

Note to file

June 7, 2011

EA 0809-002

Prairie Creek Mine, Canadian Zinc Corporation

Re: Procedures for community and public hearings and request for submission of presentations

Dear parties:

Thank you for participating in the June 6th pre-hearing conference to discuss procedures for the upcoming hearings and consider agenda topics and scheduling for the hearings. As discussed, general procedures for the hearings are as follows:

Nahanni Butte Community hearing (informal)

- The developer will present the project
- Nahanni Butte Dene Band, INAC and Parks Canada will each make a brief (10 minutes max.) non-technical summary presentation or statement
- Community members and Review Board members have the opportunity to ask questions of the developer and parties after each presentation
- There will be no questions and answers between the developer and parties
- The majority of time during the hearing will be an opportunity for community members to ask questions of the developer and parties

Fort Simpson Public hearing (formal)

- The developer will present the project
- All parties have the opportunity to make a presentation or statement within the timelines discussed during the pre-hearing conference
- Presentations are focused on main topics and may be technical
- The opportunity for questions and answers is granted to parties, the developer and the Review Board after each presentation at the direction of the Chairperson

The hearings in Nahanni Butte and Fort Simpson will have simultaneous translation available and will be transcribed. Teleconference will not be available at the

hearings but the Fort Simpson hearings June 23-24 will be webcast from <http://reviewboard.ca/webcast.php>.

An agenda for the community and public hearings is being prepared and will be distributed shortly.

Submission of presentations by June 15

Please submit your presentations for the public hearing in Fort Simpson and your executive summary presentation for Nahanni Butte (select parties only) to the Review Board by June 15.

Tips for Public Hearings

A document published by the Review Board titled *Tips for Public Hearings* is attached to assist you in presenting information at the hearings.

If you have questions, please contact me by email or phone.

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Tips for Public Hearings

The Mackenzie Valley Environmental Impact Review Board (Review Board) has prepared this guide to help parties and members of the public prepare and deliver effective and concise presentations during the Review Board's public hearings.

1. Hearing purpose

The Review Board considers hearings to be a very important step in its environmental impact assessment process. Hearings offer developers, parties and members of the public an opportunity to present evidence directly to the Review Board. Hearings are also forums where participants can ask questions of each other and possibly resolve outstanding issues. When the Review Board makes its decision on a development, it considers both the evidence parties and the public provided during hearings and documentation submitted to the public record. The evidence acquired at hearings might be in the form of presentations, the discussions that happened following the presentation, or statements made by members of the public.





2. Hearing formats

The format of the hearings depends on the type of information considered, as well as the participants involved. A hearing where scientific experts and government representatives will be discussing technical information will probably require a more formal procedure than a hearing where the main participants are Elders and harvesters.

a. Formal hearings

Formal hearings follow a fairly strict procedure and are generally legalistic and technical in nature. These hearings start with the developer giving a presentation of its project, as well as the developer's conclusions on the potential impacts of the development. The parties follow with their own presentations (in order of their registration) and then the Review Board offers the members of the public an opportunity to speak. Questioning and cross-examination of the developer and parties are common features of formal hearings. Because this type of hearing is court-like, the Review Board ensures that a transcript of the hearing is recorded and placed on the public record. Depending upon the amount of information being considered, formal hearings can take several days to complete. Because of this, it is crucial that presenters are conscious of time constraints and provide useful information to the Review Board in an efficient manner.

b. Community hearings

The Review Board may choose to hold non-technical hearings, known as community hearings to listen to the views of communities potentially affected by a development proposal. While the Review Board still holds these hearings in a professional manner, the setting is less formal to encourage public participation. Depending on the type of issues remaining in the assessment, the Review Board may hold community hearings with or without a formal hearing as well.

c. Written hearings

The Review Board may decide to conduct part or all portions of a hearing through written submissions. In a written hearing, parties and members of the public submit written materials to the Review Board. Following this initial submission, there is an opportunity for participants to comment on the submitted material before the Review Board makes its decision. The Review Board rarely holds written hearings and so the remaining portion of this guide focuses on formal hearings and community hearings.



3. Hearing types

Hearings provide a venue for members of the public to speak directly to the Review Board. The Review Board strongly encourages the participation of the public at its hearings, particularly those who may be directly affected by a development. The Review Board typically holds hearings for two main reasons; a) to find out what issues interested organizations and the public feels the Review Board should focus on during the environmental assessment or b) to hear the final arguments from the parties and the public, before making its decision.

a. Hearings during scoping

Scoping hearings occur early on in the environmental assessment and give the Review Board an opportunity to hear what interested organizations and members of the public feel are the important issues the Review Board should examine during the environmental assessment. The goal is to decide what the “scope” of the assessment is.

At scoping hearings, the Review Board invites interested groups and the public to make presentations about the issues they are concerned about. There is also opportunity for parties to provide the Review Board with advice on how the environmental assessment can be run so that it addresses their concerns. For example, an interested organization might ask the Review Board to increase the geographic size of the area considered in the assessment or a member of the public might want the Review Board to include a particular animal that was not identified in the preliminary screening process.

In scoping hearings, the Review Board may ask participants to list their issues in order of importance. This ranking helps to focus the Review Board’s attention on the issues that matter most.

Scoping hearings offer some opportunity for interested organizations to ask questions of each other and the developer. However, this questioning is not the main focus of this type of hearing. It is not mandatory to respond to questions that people or organizations might be unprepared for. The Review Board may request that a person or group respond to a question in writing later if the matter is important for defining the scope of the assessment.

Scoping hearings can be a formal setting, an informal community setting or even written format. These formats are described in section 4.



b. Hearings at end of process

Hearings for final arguments occur towards the end of an environmental assessment. These hearings tie together and focus all the information gathered throughout the assessment. Such hearings give parties an opportunity to present their final arguments to the Review Board. Outstanding issues can sometimes be resolved between parties in front of the Review Board. When parties don't resolve the issues during a hearing, the Review Board will consider all the evidence available to it and make a decision based on its own values and the weight of the evidence on the public record.

Questions between the parties, the developer and the Review Board can be a very important aspect of final hearings. Parties are expected to respond to questions and defend their positions on the issues in a reasonable manner. The Review Board may issue an Undertaking for parties unable to provide a response to questions at the hearing. The Undertakings provide answers before the Review Board closes the public record. However, the Review Board prefers that parties come the hearing well-prepared and, if necessary, accompanied by expert witnesses capable of addressing the issues and answering questions.





❖ 4. Hearing preparation - the pre-hearing conference

A lot of time and effort goes into preparing for hearings. To make sure that a hearing goes as smoothly as possible, the Review Board staff usually organize a pre-hearing conference with the parties. Outlined below are the typical objectives of pre-hearing conferences.

a. Identify the issues to be discussed

To prepare for the hearing, it is important that participants at the pre-hearing conference identify the issues they intend to discuss. Sharing this list of the issues early gives the developer and other parties an opportunity to prepare and have the right people on hand at the hearing to respond to any questions.



b. Seek a clear description of the issues

At the pre-hearing conference, Review Board staff work with participants to flesh out what issues will likely be discussed at the hearing. It is important that parties are “on the same page” when talking about issues. For example, listing just wildlife as an issue is very generic and parties need to be more specific. This could mean identifying the species, such as woodland caribou as the important issue. Review Board staff will ask parties to explain which particular issues they want to discuss.

c. Encourage the resolution of issues

Hearings are more effective if parties can agree to resolve some issues before the hearing. At the pre-hearing conference, parties are encouraged to meet amongst themselves to resolve some of the issues. If parties successfully resolve issues independent of the Review Board’s process, the Review Board requires that the parties submit meeting notes, signed by the party representatives, detailing the matters they all agreed to.

**d. Establish a schedule for exchanging information**

The Review Board asks participants who want to present at the hearing to submit their presentations ahead of time. The Review Board staff set the submission date during the pre-hearing conference. No new material should be added to the record after the deadline. This gives everyone a fair opportunity to prepare their presentations and respond to other peoples' presentations. It also gives people like interpreters a chance to review the material.

Parties are asked to submit plain language summaries of their key points and arguments if they are presenting. This plain language summary should not be more than one page.

e. Explain the hearing procedures

The pre-hearing conference also deals with logistical and procedural matters. Items like the use of interpreters, the role of community members and Elders, audio-visual requirements and lawyer presence are all possible topics of discussion. Another important part of the pre-hearing conference is establishing an agenda. The agenda should give enough time for presentations and questions. For the Review Board to be able to finalize the agenda, it is important that parties provide an estimate of the time that they will need.





* 5. At the hearing - presenting before the Review Board

The Review Board's decision process is evidence-driven. Hearings are an excellent opportunity for participants to affect the outcome of the assessment by giving evidence directly to the Review Board through presentations and testimony. However, if the presentation is lengthy or if it buries the presenter's key points about the development with a lot of unnecessary information, the presenter will weaken their own argument. The following points are suggestions for presenters to make the most of their time in front of the Review Board.

a. Be time conscious

Time management is a crucial aspect of participating in a hearing. The Chairperson of the Review Board is under considerable pressure to ensure that the hearing adheres to the schedule. The Chairperson might cut off presenters before they have made all the points they wanted to make if the presenters go over the time assigned to them. Going over time limits might also mean other participants will have less opportunity to speak.

b. Avoid content overload

Presenters should not spend time talking about issues that are not a part of their main argument because they risk losing the audience's attention on the truly important matters. Although presenters may need to provide some context about their organization's role and mandate, presenters should compress this information into a minute or two of speaking, or perhaps a single PowerPoint slide.

Additional information can be submitted as a written document that accompanies the presentation. If this is a final arguments hearing, parties can submit this material as part of the technical report stage that usually comes before the final hearing.



c. Deliver a focused message

In final arguments hearings, it is important for presenters to speak specifically about the impacts they are concerned about. Presenters should not list every possible environmental effect associated with a development. Presenters should focus their message and explain what outstanding significant adverse impacts they think are likely to happen because of a development. In addition, presenters should list what they think can be done, if anything, to avoid those impacts or public concern.

In addition, in final arguments hearings, presenters should not list their concerns as rhetorical questions, such as, “What about the wildlife; What about the birds, et cetera”. These kinds of statements do not provide the type of evidence that the Review Board can rely on when making its decisions.

The time to ask these types of questions is during scoping hearings, because at the scoping stage of the assessment, little may be known about a development’s potential impacts. In scoping hearings, asking questions points the Review Board in the direction of concerns that may need to be addressed during the remainder of the assessment.

d. Present the case

During public hearings, presenters have an opportunity to make a case for a particular outcome in front of the Review Board. The Review Board must decide whether the environmental impacts of a development will be significant or not. A strong, emotionally honest and credible presentation will help the Review Board to understand a presenter’s point of view regarding an impact’s significance.

It is important for presenters to tell the Review Board what really matters to them and to communicate this concern in a creative manner by making the presentation, particularly the key points, memorable and persuasive. It is essential that the presenters identify what part of the development they think will affect what specific parts of the environment and how will this happen. If a presenter disagrees with the developer’s predictions, it is important the presenter identifies what they think is wrong about the prediction and explain why the prediction is wrong. Presenters may identify possible measures that the Review Board could adopt to mitigate against the impact that is likely to occur.



Tips for presenting the case

In making a case in front of the Review Board, presenters need to identify

**What part of the development will affect
what part of the environment, and
how will it happen**

Strategies for effective presentations

While there is a great deal of information available in books or on the internet on how to deliver effective presentations, the following tips have been offered to help participants in Review Board hearings.

1. Make sure that your thoughts are well organized, this will guarantee more confidence in your delivery.
2. Stand up when addressing the Review Board.
3. Speak to the Review Board, not to the audience.
4. Speak into the microphone at all times when presenting or asking questions.
5. Use a mobile microphone if you need to move around during the presentation.
6. Build confidence by practicing ahead of time.
7. If using PowerPoint or similar software, ensure that the slides use:
 - no more than five to seven key points per slide;
 - large clear font;
 - point form statements; and
 - easy to read colours.

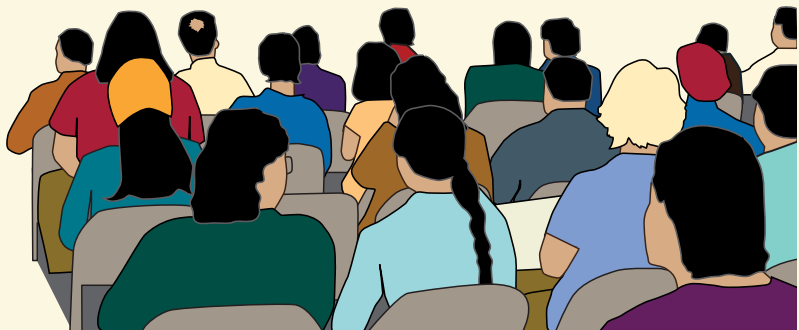


6. Courtesy at hearings

Demonstrating courtesy at hearings is no different than what is expected during any other public event. The Review Board expects its hearings, as well as all participants at the hearing, to be treated with respect. Participants are requested to be courteous in their behaviour.

The following suggestions are provided to help ensure more respectful and effective hearings:

1. Participants who need to talk to each other during a presentation should leave the room.
2. Participants should switch off their cell phone ringers and take their phone calls outside the hearing room.
3. Presenters and other participants should be respectful of all other participants. Any quarrel that may exist between individuals or groups should not be aired at the hearing. The Review Board will not tolerate aggressive or hostile language under any circumstances.
4. Groups or parties should share the seats at the front of the hall or near the Review Board's table with other participants, especially with Elders.
5. Participants should ask questions and avoid making statements or giving opinions. Those participants who want to make statements have the opportunity to make them in their own presentations.
6. Participants should ensure that they have a set of the translation equipment to listen to the testimony of aboriginal language speakers and to be able respond to any questions that are directed towards them by these speakers.





7. Working with interpreters

The Review Board usually engages the services of language interpreters at its hearings to enable participants to understand each other.

a. Meeting and briefing the interpreters

It is advisable to contact the Environmental Assessment Officer in charge to arrange a briefing with the interpreters prior to the hearing. In these meetings you can clarify specific points and help improve the presentation, particularly if you are using technical language. Provide the interpreters with copies of the presentation as well as any presentation notes. This will help the interpreters to familiarize themselves with the issues and terminology to be discussed. It is helpful to provide the interpreters with a list of terms, along with their plain language meaning, this will ensure that all participants in the hearing better understand a presentation.

b. Delivering the presentation

The following points are important to remember when making presentations with simultaneous interpretation:

- Speak in as much plain language as possible.
- Pace the delivery of the presentation so that the interpreters have adequate time to work - if a presenter is reading from a script, three minutes per page of 40 lines is a recommended speed.
- At all times speak clearly into the microphones – the interpreters depend upon the signal coming from the microphone to do their work.
- Occasionally make eye contact with the interpreters to make sure that the pace of delivery is acceptable. Agree to a hand signal in advance with the translator so you know if you need to slow down.





✱ 8. Some do's and don'ts at Review Board hearings

Do's	Don'ts
 Focus on your top 3 to 5 main points	 Give a laundry list of every possible environmental change, especially if they are not significant
 Make assertions such as "We believe that this development will negatively impact bull trout in Lake X"	 Raise questions that are meant to be assertions such as "What about the trout? What about the water?"
 Be specific about the impacts that concern you (not just "wildlife" or "water")	 Be vague
 Briefly introduce yourself and the organization you represent (if any)	 Deliver a historical monograph of your organization, nor a lengthy treatise on its legislative mandate
 Speak directly to the Review Board and its Chairperson	 Only direct your presentation to the audience or your colleagues
 Speak slowly and use plain language whenever possible	 Speak quickly or use lots of jargon when it can be avoided