



Northwest Territories Environmental Regulatory Processes and Reclamation Securities Overview

Departments of Lands and Environment and Natural Resources
November 4, 2020

Presentation Outline

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Land and Water Board Processes



Land and Resource Management Agreements

Existing settled land claim and Self-government agreements

- Inuvialuit Final Agreement
- Gwich'in Comprehensive Land Claim Agreement
- Sahtu Dene and Métis Comprehensive Land Claim Agreement
- Tłı̨chǫ Land Claims and Self-government Agreement
- Déline Final Self-Government Agreement

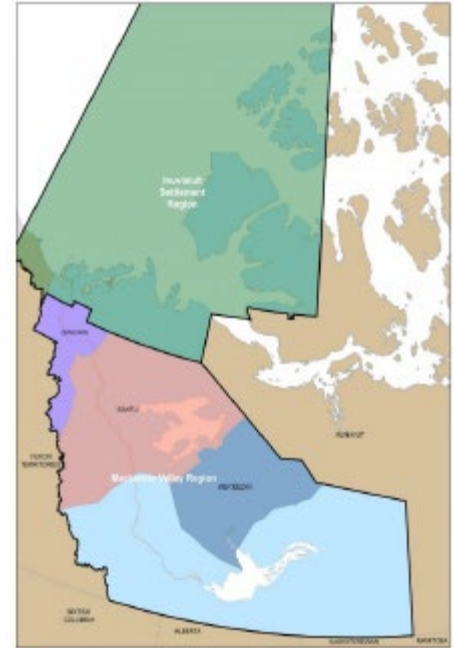
Areas without settled land claim agreements

- Interim measures agreements
 - Akaitcho Dene First Nations
 - Dehcho First Nations
 - Northwest Territory Métis Nation
 - Athabasca Denesuline
 - Ghotelnene K'odtineh Dene



Legislation

- Mackenzie Valley
 - The *Mackenzie Valley Resource Management Act (MVRMA)* applies; MVRMA also implements land and resource management agreement requirements
- Inuvialuit Settlement Region
 - The Inuvialuit Final Agreement and the federal *Impact Assessment Act* apply
- Additional governing legislation
 - *Waters Act, NWT Surface Rights Board Act, Environmental Protection Act, land administration acts, Wildlife Act, Forest Management Act and Protection Act, Protected Areas Act, etc.*

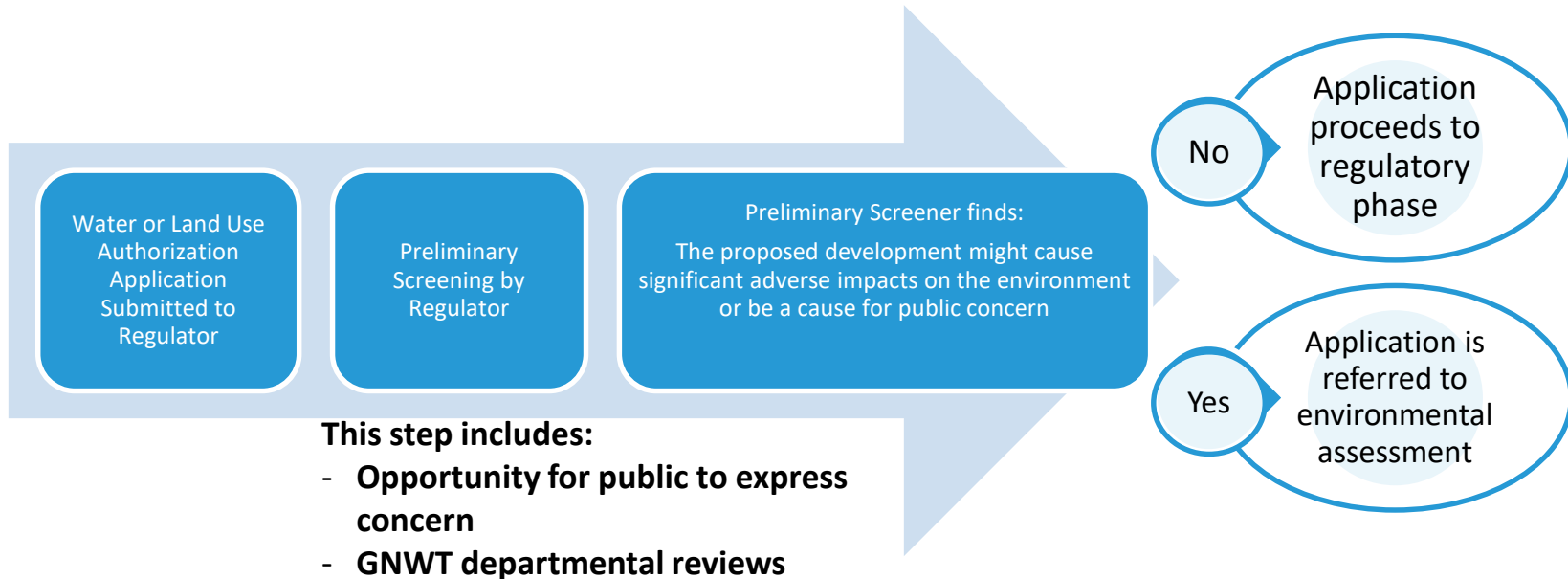


Consultation, engagement and participation

- Aboriginal consultation and Indigenous engagement are essential to environmental regulatory and impact assessment processes in the NWT.
- Land and resource management agreements: The GNWT relies on board processes to assist in fulfilling its duty to consult and, if needed, accommodate Aboriginal peoples.
- Legislation that governs the regulatory process requires that it is public.
 - The public is encouraged to participate in regulatory and environmental impact assessment processes
 - Public registries are required to provide transparency
 - All submissions and regulatory decisions are available on public registries



Land and Water: Preliminary Screening



Regulatory Phase - Regulatory Bodies

Mackenzie Valley

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

Inuvialuit Settlement Region

- Inuvialuit Water Board
- Inuvialuit Land Administration
- Environmental Impact Screening Committee
- Government of the Northwest Territories
- Government of Canada



Regulatory Phase - ENR Water Licence Responsibilities

- The Minister of Environment and Natural Resources has water licence approval authorities on non-federal lands in the NWT, which include:
 - the approval of all Type “A” Water Licences.
 - the approval of all Type “B” Water Licences, where a public hearing has been held.
- ENR staff provide technical advice and support to land and water boards throughout the project life cycle.
- ENR Minister appoints ENR inspectors.
- Inspectors are responsible for water licence inspection, compliance and enforcement.



Regulatory Phase - Lands Responsibilities

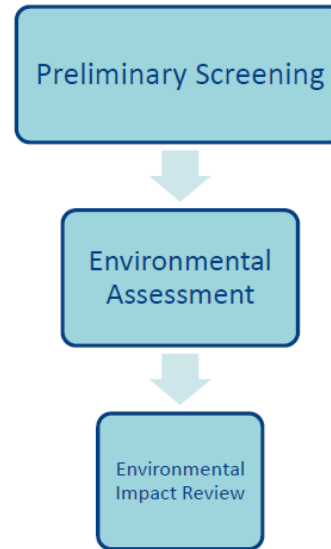
- Former “Crown” land is now “territorial land” managed by the Department of Lands (Lands).
- Lands also manages “Commissioner’s land”.
- Land use permits are issued by Land and Water Boards in the Mackenzie Valley
- Lands issues land use permits on territorial land in the ISR.
- Land use inspectors conduct land use permit compliance.
 - Lands released its Compliance and Enforcement Ministerial Policy August 16, 2019.



Environmental Assessment Phase - Process

- Undertaken by the Mackenzie Valley Environmental Impact Review Board (Mackenzie Valley) or the Environmental Impact Review Board (ISR).
- Consider impacts on people and the environment.
- Results in a final project recommendation and Report of Environmental Assessment/ Environmental Impact Review.

Stages of Environmental Assessment



Environmental Assessment Phase – Mackenzie Valley – Responsibilities

- Responsible ministers, both territorial and federal, must reach consensus on one of the following decisions within a 5-month time limit:
 - Adopt MVEIRB’s recommendation and Report of EA as is;
 - Send the recommendation back to MVEIRB for further consideration,
 - Modify the recommendation after consultation with MVEIRB or reject the recommendation and order an environmental impact review
- The GNWT Minister of Lands has the delegated authority to sign the decision on behalf of GNWT and the federal government for environmental assessments on non-federal land.
- Before making a decision, the GNWT must meet its duty to consult and, if needed, accommodate Aboriginal peoples



Environmental Assessment Phase – Inuvialuit Settlement Region – Responsibilities

- Government authorities (territorial and federal) must consider the Environmental Impact Review Board's report and reach consensus on one of the following decisions:
 - If the project should proceed, and if so, under what conditions, or
 - Order additional review by a panel.
- GNWT is a decision-maker due to its role in land and water authorizations:
 - Department of Lands issues land use permits on Public Land in the Inuvialuit Settlement Region.
 - Minister of ENR approves Type A water licences and Type B licences for which a hearing has been held for projects on non-federal lands in the Inuvialuit Settlement Region.
- Before making a decision, the GNWT must meet its duty to consult and, if needed, accommodate Aboriginal peoples.



Post-Environmental Assessment Obligations – Mackenzie Valley

- All regulatory authorities must act in conformity with the government's decision on the Board's recommendation.
 - May be required to implement and report on the implementation of mitigation measures.
 - Permits, licences, and authorizations must conform with EA decision.
- Regulatory issuances may involve additional public processes.
 - Land use permit reviews, water licence reviews, public hearings, management plan reviews.
- GNWT inspects and enforces terms and conditions of land use permits and water licences.
 - Non-compliance with terms and conditions is potentially an offence subject to enforcement.



Legislated Timelines

Legislated Timelines

Process	LWB/Review Board/Agency Time	Ministerial Time	Total Time
MV - Land Use Permit	10 days for conformity check, 42 days for review	N/A	52 days
MV and ISR- Water Licence with a public hearing	9 months	45 days + option of additional 45 days	10.5 months
MV - EA, no hearing	9 months	3 months	12 months
MV - EA with hearing	16 months	5 months	21 months
MV - Environmental Impact Review	18 months	6 months	24 months
ISR (IAA) – EA with hearing	10 months	1 or 3 months	11 or 13 months
ISR (IAA) - Environmental Impact Review	20 months	3 months	23 months



Closure and Reclamation Planning

- Proponents are legally responsible for undertaking closure and reclamation in an environmentally responsible manner, as set out in permits, licences, leases and associated management plans.
- Closure planning happens over the life of the project, and includes multiple opportunities for Indigenous and public engagement.
- For large projects such as the mines, various iterations of interim closure and reclamation plans have been developed and reviewed.
- The GNWT actively participates in closure and reclamation plan review processes.
- Security deposit amounts are determined based upon the approved closure and reclamation plan for the project.



Reclamation Securities

- Security deposits are funds held by the appropriate authority (GNWT, federal government, or other landowner, such as an Indigenous government) that can be used in the case of abandonment of a project to maintain and reclaim the site.
- Can be held under land use permits, water licences, tenure instruments (e.g. land leases), and in some instances, Environmental Agreements for specific projects.
- Security deposit amounts are calculated based on:
 - Third party costs to conduct reclamation
 - No assumption for salvage of materials or equipment
 - Mobilization of equipment and fuel for remediation activities
- Security estimates include costs for project management, engineering, contingency, etc.
- Security amounts and their breakdowns are available on Board public registries.



Reclamation Security Processes

- For land use permits and water licences in the Mackenzie Valley, the applicable Land and Water Board conducts a public review and determines/updates the security amount.
- In the Inuvialuit Settlement Region, the Inuvialuit Water Board sets security for water licences. The landowner/manager (Inuvialuit Land Administration, GNWT Lands or the federal government) sets land securities.
- GNWT roles:
 - technical input to the board, including a security estimate.
 - Determines the acceptable form of security and holds the security
 - May also set and hold security under land leases.



Security Process (cont'd)

- The GNWT works very closely with the LWBs of the Mackenzie Valley and the Inuvialuit Water Board to develop security guidelines and procedures for land use permits and water licences.
- Initiatives currently underway with Boards include:
 - Mackenzie Valley Land Use Security Estimate Tool and User Manual; and,
 - Security Holdbacks for Mines.
- In 2021, the Department of Lands will be engaging on the development of securities and other regulations under the *Public Land Act*.
- The GNWT uses the RECLAIM Model to calculate security; the model and manual are posted online. The model allows the user to split security based on land and water based liability.
- The GNWT currently holds a total of \$ 673 M in security for projects in the NWT:
 - Lands holds \$ 105.5 M
 - ENR holds \$ 567.5 M



Other Regulatory Responsibilities



Wildlife

- Land Claim and Self Government Agreements establish the main instrument for wildlife management.
- Renewable resources boards make recommendations to the Minister of ENR about the management of wildlife, fish, migratory birds, forests, and plants.
- Renewable Resources Boards include: Wildlife Management Advisory Council, Gwich'in Renewable Resources Board, Sahtu Renewable Resources Board, and the Wek'eezhii Renewable Resources Board
- Renewable resources boards can establish policies and propose regulations respecting harvest of wildlife, including total allowable harvest
 - Board decisions and recommendations are communicated to the Minister of ENR, for approvals as appropriate
 - Government retains ultimate authority for wildlife management



Wildlife (cont'd)

- ENR authorizes permits and requires plans under the *Wildlife Act*, such as;
 - *Hunting and fishing licenses*
 - *Wildlife business permits*
 - *Outfitter and guide licenses*
 - *Wildlife research and observation permits*
- *Wildlife Management and Monitoring Plan* – as of July 2019, is required for development activities that are likely to result in significant disturbance or pose a threat of harm to wildlife, cause substantial damage to wildlife habitat or significantly contribute to cumulative impacts on wildlife or habitat.
- ENR is required to conduct preliminary screenings for *Wildlife Act* authorizations defined under the MVRMA Preliminary Screening Requirement Regulations.



Forestry

- ENR authorizes permits and licenses under the *Forest Management Act* and *Forest Protection Act*.
 - Burn permits, timber permits and licenses, forest management agreements, forest research permits
- ENR is required to conduct preliminary screenings for forestry authorizations defined under the MVRMA Preliminary Screening Requirement Regulations.
- Renewable Resources Boards have an advisory role.



Protected Areas

- Under the *Protected Areas Act* and consistent with Establishment Agreements negotiated with Indigenous governments and organizations, ENR sets up co-management boards for each territorial protected area.
- Co-management boards consist of representatives of the GNWT and relevant Indigenous partners, and are unique to each protected area.
- Co-management boards make recommendations to the Minister of ENR on how the protected area should be managed through the development of a Management Plan.
- Renewable resources boards have an advisory role.



Hazardous Materials

- ENR authorizes permits under the *Pesticide Act*
 - Pesticide Application Permit
 - Pesticide Business Permit
- Under the *Environmental Protection Act*
 - ENR requires the submission of a Spill Contingency Plan for hazardous materials storage facilities
 - ENR requires operators who are generating or transporting hazardous materials to submit a form
- ENR is required to conduct preliminary screenings for *Pesticide Act* authorizations defined under the MVRMA Preliminary Screening Requirement Regulations.



Summary of Ministerial Responsibilities

Environment and Natural Resources

- Land and Water
 - Responsible Minister for environmental assessment decision
 - Decisions for Type A and Type B water licences with hearing, on non-federal land
 - Appoint water licence inspectors
 - Hold and approve form of reclamation security for water licences and environmental agreements
- Wildlife
 - Approval of Wildlife Management and Monitoring Plans (WMMP)
- Forestry
 - Approval of Forest Management Agreements
- Protected Areas
 - Minister and Cabinet approve GNWT management board appointments



Lands

- Lead and coordinate most environmental assessment decisions in the Mackenzie Valley and the Inuvialuit Settlement Region
- Appoint land use inspectors
- Hold and approve form of reclamation security for land use permits and other land instruments
- Land management and administration – leases and other tenure instruments

Questions?

