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January 9, 2004

Todd Burlingame  
Chair,  
Mackenzie Valley Environmental Impact Review Board  
200 Scotia Centre  
P.O. Box 938  
Yellowknife, NT, X1A 2N7

Dear Mr. Burlingame:

**RE: Draft Workplan - Environmental Assessment Mackenzie Valley Gas Pipeline Project:**

The Department of Indian Affairs and Northern Development (DIAND) is pleased to provide comment on the above draft workplan which was received on December 21, 2003.

As noted in its draft workplan, this Environmental Assessment will be conducted under the Mackenzie Valley Resource Management Act (MVRMA) but will also be guided by the "Cooperation Plan"<sup>1</sup>. DIAND strongly supports the process and timelines outlined in the Cooperation Plan and is concerned to see that Phase I of the proposed EA is not projected to be concluded until the end of May 2004. The Department encourages the Board to make every effort to complete its EA according to the timelines that were established in the Cooperation Plan.

The comments and suggestions which follow are made in support of the Board's understood intent, which is to focus on public concern to enable a Board determination of whether it should order an Environmental Impact (Panel) Review. The detail of the Department's comments follows:

**1. Introduction**

The draft workplan outlines a two-phase approach where Phase I includes community public hearings which are expected to provide substantiation for the need of a higher level of assessment through an Environmental Impact Review. It is expected that the Phase I will be sufficient to enable this determination under section 128(1) c of the MVRMA.

**2. Scope of Development**

The draft workplan indicates that the scope of the development is to include the four principle components identified in the Preliminary Information Package (PIP) which would include the field production facilities and the gathering system that are located outside of the Mackenzie

1. Cooperation Plan for the Environmental Impact Assessment and Regulatory Review of a Northern Gas Pipeline Project through the Northwest Territories (Cooperation Plan) - June 2002

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Valley (as it is defined under the MVRMA). As the Board clearly has the authority under the MVRMA to review those developments within its geographic jurisdiction, it is recommended that this section be revised. DIAND suggests that the workplan clarify that the MVEIRB would limit its consideration to those potential environmental impacts or public concerns that are solely generated by activities within the Mackenzie Valley. We feel that the components of the project which lie primarily outside the Mackenzie Valley are being evaluated by other jurisdictions and should not be the focus of this Environmental Assessment.

The draft workplan also suggests that the 'manufacturing of steel and pipe' that would occur outside of the Mackenzie Valley would be a component in the scope of the development. It is the Department's view that this component is not a "development" within the meaning of the Act and it should be removed.

DIAND interests in this regard are in reducing the potential for risk of litigation in the event of legal challenge under the MVRMA as to the validity of the assessment and/or jurisdictional dispute.

### 3. Scope of Assessment

It is understood that the scope of assessment includes impacts of the project components both on the human and biophysical environments. It is also recognized that the definition of "impact on the environment" under the MVRMA links these effects to the social and cultural environment. However, the draft workplan suggests that in addition, the Board will examine economic impacts of the proposed development. The Department maintains the view that since the MVRMA does not provide specifically for the examination of direct economic impacts, the Board should limit its consideration to economic impacts as they are raised in the context of the social and cultural environment in the Mackenzie Valley.

### 4. Other Directly Affected Parties and Interveners

Given that the Board will first evaluate the findings of a Phase I assessment in order to determine if Phase 2 is necessary, we suggest that the wording clarify that the 'identification of Information Requests' from the public will be a component of Phase 2 only if this second phase is considered necessary.

### 5. EA Process

As mentioned earlier, DIAND is quite concerned with the schedule proposed for Phase I in Appendix B and the approximate end date of May 28, 2004.

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S. 5.1.1: EA Start up.

In order to assess if s. 117 of the MVRMA is adequately addressed, clarification in wording is suggested to include not only "EA reports provided by the developer.."but also inclusion of any other information (such as summaries of consultation efforts undertaken by the developer) which the Board might find useful.

With regard to efficiencies and timeliness, one suggestion is that the Board 'regionalize' its public hearings process to central venues rather than plan to visit 10 separate communities. Without any intent to pre-empt the Board's necessary processes under the MVRMA, this suggestion is made with the concern about community capacity and community readiness to comprehensively provide input on issues affecting them. DIAND is currently working with the Territorial Government and community agencies to provide resources in order to assist in increasing community capacity in this regard. If hearings are held in each community at this early stage, the Board runs the risk of redundancy and duplication of interventions. Regionalized hearings would maximize the effectiveness of groups in the hearing process, and reduce the potential for over-taxing community resources.

We should not lose sight of the fact that the Mackenzie Gas Project has been conducting extensive discussions on issues in the communities and will continue with its ambitious program over the next couple of months. We understand that the results of these sessions will be made available to the Board for consideration in its deliberations. It is suggested that the Board will likely have ample evidence to support the determination of 'public concern' through the evidence provided by the producers and as verified through focussed regional hearings.

S.5.1.3 and 5.1.4:

It is suggested that wording of these sections be clarified in order to clearly indicate the process provided for under the MVRMA.

It is assumed that the National Energy Board as a Designated Regulatory Agency under the MVRMA would also receive a report of assessment in addition to the Federal Minister.

S.5.2 Phase 2.

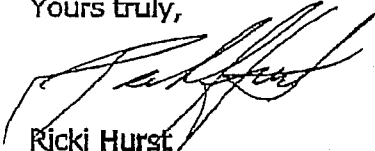
The distinction between activities carried out in Phase 1 and the optional Phase 2 could be reinforced for clarity.

Conclusion

In summary, DIAND fully supports the Board in its efforts to confirm the level of public concern over the Mackenzie Gas Project. DIAND would also support any MVEIRB efforts to complete the evaluation of 'public concern' in a manner which reduces the proposed timeline to be more consistent with that outlined in the Cooperation Plan. Please be assured that DIAND is

not pre-supposing the outcome of the MVEIRB assessment. Rather, these comments are presented in the context of the Cooperation Plan assumption that "the proposed project will require evaluation at the highest and most rigorous level of environmental impact assessment (ie. Joint Panel Review)."

Yours truly,



Ricki Hurst  
Director, Pipeline Readiness Office