

COOPERATION AGREEMENT

Between

**The Yukon Environmental and
Socio-economic Assessment Board**

- and -

**The Mackenzie Valley Environmental Impact
Review Board**

(hereinafter the "Parties")

PREAMBLE

WHEREAS the Parties wish to establish a cooperative framework for the environmental and socio-economic impact assessment of projects and developments with transboundary effects within which each Party can exercise its respective jurisdiction;

AND WHEREAS the Parties are committed, where appropriate, to the exercise of their environmental and socio-economic impact assessment powers and duties in a coordinated and cooperative manner;

AND WHEREAS the Parties have agreed that cooperative environmental and socio-economic impact assessment processes should minimize duplication of effort, provide for timely review of development proposals and increase certainty for projects and developments with transboundary effects;

AND WHEREAS the Parties are conscious of the need to give explicit consideration to environmental and socio-economic factors at an early stage in their decision-making processes;

AND WHEREAS the Parties support the need for consultation on projects and developments with transboundary effects;

AND WHEREAS the Parties wish to minimize the significant adverse impacts of projects and developments with transboundary effects:

NOW THEREFORE THE PARTIES HAVE AGREED:

1. PURPOSE

This Agreement is intended to:

- (a) encourage and assist the Parties, when necessary, to cooperatively exercise their respective environmental and socio-economic impact assessment duties and powers especially with respect to projects and developments with transboundary effects;
- (b) foster coordination and communication in order to enable the Parties to effectively discharge their respective environmental and socio-economic impact assessment responsibilities;
- (c) create a framework within which the Parties may negotiate specific agreements with respect to the environmental and socio-economic impact assessment of projects and developments with transboundary effects; and

(d) contribute to the timely and effective environmental and socio-economic impact assessment of projects and developments subject to YESAA and the MVRMA.

2. INTERPRETATION

2.1 In this agreement:

“Agreement” means this agreement;

“federal Minister” means the Minister of Indian Affairs and Northern Development;

“MVRMA” means the *Mackenzie Valley Resource Management Act*, S.C. 1998, c.25 as amended and regulations;

“Review Board” means the Mackenzie Valley Environmental Impact Review Board established by subsection 112(1) of the MVRMA;

“YESAA” means the *Yukon Environmental and Socio-economic Assessment Act*, S.C. 2003, c.7 and regulations;

“YESA assessor” means the Executive Committee, or the Designated Office for the Dawson, Mayo, and Watson Lake assessment districts, as the case may be;

“YESA Board” means the board established by section 8 of YESAA;

“YESA Chair” means the person appointed in that capacity to the Executive Committee of the YESA Board under section 8 of YESAA.

3. PRINCIPLES FOR COOPERATION

3.1 In order to achieve the purposes of this Agreement the Parties agree to the following principles:

(a) Notification - timely notice of any matter relevant to this Agreement and any future agreements will be an essential element of the cooperative framework established between the Parties;

(b) Information Sharing – subject to legislation respecting privacy and the rules preventing the disclosure of confidential information, the Parties agree to early and open sharing of information relevant to their environmental and socio-economic impact assessment duties;

(c) Consultation - the cooperative framework established by this Agreement will be enhanced by early consultation and discussion of matters of mutual interest;

(d) Identification of Cooperative Opportunities - the Parties expect to identify other opportunities for cooperation over the term of this Agreement and will explore such opportunities as they arise.

3.2 The Parties agree to notify each other and share information for all projects and developments that are either situated in close proximity to the Yukon – Mackenzie Valley border or for which there are likely to be cross border impacts.

4. DEVELOPMENTS WHOLLY IN THE MACKENZIE VALLEY

4.1 Under subsection 140(1) of the MVRMA, where it appears to the Review Board during an environmental assessment that a development proposed to be carried out wholly within the Mackenzie Valley might have a significant adverse impact on the environment in the Yukon, the Review Board shall notify the YESA Board in writing and request the cooperation of a YESA assessor in the conduct of the assessment.

4.2 The request referred to in clause 4.1 shall include the development proposal and such other information as the Review Board considers necessary to describe the development and its environmental impacts.

4.3 As soon as practicable after receiving notice under clause 4.1, the YESA Chair shall determine whether the appropriate YESA assessor is the Executive Committee or a Designated Office.

4.4 In making the determination under clause 4.3, the YESA Chair shall take into account whether a similar project in Yukon would be assessed by the Executive Committee or a Designated Office, the extent of public concern in Yukon about the proposed development, the significance of potential adverse effects, and such other matters as the YESA Chair determines.

4.5 If the YESA Chair determines the Executive Committee is the appropriate YESA assessor, the YESA Chair shall refer the matter to the YESA Board and the Board shall determine the response, notify the Review Board of its decision in writing, and provide direction to the Executive Committee accordingly.

4.6 If the YESA Chair determines a Designated Office is the appropriate YESA assessor, the YESA Chair shall consult with the affected Designated Office about the request of the Review Board, following which the YESA Chair shall determine the response, notify the Review Board of his or her decision in writing, and provide direction to the Designated Office accordingly.

4.7 Cooperation in an assessment referred to in section 140 of the MVRMA, may include:

(a) information sharing arrangements between the YESA assessor and the Review Board with respect to the project and in particular, the potential effects of the project in Yukon;

- (b) opportunities for the YESA assessor to provide comments on the scope of development and assessment determinations to be made by the Review Board
- (c) opportunities for the YESA assessor to participate in technical review or advisory committees, if any, established by the Review Board to assist in the assessment;
- (d) opportunities for the YESA assessor to seek and provide information to the Review Board about public views on the project and its effects in Yukon;
- (e) such other actions as the YESA assessor and Review Board deem appropriate.

5. PROJECTS AND DEVELOPMENTS PARTLY IN YUKON AND PARTLY IN THE MACKENZIE VALLEY

5.1 Where a project or development is proposed to be carried out partly in Yukon and partly in the Mackenzie Valley and is subject to an assessment under YESAA and an environmental assessment under the MVRMA, the YESA assessor and the Review Board, in meeting their respective obligations under subsection 92(1) of YESAA and subsection 141(1) of the MVRMA, shall:

- (a) coordinate the timing of their respective assessment functions to the extent possible, having regard to the timelines applicable to their respective assessment processes;
- (b) to the extent practicable, coordinate information requests made to the proponent or others, and harmonize the content of the requests;
- (c) consider providing opportunities for joint participation of the other party in technical review or advisory committees, if any, established by either of them to assist in the assessment;
- (d) consider sharing technical resources;
- (e) consider joint participation in public meetings, if any, held as part of their respective assessments;
- (f) each designate a primary contact person for communication between their respective offices.

6. PROJECTS WHOLLY IN YUKON

6.1 If a YESA assessor conducting an assessment of a project located wholly in the Yukon considers that the project may have significant adverse environmental or socio-economic effects in the Mackenzie Valley, the assessor shall notify the Review Board in writing and seek the views of the Review Board about the project before making its recommendation to the decision bodies.

6.2 Prior to requesting approval of the federal Minister under section 142 of the MVRMA to enter into an agreement with the affected YESA assessor, the Review Board shall seek the views of the YESA Board respecting the proposed request.

7. NEGOTIATED AGREEMENTS

7.1 The provisions in this Agreement are subject to the provisions in an agreement entered into under:

- (a) paragraph 67(2)(b) or subsection 93(1) of YESAA, or
- (b) subsection 140(2), paragraph 141(2)(b) or section 142 of the MVRMA.

8. TERM AND AMENDMENT

8.1 The effectiveness of this Agreement will be reviewed periodically by the Parties.

8.2 This Agreement may be terminated by either Party upon 30 days notice in writing.

8.3 This Agreement may only be amended in writing by mutual consent of the Parties.

9. JURISDICTION

9.1 This Agreement does not create any new legal powers or duties, nor does it alter in any way the powers and duties established by the MVRMA or YESAA.

9.2 Nothing in this Agreement shall be construed as diminishing or affecting any of the procedural or substantive rights which may be guaranteed under any Land Claims Agreements or the federal laws of Canada.

10. NOTICES

10.1 Notice under this Agreement may be given in writing:

For the Review Board to:

Executive Director
Mackenzie Valley Environmental Impact Review Board
Box 938, 5102 – 50th Avenue
Yellowknife, NT
X1A 2N7
(867) 766-7050
(867) 766-7074 (fax)

For the YESA Board to:

Executive Director
Yukon Environmental and Socio-economic Assessment Board
3059 – 3rd Avenue
P.O. Box 31642
Whitehorse, Yukon
Y1A 6L2
(867) 668-6420
(867) 668-6425 (fax)

AGREED TO THIS 8th day of June 2006:

FOR THE MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD:

Carmel Mackenzie-Son

Chairperson

[Signature]

Witness

FOR THE YUKON ENVIRONMENTAL AND SOCIO-ECONOMIC ASSESSMENT BOARD:

[Signature]

Chair

[Signature]

Witness