



## Regulation of Water and Mining Dams in the Northwest Territories

### Regulatory Framework

Generally, any dam built for the retention or diversion of waters, including hydro-electric production, is classified as a water use and subject to water licensing.<sup>1</sup> Mines and their associated infrastructure, including tailings dams, are also subject to licensing. The primary regulatory instrument addressing mining and hydroelectric dams, from construction to closure and reclamation is thus a water licence. The Board's authority to issue water licences comes from the Mackenzie Valley Resource Management Act (MVRMA), the Waters Act and Regulations, and the Mackenzie Valley Land Use Regulations. The Northwest Territories (NWT) does not have legislation which regulates dam safety directly.

Water licensing in the NWT is the responsibility of co-management boards established by legislation or aboriginal land claims. The boards responsible for water licensing in the NWT are: the Mackenzie Valley Land and Water Board;<sup>2</sup> the Sahtu Land and Water Board; the Wek'èezhii Land and Water Board; the Gwich'in Land and Water Board; and the Inuvialuit Water Board.<sup>3</sup> Members of these administrative tribunals are jointly nominated by local aboriginal organizations and government and appointed by Ministers.

Licences address a diverse set of topics including waste management, water use and management, environmental effects monitoring, site construction, water quality limits, contingency planning, closure and reclamation, financial security deposits, and more.

### Implementation

In the Mackenzie Valley, there are several metal mines and diamond mines with tailings and water-retaining dams, and a small number of hydroelectricity systems with dams. Licences for projects within these industries require a licensee to follow the Canadian Dam Association's *Dam Safety Guidelines*. Thus, the Guidelines are incorporated into legally binding terms and conditions in the licence. This requirement and other licence conditions establish the standards for environmentally responsible design, construction, operation, surveillance, and closure of dams.

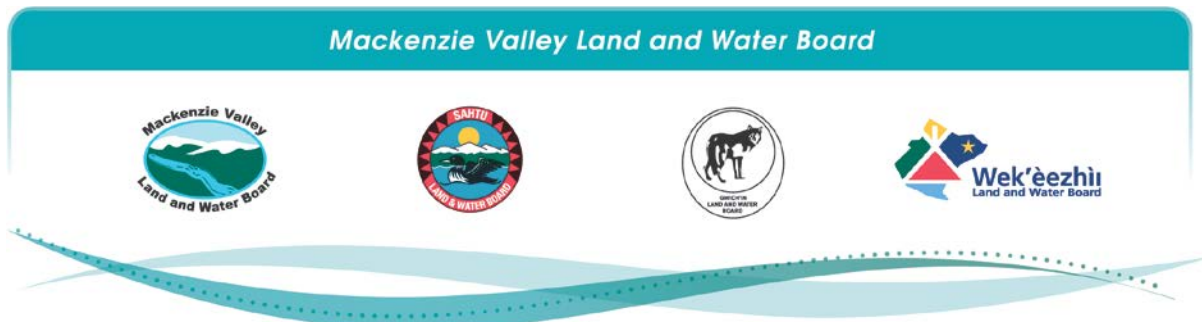
Although water licences are site-specific and vary from project to project, typical licence requirements related to dams include: submission of dam safety review reports, emergency preparedness plans, dam designs, tailings

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<sup>1</sup> If a "use" of water includes any diversion or obstruction of water, the alteration of the flow of waters or the alteration of the bed or banks of a water body whether seasonal or not, a water licence is likely required. The exact details are set out in the schedules to the *Northwest Territories Waters Regulations* but only small "uses" are exempt from licensing, for example off stream storage of less than 2500 m<sup>3</sup>. Retention of a larger amount requires a licence.

<sup>2</sup> The Mackenzie Valley Land and Water Board (MVLWB) is comprised of regional panels for each of the NWT's aboriginal land claim areas and ad-hoc panels for the unsettled land claim areas. The regional panels are the Wek'èezhii Land and Water Board, the Sahtu Land and Water Board, and the Gwich'in land and Water Board.

<sup>3</sup> There are currently no regulated dams within the Northwest Territories Water Board's jurisdiction; therefore, all regulated dams in the Northwest Territories are currently under the authority of the MVLWB.



management plans, and closure and reclamation plans; monitoring and surveillance requirements; and stipulations regarding water levels. Many licence submissions must be approved by the boards before the licensee can begin the activities addressed by the submission.

The boards' processes for issuing and administering a licence are inclusive and transparent, with substantial opportunity for public input. Federal and territorial government departments, aboriginal organizations/governments, and watchdog organizations regularly provide input to the boards' processes. These parties contribute scientific input and traditional knowledge and ensure that the board's decision-making is informed by a variety of interests. The boards maintain a public registry where they post all documents related to issuance and ongoing administration of licenses. Applicants for a licence are required to engage with affected parties prior to submitting the application, and to submit a plan for engaging parties during the term of the licence.

The Government of the Northwest Territories (GNWT) is responsible for enforcement of water licences on territorial lands, including the issuance of notices of violation and the determination of penalties.<sup>4</sup> The GNWT provides all inspection reports to the boards, who post them to the public registry.

Dams in the NWT may also be subject to other laws and regulations outside of water legislation. There is no official dam inventory in the Northwest Territories.

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<sup>4</sup> Canada retains enforcement authority for licences issued for water uses on federal lands.