



Yukon-Northwest Territories Peel/Mackenzie Delta Basins Intentions Document

The Government of the Northwest Territories (GNWT) is negotiating with the Yukon Government to update the Yukon-Northwest Territories (NWT) Transboundary Water Management Agreement, which was signed in 2002. The intent is to modernize the existing agreement and align it with more recent transboundary agreements the NWT has with Alberta and British Columbia and the agreement Yukon has with British Columbia.

A map that shows where the area under the agreement is located can be viewed here:

https://www.enr.gov.nt.ca/sites/enr/files/resources/yt_nwt_transboundarywaters_2021update.pdf

What is an Intentions Document?

An Intentions Document and its appendices contain all the sections that are intended to be in a final bilateral water management agreement. The governments of the Northwest Territories (NWT) and Yukon have negotiated two separate Intentions Documents: one for the Peel/Mackenzie Delta basins and one for the Liard basin. This is based on the way water flows between the Yukon and NWT.

- A summary of the Liard Basin Intentions Document can be found here.
https://www.enr.gov.nt.ca/sites/enr/files/resources/liard_intentions_doc_plain_lang_2.pdf

These documents are being used for consultation with Indigenous governments and organizations and public engagement towards developing the final Yukon-NWT Bilateral Water Management Agreements.

What's the purpose of a bilateral water management agreement?

A bilateral water management agreement is an agreement between two jurisdictions about how they will cooperate to make decisions about water that flows between them.

Bilateral agreements are important to both upstream and downstream jurisdictions because they provide a long-term framework to manage shared water resources in the Mackenzie River Basin in a sustainable manner for current and future generations. These agreements help to ensure that upstream jurisdictions do not unreasonably harm the aquatic ecosystem of downstream jurisdictions. They help ensure the waters of the NWT remain clean, abundant and productive for all time.

The agreements apply to all water resources, including rivers, deltas, lakes, wetlands and groundwater, which are shared by the parties to the specific bilateral agreement and within the Mackenzie River Basin.

Where does the Peel/Mackenzie Basins Intentions Document apply?

Waters flow from Yukon into the NWT in the Peel Basin and the Mackenzie Delta Basin. A map showing where those basins are located can be found here:

https://www.enr.gov.nt.ca/sites/enr/files/resources/enr_wr_peelwatershed_2021update.pdf

What's in a bilateral water management agreement?

Bilateral water management agreements commit the jurisdictions to consult, notify and share information on developments that might affect the aquatic ecosystem in other jurisdictions. They establish an agreed-upon set of conditions about surface water and groundwater quality and quantity, aquatic life and monitoring that will demonstrate how the interests of the jurisdictions are being achieved. They also address climate change impacts to water through research, ongoing monitoring, and using an adaptive management approach to be responsive to new information and changing conditions.

Once the Peel/Mackenzie Delta basins bilateral agreement is signed, a Bilateral Management Committee will be established to implement and report on the achievements of the agreement. Each Bilateral Management Committee has at least one senior water manager from each party and, for the NWT, two Indigenous government representatives.

Ongoing monitoring activities, setting transboundary objectives, sharing information, prior notification and consultation, emergency response procedures, dispute resolution, and review and amendment commitments are all ways of making decisions that ensure the parties meet the commitments of the bilateral agreements.

Each party to the bilateral agreements continues to make its own decisions about water and land use within its jurisdiction, but will make sure those decisions meet the commitments in the agreements. The parties agree to cooperate in good faith and take all reasonable actions to achieve the commitments in the agreements. The parties agree they will work together in a way that is proactive, timely, transparent and respectful of each party's applicable laws.

What's different in the Peel/Mackenzie Delta Basins Intentions Document compared to the 2002 Yukon-NWT Transboundary Water Management Agreement?

There are several differences between the current and proposed agreements:

- The Government of Canada will not be a signatory because, as of April 1, 2014, the Government of the Northwest Territories (GNWT) has legislative authority for water in the NWT except in areas retained by the Government of Canada. In Yukon, the Government of Canada transferred most water-related responsibilities to the Yukon Government in 2003.
- Membership on the Bilateral Management Committee will be similar to the 2002 agreement, except there are no members from the Government of Canada because it will not be a

signatory. Indigenous governments and organizations are defined in the Peel/Mackenzie Delta Basins Intentions Document similar to the 2002 agreement. For the Yukon, they are the First Nation of Nacho Nyak Dun, the Vuntut Gwitchin First Nation and the Tr'ondëk Hwëch'in. For the NWT, they are the Gwich'in Tribal Council and the Inuvialuit Game Council.

- Bilateral Management Committee meetings will take place annually instead of every two years as in the 2002 agreement. A report to Ministers will also be released to the public annually.
- There are far more actions and commitments related to the agreement's ecosystem objectives (now called transboundary objectives). The Intentions Document identifies specific types of transboundary objectives (i.e. biological, groundwater, water quality and water quantity). Steps to be taken if a party detects deviation from the transboundary objectives are more detailed.
- Commitments related to information sharing, notification and consultation, research, traditional knowledge, and public engagement or consultation are more extensive.
- There are more ways to resolve disputes and/or questions. This includes discussion to arrive at consensus, studies and investigations, discussion with the Mackenzie River Basin Board, preparation of reports, striking a panel to make recommendations, other activities as required, or referral to the responsible Ministers.
- The appendices are much more comprehensive than in the 2002 agreement and include an adaptive management approach, use of traditional and local knowledge, consideration of groundwater, learning plans, monitoring, and costs to administer the agreement.
- There is more detail about ecological indicators (now called biological indicators) and management actions to be undertaken depending on the level of risk.
- Setting of water quality objectives considers the natural conditions of the water body, rather than using more generic national guidelines. This is more protective and aims to keep the water quality within the range of natural variability.
- The water quantity objectives are set by determining the water needed for the aquatic ecosystem and to protect the most sensitive use/users (e.g. aquatic life, traditional use). The remaining water can then be equally shared between the parties. In the 2002 agreement, water quantity objectives are intended to avoid significant change in the timing and quantity of water flow.
- The Peel/Mackenzie Delta Basins Intentions Document recognizes that climate change is already having a significant impact in the Peel/Mackenzie Delta basins. These impacts include permafrost thawing and slumping and resulting water quality changes.

The full Peel/Mackenzie Delta Intentions Document can be read here:

https://www.enr.gov.nt.ca/sites/enr/files/resources/attachment_a_peel_mackenzie_delta_yt-nwt_intentions_doc_july_2020.pdf