

Pre-hearing Conference Meeting Notes

Held at:

**Mackenzie Valley Environmental Impact Review Board Office
200 Scotia Centre
5102-50th Avenue
Yellowknife, NT X1A 2N7**

April 10, 2017

Start: 10:00 am; End: 11:15 am

1. Introduction and Round Table

In-person Attendees:

Monica Wendt, GNWT-ENR
Kate Witherly, GNWT-ENR
Emily Nichol, ECCC
Bradley Summerfield, ECCC
Adrian Paradis, NPMO
Umar Hasany, NPMO
Jessica Taylor, DFO
Scott Duke, DoJ
Trish McFaull, GNWT-Lands

Paul Mercredi, GNWT-Lands
Lorraine Seale, GNWT-Lands
Simone Tielech GNWT-Justice
Robyn Paddison, MVEIRB
Chuck Hubert, MVEIRB Facilitator
Kate Mansfield, MVEIRB
Mark Cliffe-Phillips, MVEIRB
Catherine Fairbairn, MVEIRB

Teleconference Attendees:

Carrie Breneman, DFN
Maureen Flagler, INAC
Yongshu Fan, INAC
Mike Roesch, INAC
David Harpley, CZN
Alan Taylor, CZN
Jacquie Bastick, PCA
Allison Stoddart, PCA
Audrey Steven, PCA

Rachelle Besner, NRCan
Danny Wright, NRCan
Victoria Thomas, NRCan
Jane Konisenta, NBDB
Mark Pocklington, NBDB
John Donihee, Counsel

2. Review Board Mandate

- Review of guiding principles from MVRMA subsection 115(1)

3. Rules of Procedure

Similarities and difference between community and formal hearings

- Community hearings are primarily for the Board to hear directly from the community
- Community members at community hearings may ask government representatives questions
- Government representative attendance at community hearings:
 - Territorial Government: Approximately 5 to 7 representatives in Nahanni Butte; 9 to 12 representatives in Fort Simpson
 - Federal Government: Approximately 5 representatives in Nahanni Butte and Fort Simpson
- Questioning will be directed through the Board Chair
- Presentations will be based on technical reports; no new evidence will be presented
- Teleconference will only be available at formal hearings and will not be available at the community hearings
- Opportunity for public participation occurs at community hearings but time also set aside for public participation at formal hearings (see forthcoming agenda)

4. Scope of Development

- Brief review of presentation slide on scope of development

5. Party Status

- CPAWS did not submit a technical report but will be allowed to question parties. Brett Wheler adds that CPAWS may make a presentation during the time set aside at the formal hearings for presentations from the public
- LKFN requested party status and the Board will review the material on the record to decide on LKFN's request at the next Board meeting (April 12, 2017). Board's decision will be posted to the public registry.
- Oboni Riskope is not a party; they are an independent technical advisor. Oboni will make a presentation at the hearing. Parties will have the opportunity to question Oboni. Oboni will not have the opportunity to question parties

6. Draft Agendas

- Chair has the discretion to moderate conversation with respect to the scope of development
- Request for clarification from David Harpley regarding presentations listed on draft agendas
 - i. Response from Mark Cliffe-Phillips:
 - a. DFN will present opening remarks during the formal hearing in Fort Simpson
 - b. NBDB will present opening remarks at Nahanni Butte and LKFN will do the same in Fort Simpson during community hearings
 - c. Updated hearing agendas to follow will clarify (April 12, 2017, after the Board meeting)

7. Daily Topics

- Request for clarification from Lorraine Seale to clarify the order of the daily topics suggested by Review Board staff with respect to the 2 differing sources of information presented at the meeting
 - i. Order discussed and will be clarified in updated hearing agenda to follow
- Request for clarification from Lorraine Seale on the topic of “other outstanding issues” on Day 3
 - i. Response from Chuck Hubert:
 - a. If the party wants to address other recommendations that have not been brought up during the other topics, this can occur during Day 3 near the close of the hearings
 - ii. Response from Brett Wheler:
 - a. Prioritize your issues on the potential for significant adverse impacts, using the most recent information available on the record. If you view an issue that has been resolved through the hearing process, this should also be described to the Review Board
- Request from Board staff on the logical ordering of the topics
- Request for clarification from Dave Harpley regarding whether unfinished topics carry over to the next day, indicating that Day 1 may run long
 - i. Response from Chuck Hubert:
 - a. Board has discretion to run late or carry over to the next day
- Request for clarification from Alan Taylor regarding how weather will affect the proceedings
 - i. Response from Chuck Hubert:
 - a. The Board will be face-to-face with the community for hearings. Teleconference will not be a reasonable alternative. If a bad weather day, postponement or other logistical measures are possible
- Request for clarification from Lorraine Seale – may we submit one presentation, splitting up the slides by topic?
 - i. Response from Mark Cliffe-Phillips:
 - a. No issues with that
 - ii. Response from Chuck Hubert:
 - a. Should be presented in a reasonable and logical way so that the Board may follow along with your slides, which will be printed by Review Board staff and handed to the Board in hard copy. If one presentation is submitted, please submit slides that may be easily split into daily topics, in order to avoid confusion. Please keep slides simple to save on printing costs
- Request for clarification from Adrian Paradis – we've already sent our presentations to be reviewed and approved, not sure how we can divide that up following this guidance. We will get back on whether the slides can be divided up.
 - i. Response from Brett Wheler:
 - a. We can work with one document or more than one document, as long as it is logical and reasonable to present to Board
- Request for clarification from Lorraine Seale regarding presentation of tenure issues
 - i. Response from Chuck Hubert:
 - a. Tenure issues should be presented as part of project description

8. Time Allotment

- More time may be allotted for questions, rather than presentations. Presentations should be very succinct, hitting only major points. Ideally, would like to see less than the currently allotted 3.5 hours for presentations each day
- Want to reiterate how important it is to prioritize your issues and avoid duplication where possible when dividing presentations by topic, to save time
- NBDB joins the conversation at 10:38 am.
 - i. Mark Cliffe-Phillips suggests a meeting that afternoon to catch the party up. A meeting is scheduled for 2 pm later that day.

9. Suggestions for Hearing Presentations

- Not *expected* to bring own presentation material to hearing, Board staff will have it all
- Question from Rachelle Besner regarding needing to bring own USB key
 - i. Response from parties and Board staff that bringing own USB, and other forms of accessing own presentation, would be prudent

10. Upcoming Deadlines

- Comment from Paul Mercredi that timing suggested for receiving and responding to LKFNs request for late submission of technical report may not be possible. Given the timelines for government departmental approval of hearing presentations, efficacy of responding to LKFN's report in time for hearing would depend on the volume of material presented in LKFN report.
 - i. Response from Mark Cliffe-Phillips:
 - a. The Board will take these comments into consideration
- Request for clarification from Scott Duke about deadlines for hearing undertakings, closing arguments and closure of the public record
 - i. Response from Chuck Hubert:
 - a. Deadlines for hearing undertakings, closing arguments and closure of the public record will be announced the last day of the hearing. Closing arguments do not need to be prepared for the hearing, they will be written submissions following the hearing

11. Other Questions and Comments

Allison Stoddart – unable to see the response to technical reports from CanZinc

- Adrian Paradis will ensure a copy gets to Allison
- Review Board staff will follow-up with registry IT and Allison

Review Board staff presentation typo regarding timelines and party names

- Hearing presentations from developer, not the parties, due April 20th
- *National Resources Canada* is incorrect. The party is *Natural Resources Canada*

Rachelle Besner – do we need to provide CVs from experts?

- CVs may be useful on the record somewhere, please submit CVs of experts to Board staff for the record

David Harpley – any consultants who contributed to the technical report will need to provide a CV?

- Yes

Is Knight Piesold attending?

- Yes

Lorraine Seale – GNWT is planning to have some departmental resources available by teleconference for the formal hearings

Reminder: Further guidance available on the public registry ([PR# 473](#))