

Mackenzie Valley Environmental Impact Review Board

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Date: October 5, 2007 Pages: 16 including this page

To: Distribution List for EA 0607- Fax:
002: Tamerlane Pine Point

CC:

Subject: Public Hearing agenda and pre-hearing conference notes


Dear parties and members of the public,

Please see attached proposed public hearing agenda for October 16 in Fort Resolution, as well as the notes from the Pre-Hearing Conference held last week.

An important reminder: As noted in the August 31 Pre-Hearing Conference information package, and reiterated at the Pre-Hearing Conference on September 27, all public hearing presentations material is due today, Friday, October 05, 2007. Presentations must be submitted along with a summary. The summary should be one page only, and be written in a plain language, non-technical style, outlining the key points of the presentation. The Pre-Hearing Conference Notes attached here go into more detail as well on what is required from presenters.

As always, contact me with any questions or requests for material.

Regards,


Alistair MacDonald
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Environmental Assessment of
Tamerlane Ventures Inc's Pine Point Pilot Project

EA0607-002

Public Hearing
Tuesday, October 16, 2007
Fort Resolution Community Hall
Fort Resolution, NT

Proposed Agenda

- 9:00 am Prayer and opening remarks by MVEIRB Chair
- 9:10 am Review of EA Process and Hearing Purpose
- 9:20 am Presentation by developer
Question and answer session
- 10:15 am Break
- 10:30 am Presentation by the Deninu K'ue First Nation
Question and answer session
- 11:30 am Presentation by the Town of Hay River
Question and answer session
- 11:45 am Presentation by the Northwest Territory Metis Nation
Question and answer session
- 12:15 am Lunch (provided)
- 1:15 pm Presentation by the Fort Resolution Metis Council
Question and answer session
- 1:45 pm Presentation by the Katlodeeche First Nation
Question and answer session
- 2:30 pm Presentation by the Deninoo Community Council
Question and answer session
- 2:50 pm Break

- 3:10 pm Presentation by Indian and Northern Affairs Canada
Question and answer session
- 4:00 pm Presentation by Environment Canada
Question and answer session
- 4:30 pm Presentations by members of the public
- 5:30 pm Closing remarks by the developer
- 5:45 pm Closing remarks by the MVEIRB chair
- 6:00 pm Adjournment

Notes on Pre-Hearing Meeting

File: EA0607-002 Tamerlane Ventures Inc's Pine Point Pilot Project
Date: September 27, 2007
Time: 14:00 -15:20
Location: MVEIRB Boardroom/teleconference

Participants:

	<i>Organization</i>	<i>Telephone</i>
David Swisher	Tamerlane Ventures Inc. (developer)	✓
Rosy Bjornson	Deninu K'ue First Nation	✓
Paul Boucher	Deninu K'ue First Nation	✓
Adrian Brown	Consultant to Indian and Northern Affairs Canada	✓
Bruce Halbert	Consultant to the MVEIRB	✓
Margo Briscaux	Health Canada	✓
Julian Kanigan	Indian and Northern Affairs Canada	
Lionel Marcinkoski	Indian and Northern Affairs Canada	
Theresa Joudrie	Indian and Northern Affairs Canada	
Heather Fredrick	Department of Justice Canada	
Jesse Jasper	Environment Canada	
Anne Wilson	Environment Canada	
Sarah Olivier	North Slave Metis Alliance	
Alistair Macdonald	MVEIRB	
Tawanis Testart	MVEIRB	

Parties not in attendance included the Town of Hay River, the Northwest Territory Metis Nation, the Fort Resolution Metis Council, the Katlodeeche First Nation, the Deninoo Community Council, and the Government of the Northwest Territories. Each organization was subsequently contacted by Alistair MacDonald from the Review Board; information gathered from those discussions is included in these meeting minutes.

Overview of Pre-Hearing Conference

Tawanis Testart, Environmental Assessment Officer with the Review Board, chaired the meeting. She proposed a couple of changes to the agenda that were agreeable to all those in attendance. Alistair MacDonald then provided an overview of the purpose of the pre-hearing conference, which was to get input from Parties on logistics for the Hearing, identify issues that will be brought forward during the Hearing, and to remind Parties of their responsibilities prior to and during the Hearing.

NOTE: Tawanis identified that the Pre-Hearing Conference was being taped and that a copy would be put on the public record. Due to an error by the teleconferencing company, no recording was made. The Review Board staff apologizes for this inconvenience.

Review of EA Process and Hearing Purpose and Structure

REVIEW OF THE EA PROCESS: Alistair MacDonald went through the review of the EA Process. Up to this point in time, the Review Board has

1. held scoping sessions in Fort Resolution and on the Hay River Reserve,
2. developed a Terms of Reference which the developer used to provide a Developer's Assessment Report outlining the nature of their project and its potential impacts on the environment,
3. had two rounds of information requests and responses from the developer and parties,
4. held Technical Sessions on water in Hay River, and
5. received Technical Reports from two parties (INAC and EC) outlining unresolved issues at this time. (Alistair noted that the deadline for Technical Reports was September 21; and also that a Technical Comments report from the Review Board's expert advisors was also available on the public registry).

The function of all these steps in turn was to try and find consensus on the majority of potential impact/concern issues. Those issues that are still outstanding as highlighted in Technical Reports or in Hearing Presentations, can then be addressed in one of three ways before the public record closes and the Review Board begins its deliberations:

1. They can be addressed by supplementary responses and commitments from the developer or responsible authorities prior to the public hearing. This can include dialogue between parties prior to the public hearing, which the Review Board encourages as the best forum for conflict resolution.
2. They can be addressed at the public hearing by the developer and/or responsible authorities.

3. If the Review Board deems it necessary, they can be addressed in the “Requests for Clarification” stage of the EA, after the Public Hearing but prior to the closing of the public record.

PURPOSE OF THE PUBLIC HEARING: Alistair MacDonald identified three purposes for this public hearing, and then asked for any additional comments:

1. One is to provide community members an up-to-date description of the proposed development, from the developer. A couple of key elements of the proposed development have changed over time, such as the water discharge and processing plan.
2. Secondly, it is to provide parties an opportunity to express publicly to the Review Board members themselves what issues they feel are still outstanding (or which issues have been properly addressed), and to provide their recommendations for what the Review Board should do to address any significant adverse impacts or significant public concerns.
3. Third, it is for dialogue between parties, especially questioning of the developer, to identify any information gaps that parties feel need to be filled before a determination can be made by the Review Board on this file.

No parties had any additions to the “Purpose of the Hearing”.

HEARING STRUCTURES: Alistair went quickly through the typical order that Review Board Hearings are conducted in:

- Opening prayer
- Opening comments by RB chair
- Review of EA process and hearing purpose
- Presentation by developer, followed by questions from the Review Board, its advisors, and/or parties
- Presentations by parties, followed by questions (as above)
- Public comment period
- Closing comments by developer
- Closing remarks by RB chair
- Adjournment of hearing

It was noted here are typically two refreshment breaks and a lunch break during the day.

Tawanis Testart of the Review Board staff also noted that the order in which questions can be posed after a presentation is based on the order in which they themselves are presenting at the Hearing. All parties to the EA have the right to ask questions of any of the presenters, but not of the public. Order of questioning is a process handled officially by the Review Board Chair during the Hearing.

SPECIFIC LOGISTICS OF THIS HEARING: It was reiterated that the hearing is from 9am-5:30pm, Tuesday, October 16, 2007, at the Fort Resolution Community Hall. Upon the posing of an urgent question by one of the parties, Review Board staff confirmed that lunch and snacks will be provided. There will be interpreting services in Chipewyan and South Slavey at the Public Hearing, there will be tapes made of the hearing and the hearing will be transcribed verbatim for the public record.

Alistair identified that the Review Board's expert advisor on water, Bruce Halbert from SENES Consultants, may be present at the Public Hearing (*it has since been confirmed that he will be attending*), but he will not be presenting. Because the Review Board's expert advisors have provided evidence for the public record (in the form of "Technical Comments on Water Issues" put on the public record by Review Board staff on September 24), any party that has questions about that evidence can pose questions to Bruce at the Public Hearing. In addition, the Review Board's advisors can pose questions to any of the presenters. Bruce's resume will be placed on the public registry.

Review Board staff then proposed that at this Hearing presentation by parties, rather than by theme, would be the most effective format. It was pointed out that presentations by theme can take a much longer time, because each party needs the opportunity to get back up to address each theme. Presentations in a set order by parties allows each party to tell the Review Board of all of their outstanding concerns and proposed mitigation at one time, and they are free to ask questions as necessary on different themes brought up by other parties during question periods.

Tawanis to ask for comments on proposed "Presentation by Parties, not theme" hearing structure. It was agreed by all present that the "Presentation by Parties" order made the most sense for this Public Hearing.

Discussion of Hearing Presentation Order

Tawanis turned to a discussion of the Hearing Presentation order. In every Review Board Hearing, the developer presents first. Typically, parties are then asked to present in the order that they signed up for party status. In this case, however, Review Board staff suggested that it might make more sense, given time constraints, that community groups from the South Slave have the first opportunity to present. That way, if there are time issues toward the end of the public hearing government agencies may wish to defer some of their comments and present them in writing for the Review Board's consideration. This proposal was accepted by all parties present.

The Review Board staff then noted the following proposed order of presenters (communities first and then government agencies, with the order within the groupings set by when they applied for party status):

1. Tamerlane Ventures Inc. (developer)
2. Deninu Kue First Nation
3. Town of Hay River
4. Northwest Territory Metis Nation

5. Fort Resolution Metis Council
6. Katlodeeche First Nation
7. Deninoo Community Council
8. Indian and Northern Affairs Canada
9. Environment Canada
10. Government of the Northwest Territories
11. Health Canada

The parties assembled all agreed with this order of presenting. A question was asked of whether parties could ask questions of the developer after the developer presents, and it was again confirmed by Review Board staff that all parties to the EA have the opportunity to ask questions of any other presenter. Parties do not have the right to directly question the Review Board during the public hearing, only to question other parties or the Review Board's advisors.

Paul Boucher from the DKFN suggested that the Review Board allow the Chief of the DKFN to make introductory remarks. The Review Board would appreciate a short word of welcome from the Chief prior to the official start of the proceedings; other individual parties can include statements of welcome in their presentations if they so choose.

Identification of Issues

Using the order established above, Tawanis then asked each party in turn to address the three main following issues:

1. What issues are you planning to present on? Tawanis reminded parties to prioritize their issues, in recognition of potential time constraints.
2. How many people are likely to be attending/presenting on your behalf?
3. How much estimated time do you need to present?

During the course of this "Identification of Issues" discussion, Alistair reminded parties of the following:

1. All evidence must be presented ahead of time to the Review Board for entry into the public registry, and distribution to all other parties. On August 28, a deadline of October 5 was set for submission of presentation slides (in Powerpoint form, rather than PDF form), written speaking notes, and one page presentation summaries.
2. That if there was material not yet on the public registry that parties felt was important to have prior to the Hearing, to identify it now.

3. That responsible authorities should be willing to address questions raised by parties that fit within their mandate at the public hearing. For example, if migratory birds are raised as an issue by a party, the responsible authority, Environment Canada, should be ready to give their own opinion on the potential impacts on migratory birds from this development, and necessary mitigation, if they haven't already done so.

NOTE: The issues presented here are summaries of statements of opinions made by the parties. They are not statements of fact as determined by the Review Board.

Deninu Kue First Nation (DKFN)

Issues to be discussed: SARA species, migratory birds, air quality issues, consultation and accommodation, the “untested technology” of the deep injection well system, water management related to the freezeway system, and concerns about the state of the biophysical environment – particularly the lack of baseline wildlife studies.

Number of presenters: Tom Unka will be the main presenter, with approximately two land users providing their insights as well.

Time required: Paul Boucher identified the need for 1.5 to 2 hours. Alistair MacDonald noted that it was extremely unlikely that this amount of time would be available, whereupon Paul identified that the DKFN would be able to present within a 1 hour time slot.

Additional information required: Discussion with David Swisher from Tamerlane ensued. David proposed to come to Fort Resolution to talk about some of these outstanding issues prior to the October 5 deadline for submissions. The DKFN representatives welcomed that approach. In addition, when Alistair asked the Environment Canada representatives if they will be available to answer questions about migratory birds, they requested that the DKFN send them a formal request to send an expert on this topic. The DKFN agreed to follow up on this issue with EC.

Town of Hay River

No representative from the Town of Hay River was present at the Pre-Hearing Conference. Alistair MacDonald later contacted the Town, which verified on September 28 its needs for the Public Hearing.

Issues to be discussed: Town of Hay River Council and community support for the Pine Point Pilot Project.

Number of presenters: One, Mayor John Pollard.

Time required: 15 minutes.

Additional information required: None identified.

Northwest Territory Metis Nation (NWTMN)

No representative from the Northwest Territory Metis Nation was present at the Pre-Hearing Conference. Alistair MacDonald later contacted them, and they have not as of the release of these Notes verified whether they will be presenting at the Public Hearing. Therefore, the Review Board has set aside a 30 minute time slot for them to present if they so desire; however, final notice of desire to present, with details, is required from the NWTMN by Tuesday, October 9, along with any presentation materials.

Issues to be discussed: unknown as of October 4.

Number of presenters: unknown as of October 4.

Time required: a 30 minute time slot has been set aside in the agenda.

Additional information required: unknown as of October 4.

Fort Resolution Metis Council

No representative from the Fort Resolution Metis Council was present at the Pre-Hearing Conference. Alistair MacDonald later contacted them, and they verified on September 28 their needs for the Public Hearing.

Issues to be discussed: Traditional knowledge study material was likely to be presented, and woodland caribou were identified as a topic of concern.

Number of presenters: unknown as of October 4.

Time required: 30 minutes.

Additional information required: unknown as of October 4.

Katlocheeche First Nation

No representative from the Katlocheeche First Nation was present at the Pre-Hearing Conference. Alistair MacDonald later contacted them, and they have not verified as of October 5 whether they will be presenting at the Public Hearing. A 45 minute time slot has been set aside in the agenda.

Issues to be discussed: unknown as of October 4.

Number of presenters: unknown as of October 4.

Time required: 45 minutes.

Additional information required: unknown as of October 4.

Deninoo Community Council

No representative from the Deninoo Community Council was present at the Pre-Hearing Conference. Alistair MacDonald later contacted them, and they verified on October 4 they will be giving a short verbal presentation at the Public Hearing.

Issues to be discussed: Benefits, restoration of the land, employment.

Number of presenters: Paul Lafferty, finance officer.

Time required: 20 minutes.

Additional information required: None.

Indian and Northern Affairs Canada (INAC)

Issues to be discussed: Four main topics will be discussed by INAC in their Hearing presentation. They were identified as Topics 2, 4, 6 and 8 in INAC's Technical Report submission of September 21, 2007:

2. The proposed injection well water disposal;
4. Likely discharge water quality;
6. Closure and reclamation;
8. The proposed froth flotation circuit in the ore beneficiation system.

Number of presenters: Two people will be involved in the presentation; two more to answer questions about the presentation. Several other INAC representatives may be present at the hearing to answer or pose questions, if necessary. It is possible that Adrian Brown, consultant to INAC, will be involved in presenting and questions. His resume will be forwarded for submission onto the public registry.

Time required: Lionel Marcinkoski from INAC requested 30 minutes for the presentation time. *Given the complexity of some of the issues, and the likelihood of questions, a 50 minute time slot has been set aside in the proposed agenda.*

Additional information required: INAC expressed concerns that additional information from the developer based on recommendations for further work embedded into the INAC Technical Report might not be available: a) in time to analyze it and build a response into

the Hearing Presentation due to the Review Board by October 5; or b) not available in the time between October 5 and the October 16 hearing date.

Review Board staff did state that if additional information is forthcoming from the developer or any party in the interim between October 5 and October 16, that it may be incorporated into verbal submissions, as long as the material is identified as new and provided as soon as possible prior to the hearing for the public record. Small changes to powerpoint presentations may also be possible, as long as they are identified specifically by the presenter. Individual parties may also request slight extensions to the October 5 Hearing Submissions date, with reasons, by contacting Alistair MacDonald at the Review Board. However, no submissions will be accepted beyond Wednesday, October 10th.

INAC staff also asked about transportation opportunities to and from the Fort Resolution airport. Both the Review Board and a variety of government departments are coming in (separate) charters, and lack transportation. Paul Boucher of the DKFN suggested that INAC get in direct contact with the DKFN office to try and set up some transportation. INAC agreed to do so.

Environment Canada (EC)

Issues to be discussed: Air quality concerns, including the results of the “site specific air quality assessment” currently being undertaken by consultants to the developer; potential impacts and mitigation required for Species at Risk and migratory birds; water issues. A variety of recommendations, as outlined in EC’s Technical Report, will be offered up for the Review Board’s consideration.

Number of presenters: Environment Canada will have two representatives present.

Time required: 20 minutes. *Given the likelihood of questions, a 30 minute time slot has been set aside in the proposed agenda.*

Additional information required: Anne Wilson from Environment Canada posed a question about whether there would be information available from the “site specific air quality assessment” before the October 5th deadline for presentation material. Discussions between the consultant and GNWT/EC had indicated that these results might not be ready in time. David Swisher from Tamerlane stated that his information was different, and that this information would be available prior to October 5th. Representatives from EC and the developer agreed to continue this discussion. More importantly, Review Board staff indicated that if material is forthcoming from the developer too late to incorporate into the presentation material provided on October 5th for the public record, provisions would be made for slight changes to be made in the final presentations, as long as those changes are clearly identified in any additional submissions or stated verbally during the Public Hearings (e.g., “Our presentation has changed slightly by the addition of this slide analyzing air quality testing done by the developer; “We have added a recommendation to the Review Board that was not in our original submission here...”).

Government of the Northwest Territories

No representative from the Government of the Northwest Territories was present at the Pre-Hearing Conference. Alistair MacDonald later contacted the GNWT, which verified on October 2nd that it will not be presenting at the Public Hearing. The GNWT will, however, have Joel Holder, an Environmental Assessment Analyst from the Department of Natural Resources, and representatives from the GNWT South Slave offices present at the Public Hearing and available to ask and answer questions. This will include Sarah True and a staff biologist.

Health Canada

The representative from Health Canada stated that unless it was identified by any Party or the Review Board that there were outstanding human health impacts related to this proposed development, Health Canada will not be attending or making a presentation at the Public Hearing. The Deninu Kue First Nation representatives did identify some concerns that members of the public might like to discuss with Health Canada (e.g., effects of mines on health in general, specific rumours of impacts of lead-zinc mining on babies), and contact details were shared, but it was determined that it was not necessary for them to send a representative to the Public Hearing. The DKFN representatives agreed to start a dialogue with Health Canada by sending specific questions based on issues identified by the public or DKFN staff/council.

Review Board staff confirmed that if specific human health concerns are presented at the Public Hearing, there is still the opportunity during the “Requests for Clarification” stage of the EA for Health Canada to be posed specific questions.

Tamerlane Ventures Incorporated (Developer)

Issues to be discussed: The developer, **which will be presenting first**, will provide an overview of the proposed development, and an overview of their impact assessment, with updates on any changes from the material presented in the Developer’s Assessment Report. Review Board staff requested that the developer pay specific attention to explaining newer components of the proposal, specifically the injection well system and the froth flotation system. The developer agreed to do so, and also identified that it may clarify some outstanding issues expressed by community groups about the functioning of the freezwall system.

The developer also agreed to try and follow up both on concerns identified in the Technical Reports of INAC, EC and the Review Board’s expert advisory team, and some of the issues identified in the Pre-Hearing Conference, and submit more information, hopefully prior to the October 5 Hearing Presentation deadline. If this is not possible, further information may be provided prior to the public hearing and identified as new material in the hearing presentation, or in the “Requests for Clarification” stage of the

EA, as necessary. Specifically, information on water (quality and quantity) issues and air quality may still be forthcoming.

Number of presenters: The developer's presentation team will likely consist of four members: David Swisher, Project Manager; Rick Hoos, EBA Engineering Consultants Inc., Godfrey MacDonald of Confidential Metallurgical Services, and potentially an EBA staff hydrogeologist.

Time required: 30 minutes. *In the Proposed Agenda, 55 minutes is set aside, given the likelihood of questions.*

Additional information required: None.

Discussion of Proposed Hearing Agenda

Tawanis stated that the Review Board will issue a proposed hearing agenda as soon as possible. *That agenda is attached at the front of this document.* Note that times requested for presentations may have been adjusted based on the time available. Again, it was noted that this Public Hearing will be at the Fort Resolution Community hall, and will run from 9am sharp until approximately 5:30 pm. Tawanis asked if there were any questions about the Hearing Agenda. None were forthcoming.

Confirmation of Hearing Presentations Order and Time Requirements

At the Pre-Hearing Conference, there were not enough attendees to properly confirm the time requirements, so the Review Board staff undertook to contact all the absentee parties and provide an ordered list with time requirements for each party. Here are the results, which have also been incorporated into the Proposed Agenda attached to this document (Note that each time slot includes time for questions afterward):

- | | |
|--|------------|
| 1. Developer's opening presentation----- | 55 minutes |
| 2. Deninu Kue First Nation----- | 60 minutes |
| 3. Town of Hay River----- | 15 minutes |
| 4. Northwest Territory Metis Nation----- | 30 minutes |
| 5. Fort Resolution Metis Council----- | 30 minutes |
| 6. Katlodeeche First Nation----- | 45 minutes |
| 7. Deninoo Community Council----- | 20 minutes |
| 8. Indian and Northern Affairs Canada----- | 50 minutes |
| 9. Environment Canada----- | 30 minutes |
| 10. Public comments----- | 60 minutes |

Review of Upcoming Deadlines and Review Board Tips for Hearing Presentations

Alistair provided a review of upcoming deadlines for those present. He identified that:

- There is only one more key deadline prior to the Public Hearing, **4pm on Friday, October 5th is the deadline for submission of hearing presentations.** Minor edits can still be done afterwards.
- The presentations are placed on the public registry and shared with all the parties prior to the hearing.
- If you are using powerpoint, your slides will be required along with your speaking notes.
- One page summaries of the key points of the presentation should be included with any hearing presentations (front and back is acceptable).
- See the information package the Review Board sent out on August 31st for more information on what is required from presenters as well as tips for how to effectively present.
- If you are basing some of your presentation on new evidence that is not on the public record, you **MUST** provide copies of that evidence ahead of the Public Hearing, or ask the Review Board Chair on the day of the Hearing for permission to table new evidence.

Alistair asked if any party (including the developer) was planning to provide new evidence, or needed to see new evidence from another party, after October 5. Adrian Brown, consultant to INAC, asked if any further technical submissions on the four key issues identified by INAC were going to be forthcoming from the developer. David Swisher responded that yes, new information would be forthcoming to address the concerns raised in all Technical Reports. He noted that he felt the concerns raised by Environment Canada's Technical Report largely focused on firming up commitments already made by the developer, and could be easily dealt with. However, the timing of the release of responses to concerns raised by INAC and the Review Board's technical advisory team was uncertain.

Given this uncertainty over timing of release of new information, Alistair noted that some additional time may be made available to presenters upon request if the material was forthcoming prior to October 5. *No additional material was received prior to October 5, so that remains the due date for Hearing Presentations.* In addition, Alistair noted that if new material was submitted by the developer between October 5 and 16, that analysis of that material could be introduced by parties at the hearing, as long as it is clearly noted that this is new material (*see also page 9 of this document, discussion around "Additional information required" by Environment Canada on air quality*).

Tips for Hearing Presentations

Alistair gave a short overview on good practice for conducting effective Hearing presentations, again referring the parties to the tips for presentations and guidelines for speakers provided in the information package of August 31st. Some key tips included:

- Don't use valuable time establishing your organizations mandate; focus on your most important messages
- Use plain language wherever possible
- Speak slowly to assist the translation
- Provide definitions sheets to the translators at the start of the hearing, clearly explaining in plain language the meaning of technical terms (it would be preferable if these "cheat sheets" were provided to the Review Board well in advance of the hearing)
- Save a copy of your presentation onto a data stick or CD for the public hearing
- Impacts must be associated with the development in question
- Develop a logical chain of evidence behind an impact prediction
- Tell the Board what you would like them to do about it: If you identify an impact, rate its significance and identify mitigation recommendations (if possible)
- Practice, practice, practice ahead of time

Adjournment

By Tawanis, with thanks from the Review Board staff. She noted that any questions should be forwarded to Alistair MacDonald.