go only through PS
- Mostly done by Land and Water Boards

Environmental Assessment -Review Board

- Projects that go to EA are large projects with big issues or small projects but in important areas with big issues

Permitting and licensing after EA – Land and Water Boards



Environmental Assessment: Your Involvement Opportunities

Project referred to EA

- Issues scoping
 - Community & technical scoping meetings
 - Terms of Reference review
- Review of DAR or application package
- Technical and Cultural Impacts sessions
- Public Hearing
 - Written intervention
 - In-person presentation and questioning
 - Written closing arguments



Scoping and Terms of Reference (ToR)

To **identify** and **prioritize** issues

- Developer proposes ToR
- Community sessions
- Technical sessions



- Issue Board's draft + final *Terms of Reference*
- Prioritized issues
 1. Key Lines of Inquiry
 2. Subjects of Note



Mackenzie Valley
Review Board



Technical review

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



Public hearings



Review Board



Section 2 – The Project is authorized. Now what?

Break-out sessions:

Opportunities to engage in the process

Mackenzie Valley Resource Management Act
(MVRMA) Workshop

February 13-14, 2018



Mackenzie Valley
Review Board



GWICH'IN
LAND AND WATER
BOARD



Wek'èezhìi
Land and Water Board



SAHTU
LAND & WATER BOARD



Mackenzie Valley
Land and Water Board

Outline

- Engagement Policy and Guidelines
- Stages of project
- Example: Security
 - Post-Issuance engagement opportunities
- Hot Potato



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Review Board



MVLWB

Engagement and Consultation Policy June 1, 2013

Mackenzie Valley Land and Water Board
Gwich'in Land and Water Board
Sahtu Land and Water Board
Wek'èezhìi Land and Water Board



Mackenzie Valley Land and Water Board



Mackenzie Valley Land and Water Board

MVLWB

Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits

Mackenzie Valley Land and Water Board
Gwich'in Land and Water Board
Sahtu Land and Water Board
Wek'èezhìi Land and Water Board



Photo credit: Paul Morrison/First from a field for Northern Agency



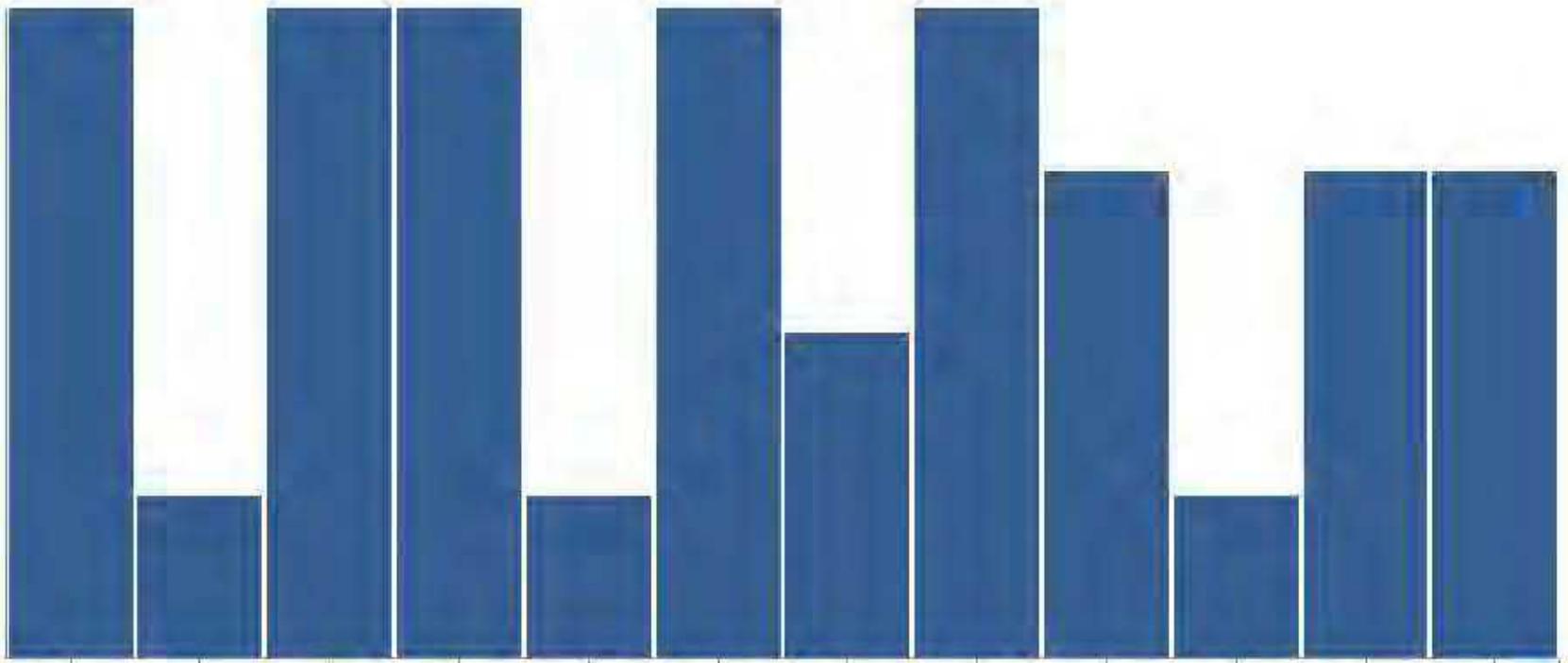
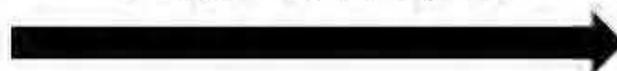
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Level of Engagement



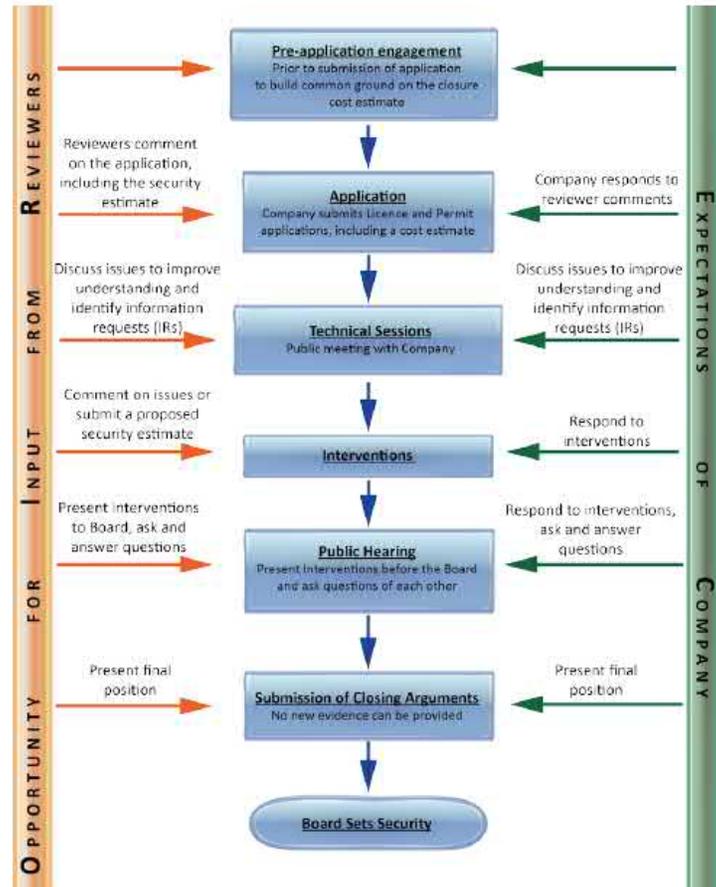
Pre-submission
Feasibility studies
Establishing agreements
Licencing & Permitting
Site preparation
Design of monitoring programs
Infrastructure construction
WL & LUP renewals
Review of management plans
Shut-down
Decommissioning
Monitoring

Stage of Project



Setting Security

Figure 1: Example of Board Process for Setting Security During a Licence Proceeding²²



²² Please note: This figure does not include all the steps of a licence proceeding; its purpose is to depict the steps within the licence proceeding when reviewers are able to provide input on a closure cost estimate and when the proponent is able to respond, prior to the Board setting the security deposit for the project. The orange arrows identify where reviewers have the opportunity to provide input and the green arrows represent where the proponent has the opportunity to respond to reviewers. Should a reviewer wish to submit an intervention, they should do so within the opportunity to do so within the proceeding.

Figure 2: Example of Board Process for Adjusting Security During the Term of a Licence



Pre-Application Engagement

- Prior to submission of application to build common ground on the closure cost estimate



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Application

- Company submits Licence and Permit Applications, including a cost estimate



Technical Sessions

- Public Meeting with Proponent to improve understanding
- Information Requests (IRs)



Written Interventions

- Comment on issues or submit a proposed security estimate



Public Hearing

- Present Intervention before the Board and ask questions of each other



Submission of Closing Arguments

- No new evidence can be provided
- Present final position

Board Sets Security

- Now What?
- Adjusting Security during Term of a Licence



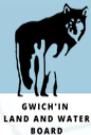
Adjusting Security during Term of a Licence

- Licence conditions address timing of security adjustment
- Request made by Proponent/ other parties/ the Board
- Adjustment to Security Model
- Upcoming Licence renewal or amendment



Security Review Initiated

- Begins with a request from the proponent to adjust security
- Others parties may request a review
- Board may initiate the review



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Public Review

- Reviewer submit comments
- Proponent has an opportunity to respond

Board Decision on Security Adjustment

Based on:

- Public input
- RECLAIM
- LUP Template
- Closure and Reclamation Plan Progress Report
- Other considerations specific to project/
circumstance

Conclusion

- whether security is being set for the first time, adjusted during the term of the licence, or
- adjusted during a renewal or an amendment, the Boards allow for public input and ensures the process is
 - **inclusive, fair, and transparent.**

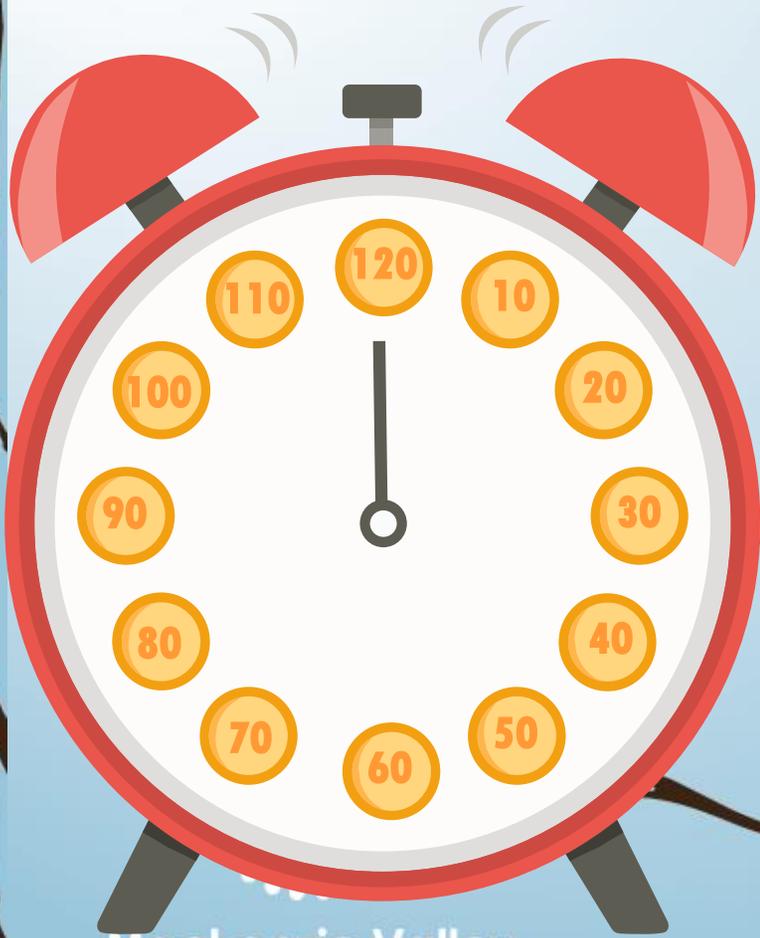


Hot Potato of Security

- Objective of the game:
 - get rid of the Hot Potato by guessing the Proceeding that is being described
- Team Jaqi Vs. Team David
- Game duration: 2 minutes
- Throw the potato to opposing team once the correct proceeding is guessed
- Use the handout to help you guess
- May the Best Potato Wins!

TIME'S UP!

TIME LIMIT:
2 minutes



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Review Board



Mackenzie Valley Environmental Impact Review Board

Technical Sessions on Cultural Impacts - A New Cultural Impact Assessment Tool

Mark Cliffe-Phillips
MVRMA Workshop
February 14, 2018



Mackenzie Valley
Review Board



R

Outline

1. What is Cultural Impact Assessment
2. Traditional Knowledge & CIA
3. Technical Sessions on Cultural Impacts
4. Next steps



What is cultural impact assessment?

- The process within EA to **identify, predict and minimize any adverse cultural impacts** of developments on people and places
- Tangible elements – **things you can see or touch**, such as, archaeological sites
- Intangible elements – cannot see or touch, but **essential to maintain and practice culture**, such as: language, traditional knowledge, spiritual beliefs, connection to the land



Conducting cultural impact assessment

- To do good cultural impact assessment it is necessary to hear directly from the people who are potentially going to be impacted by a development, particularly those with traditional or local knowledge.



Why we do Cultural Impact Assessment?

The Review Board must have regard for:

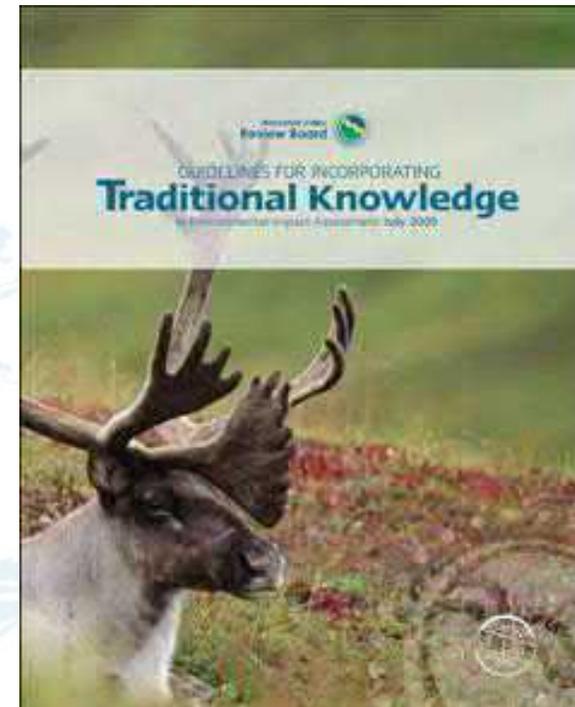
- the **protection of the environment** from significant adverse impacts;
- the **protection of the social, cultural and economic well-being** of Mackenzie Valley residents and communities; and
- the importance of conservation to the well-being and **way of life of Aboriginal peoples.**

S.115.1 of the MVRMA also requires the Review Board to consider **Traditional Knowledge** as well as scientific information



Traditional Knowledge in EA

- TK includes knowledge and perspectives of aboriginal peoples
- TK consists of large sets of **observations about environment over substantial time** period, that can add important perspective and understanding of variability of biophysical, social, and cultural environment
- TK holders can **often identify links** between seemingly unrelated components of environment
- **Review Board Traditional Knowledge guidelines**



Various ways for TK to enter the EA process

Traditional knowledge has found its way into EA decision making in several different ways, by:

1. **Direct communication** between traditional knowledge holders and the Review Board, for example during **community scoping** sessions and **public hearings**;
2. Formal **traditional knowledge studies**; and,
3. Communication between **traditional knowledge holders and the developer**, such as those participating in the EA on behalf of communities.



When does TK enter the EA Process?

Start up

- Referral

Scoping

- Scoping sessions
- Terms of Reference

Technical Analysis

- Developer's Assessment Report
- Information requests
- Technical sessions
- Public hearings

Decision Phase

- Report of EA
- Decision to Minister

Follow-up

- Monitoring and Reporting



Scoping

Identify and prioritize issues

- Community Scoping: focus the assessment on what matters to potentially-affected communities
- Technical Scoping: allows for input from government & other stakeholders (e.g. mandate-specific concerns)
- Board issues a *Terms of Reference* outlining the key areas of focus for the EA and directions for the developer



Community Public hearings

- Community hearings
- May include ceremonial aspects
- Youth, harvesters, women, Elders, leaders can tell Board their views directly
- Less formal, more culturally appropriate
- Simultaneous interpreting and all transcribed for the record



Community Hearings



When does TK enter the EA Process?

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Information gaps in the process?

The gaps our Board needed to address:

- Typical technical sessions primarily have focused on scientific information and not TK
- There was limited opportunity for traditional and local knowledge holders to provide comment to the Review Board on potential cultural impacts between the community scoping sessions and the Community Public Hearings



Technical Sessions on Cultural Impacts

In July, the Review Board hosted technical sessions on cultural impacts in Nahanni Butte & Fort Simpson as part of the EA of the Prairie Creek Road

- Similar to typical “technical sessions” hosted by the Board for all EAs, **but...**
- Focus exclusively on cultural impacts
- Focus on community members, not on ‘parties’ to the EA



Why we developed this best practice?

The purpose was:

- To gather information – particularly traditional knowledge and cultural values – from community members and land/resource users about potential cultural impacts and mitigations
- The cultural sessions sought evidence from traditional and local knowledge holders, at venues in their own communities
- Agenda was designed to provide significant opportunity for active participation and bringing forward of public concern





How this best practice can help our Board?

Incorporating TK and implementing our guidelines is a challenge

- Cultural Impact Session helps give opportunity to fulfill our Board's mandate in a way that is meaningful to people most directly affected by project
- Focusing on culture and TK, and taking the time to work with the community, can empower people to actively participate in identifying solutions to cultural, social and other environmental impact concerns
- Making solutions/mitigation measures more likely to be effective



Feedback we have received

Parties and Proponent:

- Positive general feedback; sessions were worthwhile.

From independent facilitator:

- staff and facilitator spent several hours going door to door to notify people and encourage participation. This contributed to strong attendance in general, including amongst elders and council members.
- Very worthwhile and effective for gathering evidence on cultural values, impacts and traditional knowledge.



Next Steps

- Update and finalize the Review Board's Draft *Cultural Impact Assessment Guidelines*
- Continue to engage communities on how to conduct better cultural impact assessment in the Mackenzie Valley
- Update EA Guidelines to reflect new process step



“We're here because our cultures and histories are intertwined with yours and the decisions you make... will either diminish us as a people - or else enable us to protect what's basic to our identity and our culture and our values.”

- Chief Darrel Beaulieu, Yellowknives Dene First Nation, November 26, 2003



Thank You!
Masi!

Questions

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Mackenzie Valley
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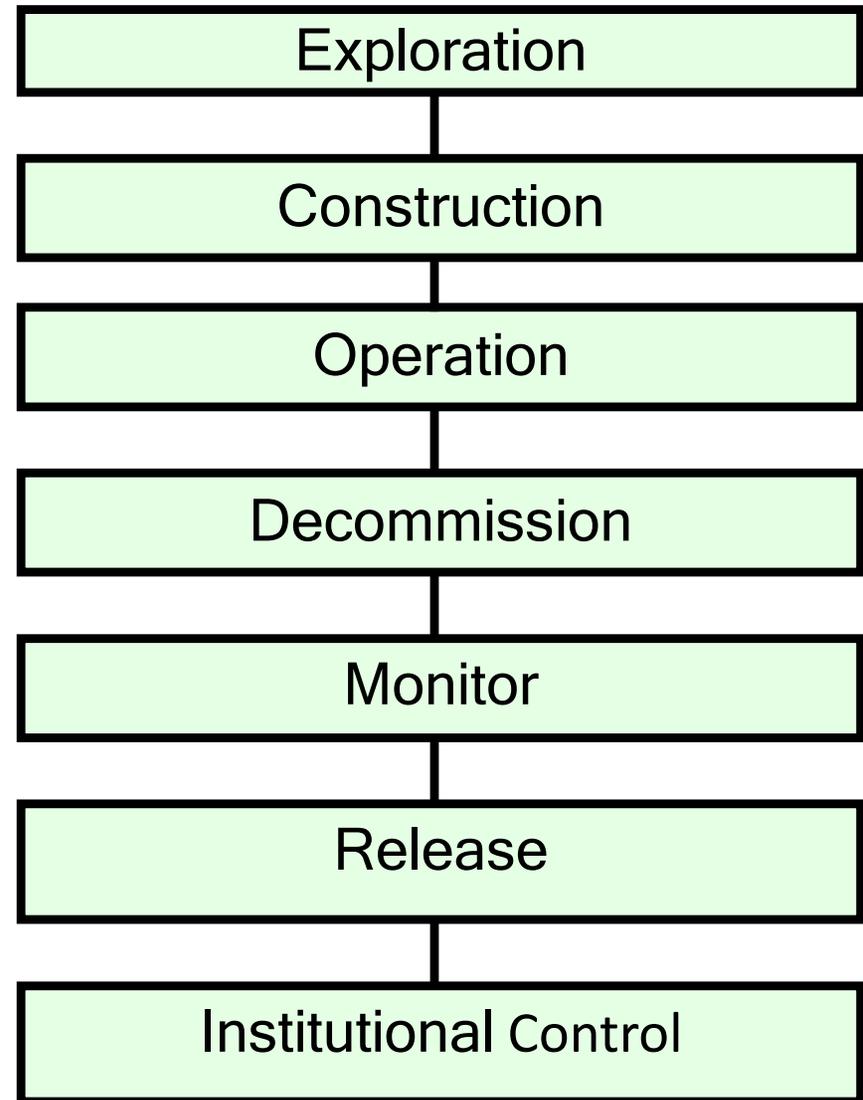
Saskatchewan's Institutional Control Program for Post-Closure Site Management

**Keith Cunningham, P.Eng
Saskatchewan Ministry of Energy and Resources
February 2018**

Institutional Control Program

- **Sites are defined as mine/mill properties, regardless of commodity, that are located on Crown land.**
- **Establishes an endpoint for mining company activities on sites.**
- **Establishes funding for the long-term care and control of the closed sites.**
- **Custodial responsibility for the sites becomes a government responsibility, some company responsibilities under the *Environmental Management and Protection Act* remain.**

The Life Cycle of a Mine



Institutional Control Program

- **Development of policy framework and stakeholder consultation – 2005**
- **Approval of *Reclaimed Industrial Sites Act* – 2006**
- **Promulgation of the Act and *The Reclaimed Industrial Sites Regulations* – March 2007**
- **Implementation of program**
- **First site accepted – May 2009**

Institutional Control Program

- **Establishes an Institutional Control Registry**
- **Establishes Institutional Control Funds:**
 - Institutional Control Monitoring and Maintenance Fund
 - Institutional Control Unforeseen Events Fund

Institutional Control Registry

The functions of the Registry include:

- Establishing a formal record
- Defining site specific requirements for acceptance
- Conducting site activities (monitoring and maintenance)
- Providing public access to records
- Maintains fund records and financial assurances

Institutional Control Funds

- Established and protected by Act
- Expectation that both Province and Industry contribute based on site responsibility
- One fund for monitoring and maintenance costs at sites – the IC Monitoring and Maintenance Fund
- One fund for the costs of future unforeseen events – the IC Unforeseen Event Fund
- Must meet SE and CNSC financial assurance requirements

IC Procedure

- **Typical Procedure:**
 - SE and CNSC review application – perform final inspection. If additional work is required, an additional inspection may be required.
 - SE and CNSC confirm release and exemption can be issued and initiate process. This includes presentation to the Commission.
 - GR proceeds with surrender/revision of surface lease. Renegotiation and consultation dependent on disturbed or impacted lands.

Example Site Impact Area

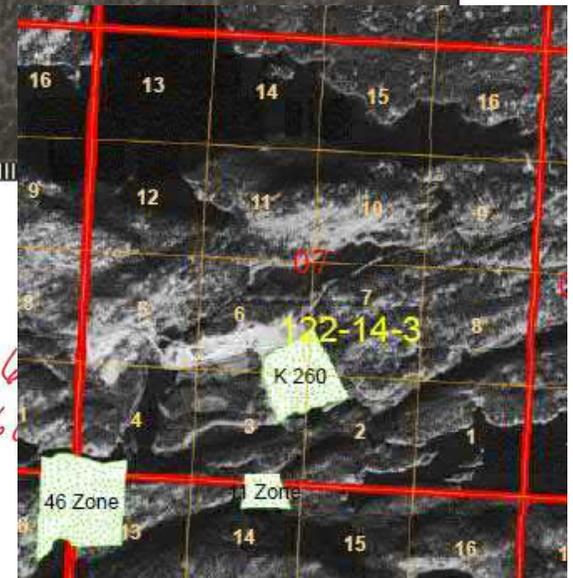
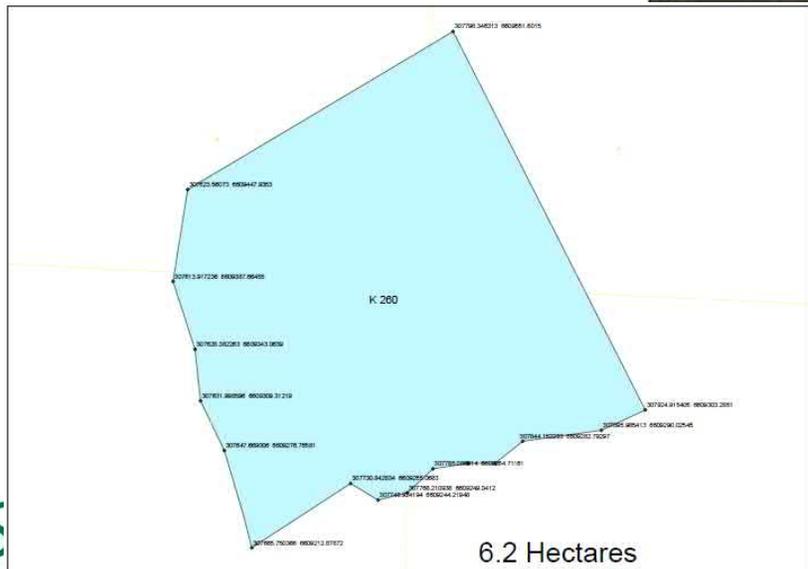
646483.66 E
6607864.09 N

646628.77
6607762.43



646620.79 m E 6607287.86 m N elev 1073 ft Streaming

646548.35 E
6607139.97 N



IC Procedure (cont'd1)

- **Typical Procedure:**

- ER proceeds with establishment of Crown Reserve. Lands included are impacted lands. May require buffer area, survey or use of theoretical grid. Public notice is issued.
- ER determines financial factors to calculate funding requirements based on monitoring and maintenance schedule. Monitoring and Maintenance/ Unforeseen Events funding requirements are calculated.
- Financial assurance requirements are determined based on cost of major failure event. Company can identify type of financial assurance to employ (ER may have to review company status to qualify for type such as letter)

IC Procedure (cont'd2)

- **Typical Procedure:**
 - The company, provincial and federal agencies should provide all pertinent historical site documentation to the Registry archive.
 - For ownership purposes, CNSC licence exemption, SE Release, GR surface lease surrender, ER acceptance into Registry occur on the same day that the funds and financial assurance are paid.
 - SE issues Miscellaneous Use Permit to the Registry/ER for continuous surface responsibility and land use restrictions. MUP matches ER's mineral Crown Reserve established for protection of mineral tenure.

IC Future Site Management

- **Future Plan:**
 - ER performs monitoring program as required by plan.
 - ER performs maintenance as required by plan and monitoring results.
 - ER can employ third party or use government resources. Results are reviewed/inspected by ER/SE/LRWS (CNCS) to ensure work is satisfactory.

IC Management

- **Long Term:**
 - ER reviews program and publishes Registry report every 5 years. Includes reviews that funds are sufficient for monitoring and maintenance plan requirements.
 - ER publishes the IC Funds financial report annually audited by the provincial auditor.
 - The Unforeseen Events Fund is essentially a “rainy day fund” and there is no planned access of the funds. Ultimately the investment should build until it is sufficient to replace the requirement for financial assurances.

Contact Lake Example

- In April 2008, Cameco applied to enter the former Contact Lake Gold Mine Site into the IC Program
- Had to meet the environmental conditions and requirements to receive the Release from SE



Contact Lake:

- Cameco met the conditions and the site was accepted in May 2009



Contact Lake:

- Under the monitoring schedule, the first inspection was in 2014.
- The site was performing as predicted, and vegetation was recovering faster than predicted.
- The next scheduled inspection is in 2019.



Current and Future Plans

- In October 2015, ER held a multi-stakeholder consultation meeting to initiate the review of the *Reclaimed Industrial Sites Act*. Issues that have been raised include:
 - Financial assurances
 - Transfer of rights/ownership for a site
 - Liability of the fund advisory committee
 - Mandatory legislation review
 - Accepting other site types, eg non-mining, or active monitoring programs

Current and Future Plans

- **Authority to require financial assurances.**
 - The authority under which the Financial Assurance (FA) for an accepted site is required is not specifically stated in the Act. With the entry of sites into the program in 2009, Justice recommended that the FA requirement be specifically stated.
 - The Environmental Management and Protection Act (EMPA) underwent significant revision in 2010 and now specifically references financial assurances.
 - ER will propose amending RISA using the EMPA section as the template.

Current and Future Plans

- **Transfer of rights/ownership for a site that has been accepted into the IC Program**
 - A site that has been accepted into the IC Program (ICP) has restricted/excluded surface and mineral rights. Currently, there is no mechanism for the transfer of a site from the ICP back to a company.
 - The principal concerns of the province are to not increase liability environmentally or financially. EMPA now includes a section on the transfer of responsibility for environmentally impacted sites. ER will propose a RISA amendment using the EMPA section as the template.

Current and Future Plans

- **Exemption of liability for the fund advisory committee (secondarily the methodology and sustainability of the IC Funds)**
 - The IC Funds provide monies for site monitoring and maintenance and are to be of sufficient value to generate revenue to pay future costs.
 - In 2013, an IC Funds Investment Advisory Committee (IAC) has been established to assist in the investment direction of the funds.
 - The IAC is made up of ECON employees and industry stakeholders and concern was raised the members be granted liability exemption from investment decisions. This exemption is granted under The Oil and Gas Conservation Act and ER proposes to include this section in RISA.

Current and Future Plans

- **Inclusion of a mandatory review**
 - The Act currently includes a section requiring it to be reviewed within five years of coming into force. Stakeholders identified that it should be retained. ER will propose amending the Act to update the mandatory review.

Current and Future Plans

- **Acceptance of alternate site types.**
 - The ICP was initially designed to include the future consideration of sites other than strictly mine sites.
 - The Act does not specifically require revision, Regulation revisions would be required.
 - Issues require decisions not within the scope of ER:
 - Type – eg manufacturing facility, pulp and paper mill, gas station/fuel depot
 - Land ownership – eg federal crown, private/freehold
 - Contaminant – eg chemical, petroleum, byproducts
 - Status – eg stable but regulated monitoring schedule
 - Protocol would be to bring the decision before Cabinet prior to inclusion. ER proposes to continue discussion for the follow up regulatory review and revision.

Institutional Control Program

- **An important component of mining regulation**
- **Saskatchewan is an international leader**
- **Institutional Control is a success for regulators, industry and the public.**



Thank you



Closure Planning and Securities

MACKENZIE VALLEY RESOURCE MANAGEMENT ACT WORKSHOP

February 13-14, 2018
Yellowknife, NT

Lorraine Seale, GNWT

Nathen Richea, GNWT

Angela Plautz, MVLWB



Indigenous and
Northern Affairs Canada

Affaires autochtones
et du Nord Canada

Overview

- Closure planning
 - What is it?
 - Why is it important?
 - How is it done?
- Securities
 - What is a security deposit?
 - How is it calculated?
- How can you be involved in the closure planning and security determination processes?
- Governing legislation
- Current policies and guidelines
- What's next?

What is closure planning?

- Determining the optimal way of returning a disturbed site to its natural state or which prepares it for other productive uses that prevents or minimizes any adverse effects on the environment or threats to human health or safety
- Proponents are legally responsible for undertaking closure and reclamation in an environmentally responsible manner, as set out in permits, licences, leases and associated management plans

Why is closure planning important?

- In the past, some operations closed without adequately addressing their clean-up and reclamation responsibilities, leaving hundreds of millions of dollars of clean-up costs to the government.
- The integrated system of land and water management in the Mackenzie Valley provides many opportunities for residents to participate in the closure planning and security determination process, which makes it more robust and transparent.

How is it done?

- For smaller projects, standard conditions and best practices cover most closure requirements.
- For larger projects, a Closure and Reclamation Plan is required.
- Many closure and reclamation aspects of a proposed project are discussed and decided through the environmental assessment process.
- Closure and Reclamation Plans are updated through the life of a project.

What is a security deposit?

- Funds held by the appropriate authority (the GNWT, federal government, or other land owner) that can be used in the case of abandonment of a project to maintain and reclaim the site
- Can be held under land use permits, water licences, or land leases
- Can be held for large and small projects

How is it calculated?

- In the case of land use permits and water licences, the applicable Land and Water Board determines the security amount, after seeking input from the proponent and reviewers.
- The amount is based on the estimated costs of closing and reclaiming the site (i.e., the closure cost estimate) using a model such as RECLAIM.
- The amount must reflect the third-party contractor costs required to implement the Closure and Reclamation Plan.
- **The closure cost estimate is developed based on the approved Closure and Reclamation Plan for the project.**

How can you be involved in the closure planning and security determination processes? (1)

- It's important to become involved early in the process.
- Involvement is encouraged at all stages of the process.

How can you be involved in the closure planning and security determination processes? (2)

Opportunities for involvement include:

- Pre-application phase
 - Proponents are encouraged to engage with affected parties before submitting their applications
- Application review and preliminary screening
 - Applications include initial closure plans and security estimates

How can you be involved in the closure planning and security determination processes? (3)

Opportunities for involvement include:

- Environmental assessment
 - Technical sessions and workshops
 - Interventions
 - Public hearings
- Regulatory public reviews
 - Technical sessions and workshops
 - Interventions
 - Public Hearings
 - Closure and reclamation plan reviews

All submissions are posted to board public registries (Review Board and LWB).

Governing legislation

Authorizations:	Legislation
Land Use Permits and Water Licences	<ul style="list-style-type: none"> • <u>Mackenzie Valley Resource Management Act</u> (federal) • <u>Mackenzie Valley Land Use Regulations</u> • <u>Mackenzie Valley Federal Areas Waters Regulations</u> • <u>Waters Act</u> (territorial) • <u>Waters Regulations</u>
Leases (GNWT)	<ul style="list-style-type: none"> • <u>Commissioner's Land Act</u> (territorial) • <u>Commissioner's Land Regulations</u>
Leases (GNWT)	<ul style="list-style-type: none"> • <u>Northwest Territories Lands Act</u> (territorial) • <u>Northwest Territories Lands Regulations</u>
Leases (INAC - federal areas)	<ul style="list-style-type: none"> • <u>Territorial Lands Act</u> (federal) and regulations

Policies and Guidelines

- [INAC Mine Site Reclamation Policy for the Northwest Territories \(2002\)](#)
- [INAC - Cold Regions Cover System Design Technical Guidance Document \(2012\)](#)
- [MVLWB/INAC Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories \(2013\)](#)
- [MVLWB/INAC/GNWT Guidelines for Closure and Reclamation Cost Estimates for Mines \(2017\)](#)
- [GNWT - RECLAIM 7.0 Model for Estimating Costs - User Manual: Oil and Gas Version \(2017\)](#)
- [GNWT - RECLAIM 7.0 Model for Estimating Reclamation Costs - User Manual: Mining Version \(2017\)](#)
- [MVLWB Engagement and Consultation Policy \(2013\)](#)
- [MVLWB Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits \(2013\)](#)

What's next?

- Clarify reclamation and security processes and requirements through:
 - Legislative and regulatory amendments
 - *Northwest Territories Lands Act*
 - *Commissioner's Land Act*
 - *Waters Act*
 - Security adjustment and refund process discussions
 - Reviews and updates to policies, guidelines, and procedures

Questions?

Thanks!

Amy Badgley 2016

What does long-term monitoring look like to you?

MACKENZIE VALLEY RESOURCE MANAGEMENT ACT WORKSHOP

February 14, 2018
Yellowknife, NT

Meghan Schnurr, Regulatory Specialist, WLWB
Anneli Jokela, Senior Technical Advisor, WLWB

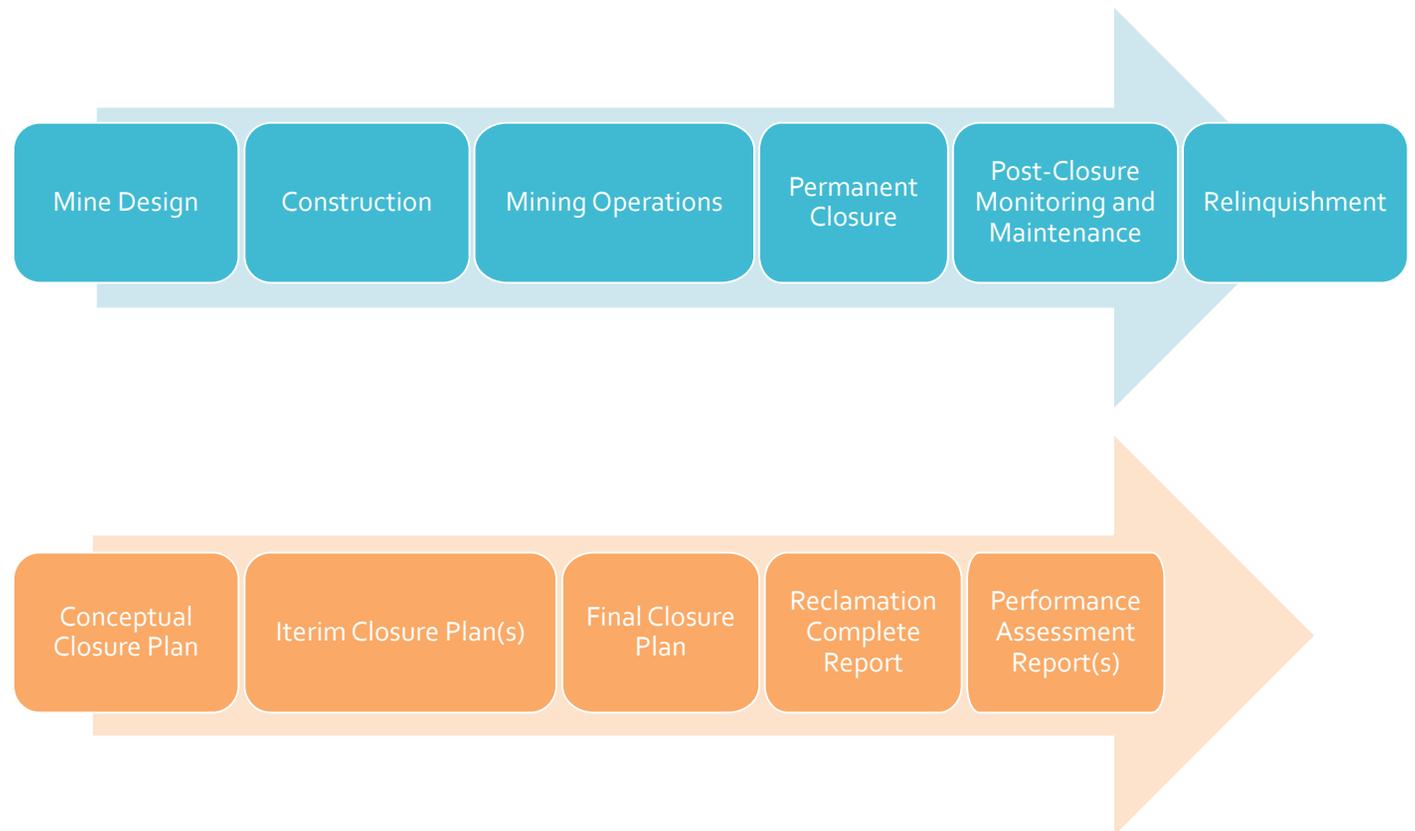


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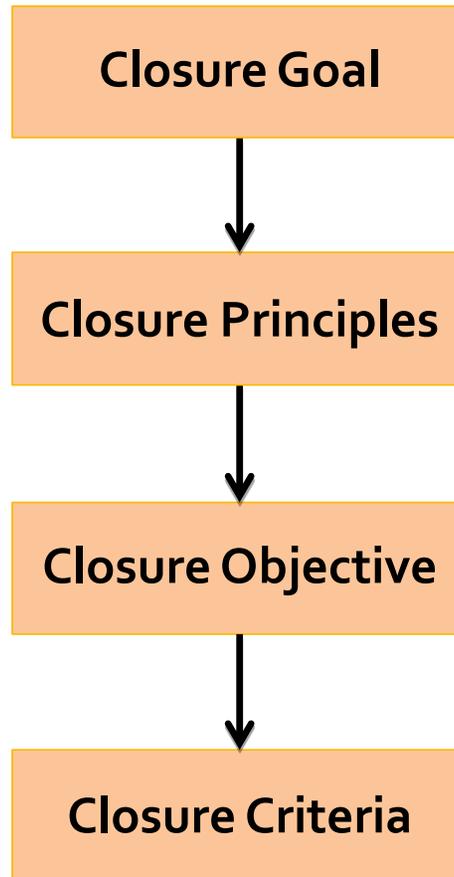
Project Development Stages



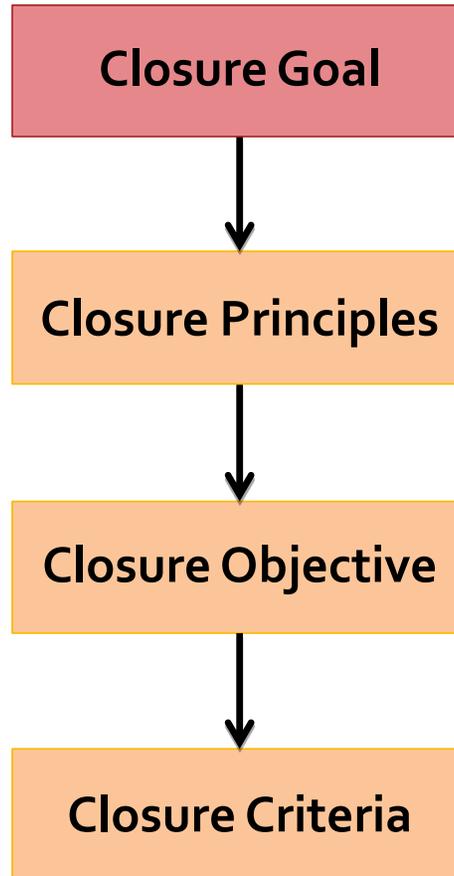
Closure Planning Throughout the Life of the Project



Objectives- Based Approach to Closure Planning

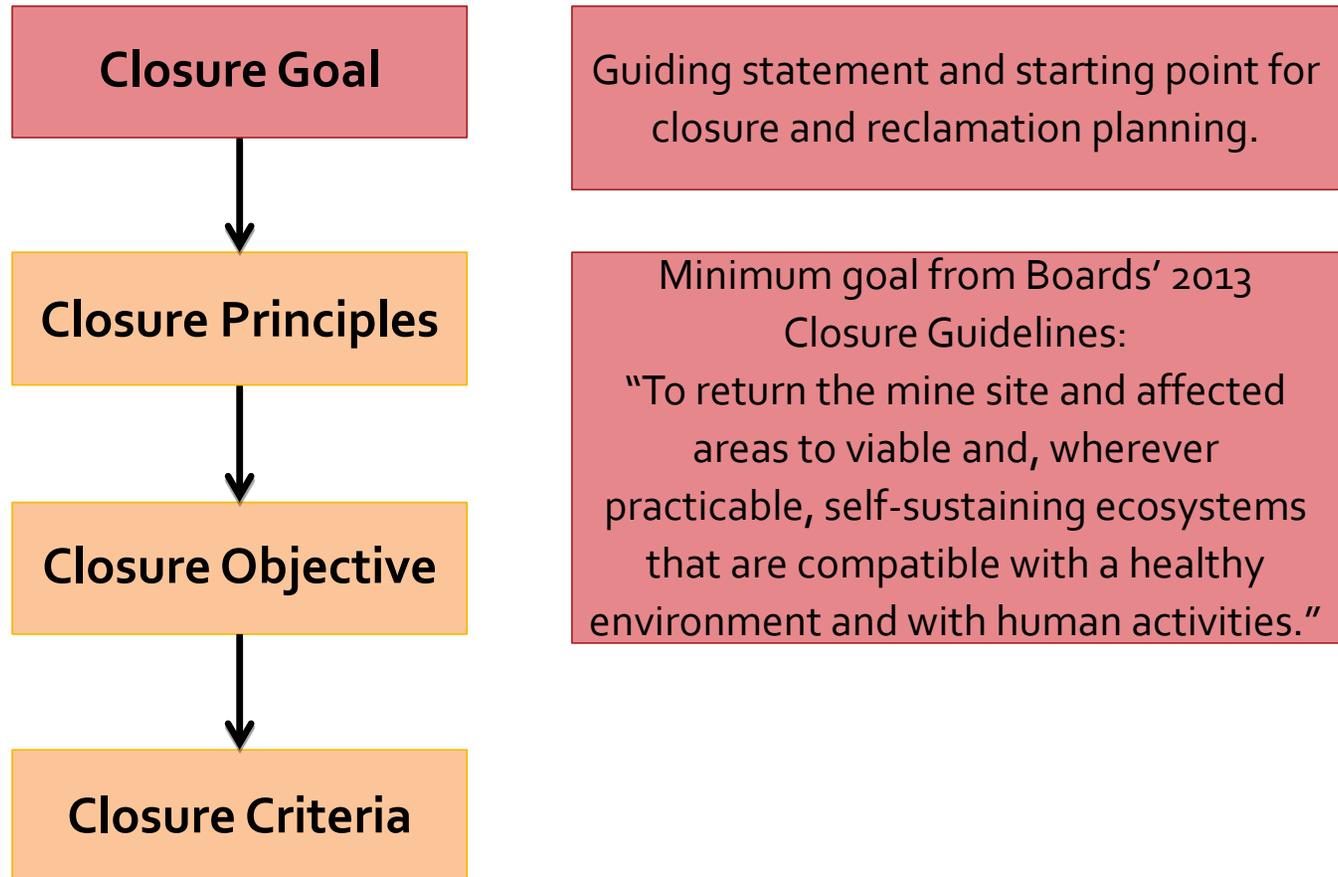


Objectives- Based Approach to Closure Planning

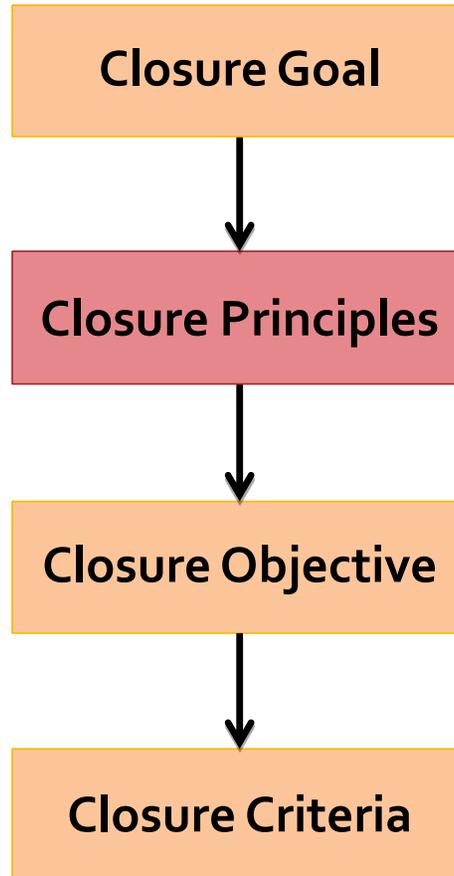


Guiding statement and starting point for closure and reclamation planning.

Objectives- Based Approach to Closure Planning

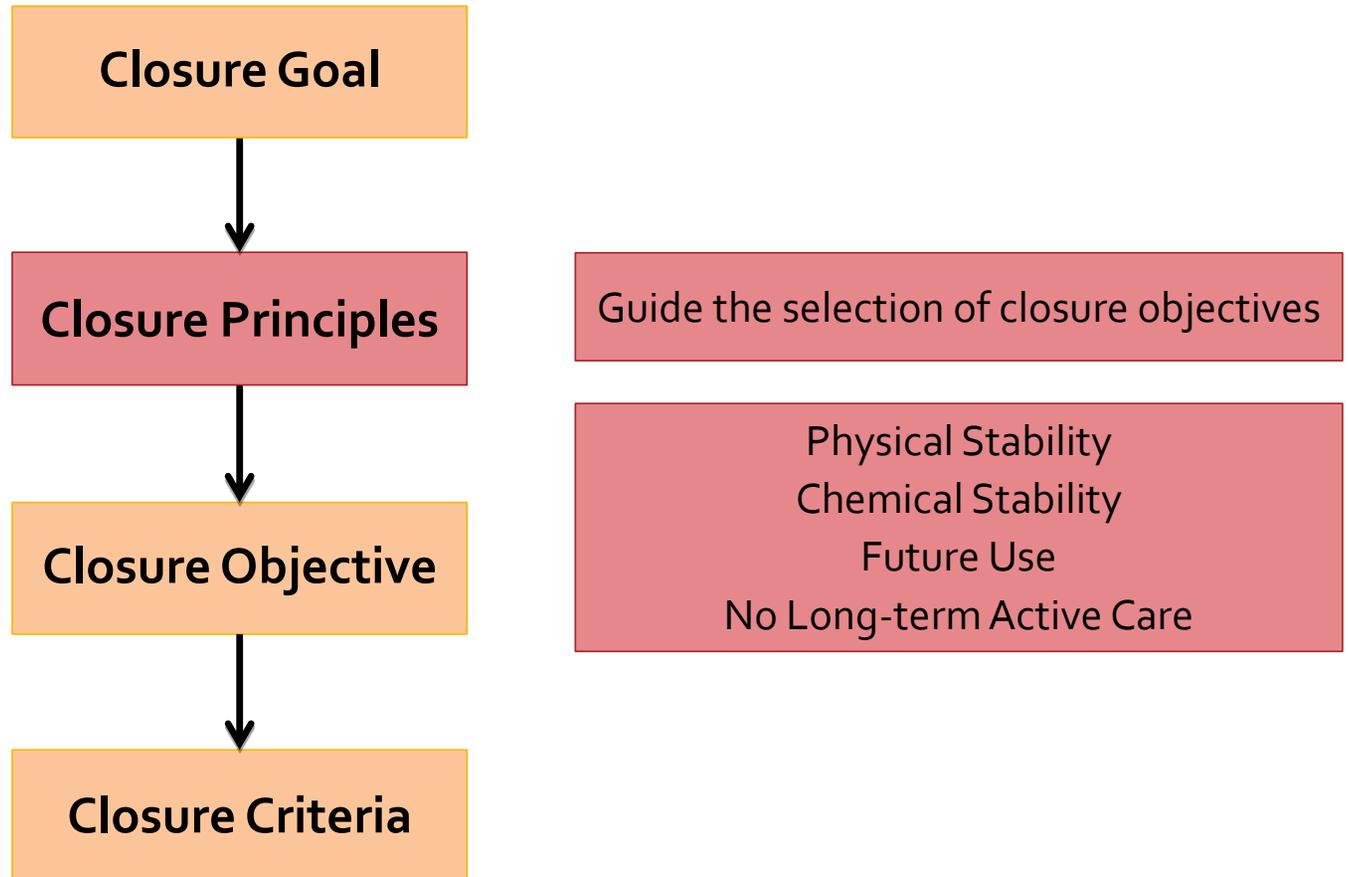


Objectives- Based Approach to Closure Planning

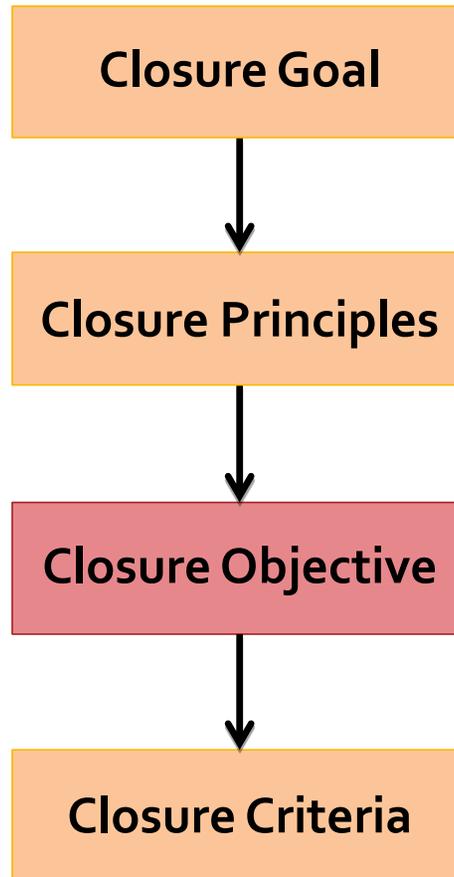


Guide the selection of closure objectives

Objectives- Based Approach to Closure Planning

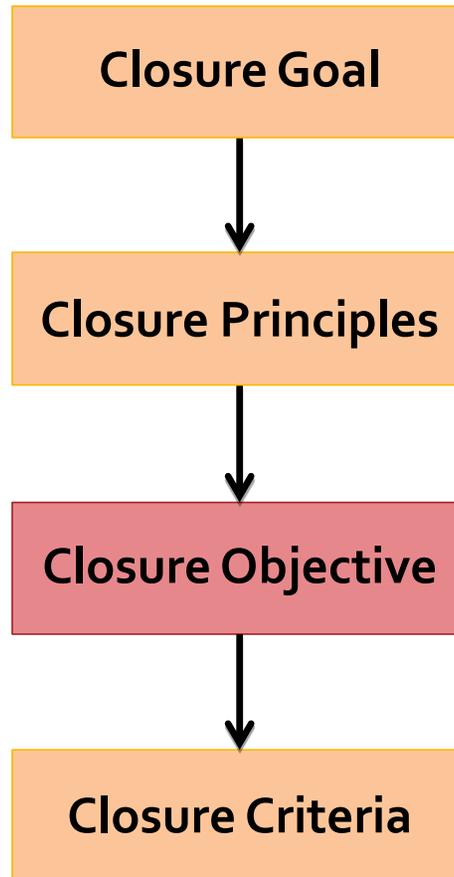


Objectives- Based Approach to Closure Planning



Statements that describe what the selected closure activities are aiming to achieve; they are guided by the closure principles. Closure objectives are typically specific to project components, are measurable and achievable, and allow for the development of closure criteria.

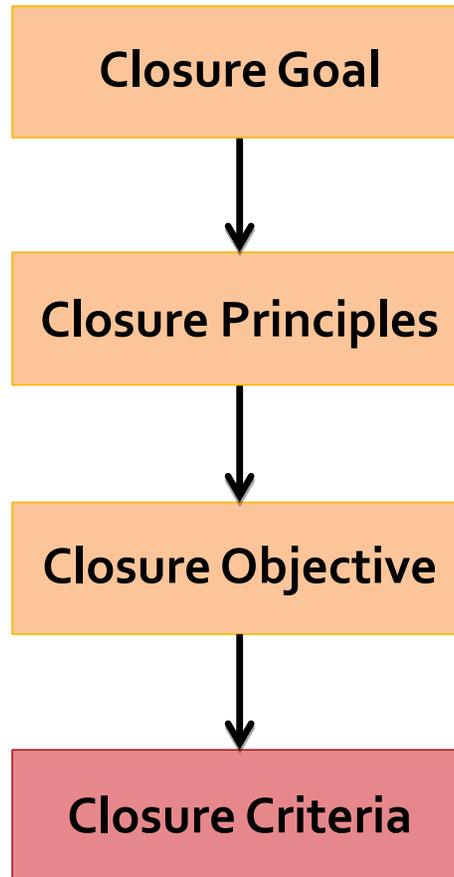
Objectives-Based Approach to Closure Planning



Statements that describe what the selected closure activities are aiming to achieve; they are guided by the closure principles. Closure objectives are typically specific to project components, are measurable and achievable, and allow for the development of closure criteria.

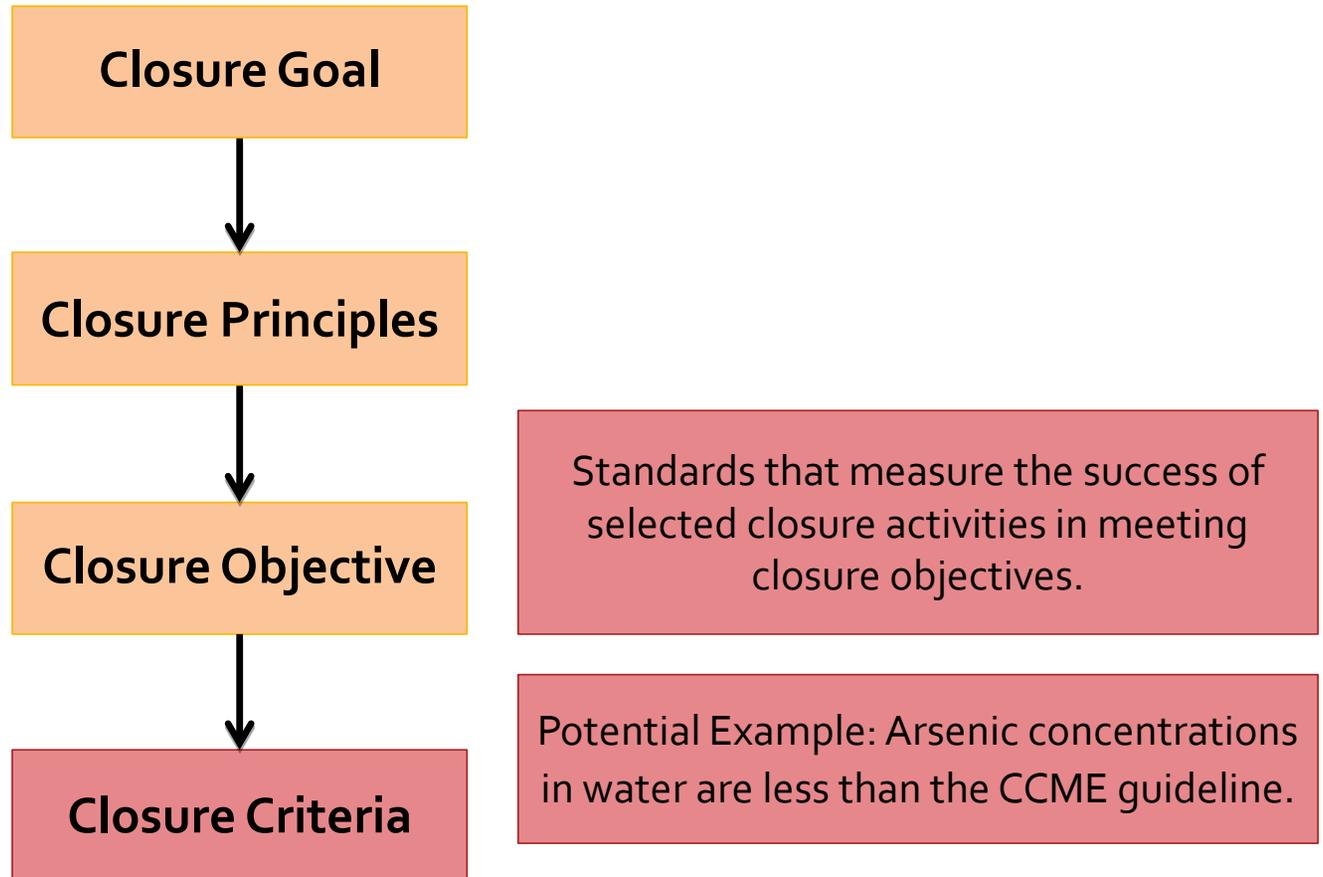
Potential Example: Water quality that is safe for humans and wildlife.

Objectives- Based Approach to Closure Planning



Standards that measure the success of selected closure activities in meeting closure objectives.

Objectives-Based Approach to Closure Planning



Group Activity

Project Scenario: A mine is located near a large body of water that has important traditional uses and near historical caribou migration routes. At post-closure, what remains on-site is a pile of waste rock, which includes rock that is potentially acid generating and/or metal leaching. A cover has been placed on the pile during the closure phase. This cover is designed to maintain a frozen pile and reduce seepage.

Keeping in mind the 4 core closure principles of physical stability, chemical stability, future use, no long-term active care, discuss the following:

- **Select a potential closure objective and closure criteria for the mine.**
- **How would you monitor for these?**
 - What would you measure?
 - How long into the future would you monitor?
 - Who should do the monitoring?

Thank you!

What does long-term monitoring look like to you?
MACKENZIE VALLEY RESOURCE MANAGEMENT ACT WORKSHOP

February 14, 2018
Yellowknife, NT

Meghan Schnurr, Regulatory Specialist, WLWB
Anneli Jokela, Senior Technical Advisor, WLWB





MVRMA Compliance, Inspections and Enforcement

MVRMA Workshop – Yellowknife – February 14th 2018

Inspections, Compliance and Enforcement

- Working with stakeholders, regulators to ensure the application is reviewed properly.
- Risk Assessment
- Compliance
 - Inspections
 - Orders of Inspector/Letters of Direction
 - Investigations/Prosecutions



Authorities - MVRMA

- Authorities under the MVRMA which provide these compliance tools.
 - Designation of qualified individuals as Inspectors – Section 84(1) MVRMA
 - Inspector powers to enter a permit area and inspect to confirm compliance – Section 85(1) MVRMA
 - Provides Inspectors ability to issue letter of direction or Inspectors Order – Section 86(1)and(2) MVRMA
 - Non-compliance with Order or Direction – Section 86.2(1) MVRMA



Authorities - Regulations

- Authorities under the regulations – Section 34(1)
 - Time to comply with order or direction
 - Authority to issue a Stop Work Order if non-compliance is still found

Risk Assessment and Inspection Frequency

- Risk Assessment and Inspection Frequency
 - A severity and probability rating
 - An overall numeric risk rating
 - Where the file fits with respect to the low, moderate or high risk categories
 - And a baseline inspection frequency



Risk Assessment and Inspection Frequency

BRIDGE CONST.
CAMPS - < 50 Man Camp
CAMPS > - 50 Man Camp
COMMUNICATION SITE
FUEL CACHES
HWY MAINTENANCE & OPERATIONS
INDUSTRIAL CONSTRUCTION
LOGGING
MINERAL EXP - bulk sampling
MINERAL EXP - drilling
MINERAL EXP - sampling
MISCELLANEOUS
OIL AND GAS DRILLING - WELLSITE
PIPELINE CONSTRUCTION
QUARRY SITE - Existing
QUARRY SITE - New
ROADS, all season (during const)
ROADS, all season (post const)
ROADS, winter (during Const)
ROADS, winter (post Const)
SEISMIC EXP
SOIL TESTING (GEOTECH)

Severity: 3 Probability: 5 Overall Rating: 15 Risk Rating: High Inspection Frequency: >>3 PER YEAR

All work is projected to be complete for the 2016 season.



Risk Assessment and Inspection Frequency

Risk Rating

Category: OIL AND GAS DRILLING - WELLSITE

Severity: 3

Probability: 5

Overall Rating: 15

Risk Rating: High

Comment / Justification:

- 1 EVERY 2 YEARS
- 1 PER YEAR (AND A FINAL)
- 1 PER YEAR AND 1 ON ABAND
- 2 PER YEAR
- 2 PER YEAR (AND A FINAL)
- 2 PER YEAR (AND A PRE)
- 2 PER YEAR UNTIL COMPLETE
- >>> 3 PER YEAR**
- 4 PER YEAR
- BI-WEEKLY
- ONE (AND A FINAL)



Risk Assessment and Inspection Frequency

- Risk Assessment and Inspection Frequency
 - severity
 - potential impact on the environment
 - potential impact on people
 - potential impact on property or traditional lifestyle
 - potential impact on financial or legal responsibilities



Risk Assessment and Inspection Frequency

- Risk Assessment and Inspection Frequency
 - Probabilities (or frequencies)
 - also weighted from a low to very high potential of something occurring
 - It is Jury driven as well based on their knowledge of known activities that normally occur on projects



Risk Assessment and Inspection Frequency

- Risk Assessment and Inspection Frequency
 - Modification of inspection frequency
 - Environmental conditions
 - Environmental sensitivity
 - Project challenges
 - Record of compliance (to date or historical)



Compliance

- Inspections
 - In person
- Inspection reports
 - Unacceptable noted conditions
- Directions/orders/stop work/suspension
- Investigation and prosecution

Compliance

- Compliance
 - Inspections
 - conducted by DoL
 - Primary mode of education
 - Primary mode to assess project status
 - Primary mode to assess environmental conditions and challenges in direct relation to the project activities
 - The time and the place to provide Departmental feedback to the permittee/licencee on their performance

Compliance

- Compliance
 - Inspection Reports are the primary vehicle used by Inspectors to:
 - Communicate to the licensee/permittee
 - Stipulate expectations where necessary
 - Communicate to issuing authorities such as the Boards
 - Communicate to other regulating authorities



Compliance

- Compliance
 - Directions and Orders
 - When Inspections and instruction within the reports do not achieve the desired results, our ability to issue direction and orders is often exercised.
 - They are issue specific
 - A separate document from an inspection report
 - Have a clear timeline to comply within
 - Copied to the respective Board Staff



Compliance

- Compliance
 - Stop Work Orders and Suspensions
 - When previous attempts to gain compliance fail, Inspectors have the ability to order the cessation of the operation, or any part of it.
 - On the Inspectors satisfaction that compliance has been achieved, he or she may lift the order to allow the operation to proceed.

Compliance

- Compliance
 - Investigation and prosecution
 - Generally the tool of last resort when other methods of gaining compliance have been exhausted but;
 - The tool of choice in situations where significant negligence has occurred or;
 - In situations where serious environmental impacts have occurred.



Conclusion

- In Conclusion
 - The inspections, compliance and enforcement program the GNWT is responsible for is healthy, robust and working well.
 - Is it perfect? Probably not
 - Are we making it better? Every opportunity we get.

How the Regulatory Process Works

Post Environmental Assessment

MVRMA Workshop
February 14, 2018
Yellowknife, NT



When do you need a Land Use Permit?



February 14, 2018



When do you need a Water Licence



February 14, 2018



Pre-Application

Land Use Permit	Water Licence
Engagement –engage with affected parties and seek feedback	
Contact Land and Water Board Collect necessary site and/or baseline information	
Right of Access – obtain permission from landowner	Right of Access – obtain permission from landowner

February 14, 2018



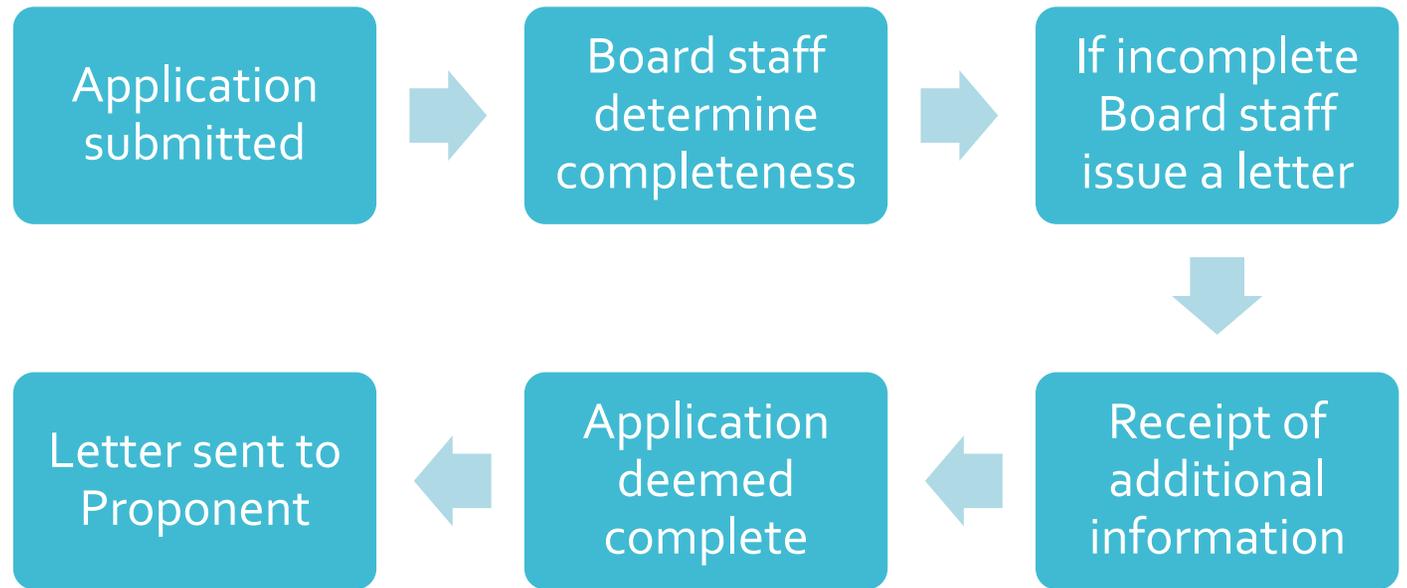
Application Review

Land Use Permit	Water Licence
Application deemed complete	
Application sent out for review and comment	
Preliminary screening – may get sent for Environmental Assessment (but not post-EA)	
Public hearing unlikely	Public hearing likely (for Type A' s)
<42 days for Board decision	Timelines (9 months) *does not include proponent time

February 14, 2018



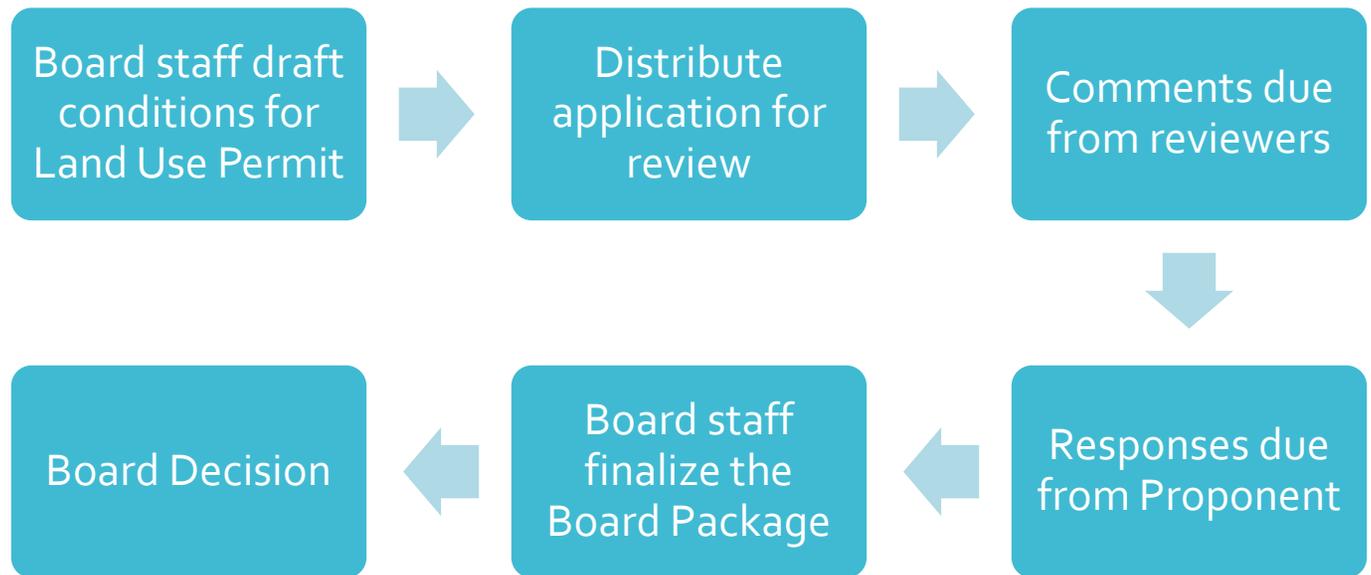
General Regulatory Process for Land Use Permits



February 14, 2018



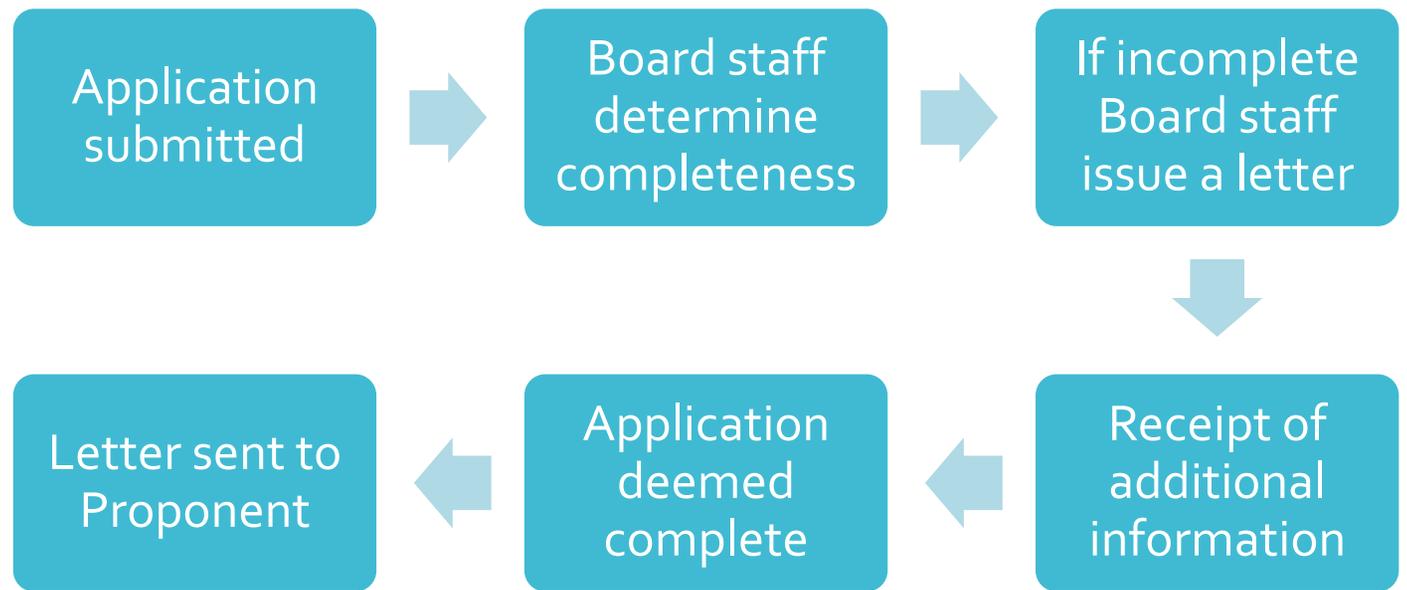
General Regulatory Process for Land Use Permits (cont'd)



February 14, 2018



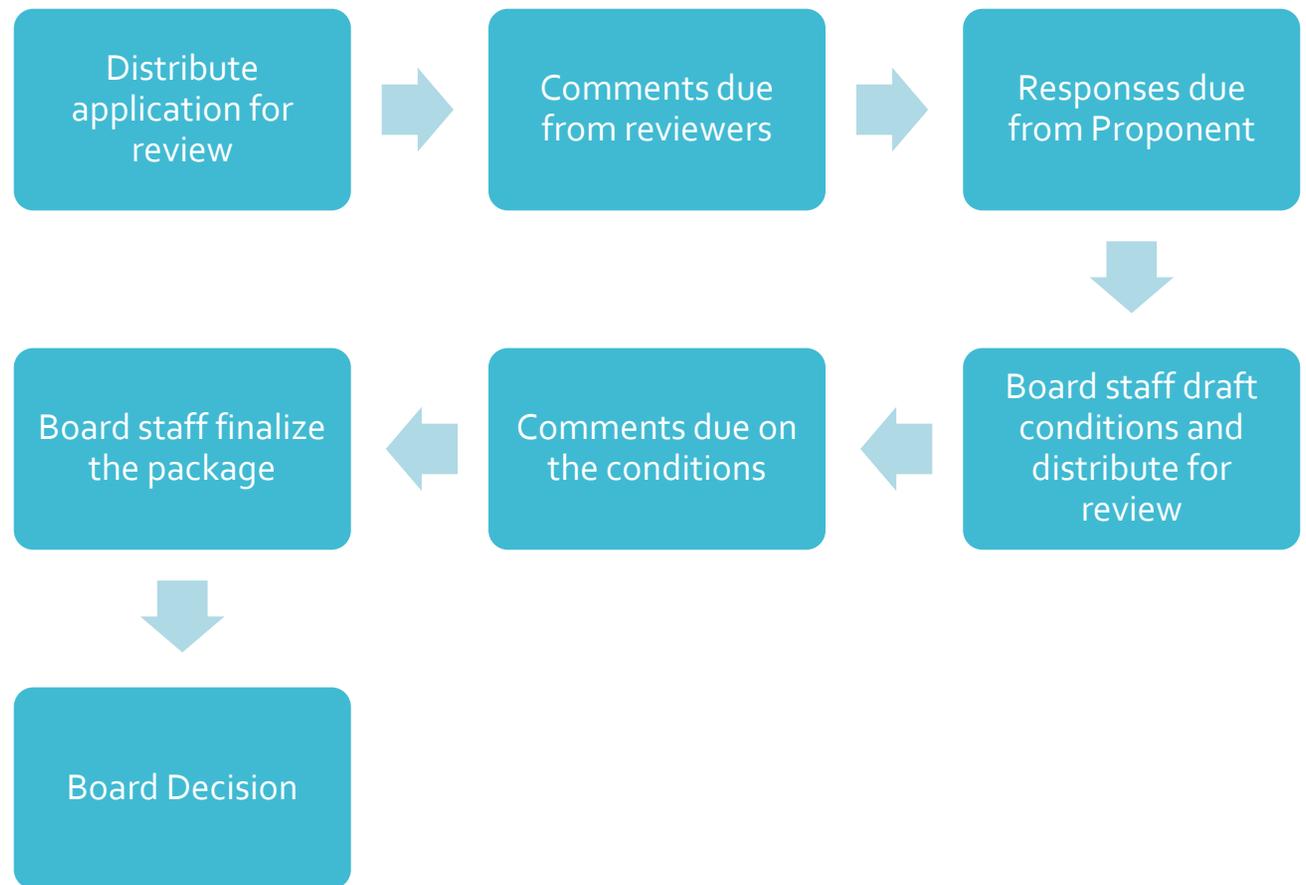
General Regulatory Process for Type B Water Licences



February 14, 2018



General Regulatory Process for Type B Water Licences (cont'd)



February 14, 2018



Post Environmental Assessment



Post Environmental Assessment Meeting (kick off meeting)

- After the release of the Report of Environmental Assessment, Land and Water Board staff will reach out to the company and initiate conversations on the following:
 - Updated Project Description
 - Water Licence Process
 - Land Use Permit Process
 - Public Hearing Process (if applicable)

February 14, 2018



Updated Project Description



What is it?

- incorporate changes made to the project design during the EA process, as well as changes made to address relevant measures and commitments.



What does it contain?

- Draft Management Plans (Spill/ Waste/Engagement)
- Conceptual Closure and Reclamation Plan including security liability estimate
- Updated project schedule
- Information on Effluent Quality Criteria

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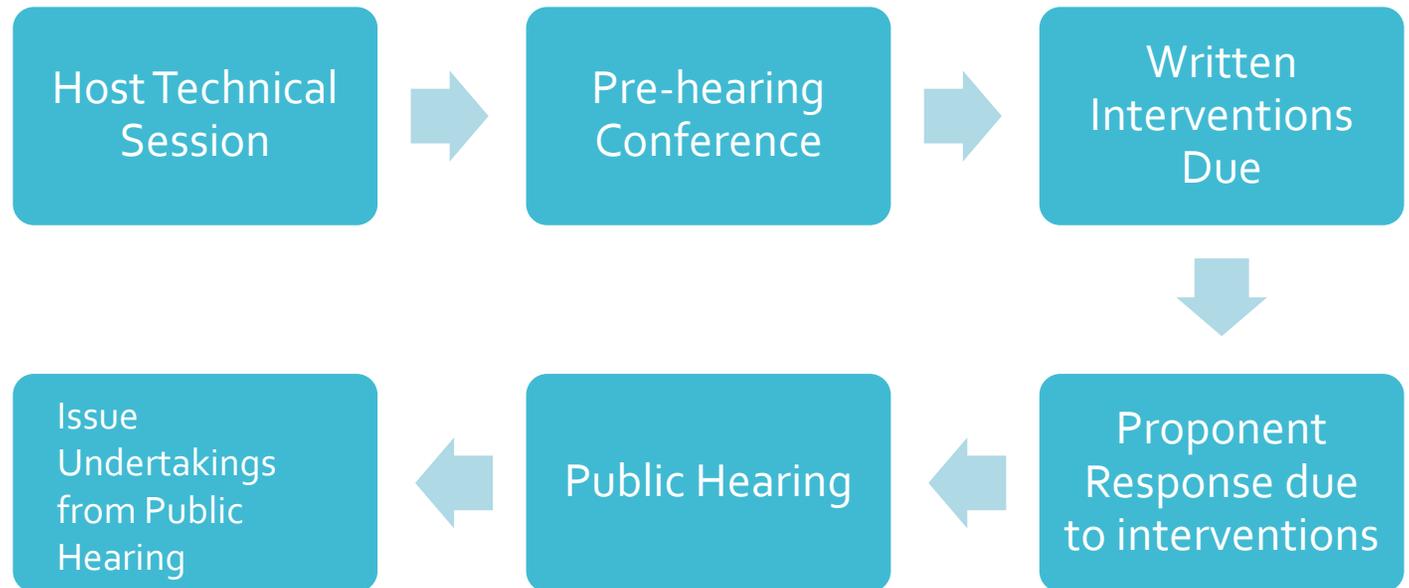
General Public Hearing Process for Applications



February 14, 2018



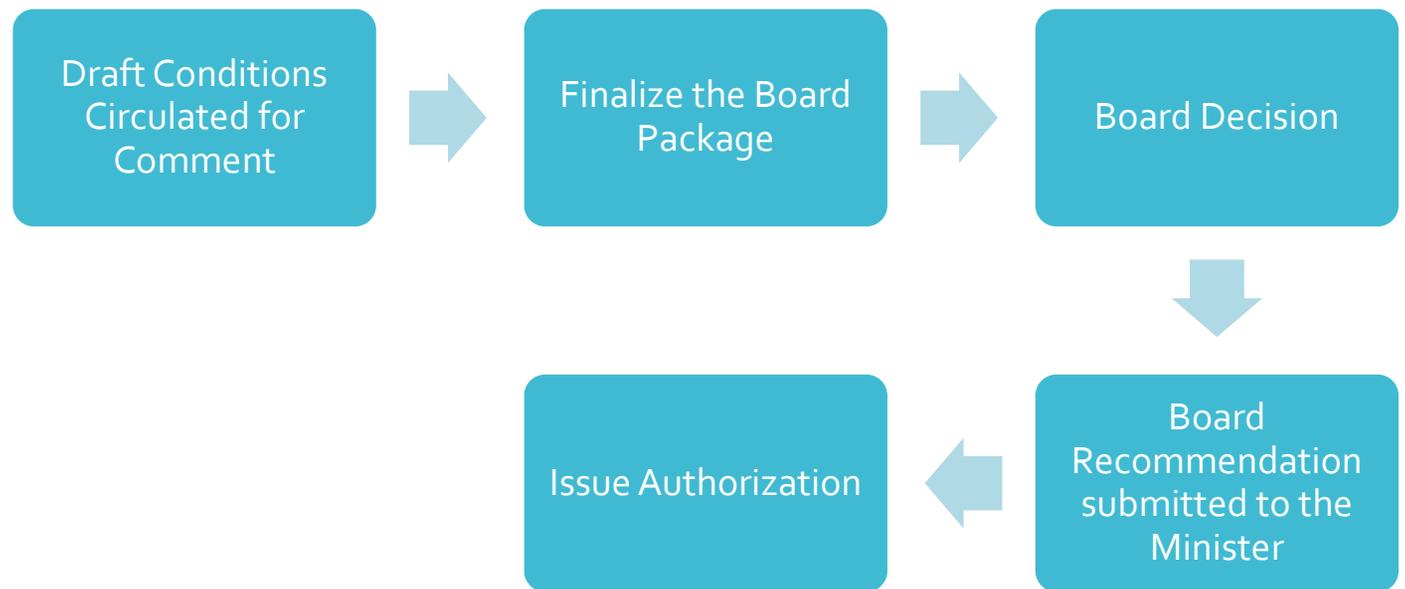
General Public Hearing Process for Applications (cont'd)



February 14, 2018



General Public Hearing Process for Applications (cont'd)



February 14, 2018



Questions?



Amy Badgley, 2016



EA Follow-up Measures

Mackenzie Valley Resource Management Act Workshop
Breakout session

Brett Wheler
Sr. EA Policy Advisor



Mackenzie Valley
Review Board



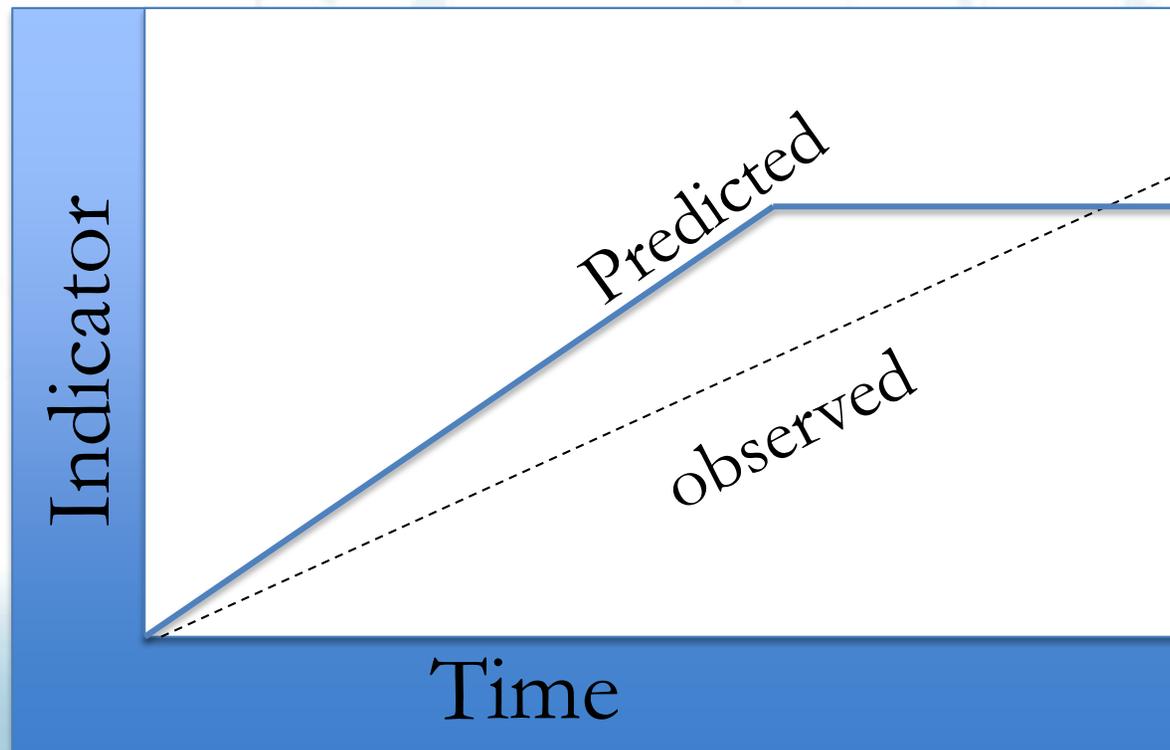
What is EA follow-up?

- MVRMA
 - A program for evaluating
 - The soundness of an EA
 - The effectiveness of mitigation measures



Soundness?!

- Test EA predictions & assumptions
 - Were impacts reasonably well-characterized?
 - Significance? Surprises?



Effectiveness of measures

- First... implement
- Then... effectiveness
 - Intent & purpose
- How do we know measures being followed and are working?
 - Monitoring
 - Reporting
 - Adaptive management



Why is EA Follow-up Important?

Conditions of project
approval need to be
**implemented &
achieve their purpose**

...and people have a right to know



Why is EA Follow-up Important?

- Inform adaptive management to ensure impacts are avoided
- Inform parties & public: as they participate in life-of-project engagement, regulatory processes..... and future EAs
- Inform future EAs & measures
- Improve future predictions
- Connect parts of the 'integrated system'



Follow-up Measures: Review Board

- Historically... implementation varied
 - ... lack of tracking
 - Government vs proponent
 - Different regulators
 - Some genuine challenges

Follow-up Measures: Review Board

- More recently... emphasis on follow-up
 - Jay, CanZinc (+App.B)
 - Follow-up measures do not stand alone, they represent the monitoring, adaptive management, and reporting needed to ensure other measures are effective
 - Monitoring & Adaptive Management
 - Reporting – Proponent, Gov, Regulators



Other Jurisdictions: CEAA, NIRB

- Standard conditions for EA follow-up:
 - Ongoing consultation & engagement
 - Test impact predictions
 - Implement monitoring & adaptive mgmt.
 - Adjust monitoring and/or mitigation
 - Provide data to support regional initiatives
 - Reporting
 - (CEAA: AM Framework, technically and economically feasible mitigations)



Federal Review of Impact Assessment

- Expert Panel recommendations:
 - Ensure outcomes are met through mandatory follow-up
 - Involve Indigenous Groups & local communities
 - Report on data, results, actions, and compliance



Communication (Reporting)

Review Board's reporting measures:

- Reporting is needed to demonstrate measures are being implemented and evaluate effectiveness. To communicate the status & outcomes to everyone.
 - **Describe implementation** actions (incl. adaptive management)
 - **Demonstrate** how **intent** of measures is fulfilled

Options: format, level of detail, coordination with other reporting, etc.



Group Discussion – Example Reports

- Ekati Jay
 - Dominion Diamond
 - Table
 - Text
 - Other examples
 - GNWT
 - Jay Measures
 - Historic Measures
 - NIRB
 - CEAA
- Discuss at your table
 - Useful
 - Informative
 - Readable
 - Consider format, content, relation to other reports
 - Share one comment with whole group



Masi cho! Thank you!



reviewboard.ca

Mackenzie Valley
Review Board



Appendix E

Participant List

**Resource Co-management Workshop
February 13 & 14 2018
Explorer Hotel, Yellowknife**

Last Name	First Name	Organization
Adams	Justin	GNWT - Department of Lands
Ades	Katherine	GNWT - Department of Lands
Aguirre	Christopher	Transport Canada
Annand	Amanda	Mackenzie Valley Environmental Impact Review Board
Argue	Mike	GNWT - Executive and Indigenous Affairs
Armstrong	Brittany	Dillon Consulting Limited
Arnold	Sarah	Parks Canada
Ballantyne	Nick	Dominion Diamond
Barnaby	Dwayne	Yamoga Land Corporation
Betsaka	James	Nahanni Butte Dene Band
Bigelow	Donna	GNWT - Department of Lands
Bjornson	Rosy	Deninu Kue First Nation
Bohnet	Tina	INAC - Governance and Partnerships
Bremner	Trevor	GNWT - Department of Lands
Buckle	Robert	Gwich'in Tribal Council
Byers	Tim	Independent Environmental Monitoring Agency
Byrne	Mike	GNWT - Industry, Tourism and Investment's
Caesar	James	Nerahten Developments Limited
Campbell	Alexis	GNWT - Department of Transportation
Camsell-Blondin	Violet	Tlicho Government
Canadien	Priscilla	Deh Gah Gotie First Nation
Catholique	Shonto	Lutsel K'e Dene First Nation
Cazon	Dieter	Liidlii Kue First Nation
Chenemu	Ambe	Tlicho Lands Protection Department
Cholo	Edward	Liidlii Kue First Nation
Christie	James	Fort Providence Metis Council #57
Cliffe-Phillips	Mark	Mackenzie Valley Environmental Impact Review Board
Clille	Jesse	Pehdzeh Ki First Nation
Cli-Michaud	Mavis	Mackenzie Valley Land and Water Board
Cunningham	Keith	Government of Saskatchewan

D'Aguiar	Mark	Fisheries and Oceans Canada
DeMontigny	Dallas	Enbridge
Dixon	Jeremy	GNWT - Department of Lands
Edwards	John	Gwich'in Tribal Council
Ehrlich	Alan	Mackenzie Valley Environmental Impact Review Board
Elchyshyn	Leanne	ERM Consultants Canada
Ellis	Andrea	GNWT - Environment and Natural Resources
Elsasser	Sarah	Wek'èezhìi Land and Water Board
Enzoe (Shearing)	Gloria	Lutsel K'e Dene First Nation
Evans	Earl	Fort Smith Métis Council
Fairbairn	Catherine	Mackenzie Valley Environmental Impact Review Board
Fairman	Kimberly	Mackenzie Valley Land and Water Board
Finch	David	Mackenzie Valley Land and Water Board
Fleming	Margo	Acho Dene Koe First Nation
Freeman	Jeremy	Mackenzie Valley Environmental Impact Review Board
Frise	Sonya	West Point First Nation
Gargan	Ricky	Deh Gah Gotie First Nation
Gargan	Sam	Mackenzie Valley Land and Water Board
Gilday	Cindy	Sahtu Secretariat Incorporated
Goodman	Nicole	North Slave Métis Alliance
Gordon	Valerie	GNWT - Industry, Tourism and Investment
Grabke	Dwight	Newmount Mining
Grabke	Michele	Golder Associates
Griffith	Fritz	GNWT - Environment and Natural Resources
Griffith	Ray	Lutsel K'e Dene First Nation
Guile	Aimee	GNWT - Environment and Natural Resources
Guile	Zoe	GNWT - Industry, Tourism and Investment
Hardisty	Violet	Jean Marie River First Nation
Hardy	Ed	GNWT- Office of the Regulator of Oil and Gas Operations
Harrison	Sarah	Dominion Diamond Ekati ULC
Hasany	Umar	Canadian Northern Economic Development Agency
Henry	Charlotte	GNWT - Department of Lands
Heppelle	Brian	GNWT- Office of the Regulator of Oil and Gas Operations
Heron	Chris	Hay River Métis Government Council
Heron	Tim	Northwest Territory Métis Nation
Hesse	Anne-Marie	National Energy Board
Ho	Jacqueline	Mackenzie Valley Land and Water Board

Hotson	Chris	Mackenzie Valley Land and Water Board
Hubert	Chuck	Mackenzie Valley Environmental Impact Review Board
Hudson	Ken	Fort Smith Métis Council
Jacobsen	Petter	Tlicho Lands Protection Department
Jokela	Anneli	Wek'èezhìi Land and Water Board
Joudrie	Teresa	Canadian Northern Economic Development Agency
Kanigan	Julian	GNWT - Environment and Natural Resources
Kennedy	Aidan	Dillon Consulting Limited
King	Trudy	Northwest Territory Métis Nation
Knapton-Pain	Terrell	Tlicho Lands Protection Department
Koe	Angel	Gwich'in Tribal Council
Kralt	Margaret	Dillon Consulting Limited
Lafferty	Louise	Hay River Métis Government Council
Larrivee	Annie	Dominion Diamond Ekati ULC
Lee	Claudine	Dominion Diamond Ekati
Leishman	Pearl	Fort Providence Metis Council #57
Liu	Zhong	Snap Lake Environmental Monitoring Agency
Mackle	Ada	Dominion Diamond Ekati ULC
Malley	Lee Ann	GNWT - Environment and Natural Resources
Marcellais	Peter	Nahanni Butte Dene Band
Markey	Andrea	INAC - Contaminants and Remediation Directorate
McCullum	John	Environmental Monitoring Advisory Board
McGregor	Laurie	GNWT - Environment and Natural Resources
Mckay	Shawn	Fort Resolution Metis Council
McLeod	Clifford	Fort Providence Metis Council #57
McLeod	Kalvin	Fort Providence Metis Council #57
McLeod	Lenora	Environmental Impact Review Board
Menzies	Stacey	Mackenzie Valley Environmental Impact Review Board
Mercredi	Paul	GNWT - Department of Lands
Moffitt	Morgan	GNWT - Health
Montgomery	Shelagh	Mackenzie Valley Land and Water Board
Moore	Shannon	Independent Environmental Monitoring Agency
Mullaney	Tyree	Mackenzie Valley Land and Water Board
Nevitt	Zabey	Tlicho Government
Niditchie	George	Gwich'in Tribal Council
Nind	Ben	Giant Mine Oversight Board
Nitsiza	Ted	Tlicho Lands Protection Department

Norris	Angela	GNWT - Industry, Tourism and Investment
Oldfield	Nathalie	GNWT - Department of Transportation
Oliver	Dylan	GNWT - Lands
O'Neill	Joy	Gwich'in Tribal Council
Panayi	Damian	Golder Associates
Paradis	Adrian	Canadian Northern Economic Development Agency
Patenaude	Andrea	GNWT - Environment and Natural Resources
Pawley	Kim	INAC - Headquarters
Pellissey	Jody	Wek'èezhìi Renewable Resources Board
Pellissey	Sharon	Pehdzeh Ki First Nation
Peters	Michelle	De Beers Snap Lake
Pinto	Melissa	Environment and Climate Change Canada
Plato	Natalie	INAC- Giant Mine Remediation Project
Plautz	Angela	Mackenzie Valley Land and Water Board
Pokiak	Letitia	Giant Mine Oversight Board
Poole	Stephanie	Akaitcho Treaty 8
Posynick	Jon	GNWT - Department of Transportation
Rabesca	Phoebe	Tlicho Lands Protection Department
Ransom	Loretta	Environment and Climate Change Canada
Reid	Neil	Enbridge Pipelines
Richardson	Sean	Tlicho Lands Protection Department
Richea	Nathan	GNWT - Environment and Natural Resources
Robertson	Kelly	GNWT - Environment and Natural Resources
Rodvang	Allison	Environmental Monitoring Advisory Board
Roesch	Mike	INAC - NWT Inspectors
Ross	Bill	University of Calgary
Ross	Gwendolyn	West Point First Nation
Ross	Richard, Jr	Gwich'in Tribal Council
Sanford	Erin	Enbridge Pipelines (NW)
Schear	Donna	GNWT- Office of the Regulator of Oil and Gas Operations
Schindel	Julie	GNWT- Justice
Schnurr	Meaghan	Wek'èezhìi Land and Water Board
Seabrook	Meredith	GNWT - Environment and Natural Resources
Seale	Lorraine	GNWT - Department of Lands
Shafi	Arusa	GNWT - Department of Lands
Simba	Melaine	Ka'a'gee Tu First Nation
Simba	Ruby	Ka'a'gee Tu First Nation

Simon	Patrick	Deninu Kue First Nation
St.Pierre	Davin	Mackenzie Valley Environmental Impact Review Board
Steinwand	Tyanna	Tlicho Lands Protection Department
Steinwand-Deschambeault	Tammy	Tlicho Lands Protection Department
Stewart	Scott	GNWT - Department of Lands
Stretch	Vanessa	GNWT - Department of Lands
Summerfield	Bradley	Environment and Climate Change Canada
Tambour	Henry	Kátł'odeeche First Nation
Taylor	Jess	Fisheries and Oceans Canada
Teed	Jennifer	GNWT - Department of Lands
Tobac	Arthur	Nerahten Developments Ltd.
Tudor	Lisa	Fort Resolution Metis Council
Unger	Peter	Natural Resources Canada
van der Wielen	Sjoerd	Déłjñę Got'įñę Government
Van Hauvart	Brenda	Ecology North
Vigna	Alana	GNWT - Department of Lands
Walker	David	Parks Canada Agency
Walsh	Jennifer	INAC-Environmental Assessment, Land Use Planning & Conservation
Wang	Yichuan	University of Alberta
Watkinson	Laura	Fisheries and Oceans Canada
Wheler	Brett	Mackenzie Valley Environmental Impact Review Board
Zoe	Lisa Marie	Tlicho Government
Zoe-Chocolate	Camilia	Mackenzie Valley Land and Water Board