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January 29, 2010

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Mackenzie Valley Environmental Impact Review Board  
200 Scotia Centre  
Box 938, 5102-50th Ave  
Yellowknife, NT X1A 2N7

Attention: Alan Ehrlich, Senior Environmental Assessment Officer

Dear Sir:

**Re: Taltson Hydroelectric Expansion Project**  
**Our File: 028268-0004**

Please find attached the Written Submissions of the Carter family. While we respect the Board's decision to not extend the closing of the record, we would like to impress upon the Board the short time frame that the Carters have had to identify and address the many social, economical and environmental issues relating to the Taltson Hydroelectric Expansion Project (the "Project"). This is especially concerning given that the Carters are the only residents of Nonacho Lake and accordingly, stand to be significantly affected by the project.

We thank the Board for the opportunity to provide these Written Submissions on behalf of the Carter family and we remain available to answer any questions that the Board may have.

Yours truly,  
**MacPherson Leslie & Tyerman LLP**  
Per:

**Eleanor A. Olszewski, Q.C.**  
EAQ/aop

Enclosure: *Written Submissions*  
*Appendixes A - D*



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**WRITTEN SUBMISSIONS OF THE CARTER FAMILY REGARDING THE  
TALTSON HYDROELECTRIC EXPANSION PROJECT**

Submitted to: Alan Ehrlich, Mackenzie Valley Environmental Review Board  
January 29, 2010

Submitted by: MacPherson Leslie & Tyerman LLP  
Solicitors for the Carter family

## I. INTRODUCTION

The Mackenzie Valley Environmental Impact Review Board (the “Board”) is an institute created by the government of the Northwest Territories through the *Mackenzie Valley Resources Management Act*.<sup>1</sup> It is mandated to conduct assessments of proposed developments in the Mackenzie Valley, with a mind to ensuring that such developments meet the social and economic needs of Northerners both at present and into the future.

As part of this mandate, the Board is required to consider the impact of the project on the social, cultural and economic well-being of the residents and the communities in the Mackenzie Valley; it must also assess the environmental impacts of each proposed development.<sup>2</sup> The Carter family are long-time residents of the Mackenzie Valley and appeal to the Board to review the Taltson Hydroelectric Expansion Project (the “Project”) with a mind to the entirety of its mandate.

## II. HISTORY OF THE CARTER FAMILY

### A. The Carters as Tourism Pioneers

The lengthy and distinguished history of the Carter family is likely well-known among residents of the North. Merlyn Carter, who died in 2005, moved from Saskatchewan to Hay River in 1952 to assist his parents with a commercial fishery. In 1956 he married Jean Carter (nee Lay), and together they founded Carter Air Services, a company that would eventually grow and develop into one of the North’s most popular fishing tourism outfitters. In 2005, Merlyn Carter was posthumously inducted into the Canadian Tourism Hall of fame, along with his wife, Jean Carter, as recognition for their achievements in pioneering tourism in the Canadian North.<sup>3</sup>

Promoting their fly-in fishing expeditions all across the United States, the newly married Carters quickly established themselves as sought-after fishing guides. They purchased float planes and fishing boats to transport their guests, and established tent camps at Tree River, Point Lake, McKay Lake, Nonacho Lake, Thubun Lake, Gagnon Lake and at the mouth of the Mackenzie River.

### B. The Nonacho Lake Camp

In 1962, a more permanent establishment was created at Nonacho Lake that remains, to this day, a much sought-after location for sport-fishermen the world over. The camp at Nonacho Lake has seen a variety of distinguished guests, drawn specifically to this location because of its wild beauty, its pristine lake, its isolation and its excellent fishing. Throughout the years the Nonacho

<sup>1</sup> (1988, c.25); attached as Appendix A.

<sup>2</sup> Please refer to Appendix B: “Issues & Recommendations for Social and Economic Impact Assessment in the Mackenzie Valley: Non-technical Summary,” as well as section 114 of the *Mackenzie Valley Resource Management Act* (attached, note 1).

<sup>3</sup> Please refer to Appendix C: nomination of Merlyn Carter for the Mike Stillwell Achievement Award, 2005.

Lake camp has been visited by members of the Chicago Blackhawks, various other NHL players like Bobby Orr and Darryl Sittler, NBA basketball players, NASA scientists, biologists, and fishermen from all over the world. While operations slowed in the aftermath of Merlyn's tragic death, the camp remains a popular sport-fishing destination and a viable business operation for the Carter family.

### III. IMPACTS OF THE TALTSOON EXPANSION ON THE CARTERS' BUSINESS

As the only inhabitants of Nonacho lake, the Carters are significantly affected by the proposed Project. Accordingly, the Carters ask the Board to consider the impacts that the Project will have on their life's work and their livelihood, and to take the appropriate steps in response.

#### A. Marketability and the Future of the Business

The Nonacho Lake camp has been the cornerstone of the Carter family business for three decades. Much of its viability and its success, however, is a result of its remote location. For example, Carter promotional materials boast:

*Are you looking for a fishing experience among the most secluded, pristine and abundant lakes anywhere on earth? Then you've come to the right place. Sixty miles long and nearly two hundred miles from the nearest highway, Nonacho Lake is a fly-in via floatplane only experience. There are no telephones or televisions here. No one lives on Nonacho Lake or within nearly 100 miles of our fishing camp. Just nature as it was meant to be. Millions of Lake Trout, Northern Pike and wildlife. Don't expect to see any other boats fishing on this lake except friends in your own party.*

Clearly, the proposed project will have grave and detrimental impacts on the ability of the Carters to promote the experience as a secluded getaway in the untouched North and to carry on with the business as they have for 40 years.<sup>4</sup>

With the creation of the proposed winter ice road between Twin Gorges and Nonacho Lake, the Carters lose the ability to advertise their camp as a destination accessible only by float plane. Further, the ongoing construction, the planned explosions, the noise from the camps and the 160,000 person-days of work will most certainly destroy the serenity and seclusion that draws visitors to the camp and has them returning year after year. Finally, although the Proponent has indicated that it will support a 'no hunting or fishing' rule relating to its employees, it remains unclear how this will be regulated and enforced.<sup>5</sup>

Adding to the interruption is the fact that the proposed work camps are located at some of the most popular fishing spots on Nonacho Lake. At the Environmental Assessment Hearing (the "Hearing") the Proponent testified that it is committed to "as little interruption as possible," in response to questions by Dean Carter regarding the ability of the family and their guests to

<sup>4</sup> Please refer to the appended promotional materials for further evidence of the reliance placed on the seclusion and pristine nature of the area.

<sup>5</sup> Please see p. 54, lines 24-25 & p. 55, lines 1-8 of the Jan 14 transcripts.

continue fishing in Nonacho Lake. However, this response was qualified by the subsequent warning that “safety concerns do exist,” leaving the family sceptical that their 40 year venture will actually be able to co-exist with the Project.<sup>6</sup>

## **B. Security**

Along with the marketing challenges the Project places upon the Carters are the more serious challenges of security. The Nonacho Lake camp is isolated during the winter months, and the accessibility provided by the winter road and the work camps accordingly create security concerns for the Carters.

The Proponent has suggested that a gate be erected at Twin Gorges to keep out traffic. However, snowmobilers will easily be able to maneuver around the gate, and it is unlikely that one gate will keep out motivated hunters and outdoor enthusiasts. With all this increased traffic, the Carters are concerned about the environmental impact (discussed below), and are also concerned for the security of their buildings and assets that are located on Nonacho Lake. They are unwilling to allow an employee of the Proponent to live in the camp over the winter, and are unconvinced that random monitoring will be sufficient. They are seeking a commitment from the Proponent that their assets will be secure.

Finally, the Carters would like to remind the Board that although the road may only be built for three seasons (should scheduling go as planned), the clearing required to make the road will remain for many years, ensuring that these security concerns outlast the construction phase of the Project.

## **C. Final Comments on Business Impact**

The Carters are the sole inhabitants of Nonacho Lake and have been so for forty years. The life of their tourism business spans five generations and is part of the fabric of the family and a legacy of Northern industrialism. The Carters have identified legitimate concerns about the sustainability of their business in the event that this Project goes ahead as proposed. Many questions remain unanswered by the Proponent. The Carters simply ask the Board to fulfill its mandate to protect the community by requiring the Proponent to work with the Carters to adequately address their concerns as a condition of the Project moving forward.

## **IV. ENVIRONMENTAL IMPACTS OF THE TALTSON EXPANSION**

The Carters are not only concerned about the Project’s effect on their family heritage, they also have serious concerns about the environmental impacts of the Project. While it is true that the Carters are neither biologists nor environmentalists, it is also the case that they have seen, firsthand, the devastating effects that the original Taltson hydroelectric project had on Nonacho Lake and the surrounding flora and fauna. Accordingly, they are in the unique position to ask

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<sup>6</sup> Please see p. 53, lines 21-25 & p. 54, lines 1-14 of the Jan 14 transcripts.

questions of the Proponent, and, after hearing the testimony of its agents, have the following concerns.

**A. Impacts of Scheduled and Unscheduled Draw-downs and Fluctuating Water Levels**

As has been identified by the Department of Fisheries and Oceans Canada (DFO), the draw-downs proposed by the Proponents have potentially devastating consequences to the fish of Nonacho Lake, and in particular, the trout that spawn in the shallow waters. As the Board has heard, the trout spawn during the fall in waters that are sometimes less than one metre (1m) deep. Accordingly, the depth and the timing of the draw-downs are extremely significant, as draw-downs of a certain level risk freezing the ova in the shallow water.

The DFO has also acknowledged that the Proponent requires further information in order to fully understand the impacts of the water manipulation on other aquatic life. For example, the DFO has identified that questions remain regarding the impact of the fluctuating water levels on the riparian and littoral zones, and on the overall aquatic resources.<sup>7</sup> Accordingly, it has recommended that the Proponent continue with its proposed 2-stage assessment and that the Carters be involved in this process.<sup>8</sup> The Carters adopt this submission, and maintain that the impacts of the Project cannot be fully understood until more tests are completed. As a result, the Carters submit that the Board recommend that this process be subject to an Environmental Impact Review, as is its option under section 130 of the *Mackenzie Valley Resource Management Act*.<sup>9</sup>

**B. Mercury Levels and Toxins in the Water**

Mercury levels in the aquatic environment were given quite a bit of attention by both the proponent as well as by the DFO. The Proponent has stated that there will be no flooding of the lake and, therefore, no new mercury will be introduced into the water. Mercury levels, therefore, will only be affected by the 'stirring up' of the mercury that is already in the aquatic environment; as a result, the Proponent predicts that mercury levels will not be significantly affected by the Project.

The Carters submit, however, that the research and analysis surrounding the mercury levels in Nonacho Lake have not been sufficiently investigated. Mercury levels and other toxins are effected by a variety of elements, only one of which is flooding. The increased fluctuation in water levels is likely to impact the mercury levels, as will the use of explosives. As a result, the Carters adopt the cautionary statements of the DFO that more data is required to ensure that the models created by the Proponent are, in fact, valid representations of the Project's effect.

**C. Species Endangerment: Aquatic Life**

<sup>7</sup> Please refer to the DFO PowerPoint presentation, p. 23-26.

<sup>8</sup> DFO Technical Report, p. 6.

<sup>9</sup> Attached.

The introduction of the original Taltson Dam resulted in the probable extinction of the Arctic Grayling from Nonacho Lake. The Carters advise that the last time this species was seen in the area was 35 years ago. Similarly, the DFO has indicated that the natural habitat of the White Sucker may be threatened by this Project,<sup>10</sup> and the record reflects the potentially negative impacts on the spawning and ova of various fish species as a result of the draw-downs.

Along the same lines as the threats to habitat and spawning grounds are the concerns raised about the effects of the Project on aquatic resources and food supply. The DFO has identified the need for further assessments on the riparian and littoral zones with regard to these sensitive resources.

The DFO has acknowledged that very little baseline data has been collected by the Proponent and that its conclusions about the minimal impact the Project will have on the environment are heavily reliant upon modeling and assumptions. Accordingly, the DFO has indicated that significant monitoring and reassessment, in conjunction with the DFO, will be required as the Project is ongoing.<sup>11</sup> In particular, the DFO has stated in its technical report:

*The importance of an effective Aquatic Effects Monitoring Plan (AEMP) cannot be understated for this Project as many impact predictions for the assessment are based on assumptions and cannot be validated until flows are altered. The Proponent will need to collect adequate baseline information in order to ensure the development of a robust and scientifically defensible monitoring program that is capable of identifying and quantifying the effects due to the hydro expansion....*

*The AEMP must be complemented by an adaptive management plan that identifies contingencies in the event that impacts are larger or different than predicted<sup>12</sup>.*

The Carters agree with DFO that the studies conducted by the Proponent thus far are inadequate; however, the Carters submit that to go ahead with the Project *without* the establishment of baselines and the collection of additional data is exceedingly irresponsible. The Carters request that the Board exercise its power to recommend that an Environmental Impact Review be undertaken.

#### **D. Species Endangerment: Caribou and Musk ox**

Aside from concern for aquatic habitats and resources, interested parties have also expressed concerns about the human impact on the land-based wildlife, most notably the caribou. While the submissions relating to caribou typically focus on migration patterns and the effect of the proposed power lines, the Carters have additional concerns that the increased human presence in the area may result in escalated hunting of the caribou. The work camps introduce significant human populations to the area and the Proponent has stated that the winter road will provide access to the caribou winter range. Again, while the Proponent is commended for its commitment to a 'no hunting or fishing' rule, it remains unclear how this will be regulated and enforced.

<sup>10</sup> See DFO Information Request: DFO\_13.

<sup>11</sup> Please refer to the DFO PowerPoint presentation, p. 20-21. & 27-28; and DFO Technical Report, p. 16.

<sup>12</sup> DFO Technical Report, p. 17.

Further, the Carters report that the musk ox has also ventured down to the areas around Nonacho Lake; yet little, if any, study has been undertaken to understand the impacts that the Project will have on its ability to thrive. Clearly, the impact of the Project on the musk ox is an area where more research is still required and is another reason to support an Environmental Impact Assessment.

## V. CLOSING COMMENTS

As the Board is very much aware, part of its mandate is to consider the social, cultural and economical impact of each proposed project on the residents of the Mackenzie Valley. As the sole inhabitants of Nonacho Lake, the Carters are, more than anyone, poised to feel the full impact of this Project.

The Proponent has testified that it is engaged in discussions with the Carter family<sup>13</sup> and has informed the media that it has been so engaged since 2006.<sup>14</sup> This is blatantly untrue.

What is true is that the Proponent, although more than aware of the Carters' legacy on Nonacho Lake, neglected to advise the Carters of their plans for Nonacho Lake until September 23, 2009. Further, it asked no questions about the lake or the fish that the Project would affect, nor did it make any efforts to work with the Carters to identify their concerns or to ensure that the Project and the camp could co-exist. Although there were brief discussions towards the end of 2008 regarding the possibility of the Northwest Territories Power Corporation purchasing the Carters' leases, these were initiated by the Carters following Merlyn Carter's death, and were in no way related to or initiated by the Project. The Proponent did not mention the Project to the Carters until September, 2009, and has only once made any attempt – again, at the Carters insistence – to address any of the family's concerns.

The Carters believe that it is essential that the Board be made aware of the fact that the Board has been misadvised by the Proponent. At best, the Proponent's misstatement of the facts may be an innocent attempt to promote goodwill or a promise of consultations to come. At worst, however, the Proponent's misstatement of the facts is an indication of its faulty credibility and its questionable commitment to follow through with promises and actions that may be contrary to the economics of the Project. Regardless as to where along this spectrum the truth lies, the Carters appeal to the Board to fulfill its mandate to protect the community's social, cultural, economic and environmental interests. In the opinion of the Carters, this is best done by recommending that this process proceed to an Environmental Impact Review.

In the event that the Board is not of the opinion that an Environmental Impact Review is necessary, the Carters appeal to the Board to place restrictions on the Project that will require the Proponent to work with the Carters to *adequately* address their concerns about both the

<sup>13</sup> Please see Page 33, lines 10-16 of the Jan 14 transcripts & Page 305, line 25 and Page 306, line 1-12 of the Jan 15 transcripts.

<sup>14</sup> Please see the "Letter to the Editor" from Dan Grabke, published in *The Hub* on January 27, 2010.





environmental impact to Nonacho Lake and the economic impact upon five generations of tourism in Mackenzie Valley and a legacy of Northern entrepreneurial success.

The Carters thank the Board for the opportunity to forward these written submissions and trust that the Board will act in the best interests of the environment, the community and the people of the Mackenzie Valley.

Respectfully submitted by:

**MacPherson, Leslie & Tyerman LLP**

Per:

A handwritten signature in black ink, appearing to be 'Eleanor A. Olszewski', written over a horizontal line.

Eleanor A. Olszewski, Q.C.

Kelli L. Lemon

Solicitors for the Carter family