

Imperial Geotechnical Program Pre-hearing Conference Notes

Wednesday, November 24th 2004

[The following are draft notes from the pre-hearing conference held on Wed. Nov. 24th in the review Board Boardroom in Yellowknife. Due to the tight schedule, these are being sent out to parties in rough form, to ensure parties have maximum time possible to read and suggest any corrections. Please contact Alan Ehrlich (766-7056) with any corrections.]

In attendance:

Organization

Representatives

In person:

MVEIRB

Alan Ehrlich
John Donihee
Mary Tapsell
Renita Schue
Greg Nyuli
Michael Vandell
Gavin More
Jim Stevens
Lorraine Seale
Eric Yaxley
Yvonne McNeill

Deh Gah Gotie Dene Council

GNWT

DIAND

By phone:

Sambaa K'e Dene Band

Chief Dennis Deneron
Doug Bryshun
Chief Keyna Norwegian
John Renaud
John Holman
Jim Hawkins
Wayne Shalagan

Liidlil Kue First Nation

Dehgah Alliance Society (formerly PWG)
Imperial Oil Resources Ventures Ltd.

[Meeting Chaired by Alan Ehrlich. Meeting start was delayed to 9:45 to provide further opportunity for participants to call in.]

Alan- [Opened the meeting, thanked participants for attending, led a round of introductions around the table and on the phone, and reviewed the agenda (attached). Provided short review of process for this EA.]

Overview of Public Hearing Process

- Difference between community hearing (Trout Lake, Wrigley) and formal hearing (Ft. Simpson)

Three hearing dates: Trout lake (Nov 30), Wrigley (Dec 1), Ft. Simpson (Dec 2)

The Board is holding community hearings in Trout Lake and Wrigley and a more formal hearing in Ft. Simpson. Recently the board held community hearings in Kakisa. Community hearings are without the formality of a court transcriber, microphones and simultaneous translators. Provides opportunity for the community to meet with the board so the communities can share their concerns. The community is more comfortable in these types of settings. It starts with a short presentation by the developer so everyone is on the same page. Then the community has a lot of time to get a broad range of views from the community (elders, youth etc). Community hearings are open public hearing just like the other hearing, so people who want to come in and participate they can. Don't anticipate more than the community. DCFN might be coming out to Wrigley.

DCFN (John H.) – No plans to participate except provide assistance of Joe Acorn, consultant to Dehghah Alliance Society..

Alan – Hearing in Sambaa K'e and Wrigley – issues specifically relevant to those communities. Ft. Simpson hearing will deal w. broader issues. People welcome to restate views at hearings from other communities. Ft. Simpson hearing is a larger more formal hearing. Verbatim record will be on public record.

John D: Not much to add to that. Emphasizes that community hearing intended to give the Board the opportunity to hear from people of the community in an informal setting where they feel comfortable. Community hearings intended to be open and informal exchanges of information. Certainly some questions may be asked, but not in the kind of framework of the formal hearing in Fort Simpson. Purpose of community hearings is to provide an informal setting and give people who don't want to go to more formal hearing opportunity to talk about the project and resolve issues so the Board knows what is left over and important from the community standpoint. Informal exercises, technical issues to be discussed would be preferred to be talked about in Fort Simpson.

IOVL – outcome of community hearings is not put on public record?

Alan – Review Board staff will take notes of what we hear. Not verbatim transcripts. Notes will be put on the record so others can be privy to what was discussed

Gavin – Saw in Paramount hearings that the Board may bring questions that it hears in the community to the formal hearing and direct them to parties in the formal hearings through the board.

Alan – The board hears the last words on the different issues during hearings. Opportunity to identify questions that were satisfactorily answered, and develop understanding of remaining issues and hear parties' views.

Jim Hawkins – Boards plans for timing for community meeting? And, will notes be placed on public registry.?

Alan – Yes, within one week.

John - Community meeting notes go on record in draft form. So anyone there at community hearing who heard differently or wants to add to them, we are open to that. They aren't verbatim so we will accommodate people who want to add points or heard something somewhat differently. The point really is to try to produce a summary that can be shared with some confidence that it is reasonably accurate.

Alan – Similarly notes of the pre-hearing conference will be put on public record. With opportunity to correct them if you wish.

Jim Hawkins – Re: Translation at community hearings; Will the translation of the developers presentation be delivered in small segments – with pauses between sentences?

Alan – that is the case in the smaller communities, so presentation will take a little bit longer. In Fort Simpson, simultaneous translation – but presenters are still advised to pace appropriately for translators. Won't need to speak and pause, speak and pause.

Jim Hawkins – For the community hearings, how much time should we target to spend total on our opening statement?

Alan – About 30 min should be plenty. If the communities have questions you are in the room to answer them throughout the community hearing..

John – suspects imperial has been to the communities on many occasions already, so urges Imperial to say what needs to be said to give an overview. Diagrams and charts can be taped to the wall to illustrate when you are speaking about locations of activities. It is better to get the basics out there and leave the exploration of the details to the interaction between the community and yourselves by way of question and answer.

Formal hearing process in detail

Alan – Draft agenda has been circulated.

John – (Goes through agenda for Ft. Simpson hearing). If you have been in a Board hearing in the past, it will be run in the same way as the ones before. Most recent of this type in the Deh Cho bridge hearing. We did have a hearing of this nature in Fort Simpson in relation to EA done for MGP in early April 2004. We do have rules of procedures, which rules provide the basis for any decisions the board may need to make during the course of the hearing. These are available through Alan and the website.

- There will be opening comments of the Chair – to set the scene and the scope of the hearing itself
- Rulings or Decisions – Rules of Procedure provide for a time period – mandatory requirement of or issues of this nature for decision of board. Rules specify 10 day notice for this and no notice received. Not anticipating of anything of that nature done.
- Developer's Presentation by Imperial Oil – This presentation is subject to questioning from other parties and the public who aren't interveners, and there could be questions from Board, Board staff or council as well. The same situation applies for every organization that makes a presentation during the hearing. That is the way it will work for the developer as well. Presentation followed by break

John- canvasses everyone in the room today to find out how many plan to make presentations in Ft. Simpson.

To get stuff on record in a hearing, make a presentation for self or question other parties who are making presentations to try to get clarification and ensure you understand what they are saying and why

- Come back in afternoon to complete presentations and then there will be time in the hearing for presentations by the public. Provides opportunity for anybody who isn't a formal party to say something, chance to ask more questions to interact in any way with parties that need to have an opportunity to do that. This doesn't necessarily require a presentation. Usually results in further questions or short statements by members of the public.
- Once that is done, depending on timing, the intention is to have closing statements. Everyone will have heard what other registered parties have said. The closing statements are limited to registered parties and the developer. Provides opportunity to reflect on what they heard and to indicate the board how, if at all, what they have heard has changed their position on impacts and mitigations. Provides opportunity for each party to make a closing statement to reflect on what they learned in the hearing. Imperial will make last statement. Nature of

argument is to state a position. No questions and answers are allowed after statements are over. This is your final opportunity to tell board what your organization's position may be about the development. After the developer, closing remarks by the chair and the hearing will be wrapped up. Subject to the filing of the transcript from the formal hearing and the notes of the community hearing or commitments to submit answers committed in hearing. Once the hearing is closed the public record will be closed subject to above.

A rough timeline for next steps will be given after the hearing. The Board will have all the evidence it will be getting and will begin its deliberations.

Alan – Questioning in a hearing can include questioning includes mitigations. One kind of mitigation is commitments by developers or others that would avoid reduce impact. Hearing give good opportunity for clarifying commitments.

John – Review Boards practice in reports of EA is to track commitments made by developer from the standpoint of mitigation throughout the process. Not just the commitments made during the hearing, but also made in writing (eg in DAR). The board makes a list of these commitments. The board makes the assumption and counts on the developer to come through on all of those commitments. Makes determination of significance of impact based on those assumptions.

Alan – The board can recommend, where appropriate, for commitments to be put into regulatory mechanisms.

Wayne Shalegan – Question-: Do we know which or whether all Review Board members will be sitting on the panel?

Alan – Gabrielle will be chairing. Todd (Burlingame) won't be – his term comes to end in January and he has not sought renewal of that. If gov'n't wish to consult to modify only board members who actually heard the case can participate. So it is important to have board members present to see it through to the end. Review Board is not like NEB with smaller committees. This will be the whole board except Todd.

John – Quorum is 5. It is possible board members may not get in due to bad weather. At the moment only Mr. Burlingame will not be participating

Wayne (Imperial) – This seems an ambitious agenda – not a lot of time – depending on who is at the hearing – quite tight. Are there any procedures that the board will be using to try and manage the process and the agenda to give everyone and opportunity for a fair say?

John – Board will adjust agenda at end of pre hearing conference if necessary. Based on informal discussions it appears that there may not be that many formal presentations in Ft. Simpson. Obviously, if we canvass parties and changes of mind and heart respecting presentations, we will adjust hearing timing accordingly

Alan – In the past hearings with broader interest by parties, when there was more requirement for time, board has stretched the hearing to overtime if needed. We will know more once we hear issues today.

[5 minute break to attempt to contact absent parties that expressed interest in participatin]

Identification of Outstanding Issues

Alan- Chief Deneron will be calling and Chief Moses and Kelly Pennycook have the telecom number in hand, so they can phone if they wish to join.

John – Various parties gave a summary of issues like worksheet. We will now find out if whether anything can be talked out right now. Once the summary is out there, it is certainly open for any party to talk to another party to work it out with out our presence.

Alan- What issues can be worked out now?

John Holman – DehGah Alliance Society– None at this time.

Alan – [Read through issues on worksheet from Dehgah alliance society. Cited issues regarding: traffic impacts, impacts on roads, intereference with places important to community social and cultural well-being; contracting process issues; impacts of orads and clearings, impacts of increased access to wilderness areas; community agreements re: compensation, and others- see See Dehgah Alliance Society worksheets for details]

John H– will take written notes for DCFN and will defer to Joe Acorn.

Alan – Board will use PWG written submission then.

Doug (Sambaa K'e) – covers the issues on worksheets- Harvesters's compensation agreements for activities on traditional land.

Greg – Michael – some stuff can be dealt directly with developers themselves. Issues arise where the pipelines route is on southern portion of the NWT. Deh Gah Gotie is working with imperial right now on issues. Is putting in a formal request to deal with the TK issues with Imperial over the phone. Will be doing that by the end of the week with Imperial. Some issues relate to future hearings. What opportunity will there be to raise issues re: barge traffic impacts arising from pipeline contstruction? Deh Gah Gotie wants opportunities in future to learn a little bit more on geotechnical activity on southern portion of the Pipeline in the NWT. Any issues will be brought up in Ft. Simpson. Issues – will there be future hearings to roll out more of the program vs barges – and socio-economic issues re: road transportation

Alan – Is this more about pipeline itself or geotech program?

Greg – Pipeline, but where would we be raising it if not here? Our council met recently, and has a position paper with MGP. Will be tabling position paper with Alan (see attached). This has been distributed to region. Members to the First Nation are aware of this issue and it is being dealt with on a political level. Has been encouraging and seeking recognition from developer, Review Board and LWB. The question is, when will future hearings will be and when is an appropriate time for road and barge social impact questions.

Alan – Some road issues are within the scope of the geotechnical project. Road use for this project is related. The Board has tried to draw a distinction between MGP impact and the geotechnical program. Pipeline is getting a much larger review by JRP. The Board can't resolve big pipeline issues during geotechnical study. I (Alan) will help to try to get some answers for you and pass along to the right people. Sound like some of your issues are shared with communities and will be discussed during the hearing.

Chief Kenya Norwegian and John Renaud – Keyna hasn't returned – general sense Dehghah Alliance Society has offered a sufficiently detailed list of the more detailed issues during the hearing process to cover many LKFN concerns.

Alan – Anything additional that was not included in Degah Alliance Society submission? We will come back later in call to make sure things are identified. Will John please let group know when Chief rejoins.

DIAND – Eric Yaxley– No other outstanding issues. All addressed.

Alan – Still glad that you are coming to the hearing, if only to respond to public questions on subjects about which DIAND is responsible and knowledgeable of.

DIAND – Actually, DIAND is not planning to attend because there are no outstanding issues or questions.

Alan – How does DIAND propose to answer questions that arise from hearing?

DIAND – Already provided its views, through IR process.

Alnd – DFO, RWED and Environment Canada may attend.

Jim Stevens- DOT won't be making a presentation but will have regional staff to answer questions about roads. DOT has no outstanding issues, and has been working with proponent about various issues. DoT has good coverage of the issues and can provide that at meeting if asked.

Chief Deneron – [on hold]

Alan – Anyone with issues who hasn't voiced them?

John D – Boar encourages the developer and those who still have issues that they would like to resolve to talk to each other get information back and forth that is needed to address these issues. Try to make the experiences in the Samba K'e, Wrigley and Ft. Simpson as effective as possible. The board would like to hear about outstanding issues that can't be worked out and make sure there is enough time to explore them in those venues

Alan – Dehghah Alliance Society cited their need for outstanding documents- Dec. 2003 interi, Heritage Resource studies. This was raised in IR by pipeline working group to Imperial – Request for interim Heritage resource report by Grant Clark in 2003 haven't been received by chiefs involved. The PWG asked for them. Jim, can you confirm that Imperial has sent them now?

Jim – that is correct –It took a little while to get the information released. It was couriered yesterday and cover letters sent by email to MVEIRB.

Alan - DCFN is now aware of that- cover letter was forwarded to Joe Acorn. John Holman should expect to see documentation of this by fax / email from the Chiefs to whom the info was sent. This was on worksheet for material needed, and is off the table now. Any additional issues about this can be raised during the hearing.

Confirmation of Parties at hearing (presentation time requirements)

Alan – See the draft agenda that was circulated. Understands that time needs vary party to party. We need to know how long you want to present, not including questioning time.

John Holman – DAS – Pointed presentation quick overview of compensation issues, Traditional land impacts – Primarily regional issues in nature. Requires 5 minutes or shorter, but confirm with Joe Acorn.

John Renault – LKDFN can present within 20 minutes – 30 minutes range.

Greg Nyuli – We'll let you know. Need to go home and look at map with Imperial's route information.

Alan- Please respond no later than Friday.

Greg – 15 minutes max

Chief Deneron- [still on hold]

DIAND – Eric-Will not be making presentation.

Alan- Need any airtime for responding questions.

Eric- Not planning on being there.

John – Can regional staff attend?

Eric – Not sure

John –Canada will not be present and there will likely be issues the Gov of Canada only can respond to.

Jim Stevents- GNWT – Gavin Moore had to leave, but indicated regional staff will be at hearing, and so will someone from DoT, to respond to questions – Likely Rod Gunderson, Highways supervisor, very familiar with winter roads.

Alan – Will he also be familiar with geotechnical report?

Jim – has seen DAR and will leave that question to him

Alan – Chief Deneron – [still unreachable] Will rely on Chief Deneron's written submission of issues if there is no further opportunity to talk on the phone. If new issues are cited, they will be put on an added note to minutes from this meeting

Doug Bryson – SKDFN will need 3 – 4 hours to go through issues. SKDFN has a big document to table with Imperial re: compensation issues and will take a while to go through the document.

Alan – SKDFN may bring it up in Ft. Simpson, but current understanding is they will take advantage of community hearing in Sambaa K'e for that

Doug – Yes.

Review of Dec 2nd 2004 Draft Hearing Agenda and Upcoming timelines

Alan – No specific submission deadlines are set in stone yet. Hearing dates start in under a week. The public record will likely be closed Monday before the hearing. Technical reports are due before Friday 5pm. Please try, if possible, to submit them by Friday noon. Friday by 5 at latest.

John – Public record is reopened after hearing for certain new material. Undertakings filed as exhibits from hearing can be filed. Transcripts will be available a few days later. Summary notes will be prepared from community sessions. Board will rule when the record closed – Timing is sensitive to undertakings re: time needed for answers. Expect 1 week to 10 days after hearing, the record will be closed. The Board will then begin

deliberations . Start requirements of s.128 of act. Timing difficult to predict- based on evidence that will arise in hearings and on record. The board is committed to getting a decision as quickly as it can. Dependant on evidence in front of them. Thorough effort to examine issues has been made and does not appear to be not a massive record at this point in time. Hopefully Board will get decision out fairly quickly

Alan – Once the Board complete's its REA, it is sent to DIAND minister and other RMs. Ministers sign off or consult to modify. It is not within the Board's control how long it takes the minister(s) to respond. We can't commit to that. Variation in past ranges from a few weeks to several months. We are aware of time sensitive nature, and that the proposal is for winter work.

DIAND – Is board closing over Christmas?

Alan – Don't think so, someone will be here most days.

Wayne- Question re: public registry timing: Understand reopening it following hearing. Before hearing, will registry be closed at end of Friday?

Alan – Technical reports will come in on Friday. Necessary to allow a little bit of time for parties' usual technical problems. Likely registry closed on Monday. Detailed email coming out to confirm timing on that. Part of the point of that is to give people a chance to prepare so no surprises or new information catches them out of the blue in the hearing. In this particular EA, due to certain delays (especially late IR responses from Imperial) there is less time between technical reports and hearings than we normally have. Board committed to a hearing schedule. Board didn't want to put a pinch on communities to prepare technical reports, and reduce Board time to prepare instead. Hard to predict exactly when we close the record, it depends in part on how look at issues that have come up today. Information may be sent to parties w details of submission deadlines so Board can get outlines of presentations during the hearings. In past, the board has wanted to get copies prior to hearings. If you are making a presentation, it is worth starting to think about starting to prepare an outline to ensure that there are no surprises during hearing. Parties should keep an eye on email and fax for deadlines.

Jim Hawkins – Target for hearing start times and closing times?

Alan – Board in there in each community in the morning, will be holding an open lunch with communities to meet with people, people have an opportunity to meet board. Hearings starting at 1:15 in communities, and Board can leave when it needs to – anticipating 3-4 hr hearings roughly.

John – Imperial and staff and council are welcome to have lunch.

Alan – Open lunch- Imperial and all other parties invited

Jim – Can Doug Brysen file Sambaa K'e compensation document on public registry?

Doug – Yes.

Wayne S – Suggestion in opening comments – Try to explain distinction between geotechnical program and MGP itself.

Alan – Excellent idea. Board will try to make sure opening statements are clear on that.

No more questions

Alan – Thanks for participating and sending in PHC worksheets. These will be put on public record. That concludes conference.

[Pre-Hearing Conference concluded at apx. 11:15 am]

**Imperial Oil Resources Ventures Ltd.
Deh Cho Geotechnical Survey
Environmental Assessment**

Pre Hearing Conference
Wed. Nov. 24, 2004 – 9:30 am
MVEIRB Boardroom

Agenda

- 9:30** Overview of Pre Hearing Conference
- 9:40** Review of Imperial Geotech EA Process
- 9:50** Overview of Public Hearing Process
- 10:00** Identification of Outstanding Issues
- to be managed between parties prior to Hearing
 - to be addressed at Hearing
- 10:30** Confirmation of Parties at Hearing (Presentation time requirements)
- 10:45** Review of Dec. 2nd, 2004 Draft Hearing Agenda
- 11:15** Upcoming timelines
- 11:45** Questions – Concerns

Alan Ehrlich

From: Alan Ehrlich
Sent: Friday, November 26, 2004 10:30 AM
To: Adam Scott (crosscurrent@northwestel.net); Bernie Swanson (saoftsim@cancom.nt); Briar Young (youngb@dfo-mpo.gc.ca); Chief Berna Landry (bernal@ssimicro.com); Chief Floyd Bertrand (floyd_bertrand@nt.sympatico.ca); Chief Keyna Norwegian (lkfndir@cancom.net); Chief Peter Marcellais (celinea@nahannibutte.com); Dennis Deneron; Doug Bryshun (doughb@ssimicro.com); Ed Hornby (hornbye@inac.gc.ca); Eric Yaxley (yaxleye@inac.gc.ca); Gavin More (gavin_more@gov.nt.ca); Greg Nyuli (inbusnow@hotmail.com); Hamlet of Ft. Providence (susanc@ssimicro.com); Jim Hawkins (jim.r.hawkins@exxonmobil.com); Joe Acorn (joeacorn@theedge.ca); John Holman (john_holman@dehchofirstnations.com); John Renaud (deneres@cancom.net); Kelly Pennycook (kellydcfn@yahoo.ca); Lorraine Seale (sealel@inac.gc.ca); Mandell Pinder (roshan@mandellpinder.com); Mayor Maggie Levavasseur (maggie@ssimicro.com); Mayor Raymond Michaud (vofsmayr@cancom.net); Mike Fournier (mike.fournier@ec.gc.ca); Paul Howard (howard.paul@colteng.com); Peter Redvers (predvers@ssimicro.com); Wade Romanko (wade.romanko@ec.gc.ca)
Subject: Minutes from Pre-Hearing Conference

Hello All,

Attached are minutes from Wednesday's pre-hearing conference. If there are any major corrections required, please let me know.

Alan Ehrlich

Senior Environmental Assessment Officer

Mackenzie Valley Environmental Impact Review Board

Tel: (867) 766-7056

Fax: (867) 766-7074



Geotech PHC nov
24 minutes.doc...