



## FREQUENTLY ASKED QUESTIONS

### THE DRAFT ENGAGEMENT POLICY AND DRAFT ENGAGEMENT GUIDELINES FOR APPLICANTS AND HOLDERS OF LAND USE PERMITS AND WATER LICENCES

February 2012

**Q: What is the purpose of this Frequently Asked Question Guide?**

A: The purpose of this guide is to assist stakeholders in reviewing the MVLWB’s draft *Engagement Policy* and draft *Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences*. It provides general information about the draft policy and guidelines, including its scope, purpose and intent, the Boards’ authorities and its application. It also provides some information about the process of developing, engaging on, and approving the policy and guidelines.

**Q: What is engagement?**

A: **Engagement** is the communication and outreach activities a proponent is required, by the Boards, to undertake with affected parties prior to and during the operation of a project, including closure and reclamation phases.

Good engagement benefits all parties in the regulatory process and should involve all affected parties, including impacted communities and Aboriginal organizations/governments, federal and territorial departments and other parties with an interest in the project. When good engagement has been carried out, it provides the Boards with assurance that:

- Information has been shared;
- Conversations about potential impacts and benefits of the proposed project have occurred;
- Potential modifications to the project application have been discussed in advance of an application to the Land and Water Boards; and,
- For some types of development, engagement commitments throughout the life of the project have been agreed upon with affected parties.



*Photo courtesy of Wek’èezhii Land and Water Board*

**Q: Why have we drafted this Policy and Guideline?**

A: The Boards want to issue a clear statement describing their expectations of applicants for appropriate levels of engagement with affected parties, both before they submit a permit or licence application, and through the life of a project.

The McCrank report, the 2005 Auditor General’s report, and the first NWT Environmental Audit<sup>1</sup> all identified the lack of clear policy and guidelines for proponent engagement as a key factor in the

perceived uncertainty of the regulatory system in the NWT. The Boards agree with that analysis and believe that this Policy and Guidelines will go a long way to addressing those concerns.

**Q: What do the Draft Policy and Guidelines describe?**

**A:** The purpose of this Policy is to describe the framework in which the Land and Water Boards, established under the *Mackenzie Valley Resources Management Act (MVRMA)*, will make decisions and carry out processes relating to proponent engagement with affected parties. Specifically, the policy clarifies the Land and Water Boards' expectations of proponents in relation to engagement efforts.

**The accompanying guidelines** are meant to provide more detailed direction for applicants and holders of land use permits and water licences as they conduct engagement activities. Specifically, the guidelines:

- Outline requirements for engagement prior to the filing of a submission, an application or other document;
- Addresses the requirements for engagement during the life of the project; and,
- Provides a list of suggested best practices to increase the likelihood of effective engagement.



*Photo courtesy of the Mackenzie Valley Land and Water Board*

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

**A:** The Boards are authorized to issue this Policy based on powers granted in Sections 65 and 106 of the *Mackenzie Valley Resource Management Act (MVRMA)*.

### **Q: How was the Draft Policy and Guidelines Developed?**

**A:** Staff members from all four Land and Water Boards of the Mackenzie Valley formed a Working Group in 2008 to address the issue of proponent engagement and Board consultation processes. Work has included research and discussions on the Boards' role in setting engagement expectations, and research on industry-based and other jurisdictions' guidelines on engagement.

This Working Group is one of six Working Groups established in 2008 by the Mackenzie Valley Land and Water Board (MVLWB), the Gwich'in Land and Water Board (GLWB), the Sahtu Land and Water Board (SLWB) and the WeK'èezhii Land and Water Board (WLWB). The purpose of these Working Groups is to review existing policies and procedures of all the Boards and develop or revise, where required, policies, procedures and guidelines that will ensure regulatory consistency while respecting regional diversity.

### **Q: Who will this Policy and Guideline apply to?**

**A:** This Policy and guideline once finalized and approved by the MVLWB, will be applied by all Land and Water Boards in the Mackenzie Valley (GLWB, SLWB, WLWB and the MVLWB) to all new applicants making applications and submissions after its effective date. It will also apply to ongoing existing project submissions made before a Board after the effective date of the Policy.

### **Q: What are the principles that Guide this Initiative?**

**A:** The principles which guide this policy and guideline include:

1. **Shared Responsibility** – meaningful participation by all stakeholders is essential in our co-management system.
2. **Appropriate Disclosure** – all relevant information, which is not protected by law, is made available in a timely and understandable manner and considers the particular culture(s) of the affected party.
3. **Inclusiveness** – all stakeholders are given the opportunity to be involved.
4. **Informed participation** – project outcomes are shaped through organized and continuous engagement.
5. **Reasonableness** – all stakeholders must be reasonable when setting expectations for public engagement processes, and be willing to enter into these processes with the spirit of cooperation.

### **Q: How did the Working Group come up with the proposed engagement requirements listed in Section 5?**

**A:** The Working Group is proposing specific engagement requirements based on current practice, and comments and recommendations received over the years from affected parties and proponents.

Proponents tell us that they need to know what engagement activities they are expected to carry out, and when they should do so. Affected parties tell us that they want to have input early on, when a project is being planned. Particularly for larger and/or long term projects, affected parties often say that they want to be kept informed on what is happening and want to have an the opportunity to provide feedback to the proponent.



*Photo courtesy of the Mackenzie Valley Land and Water Board*

**Q: Why are the requirements for engagement activities different for municipal water licences than for the other water licences?**

A: The proponent for a municipal water licence is usually the municipal government, since they are responsible to provide water, sewer, and waste disposal services to their communities. The water licences for the municipalities may have been issued a long time ago, and the municipal governments are usually familiar with who the affected parties are and what the concerns in the community might be. The municipal government also has various ways of keeping the public informed on what is happening in town (website, newsletters, open council meetings etc.) and may be governed by their own engagement guidelines. For this reason, it seemed unreasonable to ask the municipal governments to follow the same formal engagement requirements as they may be accomplishing much of what the engagement activities are meant to do in an informal way already, without spending further resources for little additional benefit. The boards would still have the opportunity to ask the municipal government to engage with affected parties formally if it seemed necessary.

The boards still process municipal water licence applications the same way as any other application. It is sent out for review to stakeholders, and in the case of a Type A water licence application, the board calls a public meeting.

**Q: What will adoption of this Policy and Guideline by the Boards mean for proponents?**

A: This Policy will provide more predictability, clarity and certainty for proponents with respect to engagement expectations in the Mackenzie Valley. Applicants for permits and licenses will have a better understanding of what the Boards expect in the way of engagement prior to the submission of an application and through the life of the project. They will also know what information related to their engagement process to submit with their applications and how to apply for an exemption, if required. Industry will also be provided with some best practices related to effective engagement in the Mackenzie Valley.

**Q: What will adoption of this Policy and Guideline by the Boards mean to affected communities?**

A: For affected communities, it is anticipated that this policy and guidelines will set a new standard for engagement practices that work in the context of Mackenzie Valley communities. It is our hope that these guidelines will further assist applicants to enter into appropriate dialogue and processes with affected communities in a manner that meets the spirit and intent of “good engagement” and with the intention of building long-term relationships.



*Photo courtesy of Wek'èzhìi Land and Water Board*

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

A: Yes, the new policy and guideline do represent a change in Board practices, as to date; the Land and Water Boards of the Mackenzie Valley have not issued standard guidelines for industry engagement. In 2003, the MVLWB issued guidelines for industry engagement. Since their release in 2003, the Land and Water Boards have recognized that they do not provide enough clarity to industry about what the Boards' expectations are and have also recognized that the existing guidelines do not always help to

foster the required relationships between industry and public, in particular affected Aboriginal communities.

**Q: Why does the draft Policy and Guideline lay out a prescriptive approach to engagement?**

A: Industry, government and affected communities have all expressed an interest in an approach to engagement that is predictable, consistent and which clearly lays out the Boards expectations. To address this, the guidelines prescribe specific types of engagement activities based on the type of activity being proposed. As an example, if a company is interested in early exploration activities for mining (e.g. a type A land use permit), the Board will request an engagement record detailing that the affected communities were first notified and that both public information sessions and face-to-face meetings with leadership took place prior to the submission of an application. This will assure the Board that: (a) the affected community was notified of the upcoming application, (b) the project was explained to the affected community; (c) an opportunity was provided to the community to give input on the project, and (d) any issues identified and discussion on how these issues may be mitigated. The Boards will also require the submission of an engagement plan for any proposed activities requiring a permit or licence that are related to mining, oil and gas and power projects. The intent and objective of an engagement plan is to discuss and determine – through mutual agreement with impacted communities - the ongoing expectations for engagement through the life of a project.

The guidelines provide for an exemption opportunity for both the company and the affected party. There may be specific reasons why the requested engagement cannot or should not take place. All exemption requests will go before the respective Board for a decision.

**Q: Why are we sending you this Draft Policy and Guideline?**

A: As outlined above, the Boards have the authority to establish policy and guidelines and as a matter of good governance are engaging with all stakeholders to ensure the policy balances as many interests as possible. Once comments are received, the Working Group will consider them and revise the policy and guidelines before final approval by the Full Board of the MVLWB.

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

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