

DRAFT WORK PLAN

for the

ENVIRONMENTAL ASSESSMENT

of the

Patterson Sawmill Ltd.

Pine Point Area

Timber Harvest Development

January 16, 2000

Mackenzie Valley Environmental Impact Review Board

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1 PURPOSE OF THE WORK PLAN

This *Work Plan* provides a framework for the Mackenzie Valley Environmental Impact Review Board (Review Board) to undertake the environmental assessment (EA) of the *Patterson Sawmill Ltd. (Patterson) Pine Point Area Timber Harvest development proposal*. The EA will be conducted in accordance with Part 5 of the *Mackenzie Valley Resource Management Act (MVRMA)*.

The work plan contains a description of the proposed development, a description of the scope of the environmental assessment, and general approach to completing the EA process. The work plan provides resource allocation estimates for completing the EA by staff and the Review Board.

2 INTRODUCTION

Patterson Sawmill Ltd. applied to the Government of the Northwest Territories (GNWT), and the Mackenzie Valley Land and Water Board (MVLWB) on July 4 and July 11, 2000 respectively, for a Timber Cutting Licence and a Type 'A' Land Use Permit. The GNWT in its preliminary screening dated December 14, 2000 notified the Review Board that the GNWT would be issuing two five thousand cubic metre (5,000m³) Timber Cutting Permits to Patterson on December 20, 2000. The MVLWB, after completing its preliminary screening of the development, issued Land Use Permit MV2000W0018 on December 15, 2000. The Deninoo Community Council (Fort Resolution Council) in its December 19, 2000 letter to the Review Board requested an environmental assessment (EA) of the Patterson development. The Deninoo Community Council requested that the EA focus on wildlife and vegetation in the timber cutting area because community members were concerned that the animals they harvested might not come back to the cutting area for many years. The Review Board accepted the Deninoo Community Council request.

3 BACKGROUND

This section outlines the description of the proposed development as provided by Patterson Sawmill Ltd. Additional information on development components may be requested by the Review Board to complete the EA.

The development proposes:

- ~~///~~ Harvesting 10,000m³ of 20 cm DBH white spruce timber from about a 60 hectare area.
- ~~///~~ 4 Km of winter road construction from Territorial Highway No. 6 to the landings in the timber cutting area;
- ~~///~~ two cabooses for camp purposes;
- ~~///~~ clearing of landings 30 m x 85 m (maximum length);
- ~~///~~ cutting down trees using chainsaws and skidding them to landings;
- ~~///~~ use of a two wheel skidder, one cat tractor, one front end loader, one grader, 2 logging trucks for the timber operation;
- ~~///~~ removal of garbage and sewage from the timber cutting site;
- ~~///~~ winter road maintenance;
- ~~///~~ access to Territorial Highway No. 6;
- ~~///~~ removal of brush, trees and overburden as per GNWT logging regulations;
- ~~///~~ use of three mobile fuel containers, one 560 L diesel tank and two 40 L gas tanks; and
- ~~///~~ site restoration in accordance with GNWT timber regulations and Federal regulations.

4 ROLES AND RESPONSIBILITIES

The roles and responsibilities of the Review Board, Review Board staff and other parties in the EA are explained.

4.1 *Review Board Functions*

The Review Board is required to undertake the following in relation to this EA:

- ~~///~~ conduct the EA in accordance with ss.126(1) of the MVRMA;
- ~~///~~ take into account any previous screening or assessment report made in relation to the development, in accordance with s.127 of the MVRMA;
- ~~///~~ determine the scope of the development, in accordance with ss.117(1) of the MVRMA;
- ~~///~~ consider several factors, in accordance with ss.117(2) of the MVRMA;
- ~~///~~ make a determination regarding the environmental impacts and public concern of the development in accordance with ss.128(1) of the MVRMA;
- ~~///~~ report to the federal Minister in accordance with ss.128(2) of the MVRMA; and,
- ~~///~~ identify areas and extent of effects within or outside the Mackenzie Valley in which the development is likely to have a significant adverse impact or be a cause of significant public concern.

4.2 *Staff Functions*

The Review Board's Executive Director and staff are Patterson's primary contact during the EA. This does not limit or preclude Patterson's contact with RA's, federal and territorial government departments, First Nations, expert advisors, the public and other interested parties. The staff member coordinating and facilitating the EA is Mr. Louie Azzolini.

4.3 *The Role of Others in the EA Process*

Regulatory authorities, federal and territorial government departments and expert advisors are encouraged to provide Patterson, and or, the Review Board any information they have that is relevant to these EA's.

Impacts or issues identified by experts shall be clearly substantiated with documentation and analysis. Experts providing recommendations intended to mitigate significant adverse environmental impacts should clearly state what significant adverse environmental impact are being addressed, and provide understandable and predictable analysis demonstrating the recommendations and anticipated conclusions. Where recommendations are provided to mitigate significant adverse environmental impacts or improve the project design, rationale for their inclusion and evidence supporting their effectiveness, shall be provided.

First Nations, the public and other interested parties that want to provide information relevant to the EA can do so at any time. Alternatively, the Review Board may ask these parties to provide any relevant information they may have. All information received will be considered before the Review Board makes a decision on the environmental assessments.

The Review Board encourages Patterson to continue its discussions with affected communities, RA's, federal and territorial government departments, First Nations, the public and other interested parties. The Review Board will request Patterson to provide a written record verifying consultations, including how consultation may have influenced design of any part of the development. Patterson is expected to respond in a suitable and timely course to the EA Terms of Reference that will be issued by the Review Board.

5 EA WORK PLAN

Table 2 provides an estimated timeline for completing each indicated milestone in the EA processes. The Review Board may amend the milestone dates at its discretion.

Table 2 - Milestone Completion Timetable

MILESTONE	Liard East EA
Start-up of the EA	December 19, 2000
Complete development description submitted	January 4, 2001
EA Work Plan developed	January 14
Draft Terms of Reference developed	January 12
EA Work Plan and Terms of Reference Approved by the Review Board	January 23
EA Terms of Reference and work plan issued	January 24
Preparation and submission of EA Report by Developer	February 23
Conformity check	February 28
Deficiency statement	March 2
Last day for Submission of Information Requests to the Review Board	March 9
Submission of IR responses	March 16
Submission of RA and others technical reports	March 23
Closure of Public Registry	March 30
EA decision	by April 15
Federal Minister's response to the Review Board's Report of EA, if required	-
Consultation – throughout / as required	-

5.1 Milestones and Responsibilities

This section summarizes the process for completion of an EA.

5.2 Assessment Process

Once a development proposal has been referred to the Review Board for an EA, the following milestones are established:

- ~~///~~ Start-up of the EA;
- ~~///~~ Advance-consultation;
- ~~///~~ Development description requirements;
- ~~///~~ Work Planning;
- ~~///~~ The EA Terms of Reference;
- ~~///~~ Developer's EA Report;
- ~~///~~ Conformity Check;
- ~~///~~ Deficiency Statement;
- ~~///~~ Technical Analysis;
- ~~///~~ Information Requests;
- ~~///~~ Consultation; and,
- ~~///~~ EA Decision.

The time allocations and the information requirements for each milestone will vary with each EA, and depend upon the complexity, location and duration of the development. These will also vary depending on the information provided by the developer.

5.3 *Start-up of the EA*

At the start of the EA Patterson, RA's, federal and territorial government departments, First Nations, expert advisors, the public and other interested parties are informed of the referral. The notification lets people know that while the development is in the EA process, no licence, permit or other authorization can be issued by government. As part of the referral, staff start a public registry on the development and start tracking development issues.

Public and government notification of the referral is done by:

- ~~///~~ Written notification
- ~~///~~ News release
- ~~///~~ Newspaper advertising
- ~~///~~ Facsimile distribution

Tasks involved in starting the environmental assessment are listed below.

- ~~///~~ Open EA case file and assignment of EA officer
- ~~///~~ Open public registry and registry log
- ~~///~~ Public notification of referral
- ~~///~~ Notify regulatory authorities of the referral
- ~~///~~ Review Board notifies the developer of the referral

Deliverable: Public registry, public notification, government notification, developer notification, expert advisor identification, responsible authority self-identification.

5.4 *Advance Consultation*

Advance consultation is used to identify and inform stakeholders about the EA process. The public, First Nations, and government would be identified and contacted. Advance-consultation would parallel the developer submitting additional information as required by the Review Board for work planning purposes. Development of the draft EA Work Plan by Review Board staff would also occur concurrently with advance-consultation.

Advance-scoping meetings and discussions with RA's and experts to review the referral, development description, and supporting information provided by the developer. A stakeholder notification list is prepared and can include any of the following:

- ~~///~~ Communities
- ~~///~~ Special Interest Groups
- ~~///~~ First Nations
- ~~///~~ Relevant Businesses
- ~~///~~ Representative Groups
- ~~///~~ Government
- ~~///~~ Experts
- ~~///~~ Regulatory Authorities
- ~~///~~ Designated Regulatory Agency (if required)
- ~~///~~ Developer

-
- ✍ Staff may conduct public information sessions to inform the public and stakeholders about the Review Board and the EA process. Developers would be asked to participate in these sessions to provide information about their development proposal.
 - ✍ Possible site visits by the Review Board and staff.

Deliverable: Awareness of the Review Board, the EA process and the development proposal. Any relevant issues raised by the public and stakeholders during this Advance-consultation step would be noted and brought to the attention of the Review Board for possible inclusion in the EA Terms of Reference.

5.5 Development Description Requirements

The Review Board may require a more detailed and complete description of the proposed development from the developer. This enables the Review Board to determine a proper scope of development and issue a complete set of EA Terms of Reference that address all phases and components of the development. The developer is responsible for providing a development description that is suitable for consultation with Aboriginal, public and government stakeholders.

The Review Board would inform stakeholders of its direction to the developer using the following involvement methods:

- ✍ Fax out of Review Board's direction to the developer
- ✍ News release to media
- ✍ Newspaper advertising informing people of the overall EA process and the Review Board's direction to the developer

The developer will be responsible for providing its final development description to identified stakeholders.

Deliverable: A complete description of the proposed development provided by the developer to the Review Board and identified stakeholders.

5.6 Work Planning and Time Frames

A work plan for completing the EA will be developed by staff, in consultation with stakeholders. Each work plan is unique as is every development proposal referred to EA. For example, if the developer completed and submitted a detailed EA Report along with any application(s) that triggered the EA, that information could affect the length of time and level of effort spent on a particular step in the EA process, and would be reflected in the Work Plan. An estimate of resource requirements for completing the EA would also be developed. This Work Plan would be developed concurrently during the Advance-consultation phase.

Once the Advance-consultation phase is completed the draft Work Plan would be presented to the Review Board for its approval.

Deliverable: An approved Work Plan, including an estimate of resource requirements, for completing the EA.

5.7 EA Terms of Reference and Scope of Development Determination

The EA Terms of Reference are the Review Board's instructions to the developer designed to ensure the appropriate information is provided to understand the environmental consequences and the benefits of the proposed development. The Terms of Reference are developed from the development description provided

by the developer and any other relevant information. The Terms of Reference also provide the scope of the development and scope of assessment determination of the Review Board.

As a minimum, the EA report should include the following:

- ?? Title (of the development proposal);
- ?? Executive summary (translated into appropriate aboriginal languages as requested by the Review Board);
- ?? Description of the development (e.g., phases, timetables, location, technology used, alternatives to the development, development design details taking into account the environment);
- ?? Description of the existing environment, including environmental interactions (e.g., natural and human setting);
- ?? Impact of the development on the environment, including those caused by malfunctions or accidents, and any cumulative impact(s);
- ?? List of potential impacts and the proposed mitigation or remedial measures;
- ?? Identification and description of the residual impacts following mitigation or remedial measures;
- ?? Results and summary of issues from public and community consultation, including any concerns;
- ?? Plans for any environmental management plan, follow-up and monitoring;
- ?? List of supporting evidence and information sources, including previous environmental assessments; and,
- ?? List of the required licences, permits and other authorizations, if relevant.

Staff will coordinate the preparation of the draft Terms of Reference. After the Review Board's consideration and approval of the Terms of Reference, they are issued to the developer and others as required.

Deliverable: Draft and final Terms of Reference, direction to the developer including confirmed scope of development and associated scope of assessment, identification of key issues, effects, baseline data requirements, and desired results of research, and suggested environmental assessment report table of contents.

5.8 Preparation and Submission of the EA Report

The developer will use the EA Terms of Reference to complete its EA report and tell the a story of how people and the natural world could be changed by the proposed development and what is to be done about these changes.

Deliverable: An EA report from the developer that addresses the requirements of the EA Terms of Reference, and additional information from other sources as directed by the Review Board.

5.9 Conformity Check

After receiving the developer's completed EA report the Review Board will ensure the developer has provided the information requested in the Terms of Reference. Opportunity is provided for parties having expressed an interest to be involved in the EA to contribute to this stage. **Note:** *this conformity check determines whether or not the developer has responded to what was asked for in the EA Terms of Reference; it does not reflect the technical adequacy of the information provided by the developer. Any additional technical information, or further explanation, required would be requested through information requests (IR's). IR's would facilitate the technical analysis of the development.*

Deliverable: A draft deficiency statement of the EA report for Review Board consideration and approval.

5.10 *Deficiency Statement*

The Review Board will decide conformity and, where required, issue a deficiency statement if needed.

Deliverable: Review Board issues deficiency statement on developers EA report.

5.11 *Technical Analysis*

The Review Board's staff will coordinate the analysis of the EA. The aim is to provide opportunities for RA's, federal and territorial governments, First Nations, the public and other interested parties to participate in the EA process and express their ideas, and present their information (e.g., traditional knowledge holders and scientific experts) to the Review Board. The more complete the analysis the better the EA.

The analysis identifies unresolved issues and environmental impacts, and provides possible suggestions for addressing the issues and impacts. Where unresolved or unclear issues or impacts are identified, the developer, and other appropriate parties (e.g., RA's, experts) will have the opportunity of responding. The developer can formally provide and present its views on the information brought to the Review Board's attention after submission of its environmental assessment report including any proposed amendments, additions or refinements to the development or the environmental assessment.

The Review Board tries to secure a sound technical analysis and where warranted will conduct public meetings and hearings.

Deliverable: This is a critical stage in the EA process where the key issues and impacts are identified and opportunities for public input in a public forum are possible. The Review Board would like to receive technical reports from participants that clearly state reviewer's conclusions, recommendations and supporting rationales. At public meetings or hearing, its important that those that want to speak have an opportunity to speak and to listen to others speak.

5.12 *Information Requests*

Throughout the Conformity Check and Technical Analysis phases of the EA, the Review Board and stakeholders may have additional information needs for technical analysis of the developer's environmental assessment report. This information would be requested use of IR's. These IR's and responses would form part of the public registry and body of evidence or information the Review Board would consider.

The Review Board in its Work Plan would identify milestone dates for the submission of IR's and also identify response dates. Depending on the technical adequacy of the information submitted in the developers EA Report, there could be two rounds of IR's during an EA. If a third round were required, then the Work Plan would be revised after the developer and other interested participants were informed and provided an opportunity to comment on the proposed work plan amendment.

Deliverable: The IR's represent very specific and focused requests for clarification or additional information, required in order for the party or parties requesting the information to complete its analysis and reach a conclusion about the developers EA report and proposed development. The developer's response, or the stakeholders response in cases for example where an IR is sent to a government department or RA, to the IR is placed on the public registry and circulated to all stakeholders.

5.13 *Consultation*

The Review Board may decide a round of public consultation is warranted to discuss the developers EA report and stakeholder responses. This consultation could take one of two forms. A forum where people make their presentations about the development proposal to the Review Board; and, as a formal hearing where people could, under certain rules developed by the Review Board, ask questions to any other stakeholder.

Deliverable: A public forum for the Review Board to listen to and get additional information about the EA, the development proposal and the conclusions reached by stakeholders in filed documents.

5.14 EA Decision and Written Reasons

The Review Board will prepare its determination after considering the EA Report, its analysis, and the information on the Public Registry. The Review Board will then prepare its written reasons. The Review Board will give the Minister of DIAND its written reasons. The Minister of DIAND will distribute them to every responsible minister. The referring bodies and the developer also receive copies of the Review Board's written reasons.

Staff would work with the Review Board in the preparation of its Report of EA and written reasons.

Deliverable: Report of the Review Board on the EA, with decision and written reasons.

APPENDIX 1

Environmental Assessment Process Overview

APPROACH TO COMPLETING THE MVRMA EA PROCESS

This section provides a more detailed discussion of the Review Board's approach, some general expectations, and milestones in the MVRMA EA process. This approach is used as a template, to be applied specifically to the development undergoing an EA. The Review Board reserves the right to vary or change its approach to completing an EA based on the circumstances, size, and complexity of the development.

The Review Board determines, based on the size, complexity and nature of the development, and on the nature of the environmental effects and public concerns associated with the development, the level of effort and detail required to complete the EA. The level of effort and detail required to complete the EA would be reflected in the Review Board's determination of the scope of the development and scope of assessment, issued with the EA Terms of Reference.

1.0 Review Board Context for Environmental Assessment

The Review Board, in exercising its authority is guided by the following legal principles and by definitions, purposes and factors found in the MVRMA. This context provides the developer, RA's, the DRA (NEB) as required, federal and territorial governments, First Nations, expert advisors, and other affected or interested parties the framework within which the EA will be conducted.

1.1 Legal Principles

The Review Board is governed by the rules of natural justice and procedural fairness. This essentially means that fair play is required when exercising decision making functions. Three of the basic elements are:

(i) ***The right to be heard*** - means providing fair opportunity for parties to prepare and state their case, and to correct or contradict relevant statements prejudicial to their position;

(ii) ***The rule against bias*** - is a rule against prejudging a case; addressing not only actual bias but also any reasonable apprehension of bias; and,

(iii) ***Fettering of discretion*** - means the Review Board is governed by the common law principle which requires that As/he who hears must decide. This means that the Board members who hear or review the evidence in an EA must be the decision makers. Members who did not participate can play no role in the decision. The law also requires that the Board and its members must be free to exercise their full authorities under the statute. The Board must decide each case on its own merits.

1.2 Context

The context within which the Review Board conducts an EA is based on following definitions and indicated sections from the MVRMA.

Development - means any undertaking, or any part of an undertaking, that is carried out on land or water and, except where the context otherwise indicates, wholly within the Mackenzie Valley, and includes measures carried out by a department or agency of government leading to the establishment of a national

park subject to the National Parks Act and an acquisition of lands pursuant to the Historic Sites and Monuments Act.

Environment - means the components of the Earth and includes

land, water and air, including all layers of the atmosphere;
all organic and inorganic matter and living organisms; and
the interacting natural systems that include components referred to in paragraphs (a) and (b).

Follow-up program - means a program for evaluating

the soundness of an environmental assessment or environmental impact review of a proposal for a development; and
the effectiveness of the mitigative or remedial measures imposed as conditions of approval of the proposal.

Harvesting - in relation to wildlife, means hunting, trapping or fishing activities carried on in conformity with a land claim agreement or, in respect of persons and places not subject to a land claim agreement, carried on pursuant to aboriginal or treaty rights.

Heritage resources - means archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records.

Impact on the environment - means any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.

Mitigative or remedial measure - means a measure for the control, reduction or elimination of an adverse impact of a development on the environment, including a restorative measure.

s.114 The purpose of this Part is to establish a process comprising a preliminary screening, an environmental assessment and an environmental impact review in relation to proposals for developments, and

to establish the Review Board as the main instrument in the Mackenzie Valley for the environmental assessment and environmental impact review of developments;
to ensure that the impact on the environment of proposed developments receives careful consideration before actions are taken in connection with them; and
to ensure that the concerns of aboriginal people and the general public are taken into account in that process.

s.115 The process established by this Part shall be carried out in a timely and expeditious manner and shall have regard to

the protection of the environment from the significant adverse impacts of proposed developments; and
the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley.

ss.117(1) Every environmental assessment of a proposal for a development shall include a determination by the Review Board of the scope of the development, subject to any guidelines made under section 120.

ss.117(2) Every environmental assessment and environmental impact review of a proposal for a development shall include a consideration of:

- ?? the impact of the development on the environment, including the impact of malfunctions or accidents that may occur in connection with the development and any cumulative impact that is likely to result from the development in combination with other developments;
- ?? the significance of any such impact;
- ?? any comments submitted by members of the public in accordance with the regulations or the rules of practice and procedure of the Review Board;
- ?? where the development is likely to have a significant adverse impact on the environment, the imposition of mitigative or remedial measures; and
- ?? any other matter, such as the need for the development and any available alternatives to it, that the Review Board or any responsible minister, after consulting with the Review Board, determines to be relevant.