

Security Issues Arising from Water Licensing on Private Lands in the NWT and Nunavut

SUMMARY REPORT

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Explorer Hotel
Yellowknife, NT



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1 Introduction

The Mackenzie Valley Land and Water Board (MVLWB) hosted a workshop to address Security Issues Arising from Water Licensing on Private Lands on April 3rd, 2008 at the Explorer Hotel in Yellowknife, NT. The single day workshop accommodated representatives from several regulatory agencies and government departments and was sponsored by Indian and Northern Affairs Canada (INAC).

Constance Ramacière, Terriplan Consultants, began the workshop by confirming her role as facilitator was to ensure that by the day's conclusion each participant would possess a deeper understanding of concepts, questions and issues surrounding security deposits on private land holdings.

Following the opening prayer, welcoming comments were provided by Willard Hagen, Chair of the MVLWB.

1.1 Opening Welcome by MVLWB

Willard Hagen began by welcoming all participants to the workshop and thanked INAC on behalf of the MVLWB for providing financial resources for the workshop.

Mr. Hagen provided participants with a brief history of the MVLWB. In March 2000 the MVLWB was established under Part 4 of the *Mackenzie Valley Resource Management Act (MVRMA)*. The MVLWB and the Regional Boards (i.e. Gwich'in, Sahtu, Wek'eezhii) have all settled land claims and established land and water boards. These boards issue land use permits (LUP) and water licenses (WL) effectively in the Mackenzie Valley under the authority of the *MVRMA* and the *Northwest Territories Water Act (NWTWA)*.

Mr. Hagen thanked all participants for committing time to gather and apply their knowledge and experience to a problem that just recently emerged in a water licensing context. Participants at this workshop included representatives from the Inuvialuit Settlement Region (ISR), Nunavut, and the Mackenzie Valley because they all face similar problems related to the assessment of security on private lands in the context of the water licensing process. The security issues under discussion have previously been addressed in a Type 'A' water license hearings before the Nunavut Board and the MVLWB. In this context he referred to the amount of security required to be associated with a water license, as well as who should hold the security in relation to environmental risks resulting from the development process.

Since land claims have been settled in the Territories, Aboriginal organizations have become owners of large tracts of land, and a great deal of development activity is planned or already underway on these lands. He cited Nunavut as an example in which a majority of mine development is taking place on Aboriginal lands. WL security deposits are a way of offsetting the risks of development to water and land, whether under Crown or Aboriginal title.

The determination of the appropriate amount of security and the allocation of that security are very important decisions in relation to the allocation of risks. Recent experiences before the water Boards in Nunavut and the Mackenzie Valley indicate some significant differences of opinions regarding the application of legal and policy frameworks related to water license security.

Mr. Hagen explained the purpose of this workshop as being the exploration of these differences, while seeking a cooperative way forward to ensure that the environment is protected. Another objective is to ensure that land owners and developers are treated fairly, both in the process of determining the amount and allocation of security in the water licensing process.

In closing, Mr. Hagen pointed out that the objective of the MVLWB, as set out in the *MVRMA*, is to provide for the conservation and the utilization of land and water resources in a manner that provides optimum benefits for all Canadian and in particular residents of the Mackenzie Valley.

To accomplish this, the MVLWB issues WL that protect the public and the environment while enabling development to take place. A requirement for posting security is to ensure proper reclamation after various development has run its course. This, in Mr. Hagen's words, is an important tool to protect against environmental risks. If proper security provisions cannot be made, or water legislation cannot be made to work effectively, then there is a risk of failing both the public and the environment. To the land and water Board, the issuing body that places the condition of security on development, this is a growing problem that is expected to be addressed by this workshop.

2 Setting the Stage

Following the opening remarks, Constance Ramacière explored with participants the content of the agenda and the underlying purpose and objectives of the workshop (*please see Appendix A*). Ms. Ramacière also explained the format for the afternoon breakout group session by providing direction on group formation and timing. The approach to breakout groups involved forming teams with members who may not be familiar with one another, to create a broader perspective on options and ideas. The workshop then continued with the introduction of John Donihee, legal counsel for MVLWB.

2.1 Presentation by John Donihee

John Donihee began by welcoming all participants, and noting that the purpose of his presentation was to ensure everyone had the same understanding of the issues at hand. Mr. Donihee appreciated that each participant has had different experiences up until this point, but common elements have presented themselves. This matter has been handled by the Nunavut Water Board on several occasions, most recently in the Doris North Mine WL proceeding held in August 2007. Mr. Donihee informed the plenary group that he also acts as legal counsel for the Kitikmeot Inuit Association as well, and was involved in that proceeding. Nunavut has dealt with this issue since development started in the late 1990s when the Boston WL was transferred to BHP. The Mackenzie Valley has only recently been confronted with this issue, especially in the recent Miramar Con WL proceedings.

The north has ample experience with situations where WL security against closure and reclamation of industrial site has not been adequate to protect the environment or the public interest. In light of the large areas of private land that have been granted to Aboriginal organizations and the ongoing interest in large scale economic development in the Territories, it may be inevitable that this problem will find its way into other proceedings unless appropriate steps are taken. He stated that the purpose of this workshop was to come to a common understanding and to affirm commitments to move

forward. It may take longer to work toward a final answer to these issues. It is important to collaborate in seeking those solutions.

Following this opening Mr. Donihee introduced the first slide of his PowerPoint presentation (see Appendix D). He began by noting that a comprehensive environmental management and regulatory regime includes both land and water. Each Territory has its own waters legislation and each of these statutes has its own provisions for security that are practically identical. The genesis of this stems from a history of problems related to development shortcomings in the remediation and site cleanup. Governments now carry the responsibility to clean up sites like Colomac and Giant Mine. Regulators, land owners and public in general collectively agree that these are situations that need to be avoided in the future and that financial security is one tool used in preparation for the eventual abandonment or closure of a mine.

WL security has tended to be a primary tool in addressing the environmental risks associated with development. In all three territories INAC has had policy in place since 2002 that addresses the need to ensure that security for abandonment and reclamation is available. This policy encourages regulators to structure licenses in a fashion that imposes security requirements that cover 100% of the security as liability fluctuates at the site of development. Provisions also exist to identify the amount of securities required as a condition of a license. The various statutes then provide for the management and administration of that security, once posted. More often than not the security is estimated on the Reclaim model developed by INAC and John Brodie, an engineering consulting firm retained by INAC. The Board often hears conflicting views based on quantitative data and projections; nevertheless, the Board is tasked with the duty to make decisions based on information received.

Section 12 of the *NWTWA regulations* speaks about the form of the security deposits. The word *form* speaks to the type of instrument that might be provided to Canada through INAC such as cash, cheque, irrevocable letters of credit, bonds, etc. There is flexibility in the *NWTWA* to accommodate a number of instruments. Generally the language is interpreted to mean the *type of instrument provided*. The legislation makes no mention as to who hold the funds (e.g. whether solely or jointly). Several questions still exist that Mr. Donihee hoped would be addressed at the workshop, especially ones that are not properly addressed in that particular provision. Consequently, a lack of guidance tends to exist regarding certain security issues.

Currently, the regulations apply both in the NWT and Nunavut; however, new regulations are in the works in Nunavut, presenting an opportunity for those participants to use the results of this workshop as the drafting process moves forward. The *Waters Act* also set out the respective jurisdictions of the Boards and the Minister of INAC in relation to security. Generally speaking, the powers of the Boards and the Minister can be found within the statute. When a development requiring a water license takes place on Crown Land, before claims came along, INAC would have the option to take the security as part of a WL, and/or as a land tenure instrument (like a lease). This was a departmental decision, and in the end, as long as funds were sufficient in either pool the public and environmental interests were protected.

A problem emerges when INAC does not have control of the waters and the lands. When only WL security is available, differences exist in terms of who bears the risk. If the security is not adequate (due to instances of market inflation, rising fuel prices, etc.), then the Crown has the obligation to protect the environment and public interest with the funds available. If there is a shortfall, who becomes responsible for providing the remaining balance of reclamation money? From a policy standpoint, one could argue

that the land owner should have protected themselves from these risks and liabilities. Secondly, the proponent may have benefited from the development, and therefore, should pay for the liabilities created by the development. Lastly, why would it become the burden of the public at large to cover these costs when it is on private land?

A number of authorities are set out in the water legislation to empower regulatory inspectors with the ability to issue direction to clean-up a site. Failure to comply may result in the Crown cleaning up the site; the Crown can then in turn, revisit the land owner and sue that individual for the difference between security and actual cost of clean up as a debt owing to the Crown. In short, that is how the legal framework puts the private land owner at risk, rather than the public.

This issue arose recently in the Miramar Con water license hearing. In this case, the effective land owner/administrator was the Government of the Northwest Territories (GNWT) through Municipal and Community Affairs (MACA). Leases were in place, but they did not provide for security. The estimate of security liability was provided; however, estimates were based on conflicting evidence and the Board was forced to make a determination on the amount and allocation of the set funds. The position advanced by INAC was that the Boards' jurisdiction to order security under a WL was limited to water related liabilities only, which is consistent to the position INAC advanced to the Nunavut water Board in Doris North. In both instances, the matter was argued as a separate legal issue in the context of the license hearings, and in both cases the Boards ruled that they had the authority to order both land and water related securities. Generally, the Boards claimed that the water license was issued in relation to the "whole undertaking" of development activities.

This legal difference of opinion still has not been resolved. The result, in Doris North was that security was tendered only to the Crown and that the Minister holds all of it to the detriment of the Inuit land owner.

A related issue is the protection of land owner from liability when water and land securities are consolidated into a single fund. At this point, Mr. Donihee posed the question before the workshop participants; "If the Crown should hold land security money on behalf of the land owner given that the Crown may not have a legal obligation to protect them."

In the end, this is a technical issue in the Board scope of water licensing, but Mr. Donihee noted that the failure to ensure adequate security means that proper reclamation may not be undertaken. One must hope that the developer will be present throughout the lifecycle of the project and that reclamation is always the final stage in development projects.

Failure to properly allocate risks can act as a serious barrier to development and from a policy standpoint it is an issue everyone would like to avoid. In situations where both the land owner and the Crown wish to take security to protect the public, the resulting security requirement would be much higher than the amount calculated on the basis of reclamation of the mine as one project site. Mr. Donihee referred to this situation as 'double dipping'. When the amounts are significant the Territories will be faced with a barrier to development that might benefit local residents.

In closing, he noted that this issue needs to be rectified before government is faced with another situation like that of Giant Mine. Mr. Donihee added that he hopes he set the scene for everyone and welcomed any questions from workshop participants.

2.2 Content Discussion

Following the PowerPoint presentation by Mr. John Dohinee, all participants were provided with the opportunity to present questions based upon its content.

George Govier, Sahtu Land & Water Board

Are the security deposits used for economic impacts or socio-economic costs included?

John Donihee answered that to the best of his knowledge these factors (socio-economic) are not considered in security deposits. The possibility of civil claims between a contractor/employer and employees would be handled by labour standard legislation. Most contactors involved in these projects have other means to secure their interests. Lenders to the developer take or consider other kinds of financial security, whether it be a mortgage, insurance or such similar devices.

Mr. Donihee added that so far he had not seen an estimate of liability for abandonment and reclamation that specifically addressed the types of issues in question. Conditions can include contingency factors for economic reasons such as inflation, but that would not extend to disputes over payment between the company or contractors, involved in developing the project.

George Govier, Sahtu Land & Water Board

During the calculation of security deposits, are inputs from review agencies or the proponent taken into consideration?

John Donihee replied by stating that security calculations are usually conducted in the context of a public hearing for Type 'A' WL. Mr. Donihee made mention of INAC's Reclaim model, developed by John Brodie, which is frequently used when creating a detailed analysis of development project liabilities. Type 'A' WL are frequently, if not always, scrutinized by a sophisticated analysis of the project to address abandonment and reclamation issues. Companies undertake their own analyses under the water license application process, and have the opportunity to review the Brodie analysis. Afterwards technical advisors from each group discuss and exchange their views. It's not uncommon for the estimates to improve once communication occurs between the independent researchers.

George Govier, Sahtu Land & Water Board

How long can a security deposit be held? Can it be used before the license or permit expires?

How long the security is held will likely depend on the terms of the security instrument itself. In general, the condition of the license is that security be in place throughout the term of the license. The developer has to have the security in place throughout, but of course if they choose a bond then the specific terms may be applied to it. In these cases, when the term is near expiration the developer would need to contact the institution that provided the bond to ensure it is rolled-over or replaced. As of late, companies are dealing with irrevocable letters of credit (LOC). The standard form of LOC used provides for it to be automatically roll-over unless the providers notify the bank otherwise (i.e. 30 days prior to roll over). The point of the exercise is to ensure that security is always present, and that it matches the estimated liability.

Howard Townsend, SSI

If the developers/companies head office is not within the regulating bodies' jurisdiction; is it still an issues as to who is holding the security for land, and whom is holding for water.

John Donihee addressed the question by stating that this issue is one where the party accepting the security has to look at very carefully. In exercising this, Boards are choosing to demand security in the form of Irrevocable LOCs. The term under which an LOC is provided is that a bank guarantees the funds; in other words, if the company goes bankrupt, the LOC remains valid. The form of the security and its ensuing terms are, therefore, very important and Mr. Donihee added that he expects counsel and the Government of Canada would be responsible for WL deposit issues such as this.

Eric Yaxley, Board Relations Secretariat, INAC

Your presentation was very insightful, and seemed to rely on the scenario that the owner/manager had possession of the surface rights, and different parties had sub-surface rights [for instances the Crown]. Do you have any thoughts on different scenarios, where the manager has surface and sub-surface rights; or where the development is not specifically a mine, but surface only development? [e.g. pulp and paper mill]

Is there a different relationship depending on owner/manager and surface/sub-surface rights?

John Donihee noted that this was a detailed question that could not be answered in full at this time; however, he did not believe the relationship varied a great deal given those factors. Certainly municipal water licenses exist where security is never requested. From a policy viewpoint, developments such as the hydro power project such as that operated by the Dogrib Power Corporation (DPC) act as an example of companies who serve as an agent of the Territorial Crown; thus, there is little concern that site abandonment will occur and reclamation security does not take place.

Mr. Donihee focused on a mining context throughout his presentation because it presented the highest frequency of security related issues. He added that he did not see much difference in whether the developer is going to be involved in any type of sub-surface extraction. Rather, the problem is based on the fact that water licenses for development projects exist where the Crown does not have access to the security deposits for both land and water.

George Govier, Sahtu Land & Water Board

How is security deposits accessed? by whom? and, under what circumstances?

John Donihee stated that the answer to the question depends on who is holding the security. In all most all of the instances that Mr. Donihee was aware of at this point, the bonds were held by Canada, specifically by the Minister of INAC. The circumstances under which the Minister could access the security are set out in the water legislation; generally, it depends on whether there has been abandonment on the site, a risk to the environment, or some other situation where the Crown cannot get the developer/licensee to deal with the problem. The situation is discretionary, but the Minister can allocate funds to deal with the problem. If security was held by a private land owner, then a land lease would likely be containing conditions under which security

could be accessed. Lastly, there may be terms in the security instrument itself that have to be met in order for it to be drawn down (in the form of notice requirements, etc.).

Howard Townsend, SSI

If a security deposit is taken for air pollution, does it fall under a water license or land permit? (e.g. soil acidification would be direct result of acid from the mine, and the sterilization of lakes would also be a result of the mine).

John Donihee confirmed that this issue has not gone unnoticed in the water licensing context. However, Water Boards deal with the use of water, or the deposit of waste into water, and so the only way that one could deal with air pollution effects under a water license would be to prove categorically that the chemicals being released from a licensed operation were turning up in water and affecting it in an adverse way. To this point, Mr. Donihee pointed out that a water license has not dealt with these issues successfully. The Nunavut water Board attempted to address the management of burning at the town dump in Iqualuit through a water license, but a jurisdictional issue was raised and the matter was dropped. The reality of the issue is very important, but it is unfortunately out of the scope of the priorities set forth in the present workshop.

Mike Wenig added that the question raised three (3) separate aspects. Primarily, if tied to security, does a specific regulator exist to monitor air pollution, and does this body have the power to request its own security. Secondly, one needs to understand where the pollution is landing (e.g. land or water). Lastly, who has the authority over the actual structure that is emitting the air pollution? Does that structure itself need to be reclaimed, and who has the security authority in respect to this issue? In short, this issue is even more complicated once it is broken down into detailed facets.

James Boraski, MVLWB

The administration of the protection of land and water is well defined in the spirit and intent of the land claims, and the Boards have been established under these. Do you think the spirit and intent is captured well in the present legislation and Acts in order to achieve the objective of security for the protection of land and water (not land or water)? Secondly, do opportunities exist to bridge between the legislation and the land claims, in terms of security?

John Donihee noted that the difference that emerged from the Mackenzie Valley Land Claims was that, starting with the Dene/Metis Agreement In Principle there exist a requirement to integrate the management of land and water. Management models in the Inuvialuit Settlement Region (ISR) and Nunavut did not choose to integrate these elements. Another interesting aspect of land management in the Mackenzie Valley is that land permits are necessary for activities on settlement land, whereas the ILA issues permits for their lands without the involvement of government regulators. In this case it is simply a private land owner's permit. When the MVRMA was drafted, land claim organizations chose to incorporate the NWTWA by reference, so not much change was made to that Act.

This method did not incorporate the policy and management framework in a effective manner; it does mean that the legislation works together. Mr. Donihee added that he believes the problem being discussed at the workshop is how the change of land ownership by settled claims has resulted in a need to 'tweak' the policy and legislative framework related to security to accommodate and address this transfer. Changes take

a certain amount of time to work themselves through the system. One of the purposes of land claim settlement was to encourage economic and development opportunities for Aboriginal people, and it's obvious from Willard Hagen's opening comments that Inuit land selection was very well done because those mines are flourishing. He felt that it was very encouraging to see that representation from Nunavut here because this problem, in a pipeline context, could potentially present itself to the NWT Water Board.

Mr. Boraski replied by stating, in terms of discussions with proponents in the bundling of applications from both Private and Crown land into a single application. The ensuing security issue will be very complex in association with water licensing. Mr. Boraski then noted that the estimated cost of the construction of the pipeline, having escalated from \$7 Billion to \$16 Billion and likely to rise even higher by the time construction begins. He then asked: *Is there a sliding scale opportunity for security? Once security is established and collected against the instruments, can security then be increased based upon new escalated estimates of cost?*

John Donihee confirmed that the security amount can indeed be subject to change after its initial establishment. As an example, a hydro project has a long development life-cycle (e.g. 50-80 years) and inflation can cause the security, relative to liability, to become inadequate. The Boards under the water legislation have the right to move to amend a water license on their own motion. The water legislation is more flexible than the regulations set forth for land. One of the drawbacks for holding security under a land permit, although they are limited to 7 years, is the lack of the authority to amend a permit under the Board's own motion. When speaking of a project as large as the pipeline, there must be additional means to manage environmental risks as security is only one way of solving the problem.

George Govier, Sahtu Land & Water Board

How does someone access a portion of a security deposit? Is that possible?

John Donihee confirmed that this matter would depend on the terms of the security instrument, as well as the terms and conditions of the license. In cases of Irrevocable LOC, the standard form usually specifies that all, or a portion, of the security can be drawn down. The terms will also require that if the funds are drawn down and the development continues under the license or lease, that the security be topped back up after the money is withdrawn. Those eventualities are usually covered by the terms and conditions of the security instrument, and that provision, more often than not, is demanded by the regulator.

George Govier, Sahtu Land & Water Board

Is court authority required, or necessary, to draw upon a security deposit?

John Donihee informed participants that court authority is not required to obtain funds from the security deposit.

George Govier, Sahtu Land & Water Board

What can the security deposit be applied to? Can it be applied to the recovery of Board or regulatory authority's expenses?

John Donihee replied by stating that when it comes to drawing upon the money itself, the Board is less involved than people believe. The role of the Board was to determine the quantity of the security. Security from that point onwards is managed by the Minister of INAC, pursuant to the NWTWA and regulations. The Act will specify when the Minister can draw it down. Mr. Donihee could not confirm, but believed that if the Minister incurred expenses in order to clean a site, then security can be drawn for those purposes. However, in terms of paying the Minister's staff for the time used to coordinate the clean-up, Mr. Donihee could not confirm how that is funded.

Howard Townsend, SSI

During the presentation the phrase “or in a form acceptable to the Minister” was used. Does that not assume that all authority and responsibility belongs to the Minister of INAC? If it belonged to another party, it would have to be acceptable to them.

It was also mentioned in the presentation that it could possibly be the land owners' responsibility to reclaim, should the proponent fail to. However, for private land held under a claim, the Minister of INCA has a fiduciary responsibility to reclaim to ensure people are adequately protected. Thus, does the form of the security deposit have to be more than just “acceptable to the Minister”?

John Donihee clarified that the phrase “form acceptable to the Minister” was pulled directly from Section 17 of the NWTWA. Similar language can be found in Section 76 of the *Nunavut Waters and Nunavut Surface Rights Tribunals Act*. The regulations mentioned in the presentation actually specify a letter of credit, bond, certified cheque, cash, etc. When speaking of ‘form’, those are the types of forms being mentioned.

Mr. Donihee added that the second part of the question related to who has the risk and who potentially holds the security. The Nunavut Water Board, beginning with the Boston license, encountered the issue of who would hold the estimated security deposit. The company expressed no concern over its allocation, as long as it only had to be paid once. In response, the Board asked that the security be tendered jointly; payable to both Her Majesty the Queen of Canada or the Kitikmeot Inuit Association. The allocation was unacceptable to INAC. If the Board claims the Minister needs a certain amount of security and someone else can draw upon it; a potential issue exists for the Minister, that the required security may become inadequate. There are other issues internal to the way funds are managed by the Crown, which result when one has joint security. To this point, joint security is still unacceptable to INAC.

Mr. Donihee closed by addressing the question about fiduciary responsibility of the Minister. The Minister has a fiduciary relationship with the SSI for example, in relation to the implementation of the Sahtu land claim. But, if SSI permits a third party on its land only that third party can undertake an activity subject to a land corporation lease or land tenure instrument. If there is mismanagement of land by SSI or a proponent using Sahtu settlement lands that results in damage to the land, then SSI cannot demand that the Minister pay for the damage caused by the developer as part of the Minister's fiduciary obligation to SSI. In such a case the Minister would not have caused the damage at all.

3 Discussion Paper Presentation

3.1 Introduction of Keynote Speaker

Wanda Anderson, Executive Director of the MVLWB, introduced the second keynote speaker of the workshop with a short opening debrief of some of Mr. Wenig's accomplishments in his field of expertise. Mike Wenig is a Research Associate with the Canadian Institute of Resource Law (CIRL), and Assistant Professor at the University of Calgary in the Faculty of Law. Since joining CIRL, Mr. Wenig has conducted research on a wide variety of energy, environmental, and natural resource issues. Projects include a comprehensive study of mining law in Alaska, and a report written in 2005 with Kevin O'Reilly on the reclamation and security regime for hard-rock mining in the Northwest Territories. Before joining CIRL in 2002, Mr. Wenig practiced in areas of environmental and natural resources, and administrative law in both Canada and the United States. He is a member of the Alberta Law Society, and of the New York and Alaska State Bars.

3.2 Presentation by Mike Wenig

Mr. Wenig began by thanking Wanda Anderson for the kind introduction, and then thanked the MVLWB for the invitation to speak on behalf of the workshop's background report that he wrote, titled *Security Issues Arising from Water Licensing on Private Lands in the Northwest Territories and Nunavut*. The purpose of the paper is to provide background information on the problem, identify the issues, and discuss positions on the issue for purpose of the meeting. The supplementary presentation is meant to delve into the details of some of the issues brought forth in Mr. Donihee's presentation. The basic issue identified by participants was as follows:

Should water Boards in the NWT and Nunavut set the amount of security required by water licenses based on both water and land related reclamation costs for licensed projects located on private lands?

Throughout the report, the term *private land* is used to refer to any lands that are not federally owned; including commissioners' lands, other non-Federal Government lands, and Aboriginal lands.

In considering the problem laid out by Mr. Donihee, it is useful to recall the core purposes of security, and to relate the problem back to these fundamental objectives. The following main objectives were listed as such:

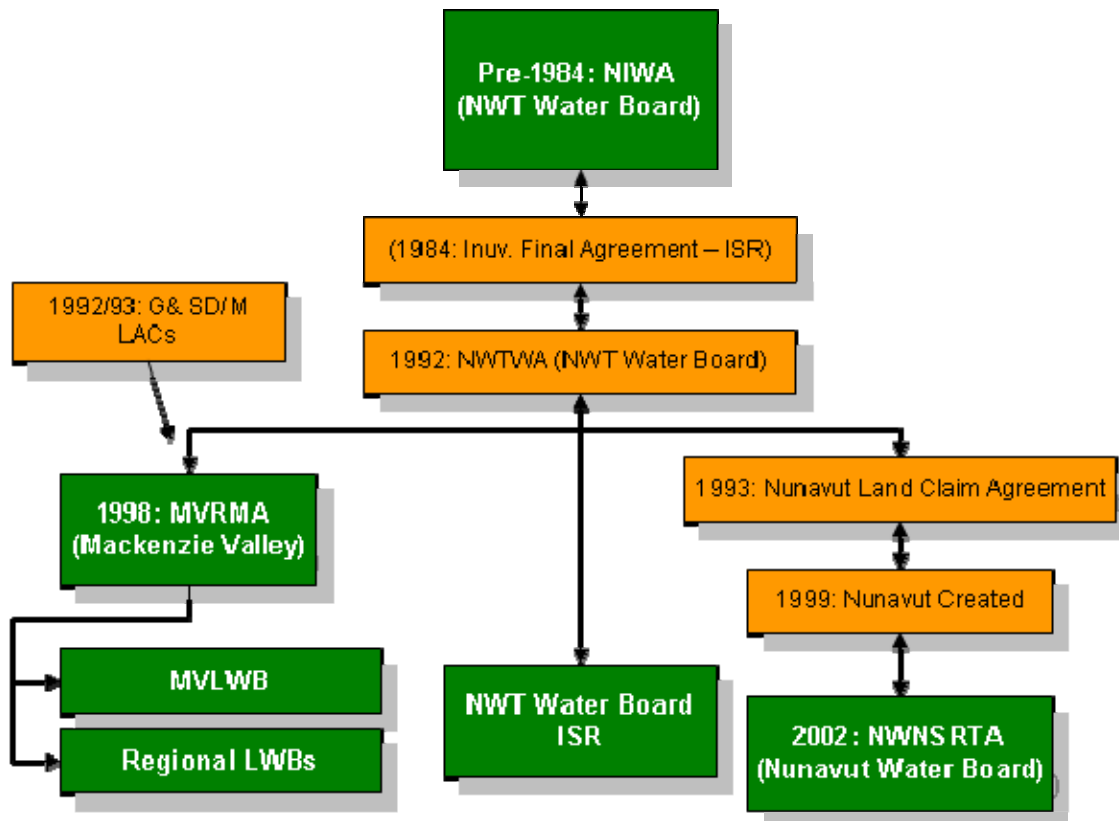
1. Security should always be sufficient to cover all reclamation costs.
2. Security should not be more than the total reclamation costs.
3. Security should be useable and available when needed to fulfill these functions.

Problems that arise when trying to achieve these objectives can be attributed to project oversight being split between different regulators. Essentially it is split between water Boards and land managers, and INAC has taken the position that securities should

likewise be split. Also, being the manager of the WL security, INAC have the last say as to when security gets to be applied or released.

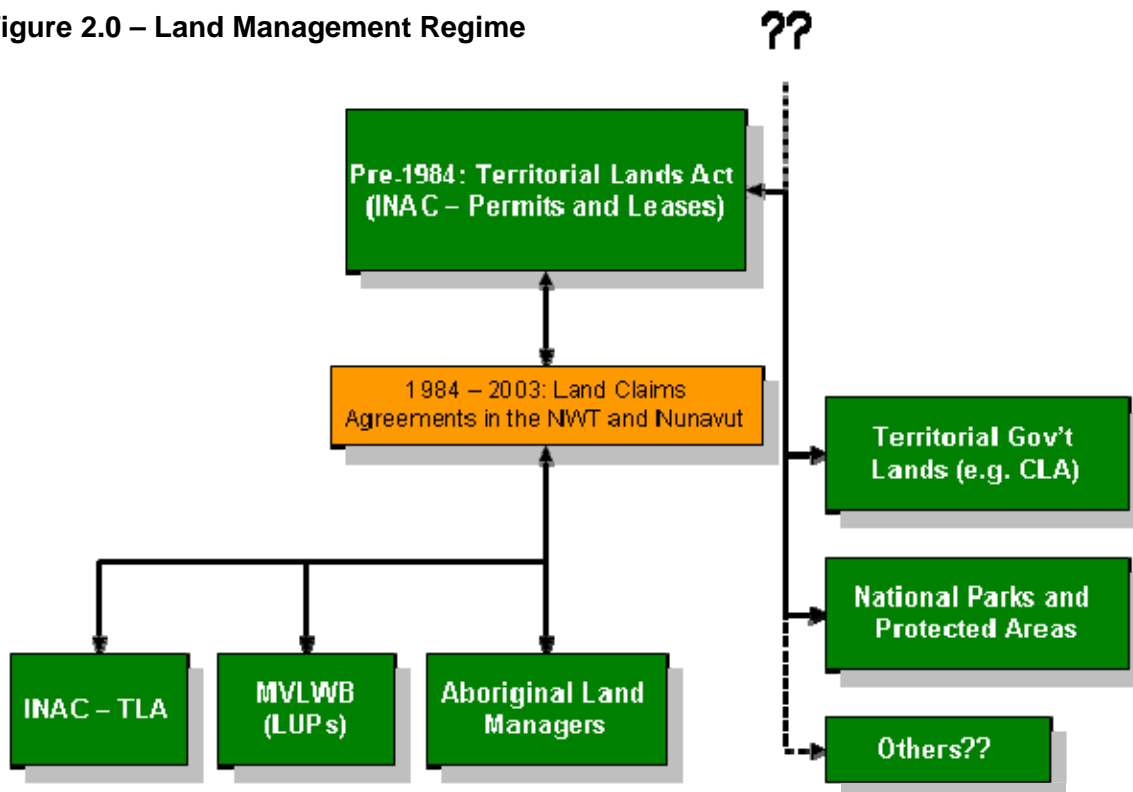
The following flowchart (Figure 1.0) summarizes the fifth slide of Mr. Wenig's PowerPoint presentation. The diagram was created to provide a simple illustration of the evolution of water licensing legislation and licence-issuing boards in the NWT and Nunavut. The diagram shows that the licensing legislation in the two jurisdictions stems from the same statutory origins – the *NWTWA* and, before that the *NIWA* – and the jurisdiction's licensing framework are both currently tied to the *NWTWA*.

Figure 1.0 – Water Licensing Regime



The second diagram (Figure 2.0) is intended to illustrate the land management regimes in the NWT as relevant to land-based security. Although it is highly simplified, it contains all the major regulators and key evolutionary stages and shows that there are numerous different land ownerships and land managers. This diversity will make it difficult to develop a land/water security approach that is consistent for the entire NWT (and Nunavut).

Figure 2.0 – Land Management Regime



Mr. Wenig's paper contained two main sections. The first section addressed the following question: *Is INAC's approach valid, as both a legal and practical matter?* The answer to this question seems to be valid only if security can be managed jointly. The second question posed: *Under INAC's approach, what are the prospects for joint management of security?*

Mr. Wenig then explored what INAC's approach is in splitting land and water costs for security purposes. INAC's approach is reflected in cost estimate reports that have been provided by John Brodie. Mr. Wenig pointed out the Doris North cost-estimate study is reflective of INAC's cost-estimate practice for most development projects. The cost-estimate "form" is a spreadsheet containing all the different components of reclamation, all the items that need to be addressed, as well as several columns for each item with a split for a land portion and water portion. According to Mr. Wenig, the allocation of proportions in the split (e.g. 25% - Water/ 75% - Land) is based on a coarse judgment of relative risks towards land and water, where items within land or water were apportioned in 25% increments. Mr. Wenig did not believe a rigorous investigation was involved in determining the relative risks between land and water. Following this assessment, Mr.

Wenig used an example to explore the relationship between risk and reclamation cost using a simplified single component model with a security deposit.

3.2.1 Legal Context

The focus moved from the methodology of the Reclaim Model and into the legal context. Mr. Wenig noted that the legal arguments are quite complex, as these are multifaceted and rely on several positions from various statutes. Accordingly, the depth of this topic will not be covered in detail in this report. The description of the core legal dispute from INAC's perspective is that Water Boards' focus is on the protection of water, thus the security should be limited to water. The contrasting position is that, under the various statutes and applicable regulations, the Boards' focus is not simply on water but on the *appurtenant undertaking* with respect to the use of water, or waste in water, for which a license need to be obtained. Mr. Wenig pointed out that INAC and other parties have yet to agree on the scope of an *appurtenant undertaking*; whether it would be the entire project, or a much narrower scope involving the management of a single action (sub-component) within a development for which the license has been obtained. The legal arguments between both parties are not sufficiently precise to cover all the nuances of an overall project. Using several graphics, he attempted to capture the essence of some of these nuances by explaining the relative risks to both land and water for numerous development activities (see Appendix D).

3.2.2 Joint Security

In this section of his presentation, Mike Wenig looked at the prospects for joint security. He identified and discussed several potential joint security scenarios, listed below, but noted that the workshop participants might be able to suggest still other scenarios.

1. One instrument held by INAC, payable to Canada, required by water Board and land manager.
2. One instrument held by INAC, payable to Canada and land manager.
3. Two separate instruments held by INAC.
4. One instrument held by INAC, the other by the land manager – joint decisions on use of security.

Mr. Wenig noted that the viability of these options are all debatable, and several can be written off immediately given INAC's position that it does not have the authority to manage security required by land managers for land permits. As mentioned earlier by Mr. Donihee, these are all subject to INAC's approval as INAC poses full authority in terms of water security deposits. Given this pre-existing dichotomy, a major hurdle in joint security is the need for a consistent level of authority between INAC and land managers, as well as the ability to practice joint decision-making.

Finally, Mr. Wenig explored the last aspect of his report, namely the risks land managers/land owners face under various security and reclamation scenarios. In particular, if land and water reclamation costs are split between two or more security instruments. Mr. Wenig's report did not answer this question; however, it made an attempt to establish a conceptual framework for addressing the question in further research. One key factor is that risks vary throughout a broad spectrum of security scenarios. That spectrum begins with the situation where all reclamation costs can be covered solely in the water license and ends with the scenario, where land and water costs have to be split, but the land manager does not have the authority or willingness to impose its own security requirement. Mr. Wenig also reminded participants that none of the scenarios within the spectrum are completely risk-free, and that the range of options worth exploring and evaluating is broad. In conclusion, he stated that the risk issue is very complex and needs to be broken down into several sub-categories and scenarios to be properly evaluated and addressed.

3.3 Content Discussion

Mark Cliff-Phillips, WLWB

Securities in the Mackenzie Valley, where LWBs administer both water licenses and land use permits on both Private Land and Crown Land. Does INAC still administer securities for water licenses and land use permits under Section 32 of Mackenzie Valley Land Use Regulations (MVLUR)?

Mike Wenig replied that INAC administers securities under Section 32 of the *MVLUR*. However, it raises a question of whether or not those land use permits can be used to acquire land-based security, and therefore facilitate an integrated joint security regime because the land use permits and water licenses are issued by LWBs and managed by INAC. Mr. Wenig saw this as a logical place to turn, at least in the Mackenzie Valley. However, he added that a change in regulations is required to effectuate a joint management scenario because the scope of activities that require land use permits are fairly narrow and specific, and are currently not broad enough to cover all components of an overall project.

George Govier, SLWB

Mr. Govier pointed out a mistake in the draft report with regard to the authority of the L&WB in the Mackenzie Valley, which Mr. Wenig acknowledged and agreed that LWBs in the Mackenzie Valley do have authority over lands that have been alienated from the Crown and are private lands.

Further Mr. Govier asked the following question: "*Can the Minister hold securities for private lands (e.g. settlement lands)?*" Mr. Govier suggested reviewing the two parent pieces of legislation, i.e., the *MVRMA* (Section 71) and the *NWTWA* (Section 17). In these Acts, the lands over which security deposits can be taken (pursuant to s. 71), may be owned by either the Federal Government or the appropriate holder of the titles issued pursuant to any of the three land claims in the Mackenzie Valley. He further pointed out that because of these Land Claims and the *Acts*, that the LWBs have jurisdiction over both classes of land; therefore, Section 71 of the *MVRMA* would apply, regardless of who holds title of the land.

Mike Wenig acknowledged that he was not in a position to comment on the interpretation of legislative documents, but acknowledged that there are a number of ways of reading the provisions of Section 71. Another interpretation, for instance, is that water licenses apply to activities that occur on private land, but it does not explicitly state that the scope of the security can include the reclamation of land-based components that pose more risk to land than to water. This is one of many interpretations that have been raised, which is a testimony to complexity of the issues.

Kim Gilson, KIA

If the Minister holds all the security, the Minister has the ability to use it for things other than what would be in the interest of the land owner. If that is the case, why would the land owner want joint security? Would the land owner not be better off with something in hand, by ways of security, as the alternative is sole possession by the Minister? The Minister has different priorities and parties to whom obligations are owed, and the land owner has relatively few.

Mike Wenig responded by mentioning that from a land owner's perspective, if the land owner required security, then the land owner has control over the amount and the use of the security. That is the basic advantage of obtaining security, rather than leaving it in the hands of INAC. The notion of using the security to compensate affected parties as well as to cover reclamation raises a threshold issue about what the security can be used for. The security is already being split to serve two different functions (compensation and reclamation), putting aside the fact that it is diluted even further by splitting between land and water costs.

Marjorie Fraser, INAC

When considering the possibility of splitting security and looking at the options for joint security, how did you address, or did you address, the possibility that there could be three instruments? It could be a combination of the water license, land use permit, surface lease, or an instrument identified in another jurisdiction that would justifiably require security. How does this work into your idea of joint security?

Mike Wenig noted that he did not address the possibility of another instrument. The more regulators that are involved, the more difficult it becomes to jointly manage security. Consistency amongst regulatory regimes becomes increasingly difficult.

4 Breakout Working Teams

The afternoon session involved participants breaking out into four separate groups to address questions surrounding security issues that arise from water licensing on private lands. Groups were asked to assign one individual to record, and another to present the groups findings to plenary. The idea of the breakout groups was to generate discussion relating to some of the issues discussed in the morning session. The final question hoped to yield a summary of the items discussed in the allotted hour-long session.

Breakout Group: Group 1		Presentation by: David Livingstone, INAC	
<p>1. In your view, what are the risks to the crown and land owners, a. If land and water security costs are/are not split? and, b. If security is/is not jointly managed?</p>			
<p>If Security Costs <u>Are</u> Split:</p> <ul style="list-style-type: none"> - The accuracy of the split is fundamental – too much or too little – either can cause issues to slip between the cracks - It could pose joint-management challenges <p>If Security Costs <u>Are Not</u> Split:</p> <ul style="list-style-type: none"> - There are ore will be jurisdictional challenges to deal with - Total security may be inadequate, i.e., too much in the water license or too little in land. 			
<p>Security is Jointly Managed</p> <ul style="list-style-type: none"> - Poor joint collaboration - Differing priorities - Administrative confusion 		<p>Security is Not Jointly Managed</p> <ul style="list-style-type: none"> - It will create chaos - There may be Insufficient funds for remediation priorities - <i>It may lead to double-dipping</i> 	
<p>2. In view of the above, what changes to the water licence security framework could make it work better?</p>			
<p>Changes to Legislation</p> <ul style="list-style-type: none"> - Clarify the term ‘undertaking’ - Clarify (and separate) activities under land, land/water, water, and air (if we choose to tackle this as well) - Unify or consolidate land and water security requirements - The notion of creating a ‘superfund’ for orphan sites or unexpected major failures <p>Changes to Framework</p> <ul style="list-style-type: none"> - Policy direction regarding reclamation criteria – use available models (keeping in mind the assumptions made in them) - Standard collaboration through MOU - Clarify the following: <ul style="list-style-type: none"> ▪ Land Manager’s responsibilities ▪ Water Manager’s responsibilities 			
<p>3. What three most important things that you think should be done to resolve the problem?</p>			

1. Fix all relevant legislation as appropriate. (Territorial, Federal and Aboriginal legislation)
 - a. Focus on Regulations and/or the Act (easier to fix regulations)
2. Define the collaborative arrangements well in advance of needs (develop template for collaborative MOU)
3. Common standards – for models, clean-up expectations, etc. (provide policy direction, if needed).

John Donihee, MVLWB

In terms of the 1st listed priority, is all relevant legislation included because it is being left open for the Territorial Government to take care of its part of the legislative equation?

David Livingstone replied that Territorial legislation needs to be clarified (e.g. defining the role of the Water Manager). With respect to MACA (e.g. the Con Mine), there exists a need to develop legislation to enable MACA to hold security, at least in the context of a lease. Furthermore, the Aboriginal government legislation probably requires at least coordination, if not further development, to ensure the collaboration role is firmly established.

Breakout Group: Group 2

Presentation by: Adrian Paradis, MVLWB

1. In your view, what are the risks to the crown and land owners,
 - a. If land and water security costs are/are not split? and,
 - b. If security is/is not jointly managed?

If Security Costs Are Split:

- Both Crown and land owners are exposed to greater risk
- There is increased risk as well due to increased demand for joint administration, i.e., how are the interests of all parties being protected?
- Currently there is no legislative framework available to manage this – therefore, legislative change is required

If Security Costs Are Not Split:

- Potential for “over” or “under” funded security
- Possibility of under-coordinated or multiple remediation efforts
- Problem of ‘correctly’ splitting the security into different segments
- Unavailability of full information on ‘leases’ or other regulatory authorizations

3. What three most important things that you think should be done to resolve the problem?

1. Legislative reform/change (in the long-term).
2. Research the possibility of jointly managing a trust fund.
3. All security-related information is available to all regulatory authority and Boards (i.e. leases)

Breakout Group: Group 3		Presentation by: Howard Townsend, SS/	
1. In your view, what are the risks to the crown and land owners, a. If land and water security costs are/are not split? and, b. If security is/is not jointly managed?			
If Security Costs <u>Are</u> Split: <ul style="list-style-type: none"> - The potential for insufficient funds or double-dipping - Likelihood of overestimate the security required - Development fails to proceed i.e., it is jeopardized by inflated security costs - Inconsistent methodologies for determining security required - Multiple jurisdictions result in more dollars (hence, inflated deposits) 			
If Security Costs <u>Are Not</u> Split: <ul style="list-style-type: none"> - May result in insufficient funds available for one of the components (either for land or for water) - Potential loss of decision-making authority - There may not be appropriate linkages between the license/permit and the terms and conditions of enforcement. - Might miss the security trigger that requires regulators to act on an infraction (Land/Water each have their thresholds, combining them may result in oversight) 			
Security is Jointly Managed <ul style="list-style-type: none"> - Increased process efficiency - Challenge of fitting within existing legislation – may create obstacles - Potential for creation of a surcharge/fund (like a superfund) - Possibility of a co-managed decision-making process (with better checks and balances) - Potential problem due to lack of consensus. 		Security is Not Jointly Managed <ul style="list-style-type: none"> - Could end up with inefficiency - Time delays in accessing funds to remedy the actual problem - Inability to access several sources of funding - Potential exists for a centralized and transparent body. - Potential for inadequate representation by multiple stakeholders. 	
2. What practical problems are associated with dividing up land and water reclamation costs?			
<ul style="list-style-type: none"> - The potential for gaps in the enforcement regime - Technically problem of how to separate land from water liabilities - The triggers for enforcement actions will be different depending on land and water and can pose additional challenge for land managers - Duplication of effort in administrative processes 			
3. What three most important things that you think should be done to resolve the problem?			
<ul style="list-style-type: none"> 1. Develop best practices and/or framework for security requirements. Research and find an administrative model with a methodology for security fund administration 			

2. Resolve INAC's legal authority to hold security deposits on private land. Consider that there are going to be steps towards devolution/self-government.
3. Mesh liabilities (water/land) with the security. People need to better understand the various forms of security and choose the best one

Breakout Group: Group 4	Presentation by: Geoff Clark, <i>Kitikmeot Inuit Association</i>	
1. In your view, what are the risks to the crown and land owners, a. If land and water security costs are/are not split? and, b. If security is/is not jointly managed?		
If Security Costs <u>Are</u> Split: <ul style="list-style-type: none"> - There will be no integration and there may not be enough funds to cover clean-up costs - Possibility of residual liabilities for both parties - Possibility of statutory/legal risks (i.e., could be ordered by a Court to clean up the site) - The extent of risk may not be equal relative to availability of funds by government/private land owner - There is potential risk if one party fails to act. - Potential risk to ecosystem and environment if split is not properly created 		
If Security Costs <u>Are Not</u> Split: <ul style="list-style-type: none"> - The funds might not be available to the party that is not holding security - The loss of control that follows due to lack of access to funds. - There is potential risk of inadequate coordination and administration of the security 		
Security is Jointly Managed <ul style="list-style-type: none"> - Risks related to coordination and access to the money - Partnership risk – should the working relationship fail. - Each party may have different priorities - Coordinating timelines may pose additional challenges - Would need a clear mechanism to work together (e.g. MOU, Contract) 	Security is Not Jointly Managed <ul style="list-style-type: none"> - Results mirror the risks from Question 1 a) "If security costs are split" 	
2. What practical problems are associated with dividing up land and water reclamation costs?		
<ul style="list-style-type: none"> - More cooperation and collaboration will be required - Managing the entity on a project basis and one approach may not suit all - There is need for cooperation among parties, which current legislation does not promote – this needs to be changed. - Another approach/or need for culture change in government in relation to 		

relationship with landowners especially the structure of relationships with Aboriginal land owners

3. What three most important things that you think should be done to resolve the problem?

1. Cooperation as early as possible between INAC and land owners, ideally in a formalized agreement or contract.
2. Investigate the scope of collaboration possibilities under current framework
3. Review security framework between government and private land owners in other jurisdictions.
4. Manage project as a whole in relation to security (including estimation and execution) regardless of who is holding the security.

5 Plenary Discussion and Comments

The breakout group report to plenary was followed by the opportunity for participants to offer closing comments or observations based upon the materials put forth throughout the workshop.

John Donihee, Legal Counsel, MVLWB

Mr. Donihee stated that his workout group was in agreement that the current framework, which would include legislation, regulation and policy, is not up to the task. Another common theme included, the idea that collaboration and cooperation is necessary and should begin as early as possible; also, if feasible, that collaboration be formalized.

Mike Wenig, CIRL

Mr. Wenig mentioned that it was interesting that participants recommended legislative fixes; because underlying that request, are disagreements and uncertainty over what end result is going to be achieved. Is it being amended to provide INAC with sole control over the management of security? Or is it being fixed to accomplish something else? Consensus needs to be achieved to determine what end result is desirable.

John Donihee, MVLWB

The task of amending *all relevant legislation* assumes that the legislative framework will be strictly sectoral. If somehow confusion has crept into the water legislation, it would allow some people to argue successfully in front of the Boards that land and water security can be held under the water legislation. To fix this, security management needs to ensure that land security cannot be taken under the water legislation. Mr. Donihee noted that he did not believe this was the best approach, and another option is to broaden the security being held under the legislation to make it more environmental rather than just water related. The answer is not for everyone to repair legislation in their own compartments, because that would run counter to the notion of cooperation and collaboration.

Erin Huck, INAC

Ms. Huck added that one the first points discussed in best practices was underlined with the notion that discussion has to surround what the ideal system should look like. In that discussion, a more in-depth debate needs to take place regarding what the philosophy will be, concerning the suggested amendments. Is legislation changing to reflect clearer distinction between responsibilities, or will these amendments reflect a more holistic view of the environment.

Eric Yaxley, INAC Board Forum

Mr. Yaxley made the observation that the *NWTWA* is dated and has not kept up with development within the NWT. Clearly, this has become a major part of the problem. The relationship between INAC, Aboriginal land holders and the GNWT is not reflected in the *Act*. A system is needed that allows adequate securities to protect the environment, while recognizing the new relationship that exists with land owners who have a role to play in the security arrangements, which is yet to be determined. The legislation is behind the times, and with potential devolution to the GNWT, Mr. Yaxley believes this will become even more pressing to reform the legislation.

Mark Cliff-Philips, WLWB

Mr. Cliff-Philips' group discussion touched upon the intention of the *MVRMA*, whose purpose served to look at land and water as co-management features. When looking at securities and how they are developed, in a way, collaboration does exist in the process. For example, all involved parties help to establish the security amount that the Boards will finally determine. However, once the estimate is confirmed, the administrative functions lose that essential co-management feature. Mr. Cliff-Philips wanted to know, how, in the future, will the *NWTWA* be updated to fit with the *MVRMA* and the processes that are already occurring (including updates to Aboriginal government, as well as Territorial and Federal Government)?

Mike Wenig, CIRL

Mr. Wenig provided insight into the notion that legislation is behind the times. According to Mr. Wenig, under the Land Claim Agreements, the Federal Government still maintains ownership over water. Thus, a fundamental split exists between land and water that is embodied in Land Claim Agreements. Through the establishment of LWBs, the legislation is in some ways ahead of its time, rather than behind. Putting aside all legislation, there is a fundamental split that exists in all the Land Claim Agreements between land and water. How is this going to be dealt with?

Howard Townsend, SSI

Mr Townsend provided a counter comment to Mr. Wenig's opinion. Mr. Townsend opined that when referring to land and water, it should not be viewed as something that is split, but rather something that is combined. He also pointed out the under-representation of the Aboriginal population at the workshop. He found it ironic to be stripping land and water, and believed that Aboriginal peoples would be looking at the issue holistically. In closing, Mr. Townsend believed that the answer will likely be found by looking at these problems holistically.

5.1 Measuring Progress

Ms. Ramaciere challenged participants to measure what progress would look like in one year. The scenario put forth involved what milestones would the working group hope to accomplish by the time participants gather again in one calendar year.

Howard Townsend, SSI

Mr. Townsend believed that the GNWT would have seconded someone from the banking or financial industry to review all of the environmental liabilities, in their various stages of mining development; informing parties where they should be looking, in order to collect the proper security deposits.

Secondly, Mr. Townsend added that the GNWT would have assigned an economist to look at how to manage a fund with the security deposit. The output would be a clear and concise process; possibly the start on an environmental fund with the possibility of a surcharge to address anything that may have slipped through the cracks. The result would be an efficient and cohesive way of collecting security deposits.

Kim Gilson, Kivalliq Inuit Association

Ms. Gilson contributed by taking Mr. Townsend's comments one step further, adding that methods for determining security need to be independent of the parties. The greatest

impediment to collaboration at this time is the restrictive structure in which security is held. Ms. Gilson believed that issues surrounding problems with security stem from its allocation to the Minister. Alternatively, INAC, along with land owners and proponents can collectively establish a different vehicle within which to obtain security for development. If the impediments on the Minister arise from constraints within the legislation, then avoid ordering the security under the legislation. In short, within one year, an attainable goal would be the establishment of a new collaborative model for collective security deposits.

Marjorie Fraser, Lands Division, INAC

Ms. Fraser noted that her working group believed that all security related information be shared among regulatory authorities Boards on an ongoing and continuous basis. Ms. Fraser believed it to be a short-term goal that should be attainable within a year.

John Donihee, Legal Counsel, MVLWB

Mr. Donihee added a goal, that within a year's time each participant will have in hand a report which reviews the options explored in other jurisdictions. These options might provide ideas that could be applied within the Mackenzie Valley and Nunavut. Ideally, the report would go on to look at what could be done within the current system prior to regulatory or legislative change. This exercise should be conducted by a third party who presents the findings, and have the Boards and INAC buy-in to the system. If the report were produced, INAC's legal team would have to review it to ensure it accurately reflects what INAC can or can not do under the existing Acts.

Geoff Clark, Kitikmeot Inuit Association

Mr. Clarke offered the perspective from the KIA in Nunavut, whose goal is to have representatives from both INAC and Nunavut at a table to discuss the future of securities. In the NWT, it is apparent that this issue is important enough to talk about; however, Mr. Clarke does not believe that Nunavut is at the same developmental stage to move forward at the same pace. In terms of collaboration, it would be ideal to see cooperation within a year considering Nunavut has been trying for nine years to open discussions.

6 Closing Statements

Adrian Paradis, MVLWB, provided the closing statement to workshop participants in order to provide some of the next steps in moving forward with the array of issues surrounding security deposits within the NWT and Nunavut. Mr. Paradis began by expressing that increased communication is where parties are going to find marked improvements. In summarizing some of the major themes brought forth, short-term goals included quick, regular and timely communicating and providing all security information to all parties. There is also a need for research to be conducted to explore the options that exist within the present legislation to better security acquisition and distribution efforts. Mr. Paradis noted that all these goals are achievable in the short-term prior to the attempts to revise current legislation, and added that the research will help to strengthen the case for a need to amend regulations and legislation.

Wanda Anderson, Executive Director, MVLWB, closed the workshop by thanking INAC for providing the means to hold the Securities Workshop. Ms. Anderson also thanked all participants for their insight and contributions throughout the course of the day, as well as Mike Wenig, Manik Duggar and Terriplan for supporting and making the workshop a great success.

APPENDIX A

AGENDA

Mackenzie Valley Land and Water Board
A Workshop on Security Issues Arising from Water Licensing on Private
Lands

April 3, 2008 (9:00 am – 4:00 PM)
Explorer Hotel (Room: Kat C Room)
Yellowknife, NT

Purpose:

The purpose of this policy workshop is:

1. To discuss and understand various legal and policy related issues with regard to security deposits arising from licensing of development on Aboriginal or Commissioner's Land in the Northwest Territories and Nunavut arising from the commissioned policy research;
2. To identify and discuss policy options with regard to security deposits in the Northwest Territories and Nunavut; and,
3. To disseminate the outcome of the research and analysis on Security Deposit related issues to relevant parties in the Northwest Territories and Nunavut;

WORKING AGENDA

Time	Agenda Item
9:00 am	Opening of the meeting <ul style="list-style-type: none">- Opening Prayer- Welcome by Willard Hagen, Chair- Introductions
9:20 am	Presentation by John Donihee <ul style="list-style-type: none">- Setting the Stage
	Discussion Paper Presentation <ul style="list-style-type: none">- Introduction of the Key Presenter: Wanda Anderson- Presentation of Discussion Paper: Mike Wenig
10:30 – 10:45 am	Coffee Break
10:45 am	Breakout Working Teams
12:00 – 1:30 PM	Lunch
1:30	Reports by Working Teams
	Plenary discussion and comments: Participants and Presenters
3:45	Next Steps & Closing: Adrian Paradis Closing Prayer

APPENDIX B

WORKING GROUP QUESTIONS

Mackenzie Valley Land and Water Board
A Workshop on Security Issues Arising from Water Licensing on Private
Lands

April 3, 2008 (9:00 am – 4:00 PM)

WORKING GROUP QUESTIONS

1. In your view, what are the risks to the crown and land owners,
 - a. If land and water security costs are/are not split? and,
 - b. If security is/is not jointly managed?

2. In view of the above, what changes to the water licence security framework could make it work better?

3. What practical problems are associated with dividing up land and water reclamation costs?

Common question:

4. What three most important things that you think should be done to resolve the problem?

APPENDIX C

PARTICIPANT LIST

Participant List

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