



Direction on General Policy Matters

1.2 Transboundary Applications

A. Direction

All Section 103 (1) applications for Land Use Permits and Water Licenses in the Mackenzie Valley will be made to the Mackenzie Valley Land and Water Board (MVLWB or the Board). These include any application:

- (a) that is to take place or is likely to have an impact in more than one management area, or in one management area and an area outside a management area; or
- (b) that is to take place wholly outside any management area.

Responsibility for determining whether an application should be made to the Board, or to a regional board, rests with the Board.

B. Authority

Section 103, 104 & 107 MVRMA

C. Definitions

INTERDEPENDENCE: a development is interdependent if it is located, or is to be located, either within a management area or outside a management area, but the development could not proceed without: (a) the use of land or water located in a different area; or (b) making a waste deposit within a different area.

LINKAGE: a development has linkage if the development decision to use land or waters or deposit waste within one management area, or outside a management area, makes: (a) a decision to undertake the use of land or waters located within a different area inevitable; or (b) a waste deposit within a different area inevitable.

MACKENZIE VALLEY: that part of the Northwest Territories as defined in the Mackenzie Valley Resource Management Act (MVRMA).

TRANSBOUNDARY APPLICATION; an application which falls under Section 103 (1) (a) of the MVRMA, meaning that it is to take place or is likely to have an impact in more than one management area, or in one management area and an area outside a management area.

TRANSBOUNDARY PANEL: a group of three or more members of the Board, appointed by the Chairperson of the Board in consultation with the Chairpersons of the regional boards who are given responsibility for the disposition of one or more transboundary applications. The panel will include at least one of the members appointed to a regional board on the nomination of a first nation or appointed by the Board following consultations with first nations and at least one of the members not so appointed.



Direction on General Policy Matters

D. Provisions

D.1 *Transboundary Applications*

The Executive Director (ED) is responsible for leading and coordinating the review of all applications made to the Board.

Once a file is assigned to a Regulatory Office (RO), the RO will make an initial determination of whether the application falls under Section 103 (1) (a) or (b). Where the ED determines that the application **may** fall under Section 103 (1) (a) (transboundary), staff will review the application. In determining whether an application may be transboundary, the staff will determine whether they believe that:

1. The development is proposed for more than one area, either a management area or outside any management area, and is sufficiently connected to proposed or existing development activities in a different area, through interdependence or linkage, to be considered as one entity; or
2. The development proposed for one area, either a management area or outside any management area, is likely to have an impact in a different area.

They will prepare a staff report for the Board outlining their determination of the nature of the interdependence, linkage or impacts of the proposed development and providing their recommendations. The Board is not bound by these recommendations and will make the final determination on whether the application is transboundary.

Once an application has been designated as transboundary, a Transboundary Panel will be established to meet the timelines of the MVRMA with regards to decisions on applications. Selection of members will follow the requirements of the Act and will take into account the need to include members from the regional board most closely associated with the geographic location of the development, as well other members of the Board.

The ED will ensure that Transboundary applications are processed according to the Regulations, using the Board's approved procedures. There will be one Preliminary Screening Report completed for the project. Staff from the regional boards will submit portions of a draft report relevant to their settlement area, and will include copies of all information, correspondence and responses for the file so that all relevant documents will appear on the public registry for that application.

The RO will integrate these portions into one draft Staff Report and Preliminary Screening and into the draft Land Use Permit and/or Water License as applicable.

Once a transboundary permit or licence is issued, a copy will be provided to the regional panel which participated in the review to ensure a copy is available on their public registry.



Direction on General Policy Matters

D.2 *Applications with impacts outside the NWT*

If the Board receives an application for a project which is likely to have an impact in an area outside the Mackenzie Valley, the ED will ensure that notification of the application is sent to the regulatory body in that jurisdiction. Staff will then coordinate any activities necessary with that regulatory body to ensure all affected parties are able to comment on the application.

Approved by: T. Bulcome

Effective date: Oct 26 05