

From: [Tyree Mullaney](#)
To: [Permits](#)
Subject: FW: WL and LUP jurisdictions for federal areas
Date: Monday, September 19, 2016 10:14:54 AM

MV2016L8-0003 MV2016X0011 - INAC eligibility for LUP under Section 18(b) of MVLUR – May 20_16

New App

Application and Related Docs

Thanks Chick!!

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From: Murray Somers [<mailto:Murray.Somers@aandc-aadnc.gc.ca>]
Sent: May 20, 2016 10:35 AM
To: Tyree Mullaney <tyree@mvlwb.com>
Cc: Angela Plautz <aplautz@mvlwb.com>
Subject: WL and LUP jurisdictions for federal areas

Hi Tyree,

In continuation of our earlier discussion, please see the following.

LUP

To reinforce the Board's earlier point about the need for only one LUP, I encourage you to look at the Board Decision for the LUP issued for the Frobisher Gas Well Project (attached).

WL

Final Devolution Agreement

Definition (x) "**Federal Appurtenant Undertaking**" means any appurtenant undertaking in relation to a water licence which is:

- (i) related to Remediation performed by or on behalf of Canada pursuant to this Agreement;
- (ii) related to Remediation performed by or on behalf of Canada in respect of an Excepted Waste Site; and
- (iii) on lands under the administration and control of Canada.

Final Devolution Agreement

3.8 The Legislation referred to in section 3.7 shall provide that a federal Minister shall have sole authority

to exercise the following powers and functions under the territorial Legislation referred to in subsection 3.11(a) which substantially mirrors the *Northwest Territories Waters Act (Canada)*:

(a) in relation to a **Federal Appurtenant Undertaking**:

(i) the approval of the issuance of a Type A water licence;

(ii) the approval of the form, and the holding, of any security posted in respect of a water licence;

(iii) the exercise of the powers referred to in section 39 of the *Northwest Territories Waters Act (Canada)*, as that provision read immediately prior to the repeal of such Legislation on the Transfer Date;

(iv) the issuance of a policy direction to a board;

(v) the designation of inspectors; and

(vi) the provision to inspectors designated under paragraph 3.8(a)(v) of the authority to exercise the powers referred to in section 37 of the *Northwest Territories Waters Act (Canada)*, as that provision read immediately prior to the Transfer Date;

MVRMA

s.72.04(2) - In fixing the conditions of a licence in respect of a federal area, the board shall make all reasonable efforts to minimize any adverse effects of the issuance of the licence on any of the following who would be adversely affected by the use of waters or the deposit of waste proposed by the applicant, and who have notified the board within the time period stipulated in the notice of the application given under subsection 72.16(1), whether they are in or outside the federal area to which the application relates, at the time when the board is considering the fixing of those conditions:

(a) licensees who hold a licence in respect of a federal area or in respect of lands outside a federal area;

(b) domestic users;

(c) instream users;

(d) authorized users;

(e) authorized waste depositors;

(f) persons who use waters or deposit waste, or both, without a licence under the authority of any territorial law;

(g) owners of property;

(h) occupiers of property; and

(i) holders of outfitting concessions, registered trapline holders, and holders of other rights of a similar nature.

Please let me know how the Board plans to proceed with the WL.

Thanks very much!

Murray

Murray Somers

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