

Standing Committee on
Economic Development
and Environment



Report on Committee's Initiation of a Project to Conduct a Review of the Land and Water Use Permitting Regulatory Framework

20th Northwest Territories Legislative Assembly

Chair: Mr. Robert Hawkins

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ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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MLA Range Lake

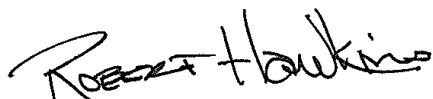
Sheryl Yakeleya
MLA Dehcho

Denny Rodgers
MLA Inuvik Boot Lake

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Economic Development and Environment is pleased to provide its *Report on Committee's Initiation of a Project to Conduct a Review of the Land and Water Use Permitting Regulatory Framework* and commends it to the House.



Mr. Robert Hawkins,
Chair, Standing Committee on Economic Development and Environment

**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT**

**REPORT ON COMMITTEE'S INITIATION OF A PROJECT TO CONDUCT A
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REVIEW OF THE LAND AND WATER USE PERMITTING REGULATORY
FRAMEWORK**

SCOPE OF REVIEW

The Standing Committee on Economic Development and Environment (Committee) would like to inform the 20th Legislative Assembly that Committee is in the early stages of conducting a review of the regulatory framework for land and water use permitting under the *Mackenzie Valley Resources Management Act* (MVRMA), and its operational effectiveness. The MVRMA provides the overarching framework for a robust regulatory regime and Committee would like to evaluate the underlying processes and requirements, and their interpretation by all parties, to ensure the spirit and intent of the MVRMA is being met, and to assess the GNWT's role in the system.

Committee's review intends to build on the work already done by subject matter experts across the Land and Water Boards, Indigenous Governments, the Government of the Northwest Territories (GNWT), the Government of Canada, and other stakeholders who interact with the land and water use permitting process.

Committee has particular interest in examining how the GNWT can provide further supports, make changes where needed and appropriate, and consider ways to enhance the capacity of parties to meaningfully participate in the land and water use permitting process. It is Committee's intent to prepare a report on the findings which will describe Committee's observations and recommend targeted actions and interventions the GNWT should consider for improving the administration, efficiency, and effectiveness of the regulatory framework.

APPENDIX A:

Standing Committee on Economic Development and Environment Committee Project: Regulatory Review of Land and Water Use Permitting Terms of Reference

1.0 Project Summary

The *Mackenzie Valley Resources Management Act* (MVRMA)¹ creates and provides authorities to a system of co-management boards in the Northwest Territories (NWT) to carry out land use planning, regulate the use of land and water and, if required, conduct environmental assessments and reviews of large or complex projects. This authority extends to all Crown and private lands and all waters within its jurisdiction. The overarching objectives of the MVRMA are to balance economic development and optimization of benefits with environmental protection, conservation, and to uphold Indigenous rights.

Contemporary integrated resource management under the MVRMA and related legislation in the NWT is largely the result of negotiated land claim agreements and is based on the principles of 1) integration and coordination; and 2) co-management of resources between governments and Indigenous groups.² This makes the NWT's regulatory regimes for resources management unique among Canadian governance models.

The scope of land and water use permitting in the NWT includes activities such as mineral exploration and mining, oil and gas development, forestry, hydroelectric projects, construction of Government of the NWT-sponsored capital projects (e.g., highways and ice roads), agricultural uses, some recreational uses, and other land-based activities that may impact the environment and traditional land use.

¹ Enacted in 1998, the MVRMA provides the legislative framework for regulating land and water use activities in the Mackenzie Valley, which covers approximately 20% of Canada's landmass. It is part of an integrated system that incorporates the *Waters Act*, the *NWT Lands Act*, and other territorial and federal legislation.

² There are two regulatory regimes in the NWT: one is established pursuant to the Inuvialuit Final Agreement and the other is established pursuant to the Gwich'in, Sahtu and Tlicho final agreements and entrenched in the *Mackenzie Valley Resource Management Act*.

The MVRMA provides the overarching framework for a robust regulatory regime and Committee would like to evaluate the underlying processes and requirements, and their interpretation by all parties, to ensure the spirit and intent of the MVRMA is being met, and to assess the GNWT's role in the system.

For this reason, the Standing Committee on Economic Development and Environment (Committee) has expressed an interest in conducting a review of the regulatory framework under the MVRMA that pertains to land and water use permitting, and its operational effectiveness. This initiative is meant to complement and align with larger legislative initiatives with longer timelines that are under consideration by the GNWT for the 20th Legislative Assembly, such as drafting the Mineral Resources Regulations to bring the *Mineral Resources Act* into force.

2.0 Mandate – Scope of Work

The project will:

- Consider the existing regulatory system related to land and water use permitting.
- Identify gaps, inconsistencies, inefficiencies, and areas that are working particularly well in the current framework that are under the GNWT's purview.
- Consider nuances in the approach to regulation and challenges experienced under a co-managed regulatory framework where there are a multitude of different players with different roles and authorities, including within settled and un-settled land claim areas, where applicable.
- Make observations and propose recommendations to the GNWT for improvement to enhance the clarity, effectiveness, and efficiency of the regulatory framework, and to make process improvements, where applicable.

The project intends to build on work initiated by Land and Water Boards (LWBs) and the Review Board (MVRB) in the Mackenzie Valley, Indigenous Government (IGs), the GNWT and the Government of Canada (GoC), and stakeholders who interact with the land and water use permitting process to identify targeted actions and interventions the GNWT can take, within the scope of GNWT's territorial authority and role, to improve the regulatory framework.

2.2 Methodology

The scope of work will involve a combination of desk-based research, stakeholder and Indigenous Government feedback, data analysis, and synthesis of findings to identify challenges and opportunities within the NWT's land and water use permitting regulatory framework pertaining to the GNWT's scope of authority and role that the applicable GNWT departments can act on within the lifetime of the 20th Assembly. Based on the findings, Committee's observations and recommendations will be included in the report.

The project will be guided by principles of transparency, inclusivity, and respect for Indigenous rights and traditional knowledge.

3.0 Operations - Timelines

Committee intends for this investigation to be conducted efficiently and in a timely manner and looks forward to bringing the report back to the House in the first half of the lifetime of the 20th Legislative Assembly. Specific milestones and deadlines for each phase of the project, including research, stakeholder consultations, data analysis, and report writing are currently under development.

Committee briefings will be ongoing throughout the project to ensure that feedback is incorporated into the review process in a timely manner. Public committee briefings will be conducted as part of the review process. Notifications of the date and time of public meetings will be posted to the Legislative Assembly website under the 'Events' section and will be posted on the Assembly's Facebook page.

Committee is working to establish a fulsome list of stakeholders and relevant subject matter experts to seek further input and information on this topic via interviews, written submissions, and public hearings. Committee may need to balance public and private engagement on this matter with subject matter experts, regulators, government officials, industry proponents and operators, Indigenous Governments, and residents who have expertise with or are impacted by the land and water regulatory framework.

It is not anticipated that Committee would travel for this project, however, as engagement begins, there may be a desire to travel if Committee agrees and legislative requirements allow them to do so. At this time, there are no Committee budget implications associated with this project.

4.0 Recommendations and Decisions

The intent of Committee is to make observations and finalize key recommendations to the GNWT, that are within the scope and breadth of its territorial authority, to improve the overarching land and water use regulatory framework through a report presented to the House.

Committee acknowledges that the MVRMA framework is complex and there are multiple parties to the legislation and its associated regulatory framework with various rights, jurisdiction, roles, and authorities granted under the Act. While the Committee may make observations on the system as a whole, recommendations will focus on GNWT's role in the system.

5.0 Priorities of the 20th Assembly

The 20th Assembly has identified four priorities:

- The suitability, accessibility and affordability of housing;
- A strong economic foundation;
- Access to health care and addressing the effects of trauma; and
- Safe residents and communities.

Successful completion of this project will support the priority of providing a strong and stable economy by ensuring regulatory systems in the land and water use permitting space and associated decision making are consistent, efficient, and predictable.