

# **NWT BOARD FORUM SUMMARY REPORT**

## **17<sup>TH</sup> NWT BOARD FORUM MEETING YELLOWKNIFE, NWT**

**JUNE 18 - 19, 2013**

**Prepared for:**

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## **1.0 INTRODUCTION**

### **1.1 PURPOSE AND OBJECTIVES OF THE BOARD FORUM MEETING**

The 17<sup>th</sup> NWT Board Forum was held in Yellowknife, Northwest Territories on June 18-19, 2013. There were two key themes to this Forum: (i) to review the accomplishments of work completed by the three Board Forum committees and discuss future tasks and (ii) to have an informed discussion in the area of regulatory integration and coordination. The Board Forum was also an opportunity for members to advance the strategic plan, build partnerships and share knowledge.

### **1.2 REPORT STRUCTURE**

This report presents a summary of the 17<sup>th</sup> NWT Board Forum meeting held in June 2013. Highlights and summaries provided in the following sections are presented based upon the agenda established for the meeting.

## **2.0 OPENING REMARKS**

After a brief welcome by the co-host Chairs Richard Edjericon (MVEIRB) and Willard Hagen (MVLWB), an opening prayer was led by Joline Hudskey.

## **3.0 COMMITTEE REPORTS AND PRIORITIES**

### **3.1 GOVERNANCE UPDATE – CO-CHAIRS WILLARD HAGEN AND RICHARD EDJERICON**

On behalf of the Co-Chairs, Vern Christensen provided a brief update about ongoing work of the Governance Committee:

- Focus has been on legislated changes to the MVRMA and how the Boards can help with that process. Now awaiting clarification about those changes.
- Recent discussion about themes for upcoming Board Forum meetings; for example, ENGO panel and devolution presentations at this meeting.
- Ongoing work to develop a presentation template for Board Forum meetings. This will be ready for the November 2013 meeting.
- It was recommended that an invitation to the Minister of AANDC be invited to the November 2013 meeting.
- The proposed discussion regarding honouraria was deferred in light of this time of fiscal restraint.

#### **Action Items:**

- i. Presentation template to be complete for November 2013 meeting.**
- ii. Send invitation to AANDC Minister for November 2013 meeting.**

### 3.2 BOARD TRAINING UPDATE – VERN CHRISTENSEN

In advance of the report being given, it was acknowledged that Liz Snider was retiring as Chair of the EIRB and, as such, would no longer be a member of the NWT Board Forum. Her dedication to the NWT Board Forum, and in particular her work with the Training Committee will be missed.

The Training Committee’s activities and updates included the following:

- Committee focusing on four priorities based on its 2012/13 Training Plan:
  - Board Orientation Course
  - Conducting Public Hearings
  - Administrative Law
  - Oil and Gas Technical Session
- A summary of the courses provided is presented in Table 1 below.

**TABLE 1 SUMMARY OF COURSES PROVIDED IN 2012/13**

Summary of Courses Provided in 2012/13	# of Participants
Board Orientation	12
Public Hearings	15
Administrative Law	20
Oil & Gas Technical Session	15
<b>Total Participants</b>	<b>62</b>

- A draft Terms of Reference for the committee was presented to the group

**Discussion:**

- i. **Draft Terms of Reference** – There was general agreement with the proposed Terms of Reference; however, a wording change was suggested for the fourth paragraph of the “Guiding Principles”. A revised draft was discussed by the group on Day 2 of the meeting and the amendment agreed to.
- ii. **New Chair of the Committee** – With the retirement of Liz Snider the need for a new Chair was discussed. Bob Simpson was recommended and he agreed to take on the role.

**Action Items:**

- i. **The proposed Terms of Reference for the Training Committee, as amended, were agreed to by the Board Forum members.**
- ii. **Bob Simpson was selected as the new Chair of the Training Committee.**

### **3.3 OUTREACH AND COMMUNICATIONS UPDATE – VIOLET CAMSELL-BLONDIN AND MARK CLIFFE-PHILLIPS**

Since the November 2012 Board Forum meeting the focus of the Outreach and Communications Committee (OCC) has been the following:

- preparation of a media kit
- development of the communication strategy
- confirmation of committee membership – to be done on a regular basis; particularly important now with loss of MVLWB communications staff support
- new Board Forum website – live but undergoing review
- presentation given to Natural Resource students at Aurora College in Fort Smith
- revision to Terms of Reference for the OCC – for review by membership

#### **Discussion:**

- i. **Draft Terms of Reference** – Support was given by the membership
- ii. **Youth Focus** – there was a brief discussion about the identified need to continue to work to engage youth in the work of the NWT Board Forum. Gaétan Caron suggested that for the November 2013 meeting it would be a good idea if each member organization could support one high school student to attend. He said the NEB could likely provide some financial support for accommodation.
- iii. **Committee membership** – In order to confirm and finalise the membership of the OCC there was a brief discussion to identify volunteers.

#### **Action Items:**

- i. **The proposed Terms of Reference for the OCC were agreed to by the Board Forum members.**
- ii. **The following people volunteered for the OCC:**
  - a. **Deborah Simmons – SRRB**
  - b. **Sunny Munroe – MVEIRB**
  - c. **Gerry Kisoun – GLWB**

## 4.0 PRESENTATIONS

### 4.1 SAHTU LAND USE PLAN – HEATHER BOURASSA, CHAIR OF THE SLUPB

Heather Bourassa provided an update on the Sahtu Land Use Plan (SLUP). The Board is hoping the Plan will be approved by the end of August 2013<sup>1</sup>. The most recent draft was prepared following the modification of the format and layout of the previous draft, in order to make the document much easier to understand. The Board has received positive feedback thus far on the draft.

#### **Discussion:**

Following the presentation there was a question about how the Plan was developed and whether the Sahtu Atlas was a significant reference document. In response, it was stated that the Sahtu Atlas was used to some extent, but that more importantly, at the start of the process there were field workers who travelled extensively to communities to gather information.

### 4.2 TŁJCHQ LAND USE PLAN – DOMINIC SANTOMAURO AND JOLINE HUDSKEY

The TŁjchq Land Use Plan (TLUP) was developed by the TŁjchq Land Use Planning Working Group and the TŁjchq Lands Protection Department, with the focus being on the TŁjchq language, traditional knowledge gathered since 1993, and extensive community consultation.

The TLUP is unique for a variety of reasons:

- One owner – TŁjchq Government is the sole owner of TŁjchq lands and the Plan only applies to the lands contained within the iŁjchq boundary and for which the TŁjchq own surface & subsurface rights under Chapter 18 of the TŁjchq Agreement.
- Protects TŁjchq culture
- Based on continued land protection – builds on previous work
- Land Use Permissions - TLUP moves away from the 'permitted – non-permitted' framework of other LUPs, towards encouraged and discouraged land uses.

The TLUP uses different tools for land protection:

- TŁjchq Places Land Protection Zones and development guidelines
- Land Protection Directives
- Ecological Representation (NWT Protected Areas Strategy)
- Geological Representation

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<sup>1</sup> The Sahtu Land Use Plan (SLUP) became effective on August 8, 2013, with the final approval of the Minister of AANDC. (<http://www.sahtulanduseplan.org>)

Land Protection Zones are areas of Tłıchǰ lands in which certain land uses are either encouraged or discouraged depending on their relative environmental and cultural importance to the Tłıchǰ. Land Protection Directives are policies that will guide the Tłıchǰ Government when considering development proposals. The purpose is to ensure the protection and appropriate management and use of Tłıchǰ lands. They range from renewable resource management to environmental protection and wildlife management.

For implementation the Tłıchǰ Government is working closely with the WLWB to coordinate processes and ensure no duplication, and identify collaboration where possible.

The Plan will be maintained and updated by the following means:

- Plan Variance - when minor changes to the Plan are required
- Plan Amendment - when alterations to management strategies presented in the Plan are required
- Plan Review - a formal process for re-evaluating the entire Plan

**Discussion:**

Following the presentation there was a question about whether any discussion has occurred regarding land use planning for lands outside of Tłıchǰ lands but within Wek'èezhii. In response, it was stated that this has been thought about but nothing is in place at the moment.

**4.3 DEHCHO LAND USE PLAN – SUSAN FLECK AND JOACHIM BONNETROUGE**

The Dehcho Land Use Planning Committee was formed in 2001 under the Dehcho First Nations Interim Measures Agreement. Between 2002 and 2005, data were collected on traditional land use and resource values and consultations were carried out with communities on draft zones. In 2006 a draft Plan was provided to Dehcho First Nations, GNWT and Canada. The Plan was not accepted by Canada and the GNWT. In 2007 a revised terms of reference was developed for the Dehcho Land Use Planning Committee and since that time the focus has been on the following:

- Revisions to draft zones
- Annual updates to Dehcho First Nations
- Community Information Sessions in 2012
- Stakeholder Information Sessions in 2013

The foundation of the Plan remains the same as it was when the 2006 draft was prepared; that is, it's based on knowledge of elders, hunters and trappers. With the recent work, the Plan presents a balance of lands for conservation and development (48% conservation proposed). Additionally, lands near communities have been protected, traditional land uses are not subject to the Plan, and the Plan supports the current regulatory regime.

The Plan manages 5 types of land uses (tourism, commercial timber development, mining, agriculture, oil and gas) and sets out rules for development. The Plan also clarifies where land use activities may occur.



The Dehcho LUP is intended to achieve the following:

- Provide certainty for land users for where land use activities may be permitted by regulatory boards
- Provide a method for assessing cumulative effects and proposes thresholds based on amount of land disturbed
- Support interests of Dehcho communities for where and how land should be used or protected
- Provide guidance on how certain land use activities should be conducted to minimize disturbance to land

In terms of next steps, the Draft Plan is expected to go to approving Parties by September 2013. The following outstanding issues remain as discussion items for the main negotiating table:

- National Energy Board/Mackenzie Gas Pipeline - ability of the Interim Plan to determine location of pipelines
- Transportation Corridors - ability of the Interim Plan to determine the location of public roads
- Relationship of the Interim Plan to the Dehcho Interim Measures Agreement – quarrying, prospecting permits, forest management
- Termination of the Interim Plan - how many parties have to agree?
- Extent of the Interim Plan area – where it will apply?
- Percentage of open crown land

The Dehcho Plan is unique in that the Final Plan will be implemented without a Final Agreement. The Dehcho Land Use Planning Committee will continue to work with the MVLWB.

#### **4.4 GWICH'IN LAND USE PLAN – BOB SIMPSON**

The Gwich'in Land Use Plan (GLUP) is the only approved LUP in the NWT. It took about 10 years to finalise. Currently, the Plan is undergoing its first 5-year review. The review is expected to be completed very soon, with approval of a revised Plan.

Other activities currently being undertaken by the Gwich'in Land Use Planning Board include:

- review of draft revisions to the MVRMA legislation
- preparing draft atlas of the region – to be used for educational purposes

#### **Discussion:**

There was a question regarding the possible routing of the proposed fibre optic line. The Forum was told that the GLUP includes a corridor intended for the purpose.

#### 4.5 MINERALS, OIL AND GAS SECTOR UPDATE – MALCOLM ROBB

A snapshot of the current mineral and oil and gas exploration and development activity in the NWT was provided. Generally, financing dollars are limited due to continued concern in the equity markets since the 2008 crash. The economic environment in the NWT is doing fairly well; however, there remains some uncertainty:

- Three producing diamond mines and one tungsten mine continued to provide significant employment and revenues through 2012.
- Growth in NWT GDP is stable but not showing any growth trends.
- The 2006 – 2010 period will likely represent a peak in NWT mineral revenue unless a number of projects are advanced through permitting and construction in the next 10 years.

Capital and operating expenditures by the minerals sector have been the main driver of the NWT economy in the last 5 years, averaging \$800+ million per year. With the completion of the Snap Lake mine and moving to underground mining at Diavik and Ekati, there are currently no significant capital projects in the mining sector. In the oil and gas sector, exploration is focused in the Sahtu region where the shale oil play is one of the more promising to be seen in the NWT.

The following commodities are currently of interest in the NWT:

- Diamonds
- Precious Metals (gold, silver, platinum)
- Base Metals (copper, zinc, lead, nickel, tungsten)
- Uranium
- Rare Earth Elements
- Coal
- Oil, Gas

In 2012 the NWT ranked 8<sup>th</sup> in Canada for mineral exploration expenditures, with \$114.5 million spent. In 1999 through 2004 the NWT rank varied between 3<sup>rd</sup> and 4<sup>th</sup>. Exploration expenditure for commodities other than diamonds did not see the same level of increase as in other Canadian jurisdictions despite similar or higher mineral potential. Reasons for the slower growth in exploration activity for commodities other than diamonds are likely related to the following:

- Lack of infrastructure
- Section 35 consultation issues (this is becoming an increasing factor outside of the territories as well)
- Lack of clarity regarding conservation zones in areas with high base metal potential (e.g., Mackenzie Mountains), although this is becoming less of a factor with the Sahtu Land Use Plan almost complete and the finalization of the Nahanni Park expansion.
- Unsettled land claims in the southern NWT and community concerns (particularly for uranium exploration).

- Perception of potential EA referral for early stage work (first pass drilling) in some areas of NWT.

There are several projects in the NWT that are considered to be in the “advanced” stage. That is, projects that are in the process of a Mineral Deposit Appraisal, with work ranging from deposit definition through to feasibility studies for production. However there is no guarantee that financing will be available for these projects and no new projects have been discovered recently.

Several regulatory implications of the current status of exploration and development in the NWT were highlighted:

- companies are getting permits but not using them to full extent due to lack of financing; however, maintaining them in order to remain in good standing for future funding prospects
- expect to see continued trend of lower number of new applications, more extension requests, assignments etc.
- more amendment requests to reflect changing mine plans as operations mature, economic conditions continue to be challenging.
- more interest in government collection and dissemination of existing regional environmental, geological and traditional knowledge baseline data.

Other considerations for an improved exploration and development environment include:

- availability of and access to quality baseline environmental data in areas around advanced projects will facilitate the progress of these through the regulatory process
- completion of land use plans prior to another phase of increased mineral exploration will increase certainty
- strategic investments in infrastructure will create their own set of regulatory requirements (e.g., water license and land use permits for highway upgrades/construction)

### **Discussion:**

Discussion covered the importance of completed LUPs as a means of alleviating investment concern in the NWT and priorities for industry regarding increased expenditure (i.e., want to know when Plans will be finalised). Recent changes in China with respect to environmental clean-up at REE sites was acknowledge as a possible boost for interest in NWT reserves.

## **4.6 FOREST MANAGEMENT AGREEMENTS – TOM LAKUSTA, GNWT**

An overview of work being done to develop Forest Management Agreements (FMAs) in areas where the GNWT has jurisdiction. The possible use of FMAs has been identified in legislation since 1988 but has never been acted upon. Negotiations with two interested communities are currently underway (Fort Resolution and Fort Providence). Timber harvesting could start in September 2014. An FMA would allow an Aboriginal corporation to have long term authority, up to 20 years, to harvest wood from a defined area for purposes of forest industry business development growth.

FMA's are guided by principles of sustainability and are limited to areas where sustainable forest management assessments have been conducted. FMA's can only be put in place if there is a supply commitment established (e.g., a processing facility that will take the harvested wood).

Timber Harvest Plans (THP's) are used for year-over-year and agreement period harvest planning. They include and recognize environmental issues such as wildlife concerns, and socio-cultural concerns.

FMA's are subject to all existing regulatory processes and THP's are submitted to appropriate regulatory authorities for review.

### **Discussion:**

During the discussion it was acknowledged that Renewable Resource Boards would be involved in the authorizations process. Similarly, it was stated that there are ongoing discussions with the MVLWB and that work is being done to prepare templates of Forest Management Plans. A question about allowing the harvest of green trees was also asked. The Forum was told that, as is the practice elsewhere in Canada, green trees would be included. The presenter stated that the FMA's present a great opportunity to offset fossil fuel consumption in the NWT.

## **4.7 WELCOME FROM GUEST SPEAKERS**

Following the lunch break on Day 1, meeting participants were welcomed to Yellowknife by Roy Erasmus Jr., YKDFN Councillor in N'dilo, and Cory Vanthuyne, Deputy Mayor of Yellowknife.

## **4.8 ENVIRONMENTAL NGO ROUNDTABLE DISCUSSION**

Representatives of four Yellowknife-based environmental NGOs (ENGO) provided background on their organizations and presented their thoughts on achieving a sustainable future in the NWT.

### **4.8.1 Alternatives North – Kevin O'Reilly**

- Alternatives North is a social justice organization run entirely by volunteers. Involvement includes:
  - NWT Anti-poverty Strategy
  - Territorial budget reviews
  - Fair tax regime
  - Public health care
  - submission to McCrank Report
  - Intervener in MGP process (JRP and NEB)
  - Intervener in Giant Mine EA

- Research achieved by members and by contracting outside, independent experts
- A sustainable future in the NWT means:
  - sustainable communities
  - fair distribution of wealth
  - investment in public services and education
  - recognition and implementation of Aboriginal rights, a constitution for the NWT
- How to achieve a sustainable future:
  - Investment in energy conservation and renewable energy
  - Involve all stakeholders in consultations and decision-making
  - University in the NWT
  - A “real” Heritage Fund
  - Provide fair return for non-renewable resources
  - Promote small-scale, community-based economic development using renewable resources and non-renewable resource revenues
  - Implement an Anti-Poverty Strategy
  - Complete outstanding land rights settlements
- Role and tools for co-management Boards in sustainability:
  - control scale and pace of development
    - land use plans
  - ensure northerners truly benefit
    - environmental reviews
  - ensure environment is healthy and protected from irreversible damage
    - environmental reviews
    - land and water regulation
    - cumulative effects management
- Alternatives North’s suggestions on how to improve resource management in the NWT:
  - Alternatives North does not support merging the regional land and water boards
  - Depoliticize Board appointments and support representative and diverse membership
  - Encourage participant funding for all resource management processes, not just EA
  - Complete land use plans across the whole NWT with thresholds and zoning
  - Just say “no” to poorly justified or financially questionable resource development (implement cost recovery?)
  - Focus on the NWT Environmental Audit and responses as the legitimate improvement process
  - Make full financial security and closure plans mandatory for all approved resource development, track and publicly report status

#### 4.8.2 Ecology North – Christine Wenman

- Ecology North (EN) was formed in 1971 in response to concerns about arsenic from Giant Mine. Currently, EN has 5 fulltime-equivalent staff, a volunteer Board of 10 people, and volunteers throughout the NWT.
- EN's focus is community-based projects and education. Funding is primarily from "local" sources (GNWT, City of Yellowknife)
- Vision for a sustainable future:
  - healthy environment with healthy people
  - decisions made locally
  - NWT land and resource management is unique
  - diversified economy
  - transition to renewable energy
  - paced development
  - climate change mitigation and adaptation is emphasised
- Ecology North's suggestions on how to achieve a sustainable future for the NWT:
  - continual improvement
  - process matters most
    - transparency
    - public dialogue / engagement
    - participant funding
    - evidence-based decisions
  - NWT management framework must be completed (e.g., LUPs)
  - keep made-in-the-north resource management regime
    - no Board amalgamation
    - decades of negotiations need to be respected
    - regulatory improvements must be evidence-based

#### 4.8.3 Pembina Institute – Shauna Morgan

- We have tools for a sustainable present, so let's not wait for the future
- Our regulatory regime is already a good tool
- Development is not just about mining, oil and gas, digging holes in the ground
  - families moving through the same jobs, everyone having the same type of house, speaking the same language
    - that used to be considered development / advancement, but people are different. We cannot assume everyone wants to work in the same sector. We need to design investment to diversify the economy – promote small business
- What are we doing to ensure sustainability happens?
  - Pembina believes we have tools within the MVRMA (e.g., LUPs, thresholds, CE assessment)
- Pembina Institute - Common values:
  - The northern system of integrated resource management is different by design. It deserves to be supported, fully funded and protected.

- We need to decide now how industrialized should the NWT be in 5, 10, 50 years?
  - Implement thresholds and enforce
- Conserve, develop and use land and water resources in the best way for current and future generations of Northerners

#### 4.8.4 Ducks Unlimited – Jason Charlwood

- Ducks Unlimited (DU) is a private, nonprofit, charity organization that focuses on wetland and waterfowl conservation. DU was established in 1938 and has operated for more than 20 years in the north
- Wetlands have a very important function:
  - filter our water and provide safe, secure water sources for wildlife and people
  - provide essential habitat for wildlife including species at risk
  - maintain ecosystem functions
  - lessen the impacts of climate change by storing carbon
  - reduce flooding, drought and erosion
- Vision for a sustainable NWT
  - An established network of interconnected wetland-rich protected areas within an overarching land use framework that supports ecosystem-based sustainable development utilizing best management practices.
- Key components of a sustainable NWT:
  - Completed Regional Land Use Plans
  - Completed Network of Protected Areas
  - Implementation of Cumulative Effects Management
- Ducks Unlimited - Going forward:
  - Strengthen & expand partnerships
  - Continue to assist completion of protected areas network
  - Increase our knowledge of NWT wetlands and waterfowl
  - Contribute to the development of sustainable land management and responsible resource development

#### Discussion:

Following the presentations there was open discussion about the information and viewpoints shared.

- **Community development** – means fostering small scale opportunities (e.g., weekly Yellowknife farmers' market), recognising that not everyone wants to be a miner, and not everyone wants to have to leave their home in order to work.
- **Changes as a result of devolution?** – from Pembina perspective, not all of the MVRMA is included in devolution agreement; therefore, some decision making remains federal, which represents a huge gap left out from northerners decision making. Alternatives North has concerns about devolution with respect to large increase in responsibility that will be on the GNWT and their preparedness.
- **LUPs and thresholds** – this was identified as a common theme in the four ENGO presentations.

- need to accept there are limits to growth
- need to move ahead with adaptive management / precautionary approach – already appears in some legislation (e.g., Fisheries Act)
- key to thresholds is limits of acceptable change – community vision for kind of future that is desired
- thresholds already established for some valued components (e.g., air quality in Alberta, the Dehcho draft LUP built in thresholds for woodland caribou (i.e., density of cut lines)
- **Strategic Environmental Assessment (SEA) and Regional Environmental Assessment (REA)**
  - SEA would make sense for the oil and gas activity in the Sahtu; there was hope that might happen, but not the case
  - REA in the Beaufort years ago and again now, but need good baseline data
- **NWT Environmental Audit**
  - Boards and government should provide a formal public response
- **ENGO questions to participants:**
  - **How can ENGOs best support the work of Boards?**
    - continue to provide good information – Boards need to be well informed and ENGOs can assist with this
    - ENGOs never hesitant to bring attention to concerns between formal meeting processes

#### **4.9 UPDATE ON THE WORKING GROUPS OF THE LWBS OF THE MACKENZIE VALLEY – ZABEY NEVITT, MVLWB**

An update on the regulatory improvement initiative work being undertaken by various working groups of the LWBs of the Mackenzie Valleys was provided. The highlights were as follows:

- Following recognition of inconsistent processes and decision making up and down the valley and between applications, six inter-board working groups were formed to resolve issues and improve inconsistencies - Standard Procedures and Consistency Working Groups:
  - Public Engagement and Board Consultation
    - Engagement and Consultation Guidance Documents including policy and supporting engagement guidelines (February 2013)
  - Plan Review Process and Guidelines
    - Waste Management Guidelines
    - Closure and Reclamation guidelines in collaboration with AANDC and interested landowners
  - Water/Effluent Quality Guidelines
    - Water and Effluent Quality Policy
    - Development of guidelines and procedures that support the policy
    - Implemented policy in several recent Water Licence renewals and new applications
  - Terms and Conditions



- Standard list of terms and conditions for water licences and land use permits
- Procedures for writing new terms and conditions for land use permits and water licences
- Data Resource Sharing and Standards
  - Improved shared online registry and website
  - GIS Standards
  - Document Submission Standards
- Application Processes
  - Complete, valley-wide water licence applications process guidance document
  - Complete, valley-wide land use permit applications process guidance document

**Discussion:**

- **Consultation** – Policy outlines LWBs’ role in the bigger sphere of consultation – not setting expectations of what other bodies need to do.
  - **Terms and Conditions** – Need to consider terms and conditions that may come from LUPs; especially, for Special Management Zones. Working Group was looking for commonalities valley-wide but that does not exclude regional specifics.

#### **4.10 PREPARING FOR THE NEW RELATIONSHIP AND POLICY CHANGES**

During this session presentations were given to provide the linkages between changes anticipated as a result of the regulatory improvement initiative and devolution. Kathryn Bruce, AANDC RDG, introduced the session.

- Four presentations with linked themes
- Since the November 2012 NWT Board Forum meeting:
  - GNWT and Canada signed the consensus agreement for devolution
  - Bill C-47 – Northern Jobs and Growth Act assent is imminent
  - moving forward with improving S35 consultation and accommodation

##### **4.10.1 Improvements to Northern Regulatory Regimes – Stephen Traynor and Tara Shannon, AANDC**

- Working on implementation side of regulatory improvement
- Recently consulting on the draft MVRMA amendments Announced in 2010 and inspired by the 2008 report of Neil McCrank
- Three main areas:
  - Legislation and regulation
  - Environmental monitoring
  - Strong Aboriginal voice in environmental management
- Actions to date:

- Bill C-47 which includes the NWT Surface Rights Board, downhole injection of drilling wastes, establishment of the Beaufort REA to inform potential offshore drilling
- In addition to Bill C-47, amendments are planned for the MVRMA, NWT Waters Act, and the Territorial Lands Act
- Amendments to this suite of legislation will, amongst other things:
  - introduce time limits for completing environmental assessments and water licenses;
  - provide authority to establish regional environmental studies;
  - consolidate federal decision-making responsibility;
  - clarify roles and responsibilities related to Aboriginal consultations;
  - increase fines for permit and licensing offences; and
  - provide authority to allow for cost-recovery for environmental impact studies.
- Board restructuring – amendments have been distributed and discussions with Boards expected to begin in July.
- Next Steps:
  - Initial Bill with amendments shared with Boards in May 2013. Hope to have full MVRMA to send out by the end of July
  - Regulatory improvement to be completed before devolution (April 2014)
  - Changes are intended to ensure certainty, predictability and timeliness, which will remove barriers to investment.
  - Want to understand what issues we should be thinking about

**Discussion:**

- **NWT Water Board did not receive draft changes – AANDC will provide copy**
- **Time limits and cost recovery**
  - recent NEB experience indicates these are good changes.
  - time limits will likely have most impact on Ministerial decision-making
- **Information sharing regarding amendments** – actual amendments can't be shared at this time due to parliamentary privilege, but there is an information deck that provides an overview of the changes. AANDC will share this.
- **Changes to Regulations**
  - expected that real changes will be in regulations, but there hasn't been much discussion of this
  - Boards could help with regulation changes which would help with drafting the legislation
  - Also, focus has been on cost recovery for EAs but on the regulatory side, the Water Licence process is expensive as well.
  - The regulatory phase will be much more participatory. There hasn't been much discussion yet because the initial focus was on changes that parallel what has already occurred in the south (i.e., NEB and CEAA)
- **LUPs**
  - LUPs were identified as a priority in the McCrank Report. Where are LUPs now?

- Ministers choose the priorities, based on recommendations from policy-makers. The priorities that have been presented are those that were chosen.
- **Implementation, Timing and Board Planning**
  - How are Boards assured that internal capacity will be maintained? Will we be adequately resourced with funding and staff? How will the full Board and smaller panels function?
  - Questions will be addressed during consultation forums to get underway soon. AANDC will continue to work with Boards over the next few months.
  - Boards would like to know what is being suggested regarding new timelines. At this time it is difficult to accomplish efficient office planning (e.g., staffing, office leases)
  - AANDC is working on a critical path – deadlines are being established
  - Important that all the regional panels are involved in the discussion

#### **4.10.2 Devolution Joint Presentation – Shaleen Woodward (GNWT), Kathryn Bruce and Stephen Traynor (AANDC)**

- A lot of change is happening and there are growing pains
  - very important to maintain relationships – intergovernmental is key
  - moving forward we will face the challenges together
- Key component is HR – without the people the transition / new responsibilities will not happen. Want to transfer a very stable workforce to GNWT
- MVRMA
  - There will be some delegation of MVRMA responsibilities to the GNWT but the Boards (under MVRMA) will remain with Canada. Board funding, appointments, and policy direction will remain federal. NWT Water Board and NWT Surface Rights Board will be devolved to the GNWT. NEB's relationship will be with the GNWT.
  - Decision making roles will change. NWT Ministers are already Responsible Ministers under the MVRMA, but additional authorities will be delegated to them.
  - The federal Minister will continue to have decision making authority over excepted lands. This will include contaminated sites, which will remain a federal responsibility.
- About 27 federal acts and regulations will be mirrored by the GNWT including:
  - NWT Waters Act
  - NWT Surface Rights Board Act
  - Territorial Lands Act (including mining regulations)
  - Oil and Gas legislation (with some amendments to reflect devolution)
  - Prepared standard list of terms and conditions for water licences and land use permits
  - Complete valley-wide water licence applications process guidance document
  - Complete valley-wide land use permit applications process guidance document
- The NWT Act will be amended to reflect devolution – authority over public lands, resources and rights with respect to water

- Enhancing Resource Management
  - The GNWT and participating Aboriginal Parties have agreed to establish an Intergovernmental Council on Land and Resource Management (Schedule 5)
  - The goal of this council is to foster and strengthen intergovernmental cooperation and coordination on land and resource management among the GNWT and Aboriginal governments.
- Implementation Planning
  - Implementation Committee
  - Working Groups
    - Program Working Groups
      - Land
      - Minerals, Oil and Gas
      - Environment
    - Support Working Groups
      - Human Resources
      - Properties, Assets, Records and Contract
      - Finance
      - Legislation
    - Another possible working group will be one to assess how best to deal with board issues
  - Need to know on Day 1 how we will be working together
  - Business process mapping – need to ensure there are no gaps with ongoing activities during transition; for example, no delays to a company requiring a water licence
  - AANDC will retain responsibility for contaminated sites
- Moving Forward
  - Complete business process mapping and ensure it is reflected in the organizational design
  - Incorporate feedback on board priorities from the last Board Forum
  - Working groups proceed with implementation activities, including work with Boards

**Discussion:**

- **Participant Funding**
  - still looking at this – works on a case by case basis
  - for contaminated sites it will remain federal; however, for other projects it still needs to be clarified with respect to delegation of authorities
- **Implementation Funding**
  - Will implementation dollars stay in the regions?
  - This is being addressed by a different directorate – further information will come forward at next presentation
- **Security Deposits**
  - Still working through the details of how all securities will be dealt with. There is currently over \$500 million in securities.

- Will GNWT stay actively involved with carrying the securities issue forward?  
Yes, this is still on the list
- Board funding and capacity issues are still being addressed.

#### **4.10.3 Clarifying Consultation & Accommodation Roles and Responsibilities in the Mackenzie Valley Environmental Assessment and Regulatory Processes – Christian Bertelsen, Centre for Consultation Excellence, AANDC**

- 2006 AANDC started to consolidate in the Crown Support Unit however, the office closed in 2011
- 2012 –DG Steering Committee agreed on a new model of consultation practice
- A federal responsibility but certainly implications for Boards
- New model of Consultation Practice – spent past year preparing protocols and procedures
- Consultation training was first offered to the federal employees the week of June 19-20, 2013.
- Have been following the MVLWB on their engagement guidelines and board consultation
- Great document particularly for developers
- Ultimate goals is pan-northern approach
- Proposed Model of Consultation Practice
  - NPMO will be the Crown Consultation coordinator
  - We, through CanNor, have been test driving on real projects
  - Whole of government approach - was 3 people, insufficient
  - Courts are not sympathetic to argument that we didn't have money or people
  - Training – you know what the duty is but here are some procedures and models to do this
- Benefits of Proposed Model
  - shared resources
  - coherent with respective federal, territorial, NPMO, proponent and board mandates and respects commitments to Aboriginal groups pursuant to comprehensive land claims and other agreements
  - will incorporate and fit with the changes resulting from the initiatives to improve the northern regulatory regime
  - aligns with the federal government's objectives of improved Crown coordination, reduced regulatory burden and duplication and meaningful Aboriginal consultation
  - model of consultation that can be sustained in a post-Devolution context
  - can be adapted to the Inuvialuit Settlement Region, Nunavut and Yukon environmental assessment and regulatory regimes for pan northern application
- Development Tools to Support the Model
  - Northern Project Agreements
  - A process map
  - Specific profiles of all NWT Aboriginal groups and a consultation field guide

- NWT Land Information related to Aboriginal groups Map
- Protocols
- Memorandum of Understanding

**Discussion:**

- **Training**
  - One part of training would be to build in an orientation component for those doing the consultation
    - This is addressed by Aboriginal group profiles
  - Is there an opportunity to integrate this training with the Board Forum's Training Committee?
    - At this time, the focus is on Federal officials however, there may be future opportunities for Boards and others to participate.
- **S35 Consultation**
  - A grey area regarding the need to respond to S35 consultation responsibility has been noted by the Boards. Is it the Crown's responsibility?
    - Our work is in the current legislative framework. Regarding adequacy, that's the purpose of follow-up letters from the NPMO about measures in the EA report.
  - Perhaps AANDC could fund Aboriginal organizations to develop documents to set out their history. There are current examples such as the Sahtu Atlas; this is a tool that provides orientation. There is a need to understand the spirit and intent of the land claim agreements.
    - Agree, context is very important
    - AANDC does have training and other events to ensure orientation regarding treaties.

**4.10.4 Northern Projects Management Office Presentation – Matthew Spence, NPMO**

- NPMO serves as a single-window for industry to navigate through complex northern processes – from exploration through to decommissioning – helping companies move more efficiently, and avoid and resolve issues.
- NPMO advances major projects in the North by providing:
  - pathfinding and issue resolution for industry;
  - coordinating federal participation in the regulatory process and tracking timelines;
  - overseeing Crown consultations;
  - advancing community readiness with Aboriginal communities; and
  - taking on issues and opportunities related to advancing resource development in the North.
- There are currently 33 NPMO active projects across the North (8 in pre-EA; 17 in screening or EA; 8 in regulatory). They represent a potential of \$23Billion in investment and 9,500 jobs. There are 20 mining projects anticipated by 2020.
- NPMO is currently working with approximately 40 companies operating in the North.
- Targeted engagement strategies

- MOUs with various Aboriginal groups, other governments, Chamber of Mines
- Community Readiness
  - to help communities get prepared for development
  - preparing pilot projects across the three territories (e.g., one in Tulita related to the Sahtu oil play)
  - Norman Wells Partnership Workshop in late May 2013
    - response to emerging shale oil play
    - need to consider cumulative effects of ongoing exploration projects
  - Working on a TOR for a Sahtu Steering Committee
- Next Steps
  - Regional steering committee
  - Community readiness initiative
- Next Six Months
  - Increased Project Activities
  - Industry Engagement
  - Crown Consultation Coordination
  - Targeted Engagement Strategies
  - Community Readiness – 7 pilot projects through three territories

**Discussion:**

- One participant noted that the Beaufort was missing from the targeted engagement strategies
  - It was explained that it will be a priority but the area is still about 7 years away from drilling therefore there are currently other priority areas.
- Is there an opportunity for information sharing with the Boards regarding the draft NPMO consultation process?
  - Yes

**4.10.5 Addressing Issues with Board Funding – Stephen Traynor, AANDC**

- Boards are integral to the regulatory regime and adequate funding is very important.
- Boards face many challenges that put financial strain on them:
  - Increased economic development;
  - Cost of doing business in the North;
  - Core funding levels are 8-10 years old;
  - Incremental pressures are, in part, volume driven with no guarantee of funding;
  - Other capacity issues (such as attraction/retention of staff); and
  - Introduction of new legislation and other governmental initiatives (e.g., SARA)
- Improvements to the regulatory system will ensure that boards are able to respond to challenges and capitalize on the economic development potential in the North
- Funding Renewals

- All Claims-related funding arrangements in the NWT (Gwich'in/Sahtu/Tłıchǫ Implementation Plans, Inuvialuit implementation funding, Tłıchǫ Financing Agreement) are due for renewal in the next 3 years
- Funding levels are negotiated for a 10 year horizon, with the Federal Domestic Demand Implicit Price Index (FDDIPI) being the only built-in mechanism to adjust funding amounts
- This approach has forced many boards to seek supplemental funding from AANDC, which is problematic as the funding is not guaranteed, nor is it always provided in a timely manner (it may take several months for the Department to secure a source of funds)
- Board Analysis
  - Canada has started a comprehensive analysis of boards, including capacity and funding.
  - AANDC has engaged over the last few months in a dialogue with its treaty partners to seek their agreement of and participation in such an analysis. Canada has since prepared a source list for the analysis and has shared it with its treaty partners for their input.
  - The analysis will examine four primary areas: capacity, funding, appointments, and Canada's internal governance structures.
  - The analysis is expected to be completed in Fall 2013.

**Discussion:**

- After devolution, who will be the "Federal Minister"?
  - will be the "responsible ministers" – for GNWT this implies the delegation of authority

## **5.0 DATE AND LOCATION OF NEXT MEETING**

The Chairs were in agreement to meet in Calgary the week of November 25, 2013. The NEB will organise a fieldtrip for the 26<sup>th</sup> to visit fracking operations. The NWT Board Forum meeting will be held November 27-28. The host will be the NEB.

## **6.0 CLOSING REMARKS**

Prior to the closing prayer, led by Walter Bayha, Willard Hagen thanked everyone for their participation, presentations, and a very informative meeting.



## 7.0 ACTION ITEMS

The following action items emerged during the two-day meeting.

### **General (Regulatory Improvement Initiative):**

- AANDC will provide a copy of the draft MVRMA changes to the NWT Water Board.
- AANDC will share the information deck that provides an overview of the proposed MVRMA amendments.

### **Governance:**

- Presentation template to be complete for November 2013 meeting.
- Send invitation to AANDC Minister for November 2013 meeting.

### **Training:**

- The proposed Terms of Reference for the Training Committee, as amended, were agreed to by the Board Forum members.
- Bob Simpson was selected as the new Chair of the Training Committee.

### **Outreach and Communications:**

- The proposed Terms of Reference for the OCC were agreed to by the Board Forum members.
- The following people volunteered for the OCC:
  - Deborah Simmons – SRRB
  - Sunny Munroe – MVEIRB
  - Gerry Kisoun – GLWB

# **APPENDIX A**

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## **Meeting Agenda**

**NWT Board Forum  
Yellowknife Ski Club**

**DAY 1 – Tuesday, June 18**

- 8:30           Arrival – Coffee and Muffins
- 8:45           Welcome and Introduction – Host Chairs Willard Hagen, Mackenzie Valley Land and Water Board and Richard Edjericon, Mackenzie Valley Environmental Impact Review Board
- Opening Prayer
- Introduction – Ricki Hurst, Facilitator and Shelagh Montgomery, Recorder (SENES)
- 9:00           Committee Update Reports:
- Governance Committee: Chairs Willard Hagen and Richard Edjericon
  - Training Committee: Chair Liz Snider
  - Outreach and Communications Committee: Chair Violet Camsell-Blondin
- 9:30           Sahtu Land Use Planning presentation – Heather Bourassa, Chair
- 9:45           Tłı̄chǫ Land Use Planning presentation – Domenico Santomauro
- 10:15          Health Break
- 10:30          Dehcho Land Use Planning presentation – Joachim Bonnet-Rouge and Susan Fleck
- 10:45          Gwich'in Land Use Planning Update – Bob Simpson, Chair
- 11:00          Snapshot on Future Mining and Oil and Gas Projects - Malcolm Robb, Minerals
- 11:30          Forest Management Agreements - Frank Lepine (GNWT)
- 12:00          Lunch (provided)
- 1:00           Welcome and comments from Invited Guests - TBC
- 1:15           Introduction of discussion with northern Environmental Non-Government Organizations (ENGOS) Chaired and facilitated by Gaétan Caron, Chair NEB
- Understand ENGOS' goals related to sustainable energy future for the North; and
  - Listen to ENGOS suggestions for continual improvement in Board processes

- 1:35 ENGO presentations
- Alternatives North – Kevin O’Reilly
  - Ecology North – Christine Wenman
  - Pembina Institute – Shauna Morgan
  - Ducks Unlimited – Jason Charlwood
- 2:30 Interactive Plenary Discussion with ENGOs and Board Forum - Facilitated by Gaétan Caron
- 3:15 Health Break
- 3:30 Continued Interactive Plenary Discussion with ENGOs
- 4:30 Confirm Fracturing Field Trip Nov 26<sup>th</sup> & Board Forum Nov 27<sup>th</sup> and 28<sup>th</sup> Calgary – NEB Host
- 4:40 Board Chair and Executive Director Caucus
- 5:30 Dinner – Yellowknife Ski Club

**DAY 2 – Wednesday, June 19**

- 8:30 Arrival – Coffee and Muffins
- 8:45 Highlights from previous day – Hosts Willard Hagen and Richard Edjericon
- 9:00 High Level Update on the Land and Water Boards of the Mackenzie Valley Working Group Products – Zabey Nevitt et al.
- 9:15 **Preparing for the New Relationship and Policy Changes**
- Introduction – Kathryn Bruce
- A) Regulatory Improvement and Legislative changes – Stephen Traynor and Tara Shannon
- B) Devolution and Implications to Boards – Stephen Van Dine and Shaleen Woodward
- 10:30 Health Break
- C) Board Funding Models – Allan MacDonald
- D) Regulatory Coordination and S35 Consultation – Matt Spence, George Cleary and Christian Bertelsen

- 11:45      Lunch (provided)
- 1:00        E) In-depth Question and Answer Plenary Discussion on Implications of the Morning Presentations for Boards and Resource Management in the Northwest Territories
- 2:30        Health Break
- 2:45        Continued Plenary Discussion
- 4:30        Closing remarks – Hosts Willard Hagen and Richard Edjericon

# **APPENDIX B**

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## **Presentations**