

Feb. 18th and 19th Public Hearing in Hay River – KTFN/FPMC Questions

Review Board

1. What is the Review Board's position on enforcing its Information Requests?

Paramount has refused to answer, or has only given partial answers, to many IRs. Also, Environment Canada and the GNWT have not answered IR 1.1.27.

The value of the Review Board's IR process, and the EA process as a whole, is greatly diminished if Paramount and others can choose which IRs they will or will not answer.

By accepting and issuing the IRs, the Review Board is making the IRs their own. The onus is on the Review Board to verify that the IR have been answered in full and to take appropriate action if they have not been.

Is the Review Board going to enforce its IRs in this EA?

2. Are the MVLWB representatives who are here willing to answer questions during this hearing and will the Review Board allow them to answer? Same question applies if there is anyone here from the NEB?

3. On Jan. 8th, the KTFN issued 3 information requests to the Review Board. The Review Board has refused to answer these questions. In its Jan. 26th letter to the KTFN the Review Board said that IRs may not be directed at the Review Board but no reason was provided supporting that position. The KTFN want to note that there is no prohibition against sending IRs to the Review Board in the Rules of Procedure.

The right to ask questions comes with a responsibility to answer questions. The Review Board has moved beyond facilitating the environmental assessment to being a participant in it by giving itself the right to ask questions. The Review Board should also be prepared to answer questions.

The questions that were posed by the KTFN do not fit within the Request for Ruling process as the Review Board is not being asked to make decisions or rulings. The Review Board is being asked for information and positions.

The KTFN would like a more detailed explanation as to why the Review Board refuses to answer the community's questions.

4. In past EAs, and in this EA, the referring body has automatically been granted status as a party. The Review Board's Sept. 24th letter during this EA said that the MVLWB was automatically a party and did not need to apply to the Review Board according to the Rules of Procedure.

However, in the Review Board's Jan. 26th letter to KTFN the Review Board cited the fact that the MVLWB was not a party as the reason for not issuing IRs to the MVLWB.

Please explain the rationale for the MVLWB not being considered a party in light of the fact that they are the referring body for this EA.

With this decision, the Review Board is changing the rules mid-EA. This decision also allows the MVLWB to not be accountable to the EA process simply by refusing to register as a party.

The potential exists for this decision to be abused in future EAs. For example, if INAC had no issues in a particular EA and decided not to bother registering as a party, then would INAC be excused from participating in the EA?

5. In EA01-005 (the Pipeline and Gathering System EA), the Review Board applied 21 measures with 17 of them being directed to the NEB and/or the MVLWB. What has the Review Board done to determine whether or not these measures have been fulfilled? Has the Review Board obtained proof of compliance from the NEB and the MVLWB? If yes, will that proof be placed on the public registry?

The KTFN note that the Review Board excused Paramount from having to provide an IR response on this matter. The KTFN attempted to get this information on the Public Registry by using an IR to the MVLWB and the NEB but the Review Board refused to issue it. When the KTFN went directly to the MVLWB and the NEB to get these questions answered, both organizations refused to answer.

6. The KTFN/FPMC would like to request an open question period after all of the hearing presentations to allow additional questions to be directed at Paramount and the other parties including those parties that decided not to make a presentation at this hearing.

As DFO, INAC and EC are not making presentations there is currently no designated period for questions to be directed to them. Also, additional questions for Paramount might arise over the next couple of days.