

EA Process in the NWT under the *Mackenzie Valley Resource Management Act: A Case History, De Beers Canada Mining Inc. Snap Lake Diamond Project*



**Glenda Fratton & Stephen R. Morison, Gartner Lee Limited
Alan Ehrlich, Mackenzie Valley Environmental Impact Review Board**

April 28, 2004



Gartner Lee

Presentation Objectives

- Provide an overview of the EA process under the *Mackenzie Valley Resources Management Act* (MVRMA) using the Snap Lake Diamond Project experience as a case history.
- Providing some “food for thought” in regards to the EA process in northern Canada.



Environmental Assessment - Overview

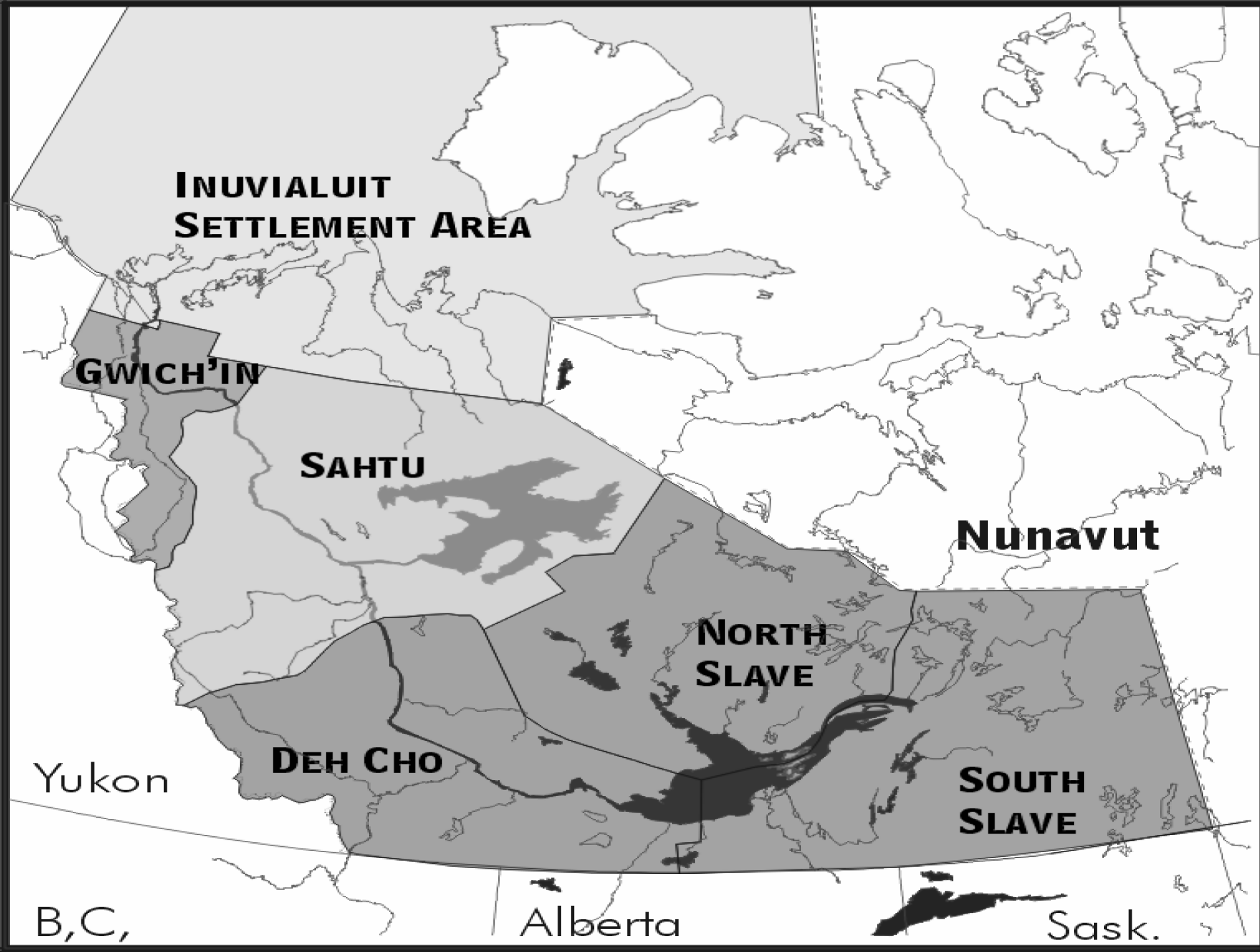
- EA originally a planning tool used by government to ensure that public funds were not used in a manner that would negatively impact the environment
- Court challenges confirmed the need for rigorous and timely EA prior to regulatory approvals
- Used to achieve sustainable development objectives
- Northern Canada is evolving to a system where EA and regulatory decisions are made through public boards which are community driven
- Northern Canada process unique and is driven by Land Claims agreements and political evolution-otherwise known as “devolution” of natural resources management authorities to territorial governments (e.g. Yukon)



Mackenzie Valley Resource Management Act (MVRMA) - Overview

- Born out of the *Gwich'in and Sahtu Dene and Metis Comprehensive Land Claim Agreements*
- Came into force in December 1998
- Provides northerners decision-making participation and responsibility in environmental and natural-resource matters
- Part 5 relates to EA. CEAA no longer applies in the Mackenzie Valley except under very specific conditions
- Jurisdiction - NWT not including Inuvialuit Settlement Region (ISR) and Wood Buffalo National Park





**INUVIALUIT
SETTLEMENT AREA**

GWICH'IN

SAHTU

Nunavut

**NORTH
SLAVE**

DEH CHO

**SOUTH
SLAVE**

Yukon

B,C,

Alberta

Sask.

MVRMA - Overview (con'd)

Three levels to EA process:

- 1) Preliminary Screening
 - initial evaluation of a project for environmental impacts
 - used to identify if the Review Board should do an EA
- 2) Environmental Assessment
 - looks at environmental impacts, significance of impacts, considers public comments, mitigation measures
- 3) Environmental Impact Review
 - more comprehensive investigation of issues, alternatives, followup program, capacity of resources impacted, consultations



Mackenzie Valley Environmental Impact Review Board (Review Board)

- Review Board is a valley-wide public board established to undertake EAs and Environmental Impact Reviews under the MVRMA
- Considers environmental, socio-economic and cultural impacts
- Strive for a transparent, community-based process following the rules of natural justice



Public Record and Parties to the EA

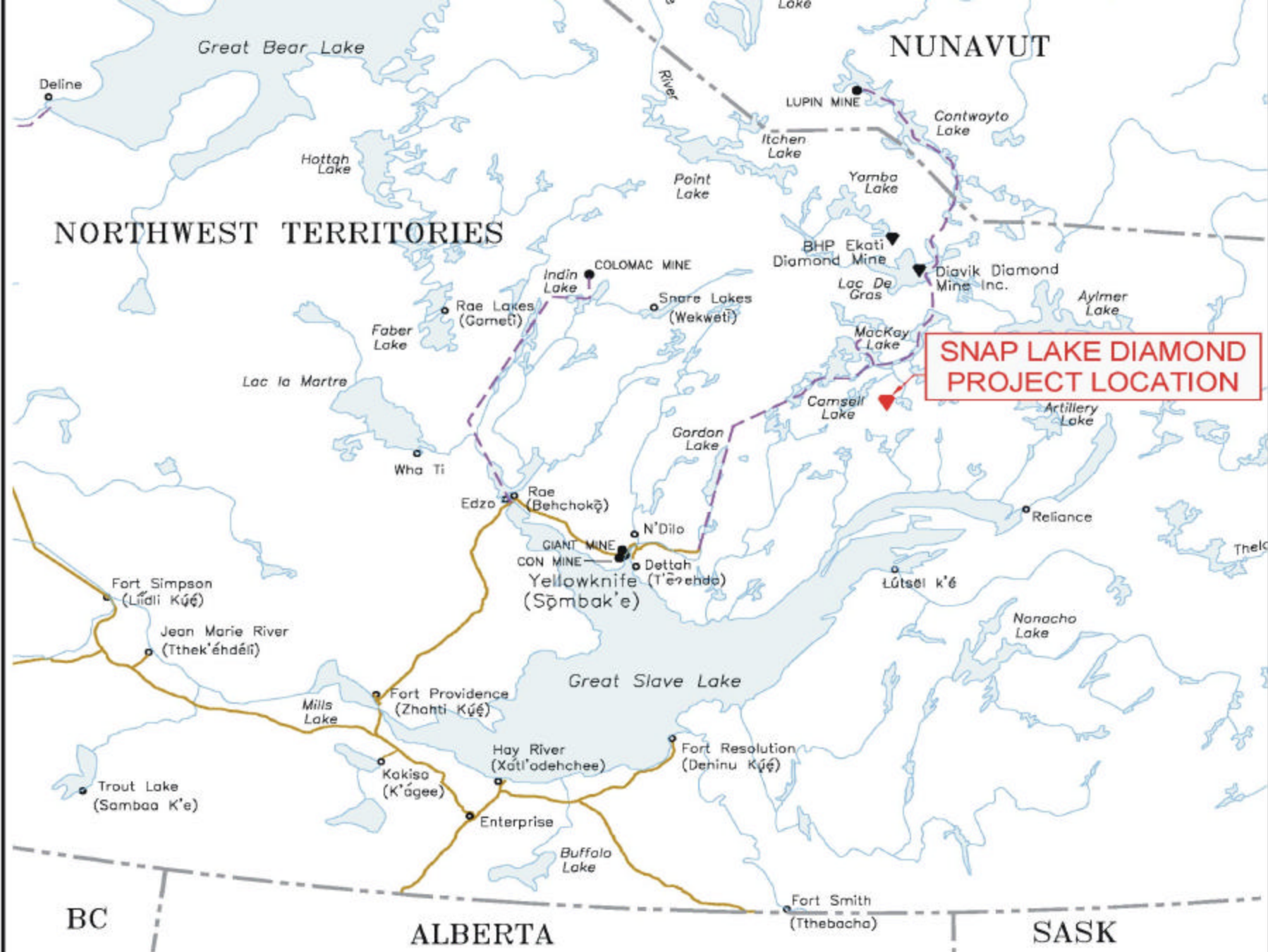
- Only evidence filed on the public record during an EA proceeding can be considered in the Review Board's decisions.
- Government departments, aboriginal groups, and other organizations participate throughout the EA process - collectively referred to as "Parties" in this talk



Case History: Snap Lake Diamond Project EA

- De Beers Canada Mining Inc. (De Beers) Snap Lake Diamond Project:
 - development of a 3,000 tonne per day underground diamond mine, operating life of 22 years;
 - construction of support facilities;
 - expansion of existing facilities;
 - annual winter access road, esker access road; and,
 - quarrying of esker material.





LEGEND:

ALL-WEATHER HIGHWAYS
WINTER ROADS

DIAMOND MINE/EXPLORATION
COLD MINE





SOURCE OF FIGURE:

FIGURE 1.2 IS ADAPTED FROM A FIGURE ENTITLED "SNAP LAKE DIAMOND PROJECT, SOUTH VIEW AFTER 10 YEARS OF OPERATION" SUPPLIED BY DE BEERS CANADA MINING INC.



Mackenzie Valley
Environmental Impact Review Board

REPORT OF ENVIRONMENTAL ASSESSMENT AND
REASONS FOR DECISION ON THE DE BEERS SNAP
LAKE DIAMOND PROJECT

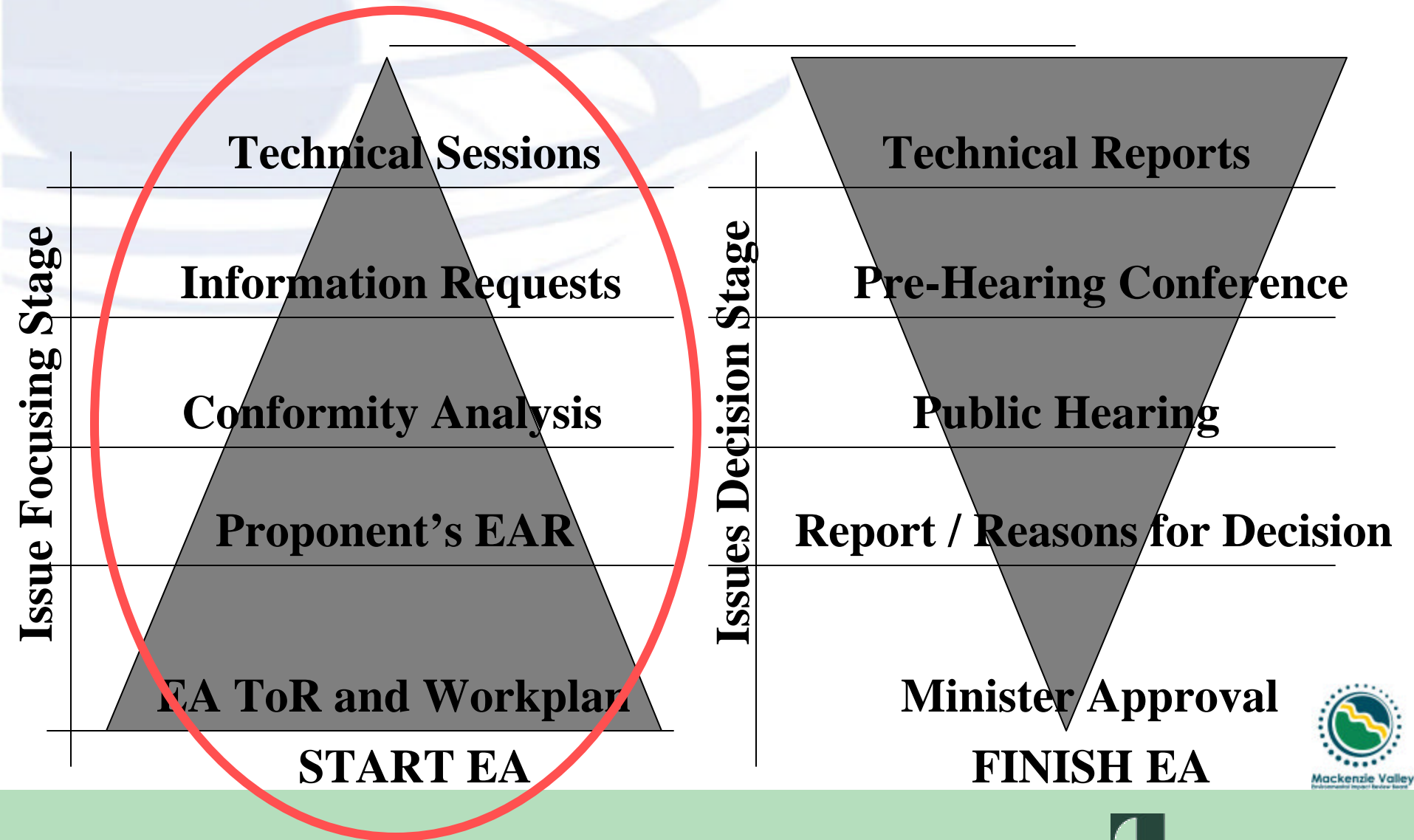
**GENERAL SITE LAYOUT
SNAP LAKE DIAMOND PROJECT**

FILE NAME:
23065-D1-02.DWG

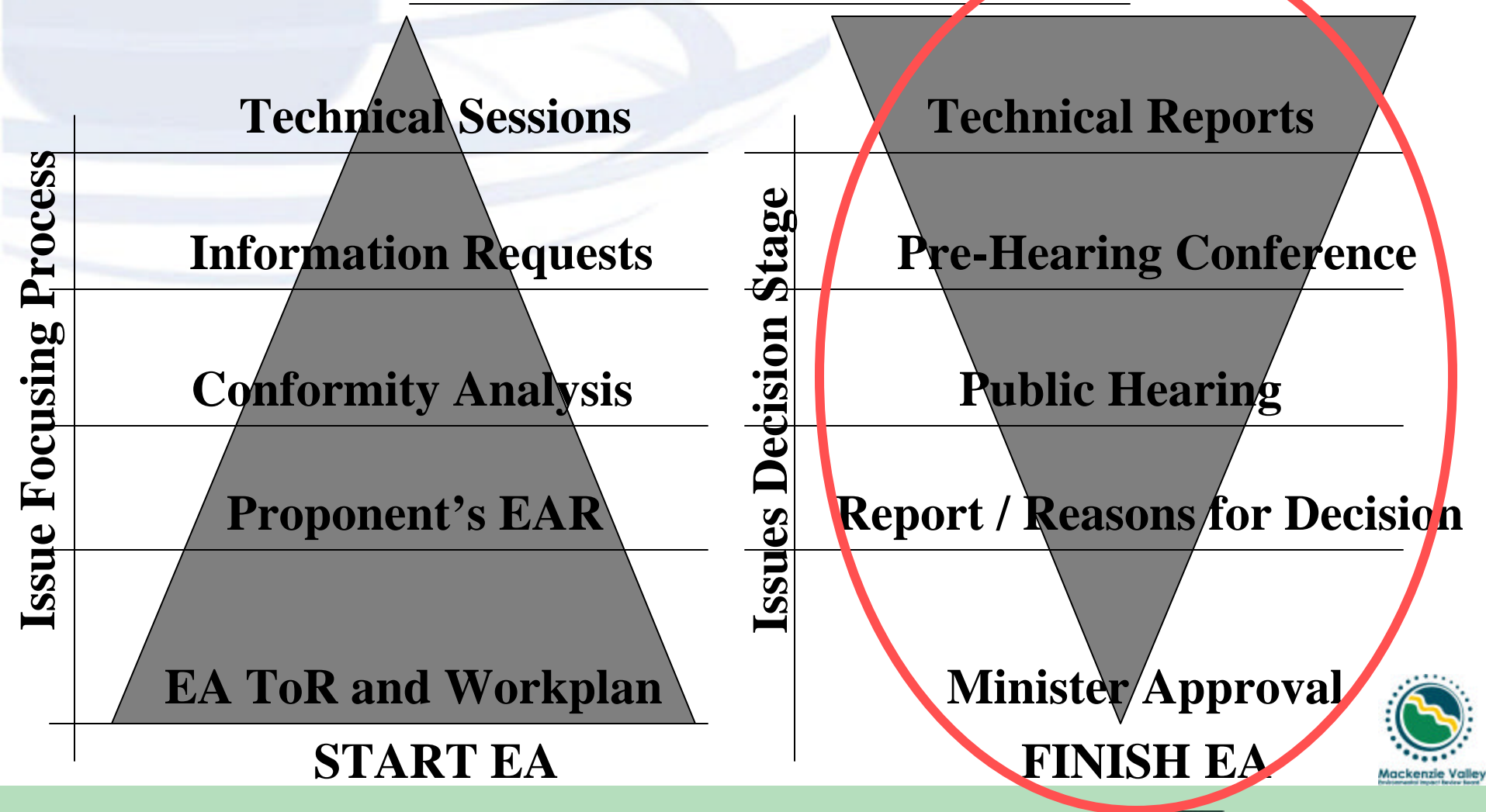
FIGURE NO.

3

Review Board EA Approach



Review Board EA Approach



Results of Snap Lake EA

- **Report of EA and Reasons for Decision:** Review Board thoroughly considered all the evidence on the public record and made 37 recommendations and 40 suggestions for consideration by the Minister of Indian and Northern Affairs (July 2003)
- Scientific knowledge and TK given equal weight:
“the Review Board will give traditional knowledge equal weight, along with scientific information, which we have heard over the last five days.”
 - Gordon Wray, MVEIRB Chair for Snap Lake Diamond Project, Public Hearing



Decision by Ministers

- After considering the Review Board's Report of EA and Reasons for Decision, the federal and responsible Ministers adopted the Review Board's recommendations on the Snap Lake Diamond Project on October 10, 2003



Conclusions - EA Process

- EA under the MVRMA is a transparent, community-based process versus an internal government process where decisions are reached by officials.
- It is a rigorous and broad-based process that considers cultural and socio-economic factors as well as environmental factors.
- Management of the large number of issues is important for meeting the objectives of the EA, while still maintaining an efficient process. There are challenges.
- This is a relatively new approach for all three territories and “growing pains” are being experienced.



Challenges

- The EA process under the MVRMA considers factors that have not been traditionally considered in EA, such as economic factors.
- This requires careful management with consideration for all stakeholders to ensure that the process meets the overall objective of managing environmental and socio-economic impacts
- This can lead to policy challenges between the federal and territorial governments and tensions with the Board
- Strong northern policy development is required at the federal, territorial and community levels to facilitate and assist the Board process.



Challenges (con'd)

- There are other instruments, such as socio-economic agreements (SEA), environmental agreements (EAG) and impact benefit agreements (IBAs), that are negotiated outside the formal EA process.
- IBAs are private contracts between the proponent and aboriginal communities. The state of IBA negotiations during an EA can influence interventions by Parties but cannot be considered by the Board.
- SEAs and EAGs are instruments that have been used by government under CEAA. They are used to deal with areas that have “regulatory challenges”.
- These instruments can lead to confusion for boards, government and industry as they are negotiated outside of the process but are part of the public record.



Overall Conclusions

- EA is about managing “people issues and perceptions”
- The Board process can facilitate this - co-management is the best approach, but will take time.
- Mistakes will be made - natural resources development will continue.
- Northern Canada will continue to evolve and will demand control over their resources.
- Reaching consensus and decisions making in the public forum is the norm due to influences such as:
 - **Traditional aboriginal government;**
 - **Small population base;**
 - **Land claims; and,**
 - **Local political climate.**



Acknowledgements

- Staff and Board members at the Review Board
- Legal counsel to the Review Board
- Parties to the EA, including De Beers Canada Mining Inc. for the hard work put forth in completing the Snap Lake EA

