



April 29, 2010

To: the Mackenzie Valley Combined Distribution List (see attached list)

Re: Request for review of "Water and Effluent Quality Management Policy"

Attached is a draft of the "Water and Effluent Quality Management Policy" (the Policy) for your review and comment. This Policy was developed by one of the Standard Procedures and Consistency Working Groups that were created in 2008 as a joint initiative of the Gwich'in, Sahtu, Wek'èezhìi and Mackenzie Valley Land and Water Boards. Like all the Working Group products, this Policy is intended to provide greater clarity, consistency and certainty to all parties involved in the Boards' regulatory processes.

The purpose of this Policy is to describe the Boards' approach to setting limits, called effluent quality criteria (EQC), on the amount of waste that can be discharged from a project into the environment. By describing a standard, transparent approach to setting EQC, the Policy will address some of the concerns raised in several audits of the NWT regulatory system including the McCrank Report (2008), the 2005 Auditor General's Report, and the first NWT Environmental Audit (2005).

In addition to the Draft Policy, we have attached an information package containing a one-page Plain Language Introduction to the Policy as well as answers to "Frequently Asked Questions". The information package is meant to provide context, promote understanding and to aid in the review of the Policy.

Comments on the Draft Policy are requested by July 5, 2010. Comments or questions can be sent by email, fax or mail to the Working Group chair, Kathleen Racher, at the addresses listed below. The Working Group will incorporate comments, as appropriate, into a revised Final Draft of the Policy which will then go before the Boards for approval.

We would like to thank you in advance for participation in this important Land and Water Board initiative.

Respectfully,

A handwritten signature in blue ink, appearing to read "Kathleen Racher".

Kathleen Racher
Chair of Working Group 3

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A PLAIN LANGUAGE INTRODUCTION TO THE WATER AND EFFLUENT QUALITY MANAGEMENT POLICY

The Land and Water Boards of the Mackenzie Valley have an important role in protecting the environment. Whenever someone wants to use the land or the water in a way that may change or harm the environment, they must apply to the Boards for a water licence or a land use permit. Anyone who applies for a water licence or land use permit is called the proponent. In those licences and permits, the Boards set out the rules and the limits that a proponent must follow in order to use the land or the water. The rules and limits imposed by the Boards are meant to allow for the use of land and water in an environmentally responsible way. Proponents who do not follow the rules within a licence or permit can have their licence or permit taken away from them.

Often, a proponent needs to deposit some kind of waste into a natural water body like a lake or a stream. Waste is any substance that, when added to water, may cause the quality of the water to degrade in some way. Examples of waste include such things as sewage from a community or the water that has been used by a mining company to crush up rock. Proponents are not allowed to deposit as much waste as they want. Instead, Boards set limits in a proponent's water licence on exactly how much waste can be deposited.

Wastewater that is going to be deposited into a natural water body is also called effluent. The limits that Boards impose on proponents are called "effluent quality criteria" or EQC. The Water and Effluent Quality Management Policy describes how the Boards set EQCs.

The Boards that are responsible for the development, distribution and implementation of this Policy are listed below. Any questions or concerns related to the Policy can be addressed to any of these Boards.

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Mackenzie Valley Land and Water Board

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Sahtu Land and Water Board

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Wek'èezhìi Land and Water Board

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THE WATER AND EFFLUENT QUALITY MANAGEMENT POLICY:

FREQUENTLY ASKED QUESTIONS

A CLEAR AND CONSISTENT APPROACH TO EQC'S

(About The Policy)

Q: What does the Policy describe?

A: The purpose of this Policy is to describe how decisions are made by the Land and Water Boards of the Mackenzie Valley that pertain to water quality impacts of a development or project.

Specifically, it clarifies the Land and Water Boards' approach to setting limits on the amount of waste that can be discharged from a project into water. These limits, also called effluent quality criteria (EQC), are set on a project-specific basis and designed to protect downstream water quality.

Q: Why have we written this Policy?

A: The Boards want to issue a clear statement describing the factors we consider when setting limits on the amount of waste that can be discharged from a project into water. The McCrank report, the 2005 Auditor General's report, and the first NWT Environmental Audit all identified the lack of such a clear statement as a key factor in the perceived uncertainty of the regulatory system in the NWT. The Boards agree with that analysis and believe that this Policy will go a long way to addressing those concerns.

Q: How was the Policy developed?

A: Staff members from all four Land and Water Boards of the Mackenzie Valley formed a working group to address the management of water and effluent quality as it relates to the issuance of water licences. The Water/Effluent Quality Working Group began preparing the draft Policy in 2008. Work has included discussions on how EQCs are currently set by individual Boards, a gap analysis on available guidance, a review of relevant documents from other jurisdictions and reports addressing the lack of existing standards. This Water/Effluent Quality Working Group is one of six Working Groups established in 2008 by the Mackenzie Valley Land and Water Board, the Gwich'in Land and Water Board, the Sahtu Land and Water Board and the Wek'èezhìi Land and Water Board. The purpose of these Working Groups is to review existing policies and procedures of all the Boards and develop or revise, where required, policies, procedures and guidelines that will ensure regulatory consistency while respecting regional diversity.

A PROACTIVE APPROACH

(The Authorities)

Q: Do the *Boards* have the authority to issue this Policy?

A: The Boards are authorized to issue this Policy based on powers granted in Section 65 (GLWB, SLWB, WLWB), Section 102 (MVLWB), and Section 106 of the Mackenzie Valley Resource Management Act (*MVRMA*).

Furthermore, paragraph 14(4)(c) of the *Northwest Territories (NWT) Waters Act* that states that any waste produced by an undertaking “will be treated and disposed of in a manner that is appropriate for the maintenance of

- i. water quality standards prescribed by regulations made under paragraph 33(1)(h) or, in the absence of such regulations, such water quality standards as the Board considers acceptable, and
- ii. effluent standards prescribed by regulations made under paragraph 33(1)(i) or, in the absence of such regulations, such effluent standards as the Board considers acceptable”

No regulations for water quality or effluent standards have been made under paragraphs 33(1)(h) or 33(1)(i) of the *NWT Waters Act*. This Policy describes what process the Boards consider acceptable with respect to setting water quality and effluent standards during the water licensing process.



CLARIFYING EXPECTATIONS

(The Stakeholders)

Q: Who will this Policy apply to?

A: This Policy will apply to any proponent seeking a licence for the use of water or the deposit of waste into water within the Mackenzie Valley.

Q: What will adoption of this Policy by the Boards mean to industry?

A: Applicants for water licences will have a clearer understanding of how licence conditions relating to water and effluent quality will be set. They will also know what information to submit with their applications. The Policy will be supported by guidelines that will provide further detail and certainty on the process that will be used by the Boards and on the specific information that will be required from applicants to set effluent quality criteria. Work on the guidelines will commence as soon as the Policy is approved.

Q: What will adoption of this Policy by the *Boards* mean to government agencies and other stakeholders?

A: This Policy will provide more certainty, for all stakeholders, that the water resources in the NWT are being managed effectively and consistently by the Land and Water Boards. Stakeholders will have clearer direction on what is expected of them to add to the successful management of resources, and will have a better understanding of how decisions will be made.



CONSISTENT WITH PAST AND CURRENT PRACTICES

(The Big Picture)

Q: Does this Policy represent a change in Board practices?

A: In the past, the Boards have used a variety of approaches to develop effluent quality criteria— including the approach outlined in this Policy. However, never before have the Boards’ approach to EQC setting been formally documented. This Policy presents a consistent and transparent approach for developing these criteria in the future.

Q: Why does the Policy support the approach of setting project-specific EQC rather than setting standard EQC that would apply to all projects?

A: In 2006, Indian and Northern Affairs Canada (INAC) commissioned a discussion paper entitled *Toward the Development of Northern Water Standards: Review and Evaluation of Approaches for Managing Water Use in Northern Canada* in response to the 2005 Auditor General’s report. This paper was one of the key resources used to initiate the development of this Policy. It outlined three options for setting effluent quality criteria or standards:

1. Develop industry specific standards,
2. Develop water quality standards that would apply to all water bodies in the NWT, or
3. Develop a framework for consistently deriving site-specific standards on a project-by-project basis.

The author of the paper identified a number of challenges associated with options 1 and 2, in particular, a lack of baseline water quality data as well as effluent quality data, and recommended option 3 as the most effective at this time. In 2008, Indian and Northern Affairs Canada (INAC) circulated the discussion paper for public review. Reviewers, including INAC, supported the recommended option. By describing an approach for setting project-specific EQC, this Policy is consistent with option 3.

Q: How does this Policy fit in with the NWT Water Strategy and other initiatives relating to water management?

A: The Boards are active partners in the development of the NWT Water Strategy and this Policy is consistent with the objectives of the Strategy. The Boards’ responsibilities under the *MVRMA* place their role within the ‘Environmental Assessment and Regulation’ section of the NWT Environmental Stewardship Framework. This Policy is one component that will contribute to the successful implementation of the Strategy.

CONTINUOUS IMPROVEMENT

(Next Steps)

Q: Will the public have an opportunity to comment on future Policy updates?

A: The public is welcomed at any time to submit comments, questions and suggestions to any of the Land and Water Boards of the Mackenzie Valley. The Board staff may request comments from stakeholders and the general public from time to time, as Policy updates are made.

Q: What criteria will the Boards use to measure the effectiveness of the Policy?

A: Success will be measured in terms of improved efficiency and effectiveness in the water licensing process. Specific performance indicators will be developed by the MVLWB as stated in Section 10 of the Policy.

Q: When will the water and effluent quality guidelines be developed?

A: Once this Policy is issued, Board staff will begin the process to develop the guidelines specified in Appendix A of the Policy. The timeline for the release of these guidelines will depend on how the guidelines are developed (who will be involved) and the amount of detail deemed appropriate in the guidelines (how prescriptive). Board staff are currently discussing these factors.





MACKENZIE VALLEY COMBINED DISTRIBUTION LIST: WATER AND EFFLUENT QUALITY MANAGEMENT POLICY

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Dehcho First Nations	Grand Chief Sam Gargan	867-695-2038
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Fort Good Hope Metis Nation Local #54 Land Corporation	President Winston McNeely	(867) 598-2160
Fort Good Hope Renewable Resources Council	President Roger Boniface	(867) 598-2437
Fort Liard Métis Local #67	President Ernie McLeod	867-770-3266
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Fort Providence Métis Council Local #57	President Albert Lafferty	867-699-4319
Fort Providence Resource Management Brd	Priscilla Canadien	867-699-3133
Fort Resolution Métis Council	President Garry Bailey	Frmc53@yahoo.ca
Fort Simpson Métis Local #52	President Marie Lafferty	867-695-2040
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Gwichya Renewable Resource Council	Anna Mae McLeod	867-953-3603
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