

May 31, 2013

Note to file

EA 1213-002
Mackenzie Valley Highway Project
Government of the Northwest Territories

To subscription list:

Re: Party status

Please find attached the Review Board's Reasons for Decision on applications for party status in the environmental assessment of the Mackenzie Valley Highway Project.

Mackenzie Valley Review Board

MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD

In the Matter of: **The Environmental Assessment of the
Mackenzie Valley Highway Project EA1213-
002**

And In the Matter of: **Applications made for Party Status in
EA1213-002 pursuant the Rules of
Procedure**

REASONS FOR DECISION

BACKGROUND:

On February 1, 2013 the Department of Transportation, Government of the Northwest Territories (DoT) submitted an application for a land use permit to the Mackenzie Valley Land and Water Board.¹ The permit application was for highway right-of-way clearing between kilometers 1508 to 1478 of the proposed Mackenzie Valley Highway in the Gwich'in settlement area. On February 8, 2013, DoT corresponded with the Mackenzie Valley Environmental Impact Review Board (Review Board) to indicate that the Government of the Northwest Territories has decided to exercise its authority under section 126(2) of the *Mackenzie Valley Resource Management Act* (the "Act") to refer the matter of the right of way land use application directly to Environmental Assessment.

The Review Board gave public notice of commencement of an Environmental Assessment (EA1213-002) on February 11, 2013.

On April 1, 2013 the Review Board published a public notice indicating that applications for party status in EA1213-002 could be submitted before April 19, 2013. In addition to the advertisement, an e-mail was sent to the Review Board's subscription list giving

¹ Note that this letter was dated January 11, 2013.

notice that applications for party status could be submitted by April 19, 2013. Nine applications for party status were received by the Review Board before April 19, 2013.

These Reasons for Decision set out the Review Board's decision granting party status in EA1213-002.

THE RULES OF PROCEDURE:

The Review Board's Rules of Procedure (Rules) set out the framework used in deciding when to grant party status to an applicant. The relevant Rules are below:

5. An application for party status in a proceeding will be filed with the Review Board within the time specified by the Review Board. The application will clearly state why party status should be granted and outline any information or other assistance the party may provide to the Review Board during the proceeding. The application should be filed in Form 1.
6. The developer is automatically a party to a Review Board proceeding.
7. The Review Board may grant party status to an applicant under Rule 5 and may request additional information or clarification from any person before granting party status.

THE DECISION ON PARTY STATUS:

Each of the ten organizations which made application for party status provided the information in Form 1 of the Rules. This information was carefully reviewed by the Review Board in making its decision. The applicants are listed below.

- Dehcho First Nation (DFN)
- Sahtu Renewable Resources Board (SRRB)
- Gwich'in Tribal Council (GTC)
- Aboriginal Affairs and Northern Development Canada (AANDC)
- Transport Canada (TC)
- Environment Canada (EC)
- Natural Resources Canada (NRCan)
- Department of Fisheries and Oceans (DFO)
- Pembina Institute
- NWT Chamber of Commerce

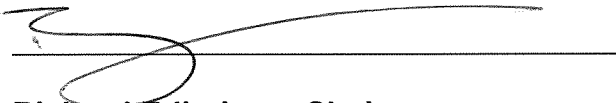
Five of the applicants are government departments representing Responsible Ministers or the Federal Minister under section 111 of the Act. Two of the applicants are aboriginal organizations representing directly affected rights holders in the area likely to be affected by the project. The SRRB is an institution responsible for wildlife management established by the Sahtu Land Claim Agreement. Neither the Pembina Institute nor the NWT Chamber of Commerce are resident in the affected area.

In making its decision, the Review Board considered whether the applicants themselves had or represented the holders of rights who might be directly affected by the project. Such individuals could be property owners, persons exercising aboriginal rights or the holders of other legal rights and interests which might be affected by the project. The Review Board also considered, based on the information provided on each applicant's Form 1, whether that organization would be likely to bring unique or relevant expertise to bear on the environmental questions which would be raised in the proceeding before the Board.

The Review Board made its decision cognizant that Rule 2, and Board practice when holding public hearings, is to provide opportunities for organizations or individuals which are not parties to set out their concerns and to address the Review Board at the appropriate time.

In light of these considerations and the information provided by the applicants, the Review Board decided to grant party status to all applicants except the Pembina Institute and the NWT Chamber of Commerce. These latter two organizations are welcome to take advantage of the opportunities set out in the Rules to address the Board at a later date. In the Review Boards opinion, neither of these organizations are directly affected and neither provided any sufficient evidence to indicate that they would bring unique information or expertise to bear on the questions before the Review Board in EA1213-002.

For the Mackenzie Valley Environmental Impact Review Board:



Richard Edjericon, Chairman

DATED: the 31 of May, 2013.