

nwt board forum

Resource Management information for the NWT



14TH BOARD FORUM MEETING SUMMARY REPORT

June 7-8, 2011
Yellowknife NT

NWT BOARD FORUM SUMMARY REPORT

14TH NWT BOARD FORUM MEETING YELLOWKNIFE, NWT

JUNE 7 – 8, 2011

Prepared for:

Board Forum Secretariat
Yellowknife NT

Prepared by:

SENES Consultants Limited
3rd Floor – NWT Commerce Place
4921 - 49th Street,
Yellowknife, NT X1A 3S5

August 2011

TABLE OF CONTENTS

	<u>Page No.</u>
1.0 INTRODUCTION	1
1.1 Purpose and Objectives of the Board Forum Meeting	1
1.2 Report Structure	1
2.0 OPENING REMARKS	1
3.0 REPORTS – STRATEGIC ACTION AND COMMITTEES	2
3.1 Strategic Plan and Action Items.....	2
3.2 Committee Reports	2
3.2.1 Governance – Chairs Willard Hagen and Richard Edjericon	2
3.2.2 Board Training – Chair Liz Snider.....	3
3.2.3 Outreach and Communications – Chair John Ondrack	3
3.3 Committee Composition and Role Of Working Groups	4
3.4 Committee Future Tasks and Responsibilities	4
3.5 Review of NWT Board Forum Terms of Reference and Board Relations Secretariat Terms of Reference – Eric Yaxley.....	7
4.0 CONSULTATION AND ENGAGEMENT REPORTS.....	7
4.1 INAC/NPMO Consultation and Engagement Approach – James Lawrance and Don James	7
4.2 Public Engagement and Board Consultation in the Permitting, Licensing and Environmental Assessment and Review Process – Mark Cliffe-Phillips and Vern Christensen.....	10
4.3 Consultation and Engagement Discussion – Facilitator	13
5.0 PRESENTATIONS.....	14
5.1 Regulatory Improvement and Integrated Resource Management Update – Stephen Traynor	15
5.2 Board Presentation on Regulatory Reform and MVRMA Amendments – Zabey Nevitt	17
5.3 Arctic Offshore Drilling Review – Bharat Dixit, National Energy Board.....	19
5.4 Board Funding Arrangements – Kimberly Thompson.....	20
5.5 Potential CIMP MOU's with Boards and Cumulative Impacts – Marc Lange	21
5.6 Devolution Update – Stephen Van Dine and Martin Goldney	23
6.0 OTHER BUSINESS	25
6.1 Member Updates.....	25
6.2 New Board Forum Website – Eric Yaxley	25
7.0 DATE AND LOCATION OF NEXT MEETING	25
8.0 CLOSING REMARKS	26
9.0 ACTION ITEMS.....	26
APPENDICES	
Appendix A – Meeting Agenda.....	A-1
Appendix B – Presentations	A-5
Appendix C – Meeting Evaluation – Summary of Responses.....	A-114

1.0 INTRODUCTION

1.1 PURPOSE AND OBJECTIVES OF THE BOARD FORUM MEETING

The 14th NWT Board Forum was held in Yellowknife, Northwest Territories on June 7 and 8, 2011. There were two key themes to this Forum: (i) to determine future activities and responsibilities for the three Board Forum committees and (ii) to have an informed discussion in the area of consultation and engagement. The Board Forum was also an opportunity for members to receive information presentations from INAC and member organizations.

1.2 REPORT STRUCTURE

This report presents a summary of the 14th NWT Board Forum meeting held in June 2011. Highlights and summaries provided below are presented based upon the agenda established for the meeting. The main sections are:

- Introduction
- Opening Remarks
- Reports – Strategic Action and Committees
- Consultation and Engagement Reports
 - INAC/NPMO Consultation and Engagement Approach
 - Consultation and Engagement Discussion
 - Public Engagement and Board Consultation in the Permitting, Licensing and Environmental Assessment and Review Process
- Update Presentations
 - Regulatory Improvement and Integrated Resource Management Update
 - Board Presentation on Regulatory Reform and MVRMA Amendments
 - Offshore Drilling Review
 - Board Funding Arrangements
 - Update – Potential CIMP MOU's with Boards and Cumulative Impacts
 - Update on Devolution
- Other Business
- Date and Location of Next Meeting
- Closing Remarks
- Action Items
- Appendices

2.0 OPENING REMARKS

After a brief welcome by the host co-Chairs, Trish Merrithew-Mercredi of INAC and Gary Bohnet of the GNWT, an opening prayer was led by Walter Bezha. Trish and Gary then continued with their opening remarks. They highlighted the importance of the NWT Board Forum as a venue for information sharing, cooperation, issue identification and subsequent progress on directly addressing issues. The co-chairs noted the Board Forum Strategic Plan, involvement in the Northern Regulatory Improvement initiative, and the overall success they have seen thus far coming from the work of the various Board Forum committees.

3.0 REPORTS – STRATEGIC ACTION AND COMMITTEES

3.1 STRATEGIC PLAN AND ACTION ITEMS

Brian Chambers gave an overview from the last NWT Board Forum meeting. Pleasure was expressed on the Strategic Plan being adopted and the continued forward momentum of the Forum. Gaétan Caron, who could not be at this meeting, sent his regrets and was pleased with the introduction of the transition of Forum items to be followed up with in subsequent meetings.

3.2 COMMITTEE REPORTS

3.2.1 Governance – Chairs Willard Hagen and Richard Edjericon

At the November 2010 meeting three tasks were identified to be carried out by the Governance Committee:

1. The first task of this group is to consider on-going changes to the governance structure and composition to the Goal 1 Working Group and its responsibility for planning individual Board Forum agendas. Eric Yaxley would support the Working Group governance and Board Forum planning task.
2. Second, it was agreed that work should continue on the ongoing review of the MVRMA for presentation to INAC as part of its Regulatory Improvement Initiative. The deliverable would be a discussion paper on potential amendments to the Act. This initiative will be led by Zabey Nevitt of the MVLWB. The initiative will include a workshop to be organized before the next Board Forum.
3. Third, it was agreed that this Governance Committee would coordinate the development of a paper outlining the Board Forum members' perspective on engagement/consultation and initiatives that the Boards can undertake to improve engagement and consultation. It was agreed that Mark Cliffe-Phillips of the WLWB would lead on this activity.

Brief updates on each of these tasks were provided, with more detailed presentations given later in the meeting. Each task was well underway, with work and input ongoing related to regulatory improvement and engagement and consultation.

Discussion:

Following the presentation, a question was raised as to how long the proposed action plan was going to take and when the actions were to be completed. The response indicated that each Board Forum meeting helps to further navigate each goal and once the parties involved with a specific action are satisfied, then the task will be complete. It was also noted that the Board Forum sets the priorities from which Committees set their own respective tasks.

3.2.2 Board Training – Chair Liz Snider

In response to the Auditor General's Report in 2005, the Northwest Territories Region conducted a pilot training and orientation project that was deemed successful. In late 2005, the boards in the NWT formed a Northern Board Training Steering Committee to develop a Business Plan for submission to INAC seeking funds for orientation and training. The Department has provided such funds from 2006 to 2011. Recently, a survey to determine this year's training priorities was sent to all boards. The Committee will review the results and, once funding decisions are known, will identify training opportunities for 2011/12.

The Board Training update included a summary of the courses provided in years 2008/2009, 2009/10, and 2010/11; including the number of participants who attended each course.

Discussion:

In addition to the presentation, the Chair pointed out that Training Committee Members need to be active. Just to be named as part of the Committee is not the best gauge of involvement by Working Group Members and does not accurately reflect the active members.

A question was raised about the process, funding and timelines for collecting and analyzing surveys. The Chair gave an overview of the process for identifying and approving training courses by the committee. Liz also noted that it is important that boards complete the questionnaires and surveys regarding their training priorities in a timely fashion and submit them to the Board Relations Secretariat. Although funding has not yet been confirmed for this fiscal year, the Committee will be reviewing the training surveys to determine priorities for the coming year. This will ensure successful implementation of the courses, once the funding has been received.

The Public Hearings curriculum development and course were a priority last fiscal year and the Committee is hopeful that it will be completed this fiscal year along with the delivery of the pilot session

3.2.3 Outreach and Communications – Chair John Ondrack

The objectives of the 2011/12 Outreach and Communications Work Plan are "to increase public awareness of the NWT Resource Management System and the role of the Board Forum in facilitating cooperation among Boards and other regulators." It was also noted that the work and priorities need to be tied back to the Strategic Plan.

The Chair of the Committee reviewed the work plan, which contained audience, messaging, outcome, and tactics. Key audiences are Aboriginal organizations and communities, industry, all orders of government, regulatory boards, youth, special interest groups and the general public.

Specific actions are to consider the development of a NWT Board Forum Newsletter that could be widely circulated following Board Forum meetings, to incorporate Board

presentations at Aboriginal and local government meetings, as well as at industry conferences and to ensure the Board Forum website is kept up to date. As well, bilateral and multi-lateral meetings among regulatory agencies, beyond regular Board Forum meetings, can be held. The suggestion is to target youth and NGOs and invite them to attend the Board Forum meetings as observers.

Discussion:

Following his presentation, the Chair requested that during Working Group sessions attendance be taken. He noted that at the last Board Forum break out session in Behchoko some great ideas were suggested, however, no names of those present were noted. As a result it was difficult to determine membership and to follow up on ideas..

A Board Forum member raised an issue with a quote on page five of the Report involving youth messaging where it stated, "Development occurs only if the environment is protected." This member said the focus should not be restricted to the environment but rather reflect a balanced perspective of people and industry. The Chair responded that all Committee members had not yet been consulted as the Communication Plan is still within the development phase and that this point will be considered during revisions.

3.3 COMMITTEE COMPOSITION AND ROLE OF WORKING GROUPS

A question was posed to the Board Forum to determine Committee composition in reference to the Chair overseeing the roles of Coordinator/Executive Director/BRS, Working Group Members and Other Members (as needed). It was agreed that this was the general composition of each Committee.

It was mentioned there is some confusion as to who is accountable within the Working Groups as responsibilities need to be more clearly defined. A response to this concern provided some clarification that the process prior to implementation should include having all materials sent out to the Committee Chairs and Executive Directors for review comment and approval. The process to approve activities or decisions by members when needed outside of the actual NWT Board Forum meetings is expedited via email.

It was also noted that it is important to ensure that Working Groups have a good mix of individuals who can offer a variety of perspectives and input.

3.4 COMMITTEE FUTURE TASKS AND RESPONSIBILITIES

The three committees met as break-out groups in a mini facilitated session. Each group was tasked with identifying at least three priorities that they could work towards achieving by the next Board Forum meeting. The priorities for each group were presented to the Forum.

The following tables summarize the outcomes of each break out group.

Table 1: Governance Action Items

Activity	Lead	Required Resources	Result
Draft potential amendments to Board Forum Terms of Reference to facilitate committee structure	Eric Yaxley	Consultation with Boards via email	Draft amendments reviewed at the next Board Forum
Aboriginal government participation, desire to participate and role Regional Aboriginal Leaders' Meeting	Zabey Nevitt	n/a	Getting approval of Board Forum Letter from Board Chairs Presentation from Board Forum reps at a meeting of Aboriginal Leadership (e.g., RALM)
Workshop follow-up to MVLWB Perspectives Paper	Zabey Nevitt and Mark Cliffe-Phillips	Internal resources needed for proposal development	Proposal for workshop to Federal Government (e.g., Northern Project Management Office)
Potential MVRMA amendments	Vern Christensen	n/a	Identify opportunities for Boards to participate in consultation process

Further questions and comments are documented below:

- It was expressed that a 'workshop' should not be listed as a result, but rather a vehicle to achieve a desired result. It was generally agreed that a workshop would likely translate into improvements via discussion, such as how to better integrate Board activity.
- There was a concern that the Forum is already composed of Aboriginal composition in itself and if too many additional invitations are extended to other Aboriginal groups that the Committee may get off-track. A committee representative responded that the intent is to appeal to Aboriginal leadership, not government, so that the leaders are aware and have input into the Forum.
- The Board Forum endorsed the Governance Plan.

Table 2: Training Action Items

Activity	Lead	Required Resources	Result
Board Forum endorsement of Training Strategic Plan	Liz Snider	Binders – Tab 2, Blue page #3	Endorsement Note: endorsement was given during meeting
Develop Business Planning Process	Training Committee	Information from past courses, surveys, evaluations, etc.	Provides direction (long term)
Course materials on Forum Website	Eric Yaxley	Electronic course and presentation files	Accessible course materials

Further questions and comments are documented below:

- Eric Yaxley suggested some difficulty in posting all course resources due to copyright issues and the need for Board Forum final approvals on draft materials. BRS will post materials developed or owned by the Board Forum as a pilot to the Forum before taking it live.
- There was concern expressed that the Training Business Plan that will be developed following the endorsement of the Strategic Plan should not entirely hinge on receiving certain funding.
- The Board Forum endorsed the Training Committee's Strategic Plan, with minor amended wording to include 'Board Forum' as opposed to 'Board Members'.

Table 3: Outreach and Communications Action Items

Activity	Lead	Required Resources	Result
Operationalize Committee	John Ondrack	n/a	Membership list Working Committee Terms of Reference
Key Messages Overarching Basic Foundational	Brian Chambers and John Ondrack	n/a	Set of messages Autonomy to do work
Communications Plan including the feasibility of developing a NWT Board Forum newsletter	Brian Chambers and Working Group	n/a	Plan for approval by Committee followed by the next Board Forum

Further questions and comments are documented below:

- A useful feedback tool for this Committee would be to utilize a feedback mechanism on the website.
- This action plan must be cross-referenced with the existing Outreach and Communications Committee 2011/12 Work Plan.
- The Board Forum endorsed the Outreach and Communications Plan.

3.5 REVIEW OF NWT BOARD FORUM TERMS OF REFERENCE AND BOARD RELATIONS SECRETARIAT TERMS OF REFERENCE – ERIC YAXLEY¹

The Terms of Reference includes an outline of the purpose of the NWT Board Forum, the objectives, a description of the membership, the organizational responsibilities, the conduct of meetings, meeting schedules and locations, a description of the Forum Secretariat Working Group, and the review process of the Terms of Reference.

The revised Terms of Reference for the NWT Board Forum were reviewed. Changes to the Terms were: Under 6) Meeting Schedule and Locations – the line was added: 2. Establish standing committees as required that are coordinated by a designated Chair. Under 7) Forum Secretariat – Working Group – the line was added: 6. Other Board Executive Directors as interested and available. As well, there were some minor word changes regarding the Forum Secretariat's responsibilities.

Discussion:

After the presentation, a number of actions were raised to further the development of the Board Forum Terms of Reference. One suggestion was to include a formalized decision making process within the Terms of Reference that would indicate how the Board Forum passes a motion. Current practice has been a show of hands 'for' and 'opposed' to a motion, regardless of who is present or position in the Forum. Eric Yaxley committed to draft a potential amendment for consideration to the Terms of Reference that reflects this practice.

4.0 CONSULTATION AND ENGAGEMENT REPORTS

4.1 INAC/NPMO CONSULTATION AND ENGAGEMENT APPROACH – JAMES LAWRENCE AND DON JAMES

Crown Consultation Approach – INAC – James Lawrence

James Lawrence, of INAC, NT Region, reported that they have had a Regional Office Interim Approach since 2005 that supports INAC's NT regional consultation requirements. The office works collaboratively with the Consultation and Accommodation Unit (CAU) and the

¹ Note that this presentation was given at 9:00 a.m. on the second morning of the Board Forum (June 8 2011).

Northern Projects Management Office (NPMO) to support consultation obligations of the Crown in the Northwest Territories.

The CAU is responsible for ensuring a “whole of government approach”, which includes analysis, policies and procedures development, information-sharing and support in relations. The regional office will work with the NPMO and CAU to ensure resources, roles and responsibilities for Crown Consultation obligations in the NWT are clarified. As well, there is a need to build clarity around the role of MVRMA Board processes. Key defining factors for the NWT are INAC’s role as resource manager and distinctive MVRMA legislation. Approaches in negotiating processes and interim measures need to be taken into account. As well, it was noted that Aboriginal transboundary, overlap, strength of claim and representation matters are complex. A number of related matters to address are IBAs, Mining Regulations, wildlife management, Aboriginal desires for Exploration Agreements.

Looking at the role of MVRMA Boards from 2010 forward, legal underpinnings are provided in Chicot, North Arrow and Carrier Sekani decisions. Board processes can fulfill most, and sometimes all, consultation needs. The Crown addresses matters that are out of Board jurisdiction, such as title and economic assertions. The MVLWB determines the adequacy of Crown Consultation in order to fulfill its legislative mandate to address Aboriginal concerns.

In summary, work will continue between INAC, MVLWB and Aboriginal groups to foster a common understanding of roles and responsibilities and efficient practices.

NPMO Consultation and Engagement Approach – Don James

Don James, of the NPMO, provided an update on activities since December 2010 to June 2011. He noted the highest level of service is for projects in the Northwest Territories, Nunavut and Yukon.

In September 2009, the NPMO was established as a core program within the Canadian Northern Economic Development Agency (CanNor) to support economic development in Yukon, Northwest Territories and Nunavut. The NPMO coordinates federal regulatory participation, tracks project progress, and maintains the Crown consultation record on northern projects.

In the Northwest Territories, projects are those that trigger:

- A public review by the Inuvialuit Environmental Impact Review Board and/or a joint panel review under the Inuvialuit Final Agreement and/or a comprehensive study or panel review under the Canadian Environmental Assessment Act; and
- An environmental assessment by the Mackenzie Valley Environmental Impact Review Board or an environmental impact review by a panel of the MVEIRB or a joint panel review.

In the immediate term, the coordination is intended to assist project and project proponents, the work of federal departments, and the Boards before and during Board processes (e.g., Nunavut - Baffinland). In the long term, the coordination is intended to

assist in arriving at best-informed and timely decisions on projects. The NPMO serves as the secretariat to the NWT Project Committee, with Federal / Territorial / Board membership.

For the NPMO, intelligence gathering supports low-level coordination and issue resolution, and at a higher level, supports the work of the CanNor Deputy Minister on the Major Projects Deputy Minister's Committee. Information dissemination at the NWT Project Committee includes information on crown consultation (new Government of Canada guidelines and processes), on the MVLWB Working Group and an update on the ongoing diamond-mine effluent issue.

Crown consultation and accommodation is a necessary step to making the best informed and timely decisions. The NPMO roles and responsibilities are as described in the May 2009 Treasury Board Submission: *"The NPMO will be responsible for ... coordinating a process of early engagement and consultations with Aboriginal people and communities. The NPMO will also maintain the official Crown consultation record for the Government of Canada for all northern projects [Projects]."* As of June 2011, the NPMO will maintain the official Crown consultation record for NPMO Projects.

From the March 2011 Aboriginal Consultation and Accommodation Guidelines, the NPMO is responsible for:

- Creating and maintaining a repository of Crown consultation records for projects that fall within its mandate; and
- For the purposes of Crown consultation the NPMO proposes to act as a coordinator for projects and Projects

However, "individual departments or agencies are responsible for determining which Aboriginal groups may be impacted by a project, for carrying out strength of claim assessments, for monitoring and evaluating the robustness of third party consultations and where required, for undertaking targeted Crown consultations."

The NPMO as a coordinator will remind individual departments of their responsibilities as described in the Government of Canada Updated Guidelines. This reminder is intended to be explicitly stated in the Project Agreements (for *Projects*). The NPMO continues to be involved in discussions with INAC (Northern Affairs Organization and the national office) on improving and coordinating the over-arching Government of Canada process for Crown consultation in the NWT.

Better Crown Consultation processes are: to build on proponent consultations, and to rely on Board consultations as a crucial component and on the Crown to honour the duty where necessary outside the Board's purviews. Better Crown consultation processes will require work with the Boards to take into account their legislative obligations.

Discussion:

It was determined that all Consultation and Engagement triggers presented were applicable to Northern projects and that the Crown would be consulted for projects that may impact south of the 60th parallel.

A question was raised as to whether other Boards need to change their consultation process if the NPMO is using a different process. The presenter indicated that as long as the set process is followed through Consultation, that is sufficient.

A concern was expressed that there is minimal face-to-face information offered in terms of the Consultation process. Often Boards are left to determine and distinguish process on their own. The presenter highlighted the history of business in the North and expressed appreciation for opportunities such as the NWT Board Forum where there is an opportunity to talk about these issues - as they will affect the way Boards do business and planning.

After the discussion, it was apparent that the Consultation and Engagement process for Boards was still unclear and that ongoing discussions will need to occur to provide further support for the Boards.

4.2 PUBLIC ENGAGEMENT AND BOARD CONSULTATION IN THE PERMITTING, LICENSING AND ENVIRONMENTAL ASSESSMENT AND REVIEW PROCESS – MARK CLIFFE-PHILLIPS AND VERN CHRISTENSEN

Mark Cliffe-Phillips gave a general background on consultation and engagement under the MVRMA which relates to land and water management and environmental assessment. He explained that the MVRMA requires the LWBs and MVEIRB to carry out consultation under their respective sections of the Act.

To assist applicants carry out engagement activities with the affected communities., the MVLWB has established guidelines to assist applicants. MVEIRB's Environmental Impact Assessment Guidelines and Socio-economic Impact Assessment Guidelines also set out expectations for community engagement.

Mr. Cliffe-Phillips explained one of the key principles that guides consultation and engagement processes is shared responsibility among proponent, engaged organizations (e.g., Aboriginal organization or government), Boards and Crown. In their co-management system, all stakeholders – including Aboriginal governments and organizations, federal and territorial governments, communities and industry - have a responsibility to meaningfully participate in decisions affecting the regulatory process. Through policy and guidelines, applicants are encouraged to build proactive and long-term relationships and provide guidance on ensuring that transparency, respect, honesty and inclusiveness are at the root of all engagement and consultation activities. Key principles are:

- Shared Responsibility
- Appropriate Disclosure

- Inclusiveness
- Informed Participation
- Reasonableness

As a project moves forward, all involved must work to find the areas of overlap in these shared responsibilities to ensure coordination and cooperation, be mindful of any gaps that might emerge in the total consultation effort, and look to find ways to identify if these gaps need to somehow be filled and how.

Overall engagement and consultation effort will be based on:

- Community Expectation
- Scope of Project
- Temporal and spatial characteristics
- Stage of Development
- Legal Requirements (Statute)
- Legal Precedent (Jurisprudence)
- What is reasonable

Mr. Cliffe-Phillips pointed out that requirements vary throughout the stages of development. As the project proceeds from pre-application to post-closure, there is a shift in the focus of consultation effort between parties. Throughout a development life, the focus of engagement and consultation efforts will vary and shift between parties.

Mr. Cliffe-Phillips described the **consultation and engagement policy and guideline initiative** currently being undertaken by the Land and Water Boards created under the MVRMA. The MVLWB Working Group purpose is to develop consistent and clear guidelines and policies for engagement and consultation for the Land and Water Boards as required by the Boards' review process. He pointed out that the MVLWB 2003 Guidelines on Public Engagement are outdated.

Within the MVLWB Policy and Guideline Framework, he briefly explained MVRMA, settled land claims, interim measures, mandates, roles and responsibilities, case law, regulatory best practices and industry guidelines.

The working group's policy approach needed to consider a range of factors unique to the jurisdiction in which they are based. The Policy needs to:

1. meet the spirit and intent of the settled land claim agreements and legal requirements of the legislation;
2. meet, as best it can, any requirements as defined through interim measures or policy direction from the INAC Minister where there are no settled agreements;
3. take into account current and relevant case law; and,
4. meet current best practices set out by other regulators in Canada, and by the industries that are working in the areas we regulate in.

Mr. Cliffe-Phillips gave a brief description of the consultative practices of the MVEIRB and best practices within several of their guideline documents. Once an application is filed, the Board's regulatory authority and mandate kicks in. The key areas of this process that require consultation include:

- Distributing submissions
- Conduct of Public Hearings
- Drafting Water Licences and Land Use Permits
- Post-issuance management
- Guideline and policy development

Mr. Cliffe-Phillips described the MVLWB public engagement approach in the pre-submission phase and for the life of project. The Land and Water Boards differentiate the processes which the Boards and Applicants use to engage/consult with impacted communities or persons, Aboriginal governments/organizations and territorial and federal governments. Consultation is the process the Boards use to meet their legislated consultative requirements, while public engagement is the communication and outreach activities undertaken by a proponent prior to, during and after the development and operation of a project.

The Boards have split the Engagement requirements that a proponent must undertake into two categories 1) Pre-submission Engagement and 2) Life of Project Engagement. For the Pre-submission requirements, the Boards' expectations must be met before an application is deemed complete. For the Life of Project requirements and for larger projects, a life of project approach will be expected, through the submission of a "public engagement plan".

One new approach that the Boards are looking to adopt, is more engagement from a "Life of Project" perspective. In the past, engagement activities in the North for many projects have focused on the pre-submission phase of an application. This was in large part due to the Boards own Engagement Guidelines or expectations, which only required engagement at the "front end". This resulted in a push by proponents to meet all the engagement expectations in the limited time available from their decision to apply for an application to the Board until the time they submit their application. This was particularly the case with smaller developments. This left many engaged organizations feeling pressured or rushed by proponents.

The Boards investigated ways in which they could amend engagement requirements to alleviate some of the identified concerns. One new requirement that will be implemented for certain developments is the need for proponents to develop an Engagement Plan for the Life of the Project. In engagement planning, Mr. Cliffe-Phillips identified key questions: when should an organization be engaged (i.e., triggers)?; who should be engaged?; what is the purpose of the engagement?; how much time is required for the engagement activity?; what level of engagement is required?; and when is engagement not required?

MVEIRB has issued guidelines that set out best practices for the developer and the Board's process to help ensure a consultative Environmental Assessment / Environmental Impact Review process. Developer responsibilities are early community engagement, ongoing "bilateral" meetings with the community throughout EA/EIR. The Developers Assessment Report (DAR) may require a description of public engagement log and plan including engagement with Traditional Knowledge Holders. Review Board processes include notification, public registry, community scoping sessions, community information sessions, community and public hearings.

As for next steps, the MVLWB will hold focused consultations with Aboriginal organizations and governments on draft policy and guidelines. As well, broader consultations with government and industry will follow. There will be a joint (MVEIRB and MVLWB) examination of their roles and responsibilities respecting the "duty to consult". Further work in defining roles and responsibilities may be brought to the NWT Board Forum.

Discussion:

Following the presentation, a question was raised regarding applications for permits, rights and issuance and who supports these processes. Mr. Cliffe-Phillips responded that the regulatory authorities could address many of these issues. Land and Water Boards have a transparent process and if engagement occurs before coming to the Board, the 'hold-ups' could potentially be avoided.

A final comment was raised noting conflict around Consultations with Boards and communities. Conflicts occur in the communities when communities are asked to present information on their projects. As Boards, there are few available resources to refine this process; however, communities do not have the funding or access to contribute to their Engagement.

4.3 CONSULTATION AND ENGAGEMENT DISCUSSION – FACILITATOR

The facilitator directed the Forum to consider the following two questions with open discussion to follow.

1. What are the roles and responsibilities of the NWT Board Forum with regards to Engagement and Consultation?

Captured comments and responses:

- The Board Forum will keep the lines of communication and notification open to better assist Aboriginal groups to realize they have an obligation to assist in this process.
- Consultation and Engagement is not only about "effective communities" such as location and context but to think beyond that in a relational context.

- In the future, a review will decide who is to interpret the three-step process and authority. It is primarily about access to the appropriate resources and processes.
2. What are the Federal Government's expectations of the Board Forum with regards to Engagement and Consultation?

Captured comments and responses:

- Concern was expressed with Section 35 of the Constitution Act as to the Boards becoming more responsible for the Consultation and Engagement process and not having adequate resources or expertise to perform these effectively. The response to this concern included a reminder that the Boards are independent in their decision-making and the legislation outlines the parameters for them to carry out consultation. If the Boards wish to maintain the responsibility of being independent, they will need to ensure that they use the proper framework. As for resources, that will need to be explored further for clarification.
- There was a request of the Crown to further clarify the roles and responsibilities of the Boards in Section 35, using basic language as it is not currently easily understood or conveyed to others. Until this clarification occurs, the Boards will continue to struggle with improving their processes for their stakeholders.
- Section 35 will always be the overall responsibility of the Crown but there is also Case Law which indicates that other groups do have some responsibility for certain pieces such as judging the adequacy of Consultation.
- A request to map Consultation responsibilities at the next Board Forum was brought forward. There are some current process maps that could be helpful resources to facilitate that process.

5.0 PRESENTATIONS

During the second day of the Board Forum meeting there were a number of presentations and updates on matters of interest to the Boards. The following presentations were provided:

- Regulatory Improvement and Integrated Resource Management Update – Stephen Traynor, INAC
- Board Presentation on Regulatory Reform and MVRMA Amendments – Zabey Nevitt, MVLWB
- Offshore Drilling Review – Bharat Dixit, NEB
- Board Funding Arrangements – Kimberly Thompson, INAC
- Potential CIMP MOU's with Boards and Cumulative Impacts – Marc Lange, INAC
- Devolution Update – Stephen Van Dine, INAC And Martin Goldney, GNWT

5.1 REGULATORY IMPROVEMENT AND INTEGRATED RESOURCE MANAGEMENT UPDATE – STEPHEN TRAYNOR

Stephen Traynor, of INAC, provided an update on the Government of Canada's Action Plan to Improve Northern Regulatory Regimes. Mr Traynor discussed the background of the Action Plan, the objectives and approach outlined in the Action Plan and how the federal government plans to implement change in the NWT and the next steps for achieving the objectives. Mr. Traynor reiterated that the key objectives of the Action Plan are to consider Canada's role in northern development, reduce complexity by increasing the predictability and efficiency of the regulatory regimes, to consider regulatory improvement while respecting settled land claim agreements, to build a climate where periodic review, evaluation and improvement is seen as an integral element of the system.

Mr. Traynor gave an overview of the Action Plan – will complete and strengthen current regulatory regimes in the North and will focus on:

- Providing more efficient and effective processes through legislative and regulatory change (\$11 Million over 2 years)
- Enhancing environmental monitoring, through implementing the NWT Cumulative Impact Monitoring Program and the Nunavut General Monitoring Plan (\$8 Million over 2 years)
- Reflecting a strong Aboriginal voice

Mr. Traynor reported on progress on two new pieces of legislation, one in Nunavut and one in the NWT. The first is the Nunavut Planning and Project Assessment Act which was introduced in May 2010 as Bill C-25 but did not proceed to Second Reading before the dissolution of the 40th session of Parliament. They are working with NTI in the negotiation of changes to the Nunavut Land Claims Agreement in support of the legislation. And are looking to reintroduce as soon as possible. The second Act is a new NWT Surface Rights Board Act. A first draft was consulted on in 2010 and a second draft for consultation is expected to be distributed during summer 2011. Spring 2012 is targeted for possible introduction.

In regard to amendments, a list of issues to consider relating to the MVRMA were sent to stakeholders in March 2011 along with a consultation plan. A number of regulation amendments are underway:

- Territorial Land Use regulations - anticipate TB process beginning in December 2011
- Territorial Quarrying regulations - anticipate TB process beginning in December 2011
- NWT Waters regulations - anticipate TB process beginning in December 2011
- Nunavut Water regulations - anticipate TB process beginning in February 2012

Environmental Monitoring:

- Development and design of programs proceeding
- Development of 5 year strategic plans
- Development of standardized protocols and guidelines in progress

- Funding of monitoring projects through CIMP in the NWT has begun (\$1.4 million)
- Collection, consolidation and assessment of baseline data occurring
- Significant stakeholder engagement ongoing
- Staffing of CIMP Secretariats underway

Aboriginal organizations were briefed on the Action Plan in March 2011 and consultation plans were developed. Letters to explain funding and participation in consultation process were to go out in June or July.

Some changes have occurred since the announcement of Canada's Action Plan to Improve Northern Regulatory Regimes. NWT Devolution Agreement in Principle was signed January 2011. New Court rulings and the release of federal Consultation Guidelines, new opportunities for resource development have emerged sooner than expected. High profile of recent industrial emergencies (i.e., BP, pipeline in Alberta).

Mr. Traynor reviewed some considerations: Northern Aboriginal Organizations, Boards, Territorial Governments currently engaged in Action Plan components; need to be mindful of other activities in the NWT; capacity of organizations may become more of a factor; the need for ongoing audits, reviews, and evaluations.

The Audit and Evaluation Sector of INAC is carrying out an evaluation of the Northern Affairs Organization including:

- the Action Plan to Improve Northern Regulatory Regimes
- Northern Oil and Gas
- Mines and Minerals
- Land and Water Management
- Environmental Assessment

The methodology for the evaluation is currently being developed and the data collection phase, including interviews, will take place in the summer of 2011. The evaluation will be complete in December 2011.

Mr. Traynor concluded that investments through the Action Plan to Improve Northern Regulatory Regimes will help ensure the regulatory systems in Canada's North work in a more timely and efficient manner to allow for sustainable resource development that is balanced with environmental protection. Through the advancement in the predictability and certainty of the regulatory processes, these investments respond to industry concerns, as well as showing ongoing commitment for comprehensive land claim agreements and the high environmental standards that the North deserves.

Discussion:

Following the presentation, a question was raised requesting secure annual and multi-year funding for the Training Committee. The response indicated that INAC is looking into the potential of multi-year funding. Only annual funding is allocated at this time.

At the request of the Board Forum, John Pollard's role as Chief Federal Negotiator was elaborated on. John Pollard has reported to the Minister and is going through the set processes. The Minister is working on the next steps. These steps relate to how to affect change for Land and Water Boards. Once the Minister has completed his assessment, then a re-structuring process will be decided upon.

In response to a question regarding the mandate for Boards, Mr. Traynor could not confirm whether there will be an obligation to report first or only to the Minister unless it is otherwise determined. There was expressed difficulty in laying out the process to the Boards at this time as it still under review. Once there is more clarity available, the Boards will be informed.

5.2 BOARD PRESENTATION ON REGULATORY REFORM AND MVRMA AMENDMENTS – ZABEY NEVITT

The Perspectives on Regulatory Improvement in the Mackenzie Valley was written to have a coordinated Land and Water Board response to the McCrank report and federal government *Action Plan to Improve Northern Regulatory Regimes* announcement, to provide perspectives on policy, system, legislative and operational recommendations and to identify issues from a Board perspective. The key message is that positions and recommendations in the McCrank Report are repeated in several previous reports and documents. The regulatory process in the Mackenzie Valley is not complex - the system is different by design. Predictability, clarity, and understanding are the outcomes of complete and mature finalized systems, thus completing the system is paramount to its success.

Several Standard Procedures and Consistency Working Groups have been formed to work on a products:

- Public Engagement and Board Consultation
- Plan Review Process and Guidelines Working Group
- Water/Effluent Quality Guidelines Working Group
- Terms and Conditions Working Group
- Data Resource Sharing and Standards Working Group
- Application Process Working Group

Working Group Products

- Completed the Public Engagement and Consultation Guidance Document including policy and supporting engagement guidelines
- Plan Review and Process
- Finalize closure and reclamation guidelines in collaboration with INAC and interested landowners
- Initiate work on the Aquatic Effects Management Plan Guidelines and Response Management Framework Guidelines
- Water and Effluent Quality Policy (i.e., how to set EQCs) ,Development of guidelines and procedures that support the policy

- Prepare standard list of terms and conditions for water licences and land use permits and develop procedures for writing new terms and conditions for land use permits and water licences
- Improve Data Resource Sharing - Improve the shared online registry and continue to collaborate with DFO on the development of the Water Withdrawals Database
- Application Processes - Complete valley-wide water licence applications process guidance document and Complete valley-wide land use permit applications process guidance document

A Governance Review was undertaken to find a more effective means of delivering standard and consistent corporate services. Through this, TORs for Chairs were approved and draft TORs for the Executive Directors Management Committee were developed.

Key areas for completing and refining the system were identified:

- Settlement of Outstanding Claims – Land Use Planning
- Consultation Policy that works with MVRMA
- Cumulative Impact Monitoring Program
- Clarification of Jurisdiction and Implementation of Authorities (Wildlife, Air Quality and Socio-Economics)
- Administration - Board Funding, Intervener Funding, Board appointments

The report also highlighted recommendations for changes to the MVRMA, MV Land Use Regulations, NWT Waters Act and Regulations:

- need to harmonize land use permitting with water licensing processes
- ensure adequate time, don't create false expectations
- inspection authority

Mr. Nevitt concluded that there has been considerable investment in the current system. Further work is needed to collectively implement a vision of an integrated system of land and water management. They are working internally on this and will support external initiatives.

Discussion:

Following the presentation, there were some questions around receipt of the distributed \$18 million in Northern funding. The 2010-2011 MVRMA pooled together the NRCan funding from each board (\$135,000). It was noted that \$18 million was distributed to NWT and Nunavut projects. NTI and Surface Rights Boards to Aboriginal groups also received a portion of this funding. The funds were distributed as per legislation and funding letters are currently being distributed for this year.

Renewable Resource and Wildlife Boards will be included in Working Groups and will be drawn upon for their wealth of experience and resources.

5.3 ARCTIC OFFSHORE DRILLING REVIEW – BHARAT DIXIT, NATIONAL ENERGY BOARD

Bharat Dixit, of the National Energy Board, presented an update on the Arctic Off-Shore Drilling Review. The Review will examine the best available information on the hazards, risks and safety measures associated with offshore drilling in the Canadian Arctic

The scope of the Arctic Offshore Drilling Review has three phases:

- Phase 1 - Fact Finding and Information Gathering
- Phase 2 - Information Sessions and Inuvik Roundtable
- Phase 3 - Public Report

In Phase 1 – Fact Finding and Information Gathering - the NEB has been holding meetings in Northern communities to provide process updates, listen to participants, and gather information. In Phase 2 – Considering the Facts and Information – Arctic Offshore Drilling Review registrants have an opportunity to ask questions and comment on the information submitted by parties in Phase 1 and studies initiated by the NEB. As well, meetings have been held in Yellowknife, Inuvik, Whitehorse and Iqaluit, and additional meetings are planned for communities in Baffin Island (in June) and in the Inuvialuit Settlement Region (in July). There will be up to \$300,000 to help with travel costs for Northern participants to attend the Inuvik Roundtable. In Phase 3 – Public Report and Next Steps - the NEB will consider the information gathered and issue a public report, and will use the results to develop Filing Requirements for future Arctic offshore drilling applications.

During meetings with Northern communities and in their review of Calls for Information and technical reports, the NEB has heard some key community concerns. These include: same season relief well capability, dispersants, spill response capability and infrastructure, training, compensation for Northern residents in the event of a spill, wildlife/environmental monitors, unique Arctic environment including currents, ice, and marine life, inspections and monitoring, clean-up methods, clean-up costs and responsibilities and clarity of roles.

The Inuvik Roundtable to be held September 12 – 17, 2011 will create an opportunity for all participants to hear from experts about scope elements, to ask questions, offer opinions on what should be addressed in the NEB Public Report, and express views on what to include in Filing Requirements for a future application to drill a well in the offshore. Members of the Forum are encouraged to register and attend the Inuvik Roundtable.

Discussion:

Following the presentation there were questions regarding available spill equipment to assist in clean up, the frequency or likelihood of a spill occurring and the responsibility of the drill operators and the NEB in response to a spill.

The response by Mr. Dixit noted that the objective of the Round Table is to hear from participants on “how to respond effectively when things go wrong”, and to hear what to include in the Filing Requirements to deal with a spill before issuing a drill permit.

Mr. Dixit went on to state that to date, there has only been one well drilled in the Canadian Arctic offshore (Devon Paktoa C-60 well in the Beaufort Sea in 2005-2006) since the NEB took over regulation of oil and gas activities in 1991. It is the responsibility of an operator to identify possible spill events, including the worst-case scenario, and to demonstrate how they would be prepared to respond to such an event. This would include emergency response exercises, available infrastructure, and the people and equipment needed to manage such a spill.

In regards to NEB responsibility, Mr. Dixit replied that the Board holds the operator accountable; therefore, operators need to demonstrate a level of preparedness to satisfy the Board prior to any approval or authorization to drill. The NEB does not have ships, helicopters, or spill clean-up equipment. The NEB could, depending on the situation, take over the management of a spill and direct clean-up with the accountable operator responsible for the costs.

The Board has access to a letter of credit under the *Oil and Gas Spills and Debris Liability Regulations* to quickly attend to spills. If the operator is not able to undertake proper emergency response, the Board can intervene and direct appropriate action.

5.4 BOARD FUNDING ARRANGEMENTS – KIMBERLY THOMPSON

Kimberly Thompson, of INAC, gave an update on the new Policy on Transfer Payments (PTP), introduced by the Treasury Board Secretariat in 2008. Departments were given until April 2011 to implement the PTP.

The new PTP was created to ensure accountability on the part of the Government of Canada for funds spent on grants and contributions, while maintaining efficient management and ease of access to funding mechanisms.

PTP affects Implementation funding for Boards with the following changes:

- New Funding Agreement Model (comprehensive)
- 'Fixed contribution Agreements' are now used in place of an 'FTP'
- All recipients are required to undergo annual General Assessments
- Options for multi-year funding agreements (based on result of General Assessment)
- A recipient may retain and use unexpended funds (so long as terms and conditions have been met) for purposes other than what the funding was originally provided for; however, a Reinvestment Plan must be submitted to the Minister for approval prior to such use.

What's staying the same:

- Funding levels
- Adjustment mechanism will continue to be applied annually to funding levels
- Work plans and budgets to be submitted annually to reflect adjusted/FDDIPI's funding levels and any changes to the originally proposed work plan

- Budget management and approval principles
- Ability to retain unexpected funds and reinvest them the following year toward purposes for which funding was originally provided.

As for Board Management and Approvals, once the boards have entered into a funding agreement with the Implementation Branch, any significant changes to the approved work plan and budget must be approved by the Implementation Branch. Recipients continue to be responsible for deficits and are encouraged to manage with the allocated funding amount.

Benefits of Fixed Multi-Year Funding Agreements:

- Boards can now be funded based on a multi-year work plan, allowing them to plan and operate in a manner that is more strategic and responsive to their business needs
- Reduction in delays at the beginning of the new fiscal year as a result of entering into a new funding agreement – amendments as opposed to new agreements
- Recipients have increased ability to retain unexpected funds and reinvest the following year

Discussion:

Following the presentation it was clarified that the Land and Water Boards receive funding which is not flexible or open to multi-year funding. There was a request to share the criteria used to determine the risk associated with allocating funds. For example, some Boards received notification that they are medium-risk and therefore, don't qualify for multi-year funding. It was clarified that some of the main criteria include meeting funding report deadlines and if a Board were to submit these reports past the due date, the system would likely automatically tag them as at least medium-risk. This criterion is being reviewed as it is currently set from a national perspective and does not necessarily take into consideration some of the unique funding structures associated with northern Boards.

A question was raised as to the possibility of securing a contingency for Boards that will accommodate the changing needs of Boards in the future. In response, it was explained that in the past, funding has been locked in for 10 years even for Boards with cost-drivers beyond their control. This is recognized. Development in the north has increased and the funding is sometimes last minute to procure, especially in regards to Hearing funding. Initiatives are in place to allow for greater incremental funding that is guaranteed in the future.

5.5 POTENTIAL CIMP MOU'S WITH BOARDS AND CUMULATIVE IMPACTS – MARC LANGE

Marc Lange of INAC presented on the relation of the Cumulative Impact Monitoring Program (CIMP) to the *Action Plan to Improve Northern Regulatory Regimes*. The CIMP mandate is to conduct and facilitate environmental monitoring. CIMP is a requirement of land claim

agreements (Gwich'in, Sahtu, and Tłı̨chǫ) and the MVRMA. It is anticipated to take ten years for CIMP to achieve its full mandate. The first five years are focused on enhancing the program, partnerships, infrastructure, and priorities as well as piloting methodologies and approaches over the next five years.

In the next five years, the CIMP team will enhance program, partnerships, governance and credibility, develop standardized protocols and guidelines, collect, consolidate and assess baseline data and develop data/information management infrastructure. From 2015-16 to 2019-20, work will be done to finalize frameworks, protocols, data management structure, and reports, to expand depth and geographic range of analysis and to increase access to information for decision-making. From 2020 on, CIMP will be an integral part of an adaptive management regime in NWT.

The CIMP goal is “to watch and understand the land and to use it respectfully forever”.

Watch The Land: Tell a story on health of environment

- Develop common monitoring language (Traditional Knowledge and Science)
- Use of common monitoring language
- Add to our common monitoring language

Understand The Land: Cumulative Impacts

- Examine information across time and over large and small areas (multiple-stressors & valued components)
- To tell a story, need to know our audience:
- Community and cooperative monitoring central to help decision-makers

Use the Land Wisely: Coherent and Relevant Monitoring

- Monitoring health of the environment must be of use to decision-makers
 - Engagement of decision-makers throughout the monitoring process.
- Telling a story that influences decision-making
- Development of relevant 5-year priorities & strategy
- State of the Environment Reports
- Clarify CIMP role in regulatory hearings, provision of information & advice, project-specific, etc
- Information management strategy & system – communicate results

CIMP facilitates the generation of localized and standardized knowledge by imbedding the requirement for this knowledge in the regulatory decision-making process such as license conditions, operational statements, and policies. The CIMP Work Plan 2010/11 will include a Decision-Makers Needs Assessment, Decision-Makers Toolset, Audit and State of the Environment, CIMP Enhanced Governance (Regulators, Industry, Academia, etc) and Memoranda of Understanding with Decision Makers.

An update on the second Environmental Audit was provided. The Audit assessed three key areas and builds on the findings and recommendations set out in the first (2005) Audit:

- the NWT regulatory regime;
- the monitoring of cumulative impacts; and,
- trend in the environment.

The Audit had 13 recommendations to INAC and other Directly Affected Parties (DAPs), including Boards. INAC will develop its response following a public release in summer 2011. DAPs are encouraged to develop their responses as well. It is proposed that a DAP meeting be held to discuss recommendations, expectations, responsibilities, and collaboration.

In summary, CIMP's aim is a coordinated approach to excellence in environmental management, building effective monitoring programs and assessment of cumulative impacts in the NWT (guidance & implementation). Coordinated environmental monitoring includes agreements (MOUs, enhanced governance, etc), standardized protocols, policies, and methods, coordinated and standardized generation of environmental information. A commitment is needed from decision-makers to engage in these processes to reap benefits of coordinated approach.

Discussion:

The advice from the Forum following this presentation was to limit the number of ongoing projects in order to focus resources appropriately and to spend time not only collecting data but properly analyzing and communicating the research findings. Also, it was advised that CIMP communicate with other institutions such as universities to compare and analyse data. Mr. Lange responded that as CIMP's vision and mission are further defined and developed, the scope and number of projects will become better focused.

5.6 DEVOLUTION UPDATE – STEPHEN VAN DINE AND MARTIN GOLDNEY

Stephen Van Dine of INAC and Martin Goldney of GNWT presented an overview on the status of NWT devolution. Mr. Van Dine explained that devolution is the transfer of responsibilities from the federal to territorial government. The transfer of land and resource management is the last of a multi-phased, long-term process that has been underway for the past 30 years. Post-devolution, Canada will retain its role in treaties and land claims, taxation, infrastructure, economic development, transportation, and supports such as TFF, major transfers and program funding.

The five phases of devolution are:

- Phase I: Framework Agreement
- Phase II: Agreement-in-Principle (AiP)
- Phase III: Final Devolution Agreement
- Phase IV: Legislation
- Phase V: Implementation

The recently-signed AiP is a commitment to negotiate a final Devolution Agreement and will require federal Cabinet approval. Final Devolution Agreement takes effect once it has been approved by the principals of all parties and legislation is passed by both Canada and the GNWT. There will be a plan for implementing the agreement, with appropriate transitional measures.

What is being negotiated?

- Transfer of administration and control of public lands & waters
- Post-devolution resource management arrangements
- Oil and gas and co-ordination between offshore & onshore
- Responsibilities for waste sites
- Human resources
- Salaries and benefits
- Offers for federal employees transferring to the GNWT
- Federal properties, assets, contracts and records
- Transitional and on-going funding to carry out responsibilities
- Net fiscal benefit for the NWT and resource revenue-sharing
- Pre- and post-devolution transition & implementation matters

A Residual Roles Working Group will assess and develop INAC roles and function post-devolution. The INAC Regional Office will continue to work on intergovernmental relations, land claims, self-government, Aboriginal programs and services, and federal obligations related to contaminated sites.

Discussions with GNWT and Aboriginal groups began in 2001 and since negotiations began in 2002, NWT Aboriginal groups have participated in or observed formal negotiating sessions on the AiP. All Aboriginal groups are welcome and encouraged to sign the AiP at any time and to help shape the Final Devolution Agreement. The AiP does not adversely affect Aboriginal rights and there is ongoing consultation with Aboriginal groups not party to AiP.

Under Modernizing the Regulatory Environment (I), Mr. Van Dine noted that devolution relates to other departmental priorities, including Regulatory Improvement (Board restructuring), Mackenzie Gas Project, and Land Claims and Self-Government. The AiP commits the GNWT to introduce a resource management regime that mirrors existing federal legislation. INAC is briefing other federal departments and agencies that will be involved in decision-making through working groups. Regulatory certainty and a smooth transition between federal and territorial administration remains a priority. Canada is working with GNWT and stakeholders to complete the Action Plan to Improve Northern Regulatory Regimes (anticipated 2012/13) that will improve devolvable aspects of resource management functions, providing the NWT with an investment-ready regulatory regime. The Northwest Territories Surface Rights Board Act will create further certainty by providing binding decisions where negotiations fail between surface owners and subsurface rights holders.

Under Modernizing the Regulatory Environment (II), federal coordination responsibilities have been shifted to the NPMO for better coordination of regulatory roles. The devolution approach will be consistent with Arctic and National oil and gas strategies and many detailed issues will be formalized in the Final Devolution Agreement. Main Table Meetings have begun, and will continue to meet three to four times per year. The Implementation Planning

Committee is to hold regular meetings and Working Groups are developing work plans toward implementation measures and will continue.

Discussion:

Following the presentation, a question was raised as to what will happen if devolution occurs before Crown negotiations and land claims are complete. The response indicated that the goal is to settle those claims prior to devolution however if that cannot occur, the negotiation process will continue as it started and devolution will not affect this process.

There was concern as to how Board funding will be affected by devolution. The response indicated that Board support continues to be a subject that is being investigated and considered. The goal is that with a more accountable local government it will not be a significant issue. Boards will be continually updated and informed as decisions are made in terms of burden of responsibility and Board roles. Additionally, the intent of devolution is not to make any drastic Board changes. The Board Forum is an ideal opportunity to report out on devolution effects on Boards.

In response to the question as to how long the Devolution final agreement will take, it was understood that the likely timeline would be between 1–3 years.

6.0 OTHER BUSINESS

6.1 MEMBER UPDATES

At the June 2010 Board Forum meeting, it was decided that Chairs would provide written updates that would form part of the record of this Forum, in lieu of the roundtable updates. At the time, it was felt this approach would free considerable time at each Forum. At the June 2011 Board Forum meeting, only one report was received. Members were asked if they wished to continue providing written reports for the Board Forum. The general response was that it had been decided at the last Board Forum to eliminate the Chair presentations.

6.2 NEW BOARD FORUM WEBSITE – ERIC YAXLEY

It was noted that the NWT Board Forum website has been updated and that members should review it and provide comments or suggestions to Mr. Yaxley.

7.0 DATE AND LOCATION OF NEXT MEETING

The Chairs were in agreement to meet in Inuvik on November 29th and 30th, 2011. The host will be the EIRB, EISC and NWT Water Board with the lead to be determined.

8.0 CLOSING REMARKS

Prior to the closing prayer, led by Walter Bezha, Trish Merrithew-Mercredi addressed the Forum with her closing remarks on behalf of herself and co-chair Gary Bohnet. Trish referred to the importance of the Board Forum Strategic Plan and linked this Forum meeting to those goals. Trish noted that she is looking ahead to the evolution of the Board Forum as works towards the goals outlined in the Strategic Plan.

9.0 ACTION ITEMS

The following action items emerged during the two-day meeting, with lead identified:

- Binder material to be distributed in advance where available with a deadline set for submissions - Eric Yaxley
- Draft potential amendments to the Terms of Reference - Eric Yaxley
- The Board Training Committee will review the results of the training survey and, once funding decisions are known, will identify training opportunities for 2011/12 – Liz Snyder
- Assessing greater involvement of Aboriginal governments in Board Forum – (i) Getting approval of Board Forum; (ii) Letter from Board Chairs to Aboriginal leadership; (iii) Presentation at meeting(s) of Aboriginal leadership – Zabey Nevitt
- Proposal for workshop to Federal Government (e.g., Northern Project Management Office) to follow up work of MVLWB on Perspectives on Regulatory Regime report – Zabey and Mark Cliffe-Philips
- Communications Plan including the feasibility of developing a NWT Board Forum newsletter – Brian Chambers, with input from Communications Working Group

APPENDIX A

Meeting Agenda

Board Forum Agenda
June 7th - 8th, 2011
GNWT and INAC
Tree of Peace Friendship Centre
Yellowknife, NT

DAY 1 – June 7

- 8:30 Arrival – Coffee and Muffins
- 8:45 Welcome Board Forum members - Trish Merrithew-Mercredi and Gary Bohnet, Hosts
Opening Prayer
Introduction – Facilitator Sandy Osborne, Recorder Maureen Van Overliw and Shelagh Montgomery (SENES)
- 9:00 Strategic Plan and Action items – Overview from Last Meeting – Gaétan Caron
Committee Reports of Activities since the last Forum:
 Governance – Chairs Willard Hagen and Richard Edjericon
 Board Training – Chair Liz Snider
 Outreach & Communications – Chair John Ondrack
Discussion – Defining Committee Structure and Composition
 - Role of Working Groups
- 10:00 Health Break
- 10:15 Break Out into Groups – Brainstorm Future Strategic and Task Activities
 Governance
 Board Training Committee
 Outreach and Communications Committee
- 11:15 Plenary Session – Report Back
 Forum Approval of Future Activities and Responsibility Identification
- 12:00 Lunch (provided)
- 1:00 INAC/NPMO Consultation and Engagement Approach – Don James and James Lawrance
- 1:45 Consultation and Engagement from a Board Forum Perspective – Zabey Nevitt and Vern Christensen
- 2:30 Health Break
- 2:45 Consultation and Engagement Discussion – All
 Future Opportunities and Next Steps
- 4:00 Review of NWT Board Forum Terms of Reference and Board Relations Secretariat Terms of Reference – Eric Yaxley
- 4:30 Board Chair Caucus - Discuss the merits of writing to appropriate Government Ministers to report on progress of NWT Forum and, if so, the content of such letters.
- 6:00 **Dinner**
 Prince of Wales Heritage Centre – Entertainment by Jonathan Churcher & Company (Pg.3)

Board Forum Agenda
June 7th - 8th, 2011
GNWT and INAC
Tree of Peace Friendship Centre
Yellowknife, NT

DAY 2 – June 8

- | | |
|-------|---|
| 8:30 | Arrival – Coffee and Muffins |
| 8:45 | Highlights from previous day – Gary Bohnet and Trish Merrithew-Mercredi, Hosts |
| 9:00 | Regulatory Improvement and Integrated Resource Management Update and Discussion – Stephen Traynor |
| 9:45 | Board Presentation on Regulatory Reform and MVRMA Amendments – Zabey Nevitt and Mark Cliffe-Philips |
| 10:30 | Health Break |
| 10:45 | Environmental Assessment Process Review – Vern Christensen |
| 12:00 | Lunch (provided) |
| 1:00 | Arctic Offshore Drilling Review – Gaétan Caron |
| 1:30 | Board Funding Arrangements - Kimberly Thompson and Tina Gear |
| 2:00 | Update on Devolution and Discussion – Trish Merrithew-Mercredi, Stephen Van Dine and Martin Goldney |
| 2:45 | Health Break |
| 3:00 | Audit & CIMP Update - Potential CIMP MOUs with Boards and Cumulative Impacts – Marc Lange |
| 3:45 | Date and Location of Next Meeting – Chairs |
| 4:00 | Closing remarks – Trish Merrithew-Mercredi and Gary Bohnet, Hosts |

Board Forum Agenda
June 7th - 8th, 2011
GNWT and INAC
Tree of Peace Friendship Centre
Yellowknife, NT

Entertainment Tuesday night June 7th coordinated by Jonathan Churcher (MVLWB) and provided
Compliments of Musicians noted below:

- ✓ Jonathan Churcher (MVEIRB) with Robert Andrews
- ✓ Catherine Coe with JC and Robert Andrews
- ✓ Oscar Perez (solo guitar)
- ✓ Kelly Clarke with Oscar Perez
- ✓ Priscilla's Revenge

APPENDIX B

Presentations

Crown Consultation Approach

INAC, Northwest Territories

Presentation to the Board Forum
June 7, 2011

Regional Office Interim Approach since 2005

- Support INAC region consultation requirements (e.g., water licences, land leases, quarry permits, other INAC authorizations).
- Support consultation obligations of the Crown in the NWT -- whole of government approach (analysis, policies and procedures development, information-sharing, support in relations).
- Build clarity around role of MVRMA Board processes.

Whole of Government Approach 2010 forward

- Work with NPMO and CAU to ensure resources, roles and responsibilities for Crown Consultation obligations in the NWT are clarified.
- INAC role as resource manager and distinctive MVRMA legislation are defining factors for NWT.
- Approaches in negotiating processes and interim measures need to be taken into account.
- Aboriginal transboundary, overlap, strength of claim and representation matters are complex.
- Related matters to address (e.g., IBAs, Mining Regulations, wildlife management, Aboriginal desires for Exploration Agreements).

Role of MVRMA Boards

2010 forward

- Legal underpinnings are provided in Chicot, North Arrow and Carrier Sekani decisions.
- Board processes can fulfill most, and sometimes all, consultation needs.
- Crown addresses matters that are out of Board jurisdiction (e.g., title/economic assertions).
- MVLWB determines adequacy of Crown Consultation in order to fulfill its legislative mandate to address Aboriginal concerns.

Role of MVRMA Boards

2010 forward

- Work will continue between INAC and the MVLWB to address the manner in which the Board can fulfill its role.
- Work will continue between INAC, MVLWB and Aboriginal groups to foster a common understanding of roles and responsibilities and efficient practices.



NPMO Consultation and Engagement Approach

NT Board Forum

June 7, 2011

Yellowknife, NT

Northern Projects Management Office

December 2010 – June 2011 Update on Activities (1)

- **NPMO project officers are providing coordination service at variable levels to >10 projects in NT, NU and YK.**
- **Highest level of service is for *Projects***

In the NT, our *Projects* are those that trigger:

- **A public review by the Inuvialuit Environmental Impact Review Board and/or a joint panel review under the IFA and/or a comprehensive study or panel review under the Canadian Environmental Assessment Act.**
- **An environmental assessment by the Mackenzie Valley Environmental Impact Review Board or an environmental impact review by a panel of the MVEIRB or a joint panel review.**

Northern Projects Management Office
December 2010 – June 2011 Update on Activities (2)

- In the immediate term: The coordination is intended to assist project and ***Project*** proponents, the work of federal departments, and the Boards before and during Board processes (e.g., Nunavut - Baffinland example)
- In the long term: The coordination is intended to assist in arriving at best-informed and timely decisions on ***Projects***.

Northern Projects Management Office: Development and Implementation of Coordination Tools (1)

NPMO - NT Project Committee

- **NPMO serves as the secretariat to the NT Project Committee**
- **Federal / Territorial / Board membership**
- **For the NPMO, intelligence gathering supports low-level coordination and issue resolution, and at a higher level, supports the work of the CanNor Deputy on the Major Projects Deputy Minister's Committee**
- **Information dissemination at the NT Project Committee (e.g.,)**
 - **Crown consultation (new GoC guidelines and processes)**
 - **MVLWB Working Group**
 - **An update on the ongoing diamond-mine effluent issue**

Northern Projects Management Office: Development and Implementation of Coordination Tools (2)

- **NPMO Federal ('Umbrella') Memorandum of Understanding**
- **MPMO Project Agreements**



Crown Consultation:

On the Critical Path to Project Decisions

- **Meaningful and adequate Crown consultation and accommodation is a necessary step to making the best informed and timely decisions.**

The NPMO guides to defining our role:

- **The NPMO roles and responsibilities as described in the May 2009 Treasury Board Submission.**
- **Aboriginal Consultation and Accommodation: Updated Guidelines for Federal Officials (March 2011).**
- **Recent decisions by the Courts and advice of our counsel.**

Northern Projects Management Office: From the May 2009 Treasury Board Submission

“The NPMO will be responsible for ... coordinating a process of early engagement and consultations with Aboriginal people and communities. The NPMO will also maintain the official Crown consultation record for the Government of Canada for all northern projects [*Projects*].”

June 2011: As a start, the NPMO will maintain the official Crown consultation record for NPMO *Projects*.

Northern Projects Management Office:

From the March 2011 Aboriginal Consultation and Accommodation Guidelines (page 28)

The NPMO is responsible for ...

- **Creating and maintaining a repository of Crown consultation records for projects [*Projects*] that fall within its mandate.**
- **For the purposes of Crown consultation the NPMO proposes to act as a coordinator for projects and Projects**

However, “individual departments or agencies are responsible for determining which Aboriginal groups may be impacted by a project, for carrying out strength of claim assessments, for monitoring and evaluating the robustness of third party consultations and where required, for undertaking targeted Crown consultations.”

Northern Projects Management Office:

The NPMO as a coordinator for projects and Projects

- **The NPMO as a coordinator will remind individual departments of their responsibilities as described in the Government of Canada Updated Guidelines (previous slide) . This reminder is intended to be explicitly stated in the Project Agreements (for *Projects*).**
- **Ongoing: NPMO continues to be involved in discussions with INAC (NAO and the national office) on improving and coordinating the over-arching Government of Canada process for Crown consultation in the NT.**

Better Crown Consultation Processes

- **Will build on proponent consultations.**
- **Will rely on Board consultations as a crucial component.**
- **Will rely on the Crown to honour the duty where necessary outside the Board's purviews.**
- **Better Crown consultation processes will require work with the Boards to take into account their legislative obligations. This work is underway.**



NPMO Contacts

NPMO Contact Line: 867-920-NPMO (867-920-6766)

Project Staff:

Matthew Spence, Senior Project Manager

matthew.spence@cannor.gc.ca

Donald James, Director General

donald.james@cannor.gc.ca

Public Engagement and Board Consultation in the Permitting, Licensing and Environmental Assessment and Review Process

NWT Board Forum, Yellowknife NT

June 7th, 8th, 2011

Mark Cliffe–Phillips, ED WLWB

Vern Christensen, ED MVRB



Presentation Outline

- *General background on consultation and engagement under the MVRMA*
- *LWB Policy and Guideline Initiative*
- *MVRB Guidelines*
- *Next Steps*

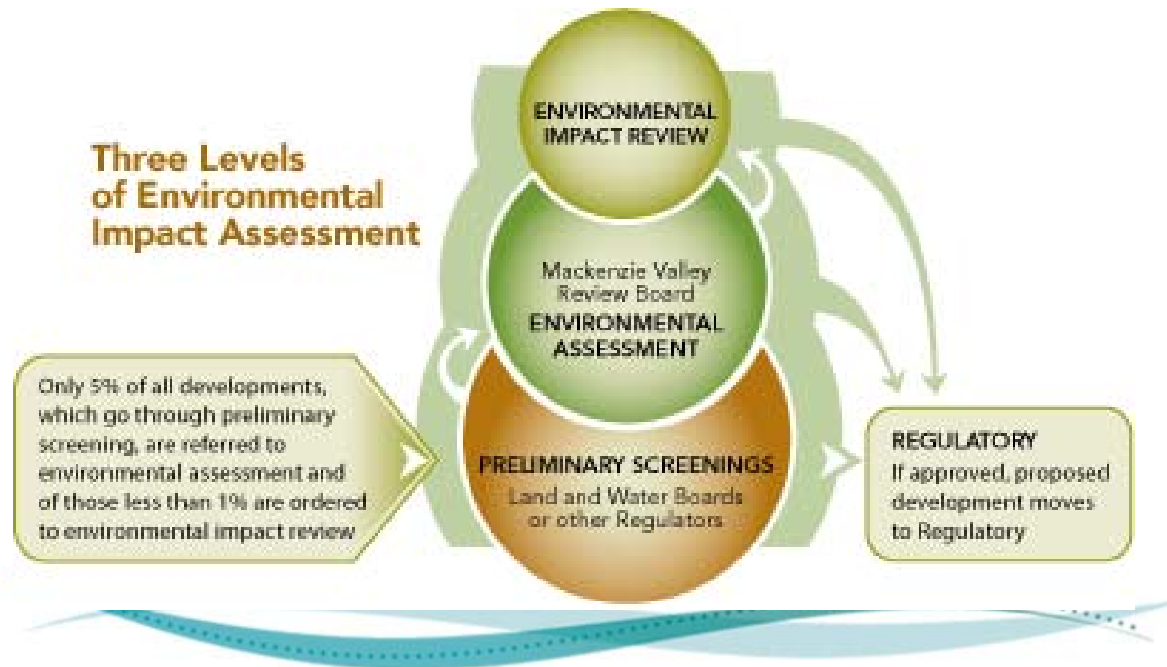


Mackenzie Valley
Review Board



Consultation Under the MVRMA

MVRMA requires the LWBs and MVRB to carry out consultation under their respective sections of the Act.



Engagement

- *Before applications are filed with the LWBs, industry should carry out engagement activities with the affected communities.*
- *To assist applicants, the MVLWB has established guidelines to assist applicants.*
- *MVRB's Environmental Impact Assessment Guidelines and Socio-economic Impact Assessment Guidelines also set out expectations for community engagement*

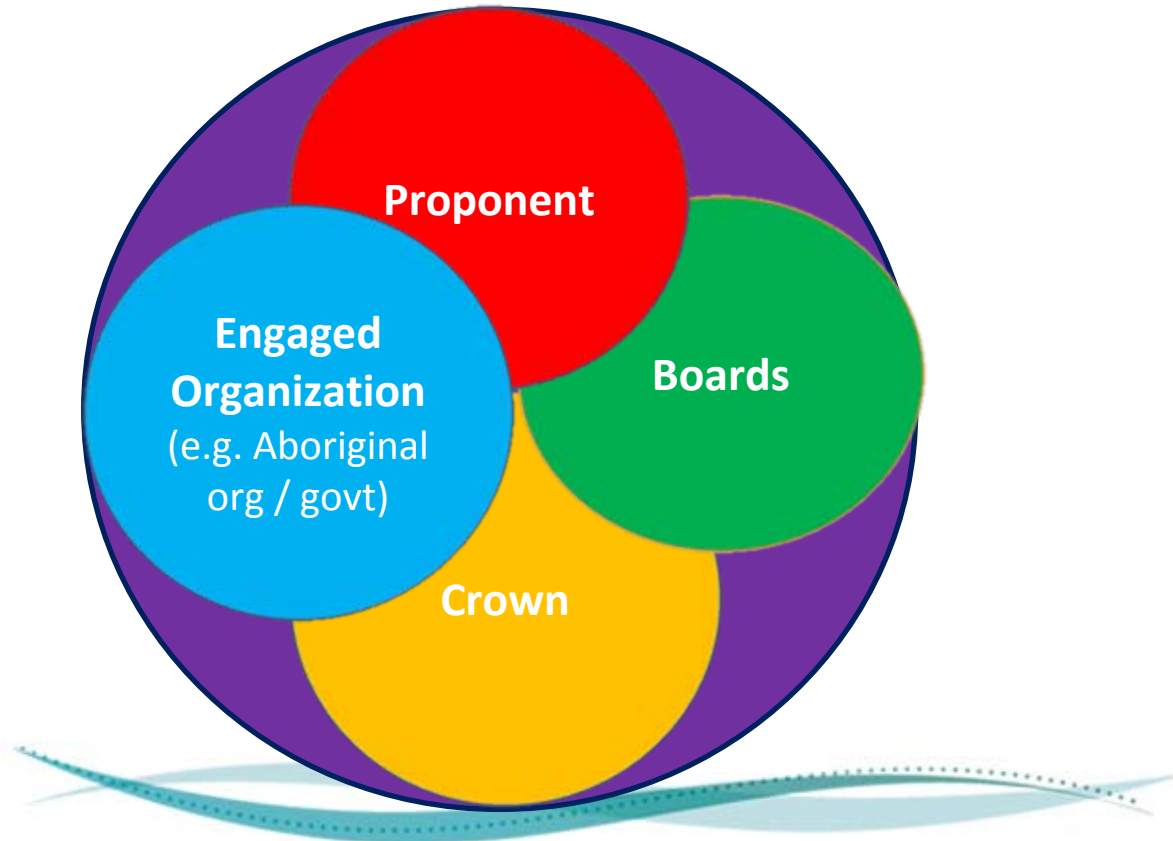


What Principles Should Guide these Processes?

- *Shared Responsibility*
- *Appropriate Disclosure*
- *Inclusiveness*
- *Informed Participation*
- *Reasonableness*



Consultation and Engagement are a Shared Responsibility



Mackenzie Valley
Review Board



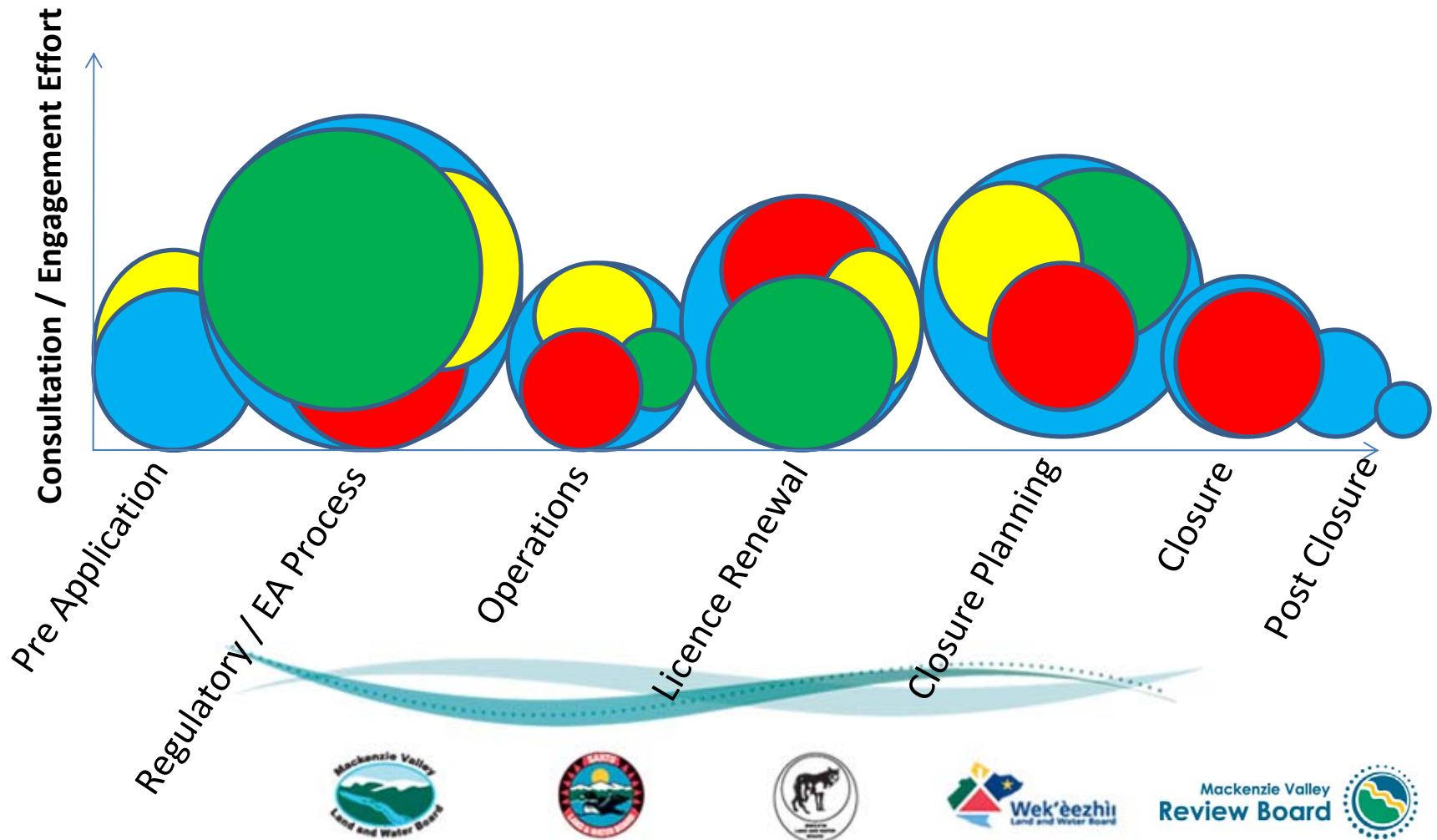
Engagement and Consultation Effort

Overall Effort will be based on:

- Community Expectation
- Scope of Project
- Temporal and spatial characteristics
- Stage of Development
- Legal Requirements (Statute)
- Legal Precedent (Jurisprudence)
- What is reasonable



Requirements Vary throughout the Stages of Development



MVLWB Public Engagement and Consultation Policy and Guideline Initiative



Mackenzie Valley
Review Board



MVLWB Working Group 1: Public Engagement and Consultation

- *Background and Purpose*
- *Policy and guideline framework*
- *MVLWB Consultation process*
- *Public Engagement*
 - What is it, and what will the Board expect from applicants?
 - Planning for life of project.



Background to Project

- MVLWB 2003 Guidelines on Public Engagement are outdated.
- s 106 – *“The Board may issue directions on general policy matters or on matters concerning the use of land or waters or the deposit of waste that, in the Board’s opinion, require consistent application throughout the Mackenzie Valley.”*
- 2008 Standard Procedures and Consistency Working Groups.
- WG1 – *purpose is to develop consistent and clear guidelines and policies for engagement and consultation for the Land and Water Boards as required by the Boards’ review process.*



MVLWB Policy and Guideline Framework

- *MVRMA, settled land claims, interim measures*
- *Mandates, roles and responsibilities*
- *Case law*
- *Regulatory Best Practices*
- *Industry Guidelines*



Mackenzie Valley
Review Board



MVLWB Consultation Process

- *Driven by legal framework in the MVRMA (s.63,64,69 and 114c).*
- *Board Approach*
 - *Distributing submissions*
 - *Conduct of Public Hearings*
 - *Drafting Water Licences and Land Use Permits*
 - *Post-issuance management*
 - *Guideline and policy development*



MVLWB Engagement Approach

- *What is Public Engagement?*
 - *Pre-submission*
 - *Life of project*



Mackenzie Valley
Review Board



Pre-submission Requirements

- *The Boards' expectations must be met before an application is deemed complete.*
- *Expectation approach will be based on the **type** and **level** of application to Board.*
- *Exemption process*
- *Guidelines will also outline what is expected in an engagement record (log) and provide best practice recommendations to assist applicants.*



Life of Project Requirements

- *For larger projects, a life of project approach will be expected, through the submission of a “public engagement plan”.*
- *Living document, but a commitment to ongoing engagement through life of a project.*



Mackenzie Valley
Review Board



Engagement Planning

- When should an organization be engaged (i.e. Triggers)?
- Who should be engaged?
- What is the purpose of the engagement?
- How much time is required for the engagement activity?
- What level of engagement is required?
- When is engagement not required?
- Details on any support that may be needed to be provided to the engaged organization to ensure adequate engagement is being conducted.
- Describe agreed upon process for documenting and conducting engagement.



EA/EIR - A Consultative Process

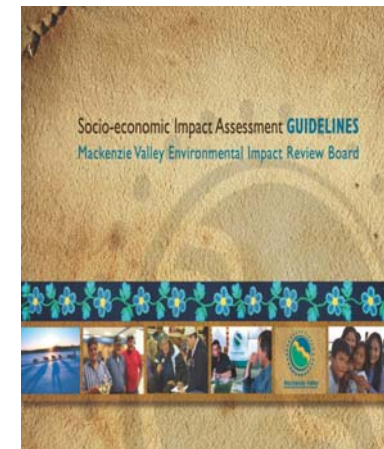
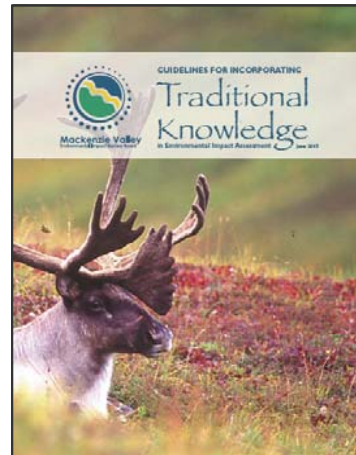
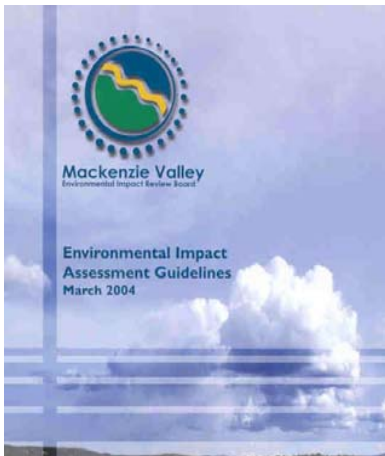
- ***Legislative Framework:***

- **s. 114 (c)** – To ensure that the concerns of aboriginal people and the general public are taken into account...
- **s. 117 (2) (c)** – Every EA and EIR for a proposal for a development shall include a consideration of any comments submitted by members of the public in accordance with the regulations or the rules of practice and procedure of the Review Board



EA/EIR - A Consultative Process

- MVRB has issued Guidelines that set out best practices for the developer and the Board's process



EA/EIR - A Consultative Process

- **Developer Responsibilities:**

- *Early Community Engagement*
- *Ongoing “bilateral” meetings with the community throughout EA/EIR are encouraged*
- *Developers Assessment Report (DAR) may require a description of public engagement log and plan including engagement with Traditional Knowledge Holders*



EA/EIR - A Consultative Process

- **Review Board Processes:**

- *Notification*
- *Public Registry*
- *Community Scoping Sessions*
- *Community Information Sessions*
- *Community & Public Hearings*



Mackenzie Valley
Review Board



Next Steps

- *MVLWB will hold focused consultations with Aboriginal organizations/governments on draft policy and guidelines. Broader consultations with government and industry to follow.*
- *Joint (MVRB and MVLWB) examination of their roles and responsibilities respecting the “duty to consult”.*
- *Further defining roles and responsibilities for the NWT Board Forum?*





**Affaires indiennes
et du Nord Canada**

**Indian and Northern
Affairs Canada**



Investigating Ways to Improve Northern Regulatory Regimes

NWT Board Forum

June 7, 2010



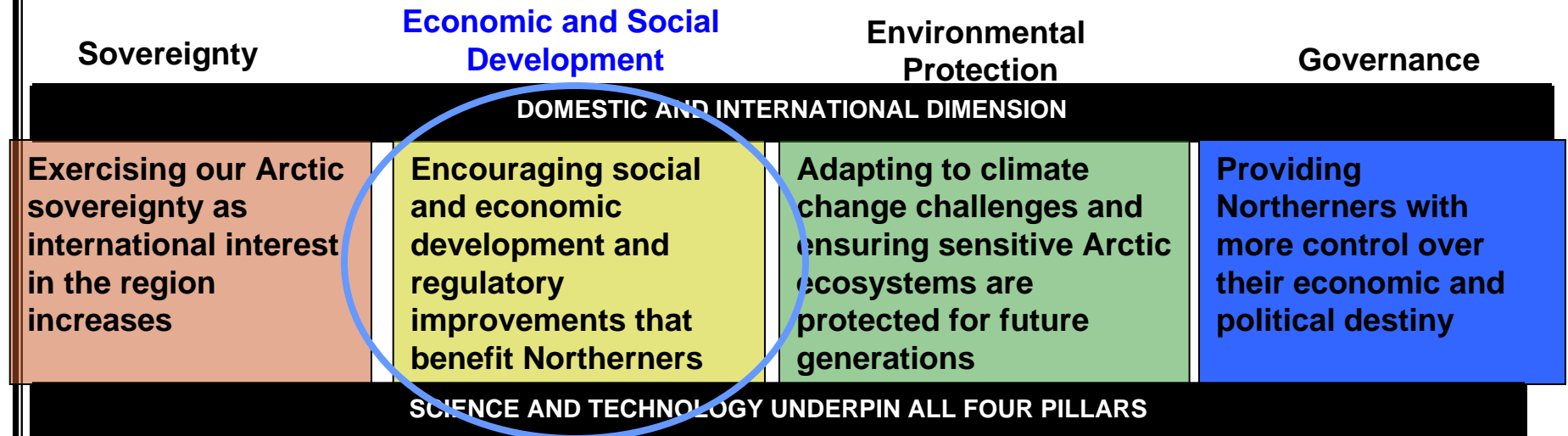
Canada's Northern Strategy

A Vision for the North

- **Economic and social development in the North helps to ensure that the vast potential of the Arctic region is realized in a sustainable way and that Northerners participate in and benefit from development.**

"Canada's future is inextricably linked to our Northern frontier, and we too have a dream to unleash the region's vast potential."

- Prime Minister Stephen Harper, August 2008





Action Plan to Improve Northern Regulatory Regimes: Objectives

- To consider Canada's role in northern development
- To reduce complexity by increasing the predictability and efficiency of the regulatory regimes
- To consider regulatory improvement while respecting settled land claim agreements
- To build a climate where periodic review, evaluation and improvement is seen as an integral element of the system



Action Plan to Improve Northern Regulatory Regimes: Overview

- The Action Plan, announced by Minister Strahl in Yellowknife in May 2010, will complete and strengthen current regulatory regimes in the North and will focus on:
 - Providing more efficient and effective processes through legislative and regulatory change (\$11 Million over 2 years)
 - Enhancing environmental monitoring, through implementing the NWT Cumulative Impact Monitoring Program and the Nunavut General Monitoring Plan (\$8 Million over 2 years)
 - Reflecting a strong Aboriginal voice



New Legislation Well Advanced

- Nunavut Planning and Project Assessment Act
 - Introduced May 2010 as Bill C-25; did not proceed to Second Reading
 - Negotiated changes to the Nunavut Land Claims Agreement to support legislation
 - Looking to reintroduce as soon as possible
- NWT Surface Rights Board Act
 - Developed and consulted on first draft in 2010
 - Second draft ready for consultations
 - Targeting spring 2012 for possible introduction



Amendment Process Well Underway

- *Mackenzie Valley Resource Management Act* amendments
 - list of issues to consider sent to stakeholders in March 2011 along with consultation plan
- Regulation amendments
 - Territorial Land Use regulations - anticipate TB process beginning in December 2011
 - Territorial Quarrying regulations - anticipate TB process beginning in December 2011
 - NWT Waters regulations - anticipate TB process beginning in December 2011
 - Nunavut Water regulations - anticipate TB process beginning in February 2012



Environmental Programs Moving Forward

- Environmental Monitoring:
 - Development and design of programs proceeding
 - Development of 5 year strategic plans
 - Development of standardized protocols and guidelines in progress
 - Funding of monitoring projects through CIMP in the NWT has begun (\$1.4 million)
 - Collection, consolidation and assessment of baseline data occurring
 - Significant stakeholder engagement ongoing
 - Staffing of CIMP Secretariats underway



Strong Aboriginal Voice

- Aboriginal organizations briefed on Action Plan in March 2011
- Consultation plans developed
- Letters to explain funding and participation in consultation process ready to go out



Environment Has Shifted Since Announcement...

- NWT Devolution Agreement in Principle signed January 2011
- Consultation
 - new Court rulings and the release of federal Consultation Guidelines
- New opportunities for resource development have emerged sooner than expected (Annex 1)
- High profile of recent industrial emergencies (ie. BP)

...and has resulted in increased demands on northern organizations and governments



Considerations

- Northern Aboriginal Organizations, Boards, Territorial Governments currently engaged in Action Plan components
- Steady progress being made
- Need to be mindful of other activities in the NWT
- Capacity of organizations may become more of a factor
- Ongoing audits, reviews, and evaluations



NAO Evaluation

- Audit and Evaluation Sector of INAC is carrying out an evaluation of the Northern Affairs Organization including:
 - the Action Plan to Improve Northern Regulatory Regimes
 - Northern Oil and Gas
 - Mines and Minerals
 - Land and Water Management
 - Environmental Assessment
- The methodology for the evaluation is currently being developed
- The data collection phase, including interviews, will take place in the summer
- The evaluation will be complete in December 2011



Conclusion

- The investments we are making through our Action Plan to Improve Northern Regulatory Regimes will help ensure the regulatory systems in Canada's North work in a more timely and efficient manner to allow for sustainable resource development that is balanced with environmental protection.
- Through the advancement in the predictability and certainty of the regulatory processes, these investments respond to industry concerns, as well as showing ongoing commitment for comprehensive land claim agreements and the high environmental standards that the North deserves.

Annex



Exploration trends recovering from 2009 lows

	Exploration Expenditures, \$M						Share of National Expenditures, %					
	2006	2007	2008	2009	2010	2011	2006	2007	2008	2009	2010	2011
YT	106.4	144.7	134.0	90.9	149.6	256.3	5.6	5.1	4.1	4.7	5.7	8.0
NT	176.2	193.7	147.7	44.1	84.7	83.0	9.2	6.8	4.5	2.3	3.2	2.6
NU	210.6	338.0	432.6	187.6	263.8	322.8	11.0	11.9	13.2	9.6	10.1	10.1
North	493.2	676.4	714.3	322.6	498.1	662.1	25.8	23.9	21.8	16.6	19.0	20.8

- Mines operating in the North
 - Ekati (NWT diamonds) since 1998, scheduled closure 2018
 - Diavik (NWT diamonds) since 2003, scheduled closure 2019-2025
 - Snap Lake (NWT diamonds) since 2005
 - Cantung (NWT tungsten, resumed in 2010)
 - Meadowbank (Nunavut gold) since 2010



Contact Information

Stephen Traynor
Director, Resource Policy and Programs
819-953-8613
stephen.traynor@ainc-inac.gc.ca

Surface Rights Legislation

Camille Vezina
819-994-1772
camille.vezina@ainc-inac.gc.ca

Mackenzie Valley Resource Management Act

Alison Lobsinger
819-994-4351
alison.lobsinger@ainc-inac.gc.ca

Regulations

Glen Stephens
819-994-7483
glen.stephens@ainc-inac.gc.ca

**Perspectives on Regulatory Improvement
in the Mackenzie Valley**
NWT Board Forum
Yellowknife, *May 2011*



Presentation Outline

- Background to development of Report
- Summary of Findings/Recommendations
- Next Steps?



Why did we write the Report?

- Coordinated Land and Water Board response to McCrank report and federal government Action Plan announcement
- Provide Perspectives on Policy, system, legislative and operational recommendations
- Identify issues from a Board perspective



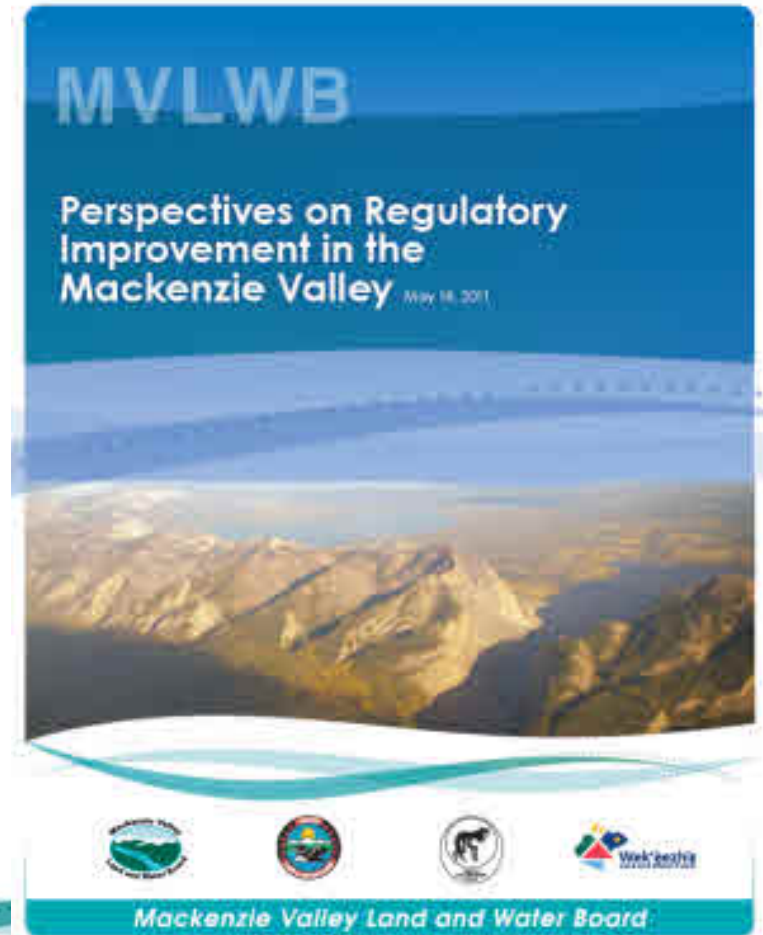
Process to write the Report

- ✓ Direction from Chairs (May 2010)
- ✓ Hired contractor (David Livingstone and Ricki Hurst)
- ✓ Literature Review
- ✓ Interviews
- ✓ Draft to Full Board (December 2010)
- ✓ Revisions
- ✓ Review, Approval, Release (May 2011)
- ✓ Process coordinated by MVLWB - PPC



Report Content

- Background
- The MVRMA: Different by Design
- Issues that fall within jurisdiction
- Issues that fall outside our jurisdiction
- List of recommended legislative amendments



Key Message

- Not much new: repeated statements. Positions and recommendations repeated in several previous reports and documents.
- “regulatory process in the Mackenzie Valley is not complex...the system is different by design.”
- “Predictability, clarity, and understanding are the outcomes of complete and mature finalized systems, thus completing the system is paramount to its success.”



Issues that fall within....

- Standard Procedures and Consistency Working Groups
 - Public Engagement and Board Consultation
 - Plan Review Process and Guidelines Working Group
 - Water/Effluent Quality Guidelines Working Group
 - Terms and Conditions Working Group
 - Data Resource Sharing and Standards Working Group
 - Application Process Working Group



Working Group Products

Public Engagement and Consultation

- Complete the **Public Engagement and Consultation Guidance Document** including policy and supporting engagement guidelines

Plan Review and Process

- **Waste management guidelines**
- Finalize closure and reclamation guidelines in collaboration with INAC and interested landowners
- Initiate work on the Aquatic Effects Management Plan Guidelines and Response Management Framework Guidelines

Water/ Effluent Quality Policy and Guidelines

- **Water and Effluent Quality Policy** (i.e., how to set EQCs)
- Development of guidelines and procedures that support the policy



Working Group Products

Terms and Conditions

- Prepare **standard list of terms and conditions** for water licences and land use permits
- Develop procedures for writing new terms and conditions for land use permits and water licences

Data Resources Sharing

- Improve the **shared online registry**
- Continue to collaborate with DFO on the development of the Water Withdrawals Database

Application Processes

- Complete valley-wide **water licence applications process guidance document**
- Complete valley-wide **land use permit applications process guidance document**



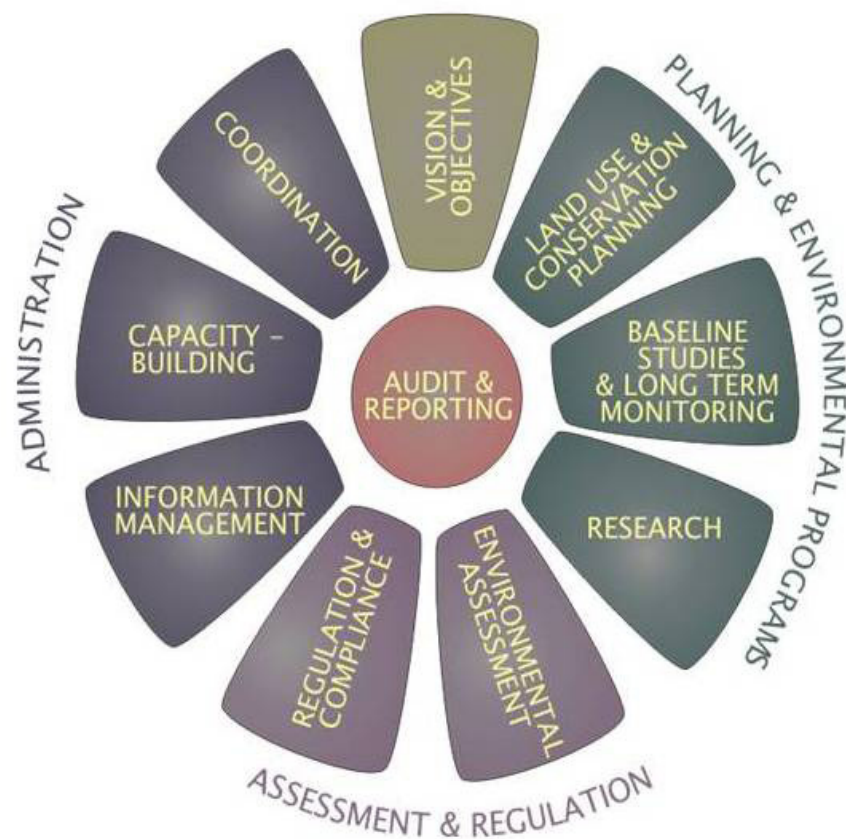
Strategic Management of Resources

- Governance Review: more effective means of delivering standard and consistent corporate services – **Approved Chairs ToRs. Executive Directors Management Committee ToRs in Draft**
- (Coordinated) Full Board involvement in external initiatives
- Shared Resources (section 18.2 of Act)



Outside of Our Jurisdiction

NWT Environmental Stewardship Framework



Completing and Refining the System

- Settlement of Outstanding Claims – Land Use Planning
- Consultation Policy that works with MVRMA
- Cumulative Impact Monitoring Program



Completing and Refining the System

- Clarification of Jurisdiction and Implementation of Authorities (Wildlife, Air Quality and Socio-Economics)
- Administration
 - Board Funding
 - Intervener Funding
 - Board appointments



Amendments to Legislation

- Recommendations for changes to MVRMA, MV Land Use Regulations, NWT Waters Act and Regulations
 - Harmonize land use permitting with water licensing processes
 - Ensure adequate time, don't create false expectations
 - Inspection Authority



Conclusions

- Considerable investment in current system
- In this together
- Need to collectively implement vision of an integrated system of land and water management
- Working internally
- Will support external initiatives



Next Steps?

- Get it all done!
- Thank you
- Questions





National Energy
Board

Office national
de l'énergie



Arctic Offshore Drilling Review

Northwest Territories Board

National Energy Board

08 June 2011



National Energy
Board

Office national
de l'énergie



Outline

- The Arctic Offshore Drilling Review
- What We've Heard
- We Want to Hear from You



National Energy
Board

Office national
de l'énergie



The NEB regulates a project from start to finish:

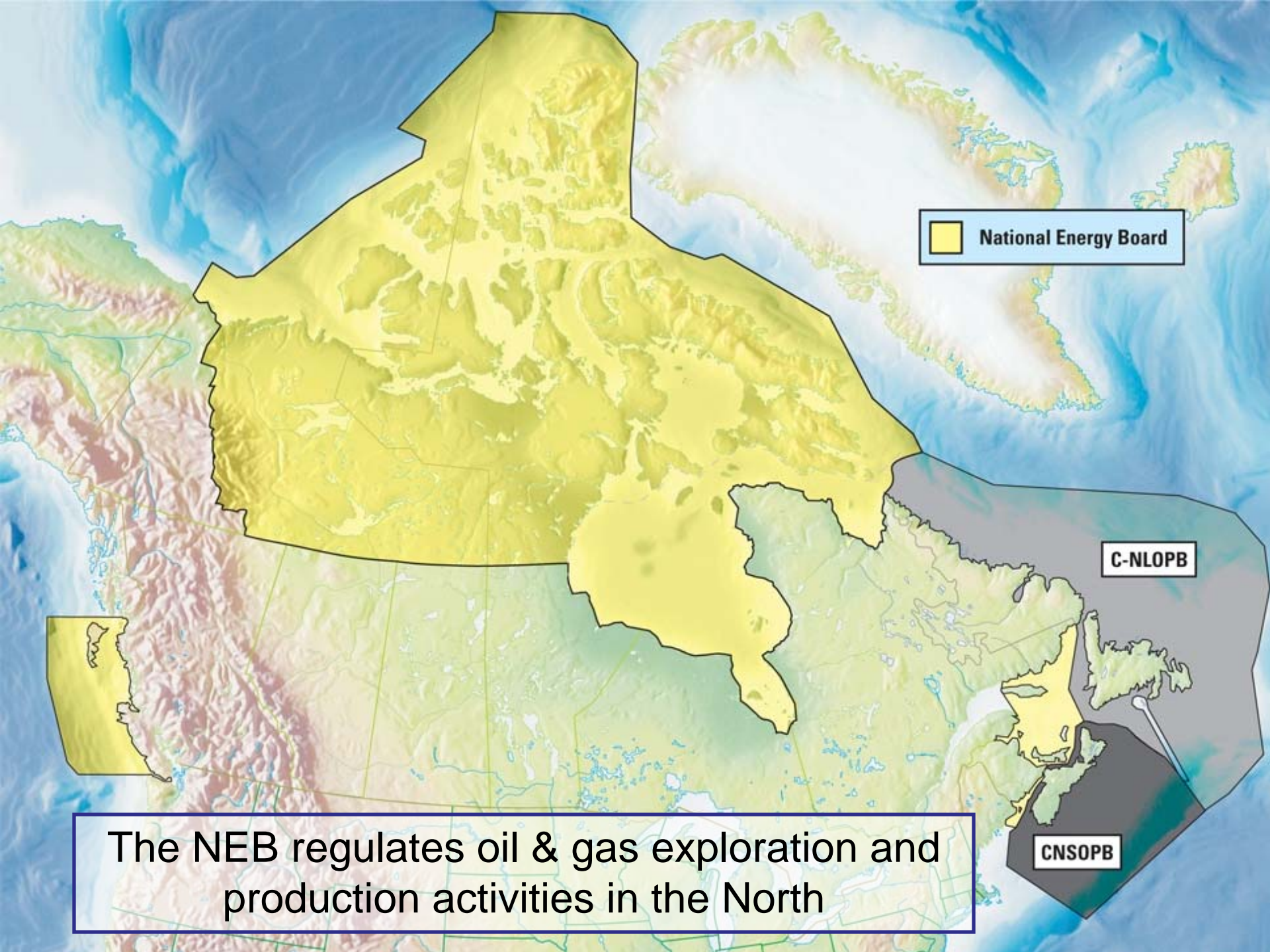
Application
Phase


Decision
Process

Operations
Phase

Compliance
Verification

Abandonment
Phase



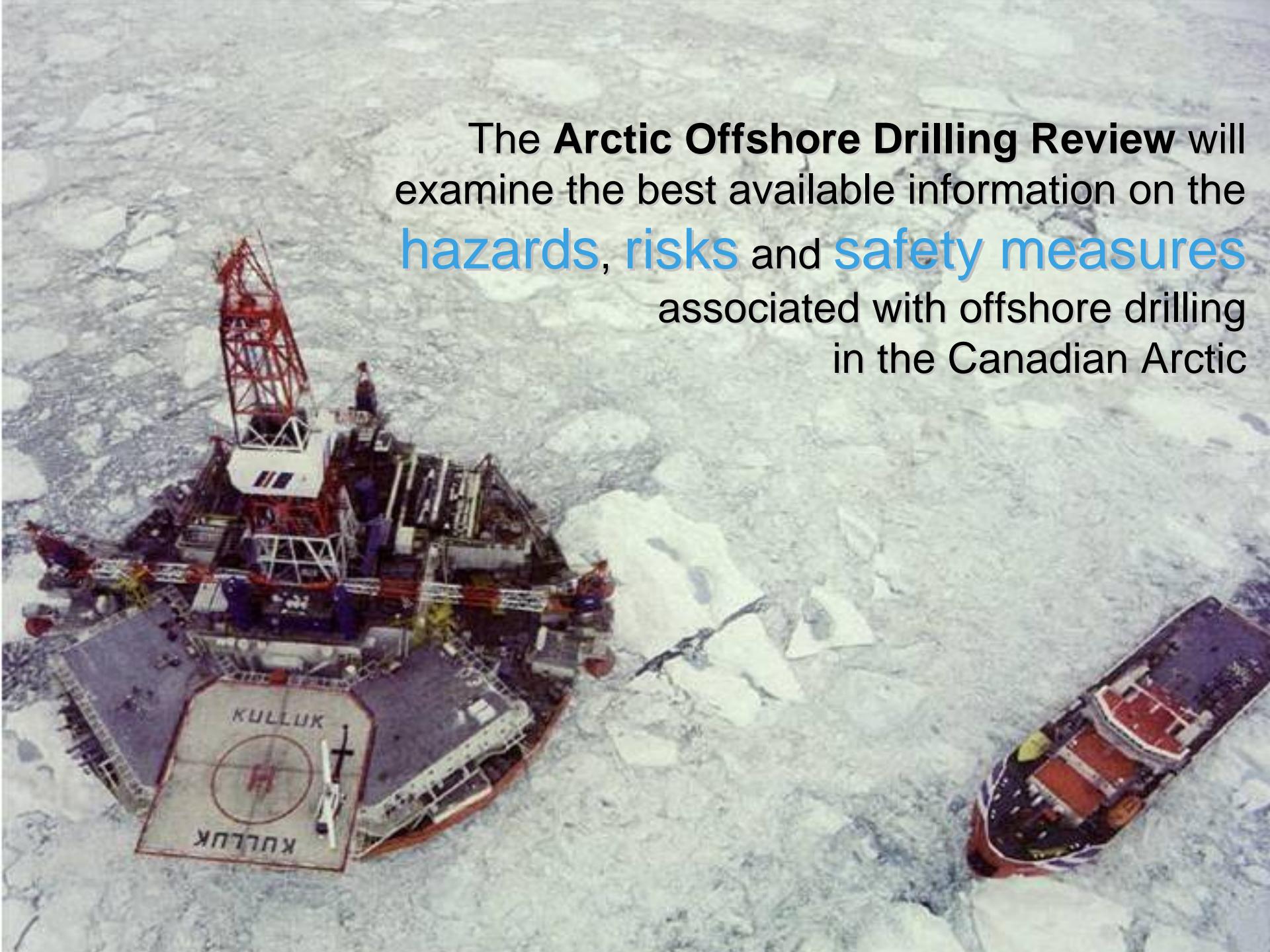
 National Energy Board

C-NLOPB

CNSOPB

The NEB regulates oil & gas exploration and production activities in the North

The **Arctic Offshore Drilling Review** will examine the best available information on the **hazards, risks** and **safety measures** associated with offshore drilling in the Canadian Arctic





National Energy
Board

Office national
de l'énergie



Scope of the Arctic Offshore Drilling Review

Drilling safely
while
protecting the
environment

Responding
effectively
when things
go wrong

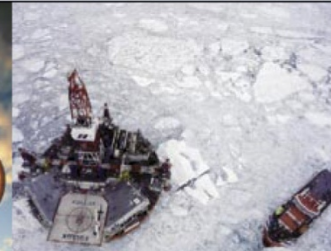
Learnings

Filing
requirements



National Energy
Board

Office national
de l'énergie



Arctic Offshore Drilling Review

Phase 1

- Fact Finding and Information Gathering

Phase 2

- Information Sessions and Inuvik Roundtable

Phase 3

- Public Report



National Energy
Board

Office national
de l'énergie



Phase 1 – Fact Finding and Information Gathering



Meetings with
Northern
communities and
Aboriginal groups



Calls for
Information and
Submissions



Review of
technical reports





National Energy
Board

Office national
de l'énergie



Phase 2 – Considering the Facts and Information



Your opportunity to ask questions and comment on the information collected in Phase 1



Meetings scheduled in Yellowknife, Inuvik, Whitehorse and Iqaluit



Up to \$300,000 to help with travel costs for the Inuvik Roundtable





National Energy
Board

Office national
de l'énergie



Phase 3 – Public Report & Next Steps

- The Board will consider the information gathered and issue a public report
- The NEB will use the results to develop Filing Requirements for future Arctic offshore drilling applications



National Energy
Board

Office national
de l'énergie



What We've Heard

- Meetings with Northern communities
- Technical staff are reviewing Calls for Information and technical reports



National Energy
Board

Office national
de l'énergie



Key Community Concerns

- Same Season Relief Well Capability
- Dispersants
- Spill response capability and infrastructure
- Training
- Compensation for Northern residents in the event of a spill
- Wildlife/Environmental Monitors



National Energy
Board

Office national
de l'énergie



Key Community Concerns

- Unique Arctic environment including currents, ice, and marine life
- Inspections and Monitoring
- Clean-up Methods
- Clean-up Costs and Responsibilities
- Clarity of Roles



National Energy
Board

Office national
de l'énergie



Why Attend the Roundtable?

- Hear from experts about scope elements
- Ask questions of any participants
- Offer opinions on what should be addressed in the NEB Public Report
- Express your views on what to include in Filing Requirements for a future application to drill a well in the offshore



National Energy
Board

Office national
de l'énergie



High Level Agenda

- Community Event
- Welcome, Context, & Introductions
- Understanding Interests
- How to do Things Right
- Next Steps



National Energy
Board

Office national
de l'énergie



Arctic Review Website

www.neb-one.gc.ca/ArcticReview

National Energy Board
www.neb-one.gc.ca

Français Home Contact Us Help Search canada.gc.ca

Home >

The NEB

- Who we are & our governance
- Public Participation
- News Releases
- Careers
- Hearings and Information Sessions
- Major Applications and Projects
- Regulatory Documents
- Cost Recovery
- North / Offshore
- Site Map
- Links

Energy Information

- Pricing
- Energy Reports
- Statistics
- Energy Outlooks

Safety and the Environment

- Environment
- Emergency Management
- Safety
- Damage Prevention
- Security
- Publications
- Acts and Regulations

What's New

- 2010-11-18**
Check out our new Energy Briefing Note: *Natural Gas Supply Costs in Western Canada* which says, the average cost of new natural gas production in Western Canada in 2009 has declined since 2007. However, due to relatively low gas prices in 2009, natural gas new production on average was not economic for the year. [\[More\]](#)
- 2010-11-18**
Filing Manual Update - Comment Period
The Board now invites comments on its draft amendment to the environmental and socio-economic assessment section of the Filing Manual. [\[More\]](#)
- 2010-11-18**
Attention Users of Website and Regulatory Documents: There will be interruptions in service commencing Friday, 19 November at 5:00 p.m. until Saturday, 20 November at 6:00 p.m. due to network maintenance.
- 2010-11-16**
Statistics - Oil and Gas Activities on Frontier Lands
- 2010-11-10**
Statistics - Electricity Exports and Imports - September 2010
- 2010-11-10**
Statistics - Updated to June 2010
Crude Oil Disposition, Import and Price Report
- 2010-11-09**
Statistics - Liquefied Petroleum Gas (LPG)

Proudly, one of Alberta's top 50 employers!

Regulatory Documents
[View](#) applications, hearing orders, transcripts, reasons for decision or [Submit](#) Documents

Land Matters

Our Environmental Commitment

Regulatory Applications
Companies [click here](#) to apply

Major Applications and Projects

- Mackenzie Gas Project
- Horn River Project
- Enbridge Northern Gateway Project
- Arctic Offshore Drilling Review
- Dawson Gas Processing Plant
- M&NP - 2010 Final Tolls (Escrow Issue)
- Toll and Tariff Relief, and 2010 Final Tolls and Tariffs for Mainline System



National Energy
Board

Office national
de l'énergie



Thank You!



Canada



Cumulative Impact Monitoring Program

Action Plan to Improve Northern Regulatory Regimes

Board Forum - Yellowknife

Marc Lange June 8, 2011





Why CIMP?

- Requirement of land claim agreements (Gwich'in, Sahtu, and Tlicho) and MVRMA
 - Coordinated environmental monitoring
 - support decision-making on sustainable resource development
 - Action Plan to Improve Northern Regulatory Regimes (Federal Budget May 2010)
 - ~25M / 5 Years & \$5M on-going
 - CIMP Goal – “*To **watch** and **understand** the land¹ and to **use** it **respectfully** forever*”
 - **Watch:** Monitor, coordinated info collection
 - **Understand:** Analysis & Reporting
 - **Use Respectfully:** Decision making, sustainable development
- 1 – Land means water, air, land, wildlife, etc*





CIMP Mandate

- Conduct & facilitate environmental monitoring
 - standardized & consolidated environmental monitoring
 - understand environmental conditions
 - accessible monitoring information
 - inform & support sound decision making
 - Strong community & regulatory engagement & involvement
 - Community-based approach to monitoring
 - Over 220 projects since 1999 (44 in 2011/12)
- NWT Environmental Audit (2005, 2010)
- Mandate via: Northern governance structure
 - CIMP Working Group: Aboriginal partners, Gov Canada, Gov NWT; expanding to include others such as regulators, scientists, etc
 - Though INAC is RA for program, Boards importance in development & implementation is vital.
 - Only through the Boards integrated regulatory oversight can CIMP be fully implemented.





Status & Long-Term Vision

- It is anticipated to take ten years for the program to achieve its full mandate.
- The first 5 years are focused on enhancing the program, partnerships, infrastructure, and priorities as well as piloting methodologies and approaches over the next five years.

Next 5 years:

Develop & establish (2010-11 to 2014-15)

- Enhance program, partnerships, governance and credibility
- Develop standardized protocols and guidelines
- Collect, consolidate and assess baseline data
- Develop data/information management infrastructure

Implement, Maintain, Expand (2015-16 to 2019-20)

- Finalize frameworks, protocols, data management structure, and reports
- Expand depth and geographic range of analysis
- Increase access to information for decision-making

Refine, Learn, Adapt (2020+)

- CIMP as an integral part of an adaptive management regime in NWT

Sustainable development in the NWT



Watch The Land:

Tell a story on health of environment

- Develop common monitoring language (TK & Science)
 - Monitoring framework – ensure consistency & relevance to decision-makers & communities
 - Standardized monitoring, analysis, and reporting protocols
- Use of common monitoring language
 - Encourage Use of CIMP-Approved protocols by decision makers & industry
 - Memorandum of Understanding & Agreements
 - Community, industry, regulator buy-in & approval
- Add to our common monitoring language
 - Leverage relevant programs
 - Influence & incorporate inter-dependent monitoring: Industry, Governments, Academia, IPY, ArcticNet, NCP, NGMP, etc
 - Coordinate & integrate proposal funding





Understand The Land: Cumulative Impacts

- Examine information across time and over large and small areas (multiple-stressors & valued components)
 - Increase analysis capacity – encourage via RFP
 - CIMP-funded proposals contribute to Discovery Portal
- To tell a story, need to know our audience:
 - Who are decision makers? Boards, etc
 - How do you want the story told: hearings, reports, raw data?
 - What do you want to hear? What are the questions?
- Community monitoring central to help decision-makers
 - Cooperative Monitoring:
 - Standardized approaches
 - Community expertise/certification
 - Monitoring information feeds decision-making





Use the Land Wisely

Coherent & Relevant Monitoring

- Monitoring health of the environment **must** be of use to decision-makers
 - Engagement of decision-makers throughout the monitoring process.
- Telling a story that influences decision-making
- Development of relevant 5-year priorities & strategy
- State of the Environment Reports
- Clarify CIMP role in regulatory hearings, provision of information & advice, project-specific, etc
- Information management strategy & system – communicate results



NWT Region





CIMP Work Plan 2010/11

- 5-year Work Plan
- Decision-Makers Needs Assessment
- Decision-Makers Toolset
 - Protocol Development (in-field methods, analysis, reporting)
 - Atlas Concept
 - CIMP Results Workshop
 - Development & Natural Disturbance Inventory
 - Information Management System
 - Discovery Portal & Information Management Strategy
- Audit & SoE
- CIMP Enhanced Governance (Regulators, Industry, Academia, etc)
- Memorandums of Understanding with Decision Makers
 - Board staff involved in designing the above
 - Regular updates to Decision-makers





2nd NWT Environmental Audit Update

- 2nd Environmental Audit assessed 3 key areas:
 - the NWT regulatory regime,
 - the monitoring of cumulative impacts, and
 - trend in the environment
 - builds on the findings of the recommendations set out in the first (2005) Audit.
- Audit Received by INAC (March)
 - 13 recommendations and opportunities for improvement
 - Recommendations to INAC
 - Recommendations to other Directly Affected Parties (DAPs) including Boards
- Status & Next Steps
 - INAC will be developing its response following public release this summer
 - DAPs are encouraged to take a similar approach
 - Proposed DAP meeting to discuss recommendations, expectations, responsibilities, and collaboration



NWT Region





Summary

- CIMP aim:
 - excellence in environmental management
 - building effective monitoring programs and assessment of cumulative impacts in the NWT (guidance & implementation)
- Coordinated environmental monitoring
 - Agreements (MOUs, enhanced governance, etc)
 - Standardized protocols, policies, and methods
 - Coordinate & standardize the generation of environmental information, and embed this requirement in the regulatory system via license conditions, operational statements, policies, and CIMP's request for proposals.
 - Looking for commitment from decision-makers to engage in these processes to reap benefits of coordinated approach.



NWT Region





**Affaires indiennes
et du Nord Canada**

**Indian and Northern
Affairs Canada**



Devolution of Lands and Resources Management in the Northwest Territories

**NWT Board Forum
June 8, 2011**



Purpose of Presentation

- To provide an overview and information on the status of NWT devolution
- To show how devolution relates to other departmental priorities, including Regulatory Improvement (Board restructuring), Mackenzie Valley Project, and Land Claims & Self-Government
- To provide perspectives on Aboriginal engagement, industry interests, and federal and territorial support



Devolution Overview

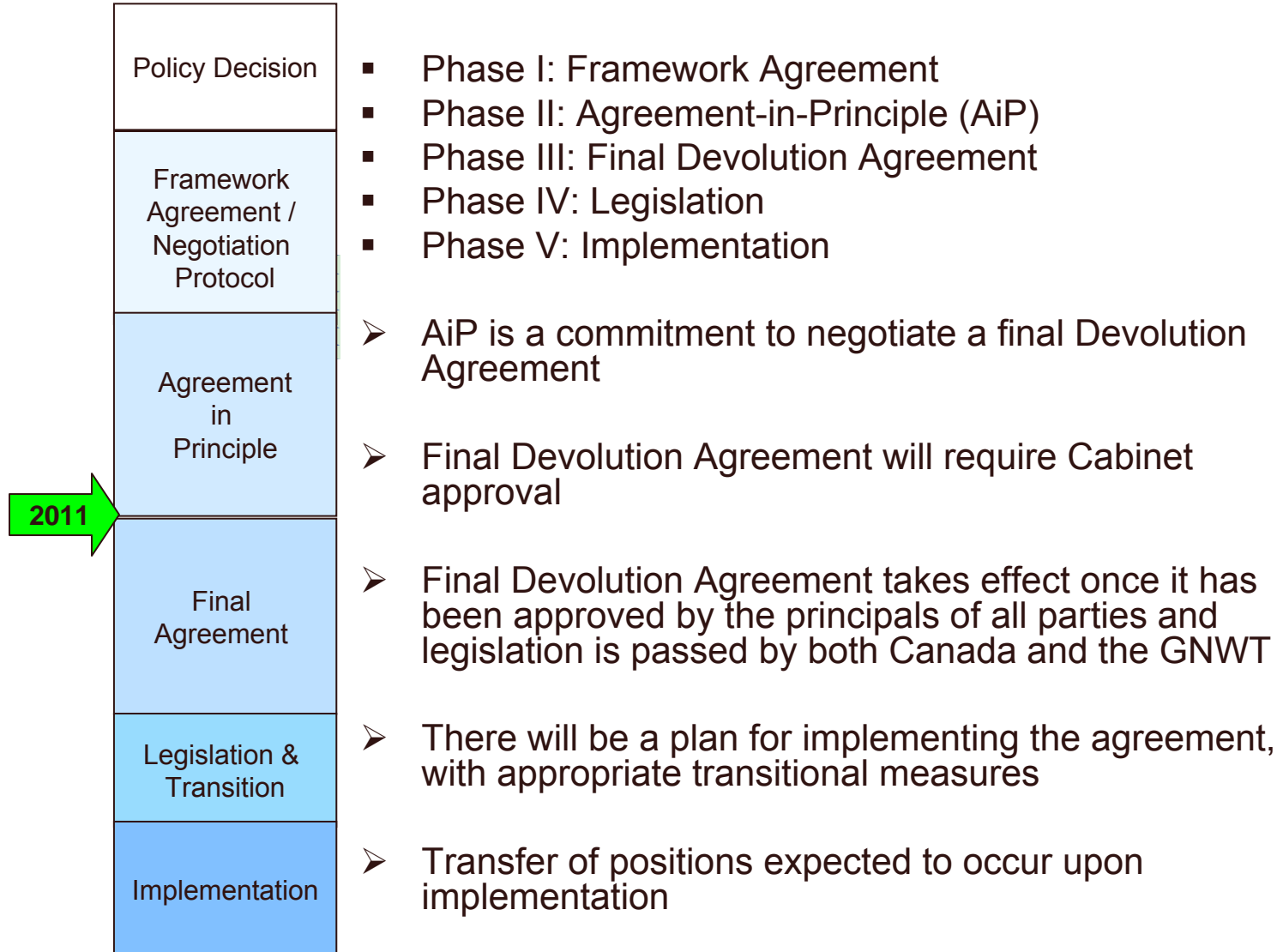
- Devolution is the transfer of responsibilities from federal to territorial government
- The transfer of land and resource management is the last of a multi-phased, long-term process that has been underway for the past 30 years
- Post-devolution, Canada will retain its role in treaties and land claims, taxation, infrastructure, economic development, transportation, and supports such as TFF, major transfers, program funding

Responsibility	Yukon	NWT	Nunavut
Economic Development	√	√	√
Education	√	√	√
Local Government	√	√	√
Social Services	√	√	√
Health care	√	√	√
Transportation	√	√	√
Administration of Justice	√	√	√
Matters of civil nature	√	√	√
Taxation	√	√	√
Land and Resource Management	√		
Infrastructure	√	√	√
Fisheries Management	√		



Context (II)

5 Phases of Devolution





What is Being Negotiated

- Transfer of administration and control of public lands & waters
- Post-devolution resource management arrangements
- Oil and gas and co-ordination between offshore & onshore
- Responsibilities for waste sites
- Human resources
- Salaries and benefits
- Offers for federal employees transferring to the GNWT
- Federal properties, assets, contracts and records
- Transitional and on-going funding to carry out responsibilities
- Net fiscal benefit for the NWT and resource revenue-sharing
- Pre- and post-devolution transition & implementation matters

A Final Devolution Agreement takes effect once approved by the principals of all parties & legislation is passed by Canada and GNWT.



NWT Devolution

Agreement-in-Principle as basis for future devolution discussions

Procedural Requirements

- Main Table (comprising of Chief Negotiators and respective teams from all parties)
- Implementation Planning Committee (IPC) to develop an overall implementation plan for the final Devolution Agreement
- Working groups

Framing Requirements

- Future transfers & GNWT mirror legislation
- Aboriginal rights and interests not adversely affected
- Post-devolution resource development cooperation

Developmental Requirements

- Areas of mutual interest requiring further collaborative effort to finalize the final Devolution Agreement (DA)



Participation of Other Federal Departments / Agencies

- INAC is briefing other federal departments/ agencies and these departments and agencies* will participate and be involved in decision-making through working groups
 - Real Property - PWGSC
 - Legislation - Justice
 - Offshore resources - Fisheries and Oceans
 - Net Fiscal Benefit - Finance
 - Economic development - CanNor
 - Onshore oil and gas regulatory activity - NEB
 - Line of Delineation - Natural Resources & Surveyor General of Canada
 - Land Transfers - Parks Canada, Department of Defence, Environment Canada
- (* Illustrative list)
- A Residual Roles Working Group will assess and develop INAC roles and function post-devolution. The INAC Regional Office will continue to work on intergovernmental relations, land claims, self-government, Aboriginal programs & services, and federal obligations related to contaminated sites



Aboriginal Consultation and Engagement

- Discussion with GNWT and Aboriginal groups began in 2001
- Since negotiations began in 2002, NWT Aboriginal groups have participated in or observed formal negotiating sessions on the AiP
- All Aboriginal groups are welcome and encouraged to sign the Agreement in Principle at any time and to help shape the Final Devolution Agreement
- The AiP does not adversely affect Aboriginal rights
- Ongoing consultation with Aboriginal groups not party to AiP



Modernizing the Regulatory Environment (I)

- The AiP commits the GNWT to introduce a resource management regime that mirrors existing federal legislation
- Regulatory certainty and a smooth transition between federal and territorial administration remains a priority. Canada is working with GNWT and stakeholders to complete the Action Plan to Improve Northern Regulatory Regimes (anticipated 2012/13) that will improve devolvable aspects of resource management functions, providing the NWT with an investment-ready regulatory regime
- The Northwest Territories Surface Rights Board Act will create further certainty by providing binding decisions where negotiations fail between surface owners and subsurface rights holders.



Modernizing the Regulatory Environment (II)

- Federal coordination responsibilities have been shifted to the Northern Project Management Office for better coordination of regulatory roles
- The devolution approach will be consistent with Arctic and National oil & gas strategies
- Many detailed issues will be formalized in the eventual Final Devolution Agreement.
- A significant number of INAC regional positions in Operations, Mineral & Petroleum Resources, and Renewable Resources & Environment sectors will be transferred upon implementation of the devolution Final Agreement to the GNWT, as well as in shared services directorates



Next Steps

- Main Table Meetings have begun, and will continue to meet 3-4x/year
- Implementation Planning Committee to hold regular meetings
- Working Groups are developing work plans toward implementation measures and will continue
- INAC will continue to engage Aboriginal organizations and other relevant stakeholders



Questions?

APPENDIX C

Meeting Evaluation - Summary of Responses

Number of evaluations completed: 19

Below is a summary of the responses:

1. What worked well?

- Breakout groups, fewer presentations and active participation
- Dinner and entertainment
- Variety of topics and speakers
- Spirit of cooperation and understanding
- Good team support
- Opportunity to network and renew relationships
- Setting of the agenda and the organization to have the right people on their presentations

2. What didn't work so well?

- Too many text-heavy presentations that were, in some cases, specific to one board
- Binders and presentations need to be distributed prior to the meeting to allow participants to review information
- Sound system - In all future board forum meetings, individual microphones are needed
- Need more perspectives from Aboriginal groups
- Disappointed in certain boards lobbying their own issues
- (Have) Renewable Resources Board topics or a separate session
- Getting the real answers from federal presenter (Traynor)
- The spacing of tables and chairs so everyone had elbow room to sit and write

3. What do you suggest we do differently next time?

- Strive to have binders and documents available earlier to BRS for preparation of meeting binders
- Break up text-heavy presentations and make it more interactive – encourage more group discussions amongst participants and decisions on deliverables
- More Aboriginal participation
- Adequate sound system
- Get Steve Traynor to give a full disclosed INAC Report on MVRMA Amendments
- Stay the course
- Additional topics about land use planning or renewable resources
- Less paper – use memory sticks or get people to download to their IPODS or computers
- Have traditional food

4. Please outline strengths of the facilitator -- and/or areas where she might improve.

- A good job was done overall and fully expect that this will improve once the group and purpose come into focus
- Work with the transition team or Board Relations in determining expected outcomes and decisions required for each agenda item
- Need more familiarity with forum material / information to better understand discussion
- Overall, kept the flow and was organized

- Need to engage more with the group and lighten it up!

5. Other comments?

- On the right course – keep it up!
- More traditional food – dry meat, fish, bannock, fry bread – and events
- Board Forum contact list is incomplete
- Overall good – always good to continue building relationships with all members
- See you in Inuvik in November – bring your long johns!