

Mackenzie Valley Environmental Impact Review Board

Nov. 10th, 2004

Chief Keyna Norwegian
Pipeline Working Group Chair
c/o Dehcho First Nations
PO Box 89
Ft. Simpson, NT
X0E 0N0

Dear Chief Norwegian,

Re: Your letter of Oct. 29th, 2004

This letter is in response to your questions regarding the Review Board's decision to issue most, but not all, of the Information Requests (IRs) proposed by the Deh Cho First Nations. As a result of your letter, we have re-examined the standing of INAC in this environmental assessment. You are correct that INAC was not granted party standing. Considering this, your letter asks why the Review Board issued an Information Request to INAC but not to the National Energy Board (NEB) or the Mackenzie Valley Land and Water Board (MVLWB)

INAC has declared its interest in participating in this EA, and has been an active participant throughout. This is not true for the NEB or the MVLWB. The Review Board will not issue Information Requests to organizations that are not participating in its proceedings. This is particularly the case in respect of other regulatory tribunals when our IRs might draw them in to our process and potentially compromise their independence for future regulatory decision-making.

The Review Board is currently revising its Rules of Procedure. Partly in consideration of your letter, the Review Board has re-drafted the definition of "party" in its Rules of Procedure to make it clear that a party is an organization which intends to participate actively in a Review Board proceeding. This change should also clarify the application of the IR process. The revised Rules will be released for public comment shortly and DCFN is encouraged to review and provide comments on the draft revision of the Rules of Procedure when it becomes available.

You are also correct in stating that the MVRMA s.22 allows the Review Board to seek information from agencies of the federal government if the information is required for the performance of its functions. However, the Review Board has not chosen to do this in respect of the NEB and MVLWB in this case. The Board's reasoning in respect of the potential use of its section 22 power was similar to that applied to the question about the issuance of IRs and set out above.

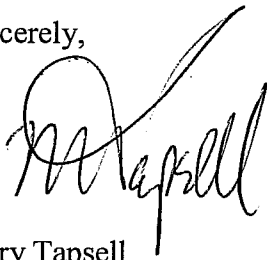
Although the Review Board has not issued these information requests to the NEB and MVLWB, it does encourage DCFN to contact these organizations directly. If DCFN has remaining questions, it should raise them in the upcoming Environmental Assessment hearings.

Regarding your second point (relevance to the EA), the Review Board chose not to issue IR requests 10(d) and 18(d) about the Department of Transportation's budget management because these did not relate directly enough to the proposed geotechnical project. Similarly for proposed IR 12 (d), which requested detailed calculations modeling vehicle stopping distances, the Review Board was of the view that this information was not sufficiently relevant to the assessment of the impacts of the geotechnical program.

We appreciate your comments and will make every effort to improve and build upon our communications in future Review Board proceedings. The Deh Cho First Nations Pipeline Working Group has been most helpful in providing us with assistance and expert advice throughout this environmental assessment and we look forward to your participation in the upcoming hearings.

If you have additional inquiries about this assessment, please contact Alan Ehrlich, Senior Environmental Assessment Officer, at (867) 766-7056.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary Tapsell', with a large, sweeping flourish above the name.

Mary Tapsell
Manager, Environmental Impact Assessment