

# Mackenzie Valley Environmental Impact Review Board

Strategic Plan 2008-09 to 2010-11



Mackenzie Valley  
Environmental Impact Review Board



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## **Message from the Chairperson**

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The Mackenzie Valley Environmental Impact Review Board is proud to present this strategic plan for 2008-09 to 2010-11. This plan is the result of the combined efforts of the Board members and staff and its development is based on the collective experience of the past nine years of operation.

The strategic plan reaffirms the Review Board's mission ***"To conduct quality environmental impact assessments that protect the environment and the social, economic and cultural well being of residents of the Mackenzie Valley and all Canadians."***

However, the operating environment of the Review Board is changing significantly. The work load is forecast to increase significantly in the relatively short term and the reality is that further improvement of environmental impact assessment (EIA) in the Mackenzie Valley is increasingly dependent on external factors.

As a result the Review Board has reset its vision for the organization by focusing not only on building the internal organization and doing quality environmental impact assessment but also on taking a leadership role in making the overall Mackenzie Valley resource management system work more effectively and efficiently.

The vision of the Review Board is now ***"Excellence in environmental impact assessment within a co-management system that balances diverse values to protect the Mackenzie valley for present and future generations."***

In effect, it announces that the Review Board has moved to a more mature development phase and, given that the success of the Review Board is dependent on the success of the whole MVRMA system, it is prioritizing its efforts to address those barriers to success outside the organization as well.

The vision complements the Review Board's mission and values. It highlights the importance of "co-management", "balancing diverse values", the Review Board's purpose to have regard for the protection of the Mackenzie Valley environment, and the notion of sustainability through the words "for present and future generations" as key success factors for the organization.

The values adopted by the Review Board have also been revised to reinforce the importance of teamwork, learning, innovation and adaptation as we grow and mature as an organization. These values guide Review Board members and staff in carrying out the Review Board's work.

It is significant that the Review Board has reaffirmed its mission and re-defined the vision and values of our organization. We have reviewed each of these three fundamental anchors for the organization with a view to our on-going pursuit of continual improvement in our core business, that of quality and timely environmental impact assessments for the residents of the Mackenzie Valley and all Canadians with the utmost integrity and balance.

The Review Board has approved three goals and related strategies to be the focus of the organization for the next three year period; the goals being:

1. Excellence in environmental impact assessment
2. An effective integrated resource management system
3. Capacity to achieve our vision

These goals and strategies flow from the mission, vision and values and together represent the Strategic Plan for the Review Board.

Over the course of the next three years it is hoped that EIA participants in the Mackenzie Valley will share the Review Board's vision and values and we strive for "excellence in environmental impact assessment" for the benefit of all.



Richard Edjericon,  
Chairperson

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## **Message from the Executive Director**

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The attached strategic plan builds on the Review Board's previous strategic plan which guided its work over the 2005-06 to 2007-08 period. Much has been accomplished to achieve the goals set out in that plan in addition to what is the core business of the Review Board; being to conduct quality environmental impact assessment. It is now time to reflect on the past three years and take stock once again so that the Review Board can ensure its resources are aligned in the most strategic manner to address the priority needs for the next three years.



The 2008-09 to 2010-11 strategic plan has been the result of a comprehensive planning process. The Review Board has been diligent in seeking out those areas in which improvements and priority attention is required. It has undertaken a thorough assessment of its internal and external operating environment. Input was received from representatives of Aboriginal governments and organizations, the federal and territorial governments, municipalities, industry, environmental non-government organizations (NGOs) as well as from consultants and staff of the Review Board. Review Board members deliberated on the advice and comments provided as well as their own thoughts about what the needs and priorities of the Review Board were for the next three year period.

The Review Board has also reflected on its mission, vision and values based on the experience it has gained over the past three years. A significant result of this strategic planning process is improved statements of the Review Board's vision and values that guide the development of strategic goals.

The next three year period will be an exciting period for the Review Board. We are confident that this Strategic Plan will ensure the Review Board is fit to face the future and can continue to improve and provide quality environmental impact assessment of proposed developments that have been referred to it.

A handwritten signature in blue ink, which appears to read "Vern Christensen". The signature is fluid and cursive.

Vern Christensen  
Executive Director

## **Executive Summary**

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The Mackenzie Valley Environmental Impact Review Board has developed a Strategic Plan for 2008-09 to 2010-11 that reflects the Board's understanding of the challenges and opportunities it faces in the coming years, including increasing workload and time pressures; questions of funding and mandate; stakeholder awareness and capacity issues; unsettled land claims; and the need for transparent monitoring, reporting, evaluation and enforcement of measures and commitments arising from reports of environmental assessment.

The Strategic Plan consists of a mission, vision, goals, and strategies (captured in the diagram below) and a statement of values. The Plan also identifies performance measures the Review Board will apply to review its performance in these areas over the next three fiscal years.



**Mackenzie Valley Environmental Impact Review Board members:** front row from the left; Danny Bayha (Sahtu Secretariat), Nora Doig (Tlcho Government), Percy Hardisty (Dehcho First Nations), Fred Koe (Gwich'in Tribal Council); back row from the left; Jerry Loomis (GNWT), John Ondrack (GNWT), John Stevenson (Federal Government), Chairperson Richard Edjericon (Review Board) – all appointed by the Minister of Indian and Northern Affairs Canada; nominating organizations shown in brackets.

# **1. Introduction**

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The Mackenzie Valley Environmental Impact Review Board has developed this Strategic Plan for 2008-09 to 2010-11 through a series of workshops with Review Board members and staff. It reflects the Review Board's understanding of the challenges and opportunities it faces in the coming years and its commitment to meeting those challenges and embracing those opportunities for the benefit of all stakeholders.

Many individuals contributed to the development of this Strategic Plan by taking part in interviews and/or focus groups designed to gather information on the Review Board's successes and strengths, areas for improvement, challenges and opportunities, and on the components of the Review Board's previous Strategic Plan. In addition to Review Board members and staff, numerous representatives from the federal and territorial governments, Aboriginal organizations, municipalities, environmental non-government organizations, and industry associations provided the Board with valuable feedback.

The Review Board's Strategic Plan consists of the following components:

**Section 2 – The Operating Context** – A description of the key challenges and opportunities the Review Board seeks to address through its Strategic Plan.

**Section 3 – The Strategic Plan** – The Review Board's mission, vision, values, goals, and strategies.

**Section 4 – Strategies** – The strategies the Review Board has planned for the coming fiscal years in order to achieve its goals.

**Section 5 – Performance Measures** – The Review Board has identified performance measures associated with each strategy, to be used in measuring progress.

More detailed information on the specific activities planned by the Review Board in support of the strategies outlined in this Strategic Plan is provided in the Review Board's annual business plan. Budget information is also presented in the Review Board's business plan.

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## **2. The Operating Context**

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While developing its Strategic Plan, the Review Board conducted an environmental scan to gather information on its operating context, its strengths and weaknesses, and the challenges or opportunities the Review Board faces over the next three years. Information for the scan was gathered through a series of interviews with Review Board members, senior staff, and external stakeholders, and through a focus group with all Review Board staff.

The results of the environmental scan were summarized and presented to the Review Board and staff during a strategic planning workshop. During the workshop, the Review Board focused on the key challenges and opportunities identified and used these to develop its goals and strategies for the next three years (Section 3). These key challenges and opportunities are summarized here to provide a context for the Strategic Plan. A more detailed elaboration of these key challenges and opportunities is provided in Appendix A.

### **Key Challenges**

#### Capacity Issues

- i) Review Board Capacity
- ii) Capacity of Other Stakeholders

Need for Improved Working Relationships with INAC and Land Claimant Organizations

Process Timeliness Issues

Review Board Measures – Lack of Implementation and Follow-up

Lack of Land Use Plans

Unsettled Land Claims

Lack of Cumulative Effects Information

Need for Legislative Improvements

Lack of Stakeholder Awareness

Workload Trends

### **Opportunities**

Working with Others (e.g. the NWT Board Forum)

New Legislation (e.g. NWT Species at Risk, proposed Devolution to GNWT)

Funding to address Knowledge Gaps (e.g. IPY, Northern Strategy)

Follow up on Performance Audits/Reviews (e.g. 2005 Environmental Audit)

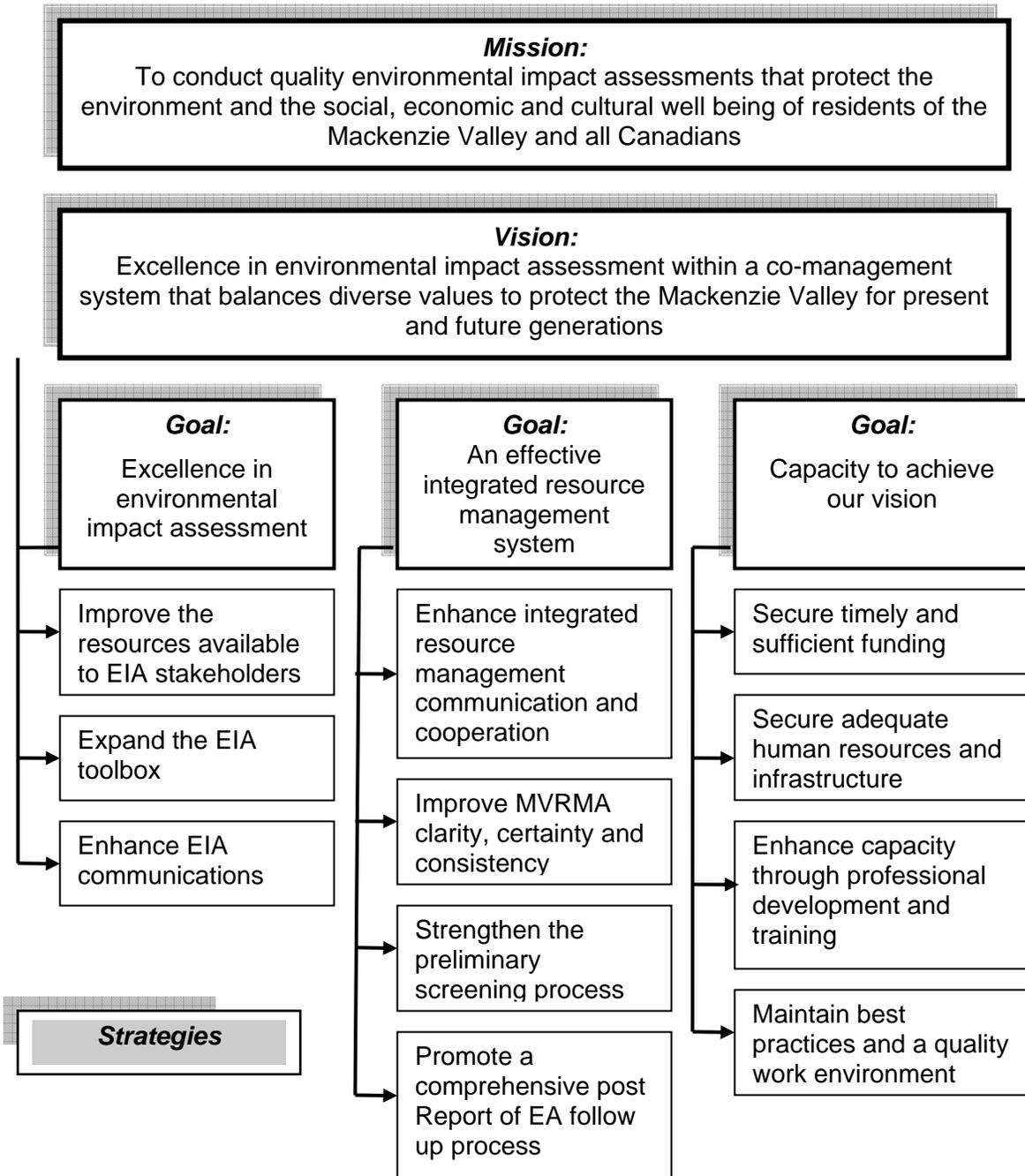
Process Improvement Opportunities

Learning from Others (e.g. best practices)

### **3. The Strategic Plan**

The Review Board's Strategic Plan consists of a mission, vision, values, goals and objectives, all of which are described in this section. The Strategic Plan components are captured in the diagram below and described in detail in the subsequent sections.

**Figure 1: The Review Board's Strategic Plan**



## 1.1 Mission, Vision and Values

### The Review Board's mission is:

*To conduct quality environmental impact assessments that protect the environment and the social, economic, and cultural well-being of residents of the Mackenzie Valley and all Canadians*

### The Review Board's vision is:

*Excellence in environmental impact assessment within a co-management system that balances diverse values to protect the Mackenzie Valley for present and future generations*

The Review Board's has also adopted the following values in carrying out its business:

#### **We value:**

- *Relationships based on mutual respect, trust, and honesty*
- *Acting with integrity, objectivity, and fairness*
- *Accountability, quality, and efficiency in our work*
- *Consensus decision-making and team work*
- *Transparency, accessibility, and openness in our processes*
- *The diversity of the Mackenzie Valley*
- *Learning as an organization*
- *Continual improvement through innovation and adaptation*

## 1.2 Goals and Strategies

The Review Board's goals and strategies for the coming three fiscal years have been established in response to the key challenges and opportunities identified through the planning process (see Section 2). Each of the three goals and associated strategies are presented here with a brief explanation.

**Goals** – *The top 3 or 4 things (major issues or groups of issues) that must be addressed to make the vision a reality – over the next 5-10 year period.*

**Strategies** – *Specific measurable time bound strategies to achieve a goal over the next 3 three year period. Strategies should be limited to four or less per goal.*

### **Goal 1 – Excellence in environmental impact assessment**

The essential task of the Review Board is to produce quality and timely environmental impact assessments of proposed developments; hence the focus on “excellence in environmental impact assessment”.

The strategic planning process identified a number of areas where the Review Board might address excellence in the EIA process and confirmed that many stakeholders expect the Review Board to continue to improve EIA processes in the Mackenzie Valley.

The Board identified three strategies to support the goal of excellence in EIA:

- 1. *Improve the resources available to EIA stakeholders*** – Communities and other organizations continue to raise concerns with respect to their capacity to participate in the EIA process. The strategic planning process has identified that as a result some people and organizations potentially impacted by a proposed development are unable to participate in the EIA process in a timely and effective manner. The required capacity may involve a lack of education and awareness of EIA process, the lack of financial and human resource capacity and the lack supporting institutional capacity.
- 2. *Expand the EIA toolbox*** – A number of priority resources to assist participants in the EIA process were identified. These included the continuing need for regular “lessons learned” reviews of environmental assessments, the need for cultural impact assessment guidelines, the updating of current guideline documents as well as supplementary reference bulletins to assist EIA practitioners and stakeholders generally. Through this strategic plan the Review Board reaffirms its commitment to identifying and promoting best practices in EIA, to ensuring the quality of the Review Board’s reports and recommendations, and to establishing appropriate and responsive processes and procedures.
- 3. *Enhance EIA Communications*** – A major priority for the Review Board over the next three years is to pursue more effective communication methods in raising awareness of the Review Board’s roles and responsibilities as well as its EIA processes with Mackenzie Valley residents, aboriginal and other organizations, as well as government and industry. Enhanced communication in the five main aboriginal languages of the Mackenzie Valley as well as in French was identified as priority needs under this strategy. The Review Board has identified more effective communications with stakeholders as an area requiring priority attention.

### **Goal 2 – An effective integrated resource management system**

Through the strategic planning process; the Review Board has concluded that its success has become increasingly dependent on external factors. The Review Board’s vision has reset the focus of the organization on not just building the internal organization and doing quality environmental impact assessment but also on taking a leadership role in making the overall Mackenzie Valley resource management system work more effectively and efficiently.

This makes sense as the Review Board is a creation of *Mackenzie Valley Resource Management Act* whose purpose is "...to provide for an integrated system of land and water management in the Mackenzie Valley..."

The Review Board identified four strategies to support the promotion of an integrated resource management system:

**1. Enhance integrated resource management communication and cooperation**

The strategic planning process identified that some stakeholders may not be aware of their opportunities to participate in the environmental assessment (EA) process or may not understand how to exercise those opportunities. The Board intends to continue its efforts to clearly communicate its processes and the roles of all groups within those processes.

**2. Improve MVRMA clarity, certainty and consistency**

Over the past eight years the Review Board has identified a number of areas in the *Mackenzie Valley Resource Management Act* that required clarification and greater procedural certainty. The Review Board identified a number of suggested improvements in its submission to the Part 6 Auditor which would help address these concerns without affecting the spirit and intent of the legislation.

The Review Board is committed to addressing these issues to the extent possible given its mandate and the roles and responsibilities of other organizations.

**3. Strengthen the preliminary screening process**

The strategic planning process has identified the urgent need to review and clarify the roles and responsibilities of regulatory authorities in the preliminary screening process; as well as those of reviewing organizations and referral organizations. The Review Board is responsible to provide guidance to the preliminary screeners and other process participants. Current process guidance documents require major review and updating to incorporate lessons learned and best practices, clarification of mandate issues and improvements to process maps and templates.

**4. Promote a comprehensive post Report of EA follow up process**

The management of any program or service is not possible without monitoring and evaluating the results of the program or service being delivered. At present the Review Board is unable to determine if, or how, measures recommended in its Reports of EA are being implemented or how effective they may have been. This has been a continuing concern of the Review Board and limits the ability of the Review Board to improve the quality of its measures for future developments or to assure participants that their respective investment in the EIA process for a proposed development has produced the results promised by the legislation. The credibility of the EIA and regulatory system under the MVRMA is at risk unless this key barrier to success is addressed.

Issues were also identified in the strategic planning process related to clarification of the Board's approach to the "consult to modify" process as well as to the enforcement of terms and conditions in permits or licenses designed to implement the Review Board's measures.

### **Goal 3 – Capacity to achieve our vision**

The information gathered during the strategic planning process clearly indicated that Review Board members and staff are already stretched in completing their duties and that the Review Board can expect a continued increase in its workload over the next three years. These challenges require a continued emphasis on capacity building and administrative efficiency.

The Review Board identified three objectives to support the goal of having the capacity to achieve its Vision:

**1. *Secure timely and sufficient funding***

Having a reliable, long-term funding base is a key success factor for the Review Board. Current funding arrangements are based on 10 year “flat line” funding agreements between the federal government and land claimant organizations. They are not responsive to annual variations in work volume or to strategic and annual business planning approaches to assessing annual funding needs and priorities. Current funding levels are insufficient to deliver the full legislated mandate of the Review Board.

**2. *Secure adequate human resources and infrastructure*** – In order for the Review Board to fulfill its responsibilities for a timely and quality EIA process, reliable and quality legal, communications, IT, financial auditing and technical expert advisory capacity must be in place. The allocation of existing resources is also a key issue in efficiently meeting dynamic EIA workload demands, as is the on-going improvement of the Review Board’s internal planning and policy capacity.

**3. *Enhance capacity through professional development and training*** – Existing Review Board and staff capacity must be maintained to ensure continuing quality and timeliness of the EIA processes. Similarly new Review Board and staff members require professional development and training to acquire knowledge and skills specific to the Review Board’s needs. Review Board and staff competence being a key building block to the Review Board’s success is essential in acquiring the capacity to achieve its Vision.

## **4. Tasks**

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The Review Board has identified several tasks to be implemented in the coming three years in support of its goals and strategies. These tasks relate to the issues or challenges the Strategic Plan is intended to address and are the subject of performance measures. They, along with more detailed information on the resources required for their implementation, become the substance of the Review Board’s annual business plans over the next three year period.

## **5. Performance Measures**

The Review Board has identified desired outcomes and performance measures associated with each strategies outlined in Section 3. The outcomes relate to the key challenges and opportunities identified through the strategic planning process. Each performance measure is quantifiable so that a clear understanding of the results can be achieved.

The following table shows the performance measures developed by the Review Board, by strategy.

**Table 1: Performance Measures for 2008-09 to 2010-11**

| <b>Goals/Strategies</b>                              | <b>Outcomes</b>  | <b>Performance Measures</b>   |
|--|--|---|
| <b>Excellence in environmental impact assessment</b> |  |   |
| Improve the resources available to EIA stakeholders  | Impacted parties and developers able to participate in the EIA process in an effective and timely manner | <ul style="list-style-type: none"> <li>• Participant funding available to parties potentially impacted by proposed developments</li> <li>• Increase in EIA education and training materials available in local languages</li> <li>• Number of Mackenzie Valley students enrolled in post secondary EIA and resource management programs</li> <li>• Availability of user friendly forms, templates, instructions and other relevant information for EIA practitioners</li> </ul> |
| Expand the EIA toolbox                               | Relevant and user friendly guidance for EIA Practitioners re technically and legally sound EIA           | <ul style="list-style-type: none"> <li>• Cultural impact assessment guidelines produced</li> <li>• Updated EIA Guidelines</li> <li>• EIA “Lessons Learned” workshops are routinely conducted and results shared with practitioners</li> <li>• Supplementary guidelines and reference bulletins are initiated and completed to address areas of process uncertainty as they arise</li> </ul>   |

| <b>Goals/Strategies</b>  | <b>Outcomes</b>   | <b>Performance Measures</b>   |
|--|---|---|
| Enhance EIA communications   | Communication methods and products that are effective and address the full mandate of the Review Board  | <ul style="list-style-type: none"> <li>• Official Language Act and aboriginal language services requirements are met</li> <li>• Community and First Nation survey confirming an increased understanding of the Review Board's roles and responsibilities and utility of communication products</li> <li>• Verification of understanding of Board mandate by senior government officials and industry</li> </ul>   |
| <b>An effective integrated resource management system</b>            |   |   |
| Enhance integrated resource management communication and cooperation | MVRMA Boards (and neighbouring jurisdictions) working as a team to achieve an integrated land and water management system in the Mackenzie Valley | <ul style="list-style-type: none"> <li>• Cooperation MOUs in place with Alberta, Saskatchewan, BC and CEAA</li> <li>• Active engagement in NWT Board Forum activities</li> <li>• Degree of shared understanding of roles and mandates of MVRMA Boards</li> <li>• Degree of collaborative planning on training and other resource sharing opportunities</li> </ul>   |
| Improve MVRMA clarity, certainty and consistency                     | Revisions to the MVRMA or Regulations (or interpretive guidance) to clarify administrative provisions that are a source of process confusion      | <ul style="list-style-type: none"> <li>• Legislative improvements achieved</li> <li>• MVRMA Reference Bulletins produced</li> <li>• MVRMA Conference held to assess the first 10 years experience of implementing the MVRMA</li> </ul>  |
| Strengthen the preliminary screening process                         | A preliminary screening process that is endorsed and implemented by all MVRMA regulatory authorities  | <ul style="list-style-type: none"> <li>• Fewer proposed developments referred to EA by the Review Board</li> <li>• Relevant reference bulletins and guidelines agreed to by regulatory authorities</li> <li>• Number of regulatory authorities with established public registries for preliminary screenings</li> <li>• Comprehensive preliminary screening portal established on Review Board website</li> </ul> |

| <b>Goals/Strategies</b>  | <b>Outcomes</b>   | <b>Performance Measures</b>   |
|--|---|---|
| Promote a comprehensive post Report of EA follow up process    | A collaborative approach by MVRMA regulatory authorities and other relevant organizations to maintain a readily accessible and transparent database for the monitoring, reporting and evaluation of the implementation of measures, commitments and suggestions arising from approved Reports of EA | <ul style="list-style-type: none"> <li>• A readily accessible and transparent database for the monitoring, reporting and evaluation of the implementation of measures, commitments and suggestions arising from approved Reports of EA is established.</li> </ul> |
| <b>Capacity to achieve our vision</b>                          |   |   |
| Secure timely and sufficient funding                           | Base funding in line with the Review Board's mandate and responsive to periodic strategic plans and annual business plan submissions  | <ul style="list-style-type: none"> <li>• Revised funding arrangement in place</li> <li>• The Review is adequately funded to address its legislated mandate</li> </ul>   |
| Secure adequate human resources and infrastructure             | Sufficient human resources, office space and equipment etc. to conduct Board business in a quality and timely manner  | <ul style="list-style-type: none"> <li>• Minimum workspace available for each staff member</li> <li>• Staff overtime data</li> <li>• Identification/resolution of productivity bottlenecks</li> </ul>   |
| Enhance capacity through professional development and training | Board members and staff that are knowledgeable and current in their understanding of EIA best practice and the appropriate conduct of an administrative tribunal  | <ul style="list-style-type: none"> <li>• Training needs and plans periodically assessed</li> <li>• Number and type of professional development events attended</li> </ul>   |
| Maintain best practices and a quality work environment         | Management due diligence to ensure maximum operational security and a safe and healthy workplace  | <ul style="list-style-type: none"> <li>• Management Risk Audit completed</li> <li>• Audit recommendations addressed</li> <li>• Workplace health and safety issues addressed promptly</li> </ul>   |

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## 6. Appendix A – Challenges and Opportunities

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### Challenges

#### Capacity Issues

##### iii) Review Board Capacity

- **Lack of Funding** - The Review Board lacks assured funding to address base needs from one fiscal year to the next. The current funding provided by the Gwich'in Implementation Plan is fixed for a ten year period and is insufficient to meet the Board's base requirements nor is it responsive to the variable nature of the Board's workload.
- **Mitigation of Cultural Impacts** – There is little guidance or experience available to assist with mitigation of cultural impacts of proposed developments in the Mackenzie Valley.
- **Implementation of the *Official Languages Act*** – Indian and Northern Affairs Canada (INAC) has advised the *Mackenzie Valley Resource Management Act* (MVRMA) Boards that as “federal institutions” they must comply with the requirements of the *Official Languages Act*. As a result the Review Board must develop an implementation plan to ensure that the required level of service is available in the French language. An equitable level of aboriginal language service should also be provided to aboriginal stakeholders.

##### iv) Capacity of Other Stakeholders

- **Lack of Stakeholder Capacity to Participate in the EIA Process** – Some stakeholders lack the human and financial (in the form of intervener funding) resources to participate in a timely and effective manner in the EIA process. Capacity issues exist for both community and non-government organizations.
- **Lack of Capacity within INAC and responsible Ministers** – There is a lack of capacity within INAC to carry out its “S.35 consultation” obligations to aboriginal people where rights may be infringed. Similarly, there is a lack of capacity within INAC and RMs to respond to Reports of Environmental Assessment in a timely manner, to implement socio-economic and cultural impact mitigation measures arising from Reports of Environmental Assessment, to enforce terms and conditions of licences, permits or authorizations and to monitor, report and evaluate the effectiveness of those terms and conditions.

#### Working Relationships – with INAC and Land Claimant Organizations

- **Lack of a regular Communication or Reporting Relationship with all of the MVRMA Partners** – INAC and the other MVRMA Partners; namely the Government of the Northwest Territories and the land claimant organizations do not have a coherent relationship in respect to their common interest in an effective and efficient resource management system through the MVRMA.
- **Lack of collaborative approaches within INAC to resolve Board Issues** - The Review Board must work effectively with three groups within INAC to address

operational issues; that is, Northern Region, Environment and Natural Resources Branch and Claims Implementation Branch. All three groups need to collaborate to assist the in Review Board resolving issues. Any one group does not appear to have the authority or influence to address many operational issues on its own within the Department; funding related issues in particular. Review Board success is dependant on effective and timely communication with and between all four parties.

- **Lack of Consistent Interpretations of the MVRMA** - Concerns by the INAC regarding the Board's interpretation of its mandate continue to persist. Progress on these issues have been made however they must be resolved if the Review Board is to meet its goals.

### **Process Issues**

- **Time Required for Ministerial Acceptance of Reports of Environmental Assessment** – Lengthy delays in the response by Responsible Ministers and the Federal Minister to the Review Board's Reports of EA cause frustration for developers in the EA process. The perception of industry is that the delays are caused by the Review Board although the Board has no control over the turnaround time for this phase of the process.
- **The “consult to modify” process** by which Responsible Ministers consult with the Review Board regarding measures recommended in its Reports of Environmental Assessment (REA) takes a significant amount of time to complete. Delays are related, in part, to issues INAC continues to have related to the Board's interpretation of its authority to assess social and economic impacts and to recommend measures to mitigate those impacts. The consult to modify process also lacks the level of transparency for stakeholders that is available in the preceding phases of the EIA process.

### **Measures – Implementation and Follow-up**

- **Lack of Monitoring, Reporting and Evaluation of Measures** – At present the Review Board is unable to determine whether or not its measures and suggestions are being implemented once accepted by the federal Minister or the National Energy Board in its role as a Designated Regulatory Agency; what the results of those measures are; or how such measures may be improved if required by future environmental assessments or impact reviews. This concern also relates to the additional commitments made by the developer to mitigate adverse impacts identified during an environmental assessment proceeding.
- **Lack of Transparency** - There is a lack of transparent and effective monitoring, reporting and evaluation of measures recommended by the Review Board in its reports of EA and accepted by the Minister of INAC and the National Energy Board.
- **Lack of Enforcement** - INAC enforcement of terms and conditions in Land Use Permit and Water License terms and conditions is limited to a very narrow interpretation of the *NWT Land Use Regulations*. That, in combination with the many “orphaned measures” arising from a lack of a regulatory home in a

regulatory license or permit, is estimated to result in less than 25% of approved measures, from the Board's Reports of EA, being actually implemented by enforced terms and conditions.

### **Land Use Plans**

- **Lack of Land Use Plans** – The lack of land use plans prevents achievement of the stated purpose of the MVRMA which is to have an integrated land and water resource management regime in the Mackenzie Valley. Without a land use plan for each region of the Mackenzie Valley, conflicts between developers and other land users will continue; the result being the referrals of proposed developments to EA which may otherwise have been avoided.

### **Land Claims**

- **Unsettled Land Claims** – The Board faces the challenge of continually demonstrating that the Board's EIA process is a fair, objective and worthwhile process for all interested parties to participate in, whether from settled or unsettled land claims areas.

First Nations in the unsettled land claim areas reluctantly participate in the Review Board's EIA processes but do not accept it as a legitimate resource management process for their respective area. Further, aboriginal communities in unsettled land claim areas cannot refer a proposed development to the Review Board for EA directly like local governments established pursuant to NWT legislation. This limitation can discourage the development of trust and understanding that the Board is trying to achieve with First Nation communities through its outreach and communications activities.

Finally, there is no First Nation nominee appointed from the unsettled Akaitcho land claim area sitting on the Review Board. This further alienates aboriginal residents in the Akaitcho area from the Review Board's EIA process.

### **Cumulative Effects**

- **Lack of Relevant Cumulative Effects Information** - There continues to be a lack of relevant cumulative effects information to inform the Board's Environmental Impact Assessment (EIA) process. This is critical information that can help to mitigate issues of public concern as well as to assist the Review Board in the design of appropriate measures to the mitigate impacts of proposed development.

The Review Board requires sustainability thresholds for valued components of the biophysical and human environment. The Board also requires baseline cumulative effects information that can be related to the potential impacts of a proposed development.

Relevant cumulative effects information is critical to quality EIA. The need for relevant cumulative effects information is urgent given the small population and comparatively fragile environment of the Mackenzie Valley when compared to southern Canada.

## **Legislation**

- **Improvements Needed to Administrative Provisions of the MVRMA** – Over the past eight years the Review Board has identified a number of areas in the *Mackenzie Valley Resource Management Act* that required clarification and greater procedural certainty. The Review Board identified a number of suggested improvements in its submission to the Part 6 Auditor which would help address these concerns without affecting the spirit and intent of the legislation.
- **Other Legislative Improvements Required** – Other legislative improvements needed to address deficiencies in the current regulatory regime include the need to reconcile the “S.35 consultation” obligations of the federal government with the “free entry” provisions of the *Canada Mining Regulations* under the *Canada Mining Act*; updating and reconciling the *Territorial Land Use Regulations* originally brought into force in the early 1970’s with the *Mackenzie Valley Resource Management Act* enacted in 1998; and the establishment of enforceable legislation governing air quality and long term storage of petroleum , oil or lubricant (POL) products in water going vessels such as fuel barges.

## **Stakeholder Awareness**

- **Lack of Stakeholder Awareness** – Stakeholders at the community level are not necessarily aware of the project-specific EIA issues facing their communities or about the EIA process in general. As a result, they may not be able to intervene effectively in the Review Board’s EIA process and their relevant concerns may not be captured in the Review Board’s decision-making process.

There is a lack of understanding by stakeholders regarding the Review Board’s roles and responsibilities for the assessment of social and economic impacts of proposed development. There is a similar lack of understanding by government departments, agencies, and developers of their respective role to anticipate the socio-economic information required to support the EA process, to collect it and then make it accessible to stakeholders in the most efficient manner.

## **Trends**

- **Increasingly Litigious Work Environment** - The EIA and regulatory process in the Mackenzie Valley is becoming increasingly litigious, especially in the unsettled land claim areas. The primary source of litigation is arising from MVRMA interpretation issues and in respect to the Crown’s S.35 *Constitution Act* consultation obligations to aboriginal people. As a result, the processing of applications is requiring considerable additional time to complete in some instances.
- **Increasing Number of Environmental Impact Assessments** – The Review Board will experience an increase in the number of EIAs over the coming years due to on-going resource development, the oil and gas exploration and development associated with the Mackenzie Gas Project, an increase in metals mining, and other infrastructure projects.
- **Workload and Time Pressures** – Both Review Board members and staff are facing high workloads and pressures on their time. This issue is closely tied to the increasing number of environmental impact assessments, but also reflects

the growing complexity of the projects being assessed by the Board. This represents a significant challenge for a part-time Board.

## **Opportunities**

### **Working with Others**

- **The NWT Board Forum** - The NWT Board Forum is an organization established three years ago to address the common needs of Forum members. In the past two years it has focused efforts on developing a major training initiative, development of a rationalized budget development and approvals process, developing a standardized template and workbook to guide strategic and business planning for boards and developing a generic orientation binder for newly appointed Board members.

### **Legislation**

- **Devolution** – The devolution of responsibility for resource management to the Government of the Northwest Territories (GNWT) could represent an opportunity for the Review Board as the MVRMA may be subject to amendment during the devolution process. This could create an opportunity to address the need for improved procedural clarity in certain administrative provisions of the MVRMA. Further, the Review Board and the Minister of the GNWT receiving the Review Board's recommendations would then be located in the same city and could result in increased awareness of the Review Board's role and processes including the context in which the Review Board makes its recommendations.
- **NWT Species at Risk Act** - The *Species at Risk Act (NWT)* is currently under development. It will complement the Canada Species at Risk Act and will assist in determining the wildlife species and thresholds that require attention by resource management authorities in the Mackenzie Valley.

### **Funding and Knowledge Gaps**

- **International Polar Year** started on March 1, 2007 and ends on March 31, 2009. Federal government funding in the amount of \$150 million has been allocated to IPY projects. This is an opportunity for knowledge gaps faced by the Review Board to be addressed by researchers funded by the program. As of November 2007 there was still \$5 million yet to be allocated for IPY projects.
- **Northern Strategy** of the federal Government – This initiative is to address priority northern issues in cooperation with Territorial governments; such as Arctic sovereignty, climate change and the establishment of northern research institution(s). This initiative may help to address important knowledge gaps regarding potential impacts of proposed developments.
- **More effective communication** with all MVRMA partners including the Land Claimant Organizations and the Government of the NWT may improve Review Board success in addressing critical funding and other issues

### **Performance Audits/Reviews**

- **Northern Regulatory Improvement Initiative** - On November 7, 2007, the Minister of INAC announced the Northern Regulatory Improvement Initiative and the appointment of Mr. Neil McCrank as his Special Representative to advance this initiative to improve the overall regulatory environment across the north.
- **Response to the NWT Environmental Audit (Part 6 of the MVRMA)** – The Review Board submitted its observations and recommendations for improvements to the environmental impact assessment process to the Part 6 Auditor. The Auditor’s Report identified a number of improvements which the Minister of Indian and Northern Affairs Canada and other Responsible Ministers may decide to act upon. Many of the Review Board’s concerns were the subject of recommendations made in the Audit Report issued in June 2006.
- **INAC Response Plan to the April 2005 Report of the Auditor General of Canada** – A number of recommendations of the Auditor General of Canada focused on INAC’s relationship with the Review Board, including the need for sufficient funding, the need for clarity, consistency and certainty of process and the need for accountability for results. These are areas of concern the Review Board has previously identified in its strategic and business plans as well.

### **Process Opportunities**

- **Circulation of Draft Measures** - The Review Board recently issued preliminary measures (and associated statements of intent) under consideration for a specific environmental assessment and invited comment from interested parties on the effectiveness and feasibility of those potential measures. A review of the success of this approach in terms of acceptance of the measures ultimately included in the Review Board’s Report of EA and the need for a subsequent “consult to modify” process will indicate whether this new approach should be developed further.
- **Increasing Clarity for S.35 Consultation** - There has been increasing clarity provided by the courts regarding the “honour” of the Crown pursuant to Section 35 of the *Constitution Act*. INAC is implementing a “north of 60” consultation and accommodation process through which government decisions that may impact on aboriginal rights can be properly vetted, including decisions arising from the EIA and regulatory processes of the MVRMA.

### **Learning from Others**

- **Best practices** from other similar jurisdictions can offer EIA improvements for the Mackenzie Valley as well.
- **The Mackenzie Gas Project (MGP)** – Joint Review Panel (JRP) Process is conducting an environmental impact review (EIR) process similar to an environmental assessment (EA) and EIR process that would be implemented by the Review Board. The experience gained by the MGP EIR may provide alternative practices and process improvements for Review Board consideration in its future EA or EIA.