

ALTERNATIVES NORTH BOTTOM UP REPLY

NATIONAL ENERGY BOARD FINAL ARGUMENT HEARING IN INUVIK APRIL 21, 2010 (VIA TELECONFERENCE)

Thank you for opportunity to provide a reply. I am at home in Yellowknife at my kitchen table with two laptops going. Reply is made for a number of the final arguments but not all.

MGM Energy

- We noted that MGM has a Capacity Request Agreement (IORVL Exhibit 212B) with the applicants for 200 Mcf/day to be delivered at Niglangtak and Taglu that would push the currently committed capacity of the MVP to 1.03 Bcf/day. We note that MGM has yet to indicate whether it will be a shipper or part owner of the MGS so there is still some uncertainty about the arrangement even though it was signed two and a half years ago. Any development of MGM reserves for shipping into the MGP have not been assessed for environmental or socio-economic effects. We maintain that the capacity of the MVP should be limited to 0.83 Bcf/day and that any future expansions be subject to NEB approval, implementation of the JRP recommendations and any other necessary regulatory requirements.

Samba K'e Dene Band

- Alternatives North noted that Crown consultation, at least with Samba K'e, does not appear to have moved beyond documenting concerns. There has been little if any accommodation through compensation or mitigation. The federal government does not seem to appreciate or understand that the NEB is the main regulator for the MGP. We do not accept the federal government position that further information is needed to properly accommodate the interests of Samba K'e. This information is apparently to come in the regulatory phase of the MGP but we are already there. We note that the applicants have made some changes to the MGP to accommodate Samba K'e's interests but that further consultation has now been directed back to the Crown. Crown consultation is clearly not adequate at this point.

Sierra Club of Canada

- We agree that the NEB should carry out a sustainability assessment of the MGP as part of its public interest test, and based in the work of the JRP. We cannot rely on piecemeal approvals of future development connected to this basin-opening project to properly control the scale and pace of development. Many of the JRP recommendations will take time to implement, particularly the legally-binding thresholds in land use plans, development of the scenario-based cumulative effects assessment framework, completion of the Protected Areas

Strategy in the Mackenzie Valley, full implementation of the Cumulative Impact Monitoring Program and more. While most of these recommendations are aimed at government, the NEB could and should reinforce the need for this work in any approvals it may issue, by limiting pipeline capacity and conditioning further expansion on implementation of the JRP recommendations. By getting this work done now and putting in place the framework for future development, final decisions on that development in the future will become clearer and more certain. The scenario-based cumulative effects assessment framework and thresholds in land use plans would be especially helpful in this regard. You need to see the government consult-to-modify correspondence, the JRP response and the final government response to make the best informed decision on sustainability and the public interest, and allow for public comment.

- We support Sierra Club's suggestion that if a certificate is issued, it could be conditioned with a future hearing to consider sustainability and the progress on implementation of the JRP recommendations. If the recommendations have not been implemented in the final opinion of the NEB, then the certificate would not be valid until that condition had been met. This should provide sufficient leverage and pressure to ensure progress on implementing the JRP recommendations, in the public interest, in the interest of sustainability and to ensure a net positive benefit from the MGP.
- We noted the questioning following the Sierra Club presentation where there was discussion about whether the North would be better off with or without the MGP. Clearly, the JRP said that current socio-economic conditions in the NWT are not acceptable or sustainable. The same might be said of the human presence on this planet. We do not think it is a simple choice between these two alternatives. There is a third path that would involve developing other, more sustainable economic opportunities involving renewable energy, import substitution, a greater investment in public services and programs. This is something that Alternatives North has advocated for over our more than 15 years as a non-profit organization. There have been numerous half-hearted attempts at economic development strategies for the NWT but all have largely failed, partly due to different visions but also as a result of a lack of commitment or megaprojects like the MGP. The JRP recommendations should largely be implemented whether or not the MGP proceeds. These are things that northerners have been fighting for over the last several decades.
- The other question asked of Sierra was whether the North would be better off with the MGP. We have said that with the proper terms and condition, including most of what the JRP has recommended but with additional measures such as a fairer economic rent regime in the public interest, a devolution agreement that includes northern Aboriginal and public governments, a permanent fund, completion of the MVRMA system, and some other measures, a MGP with a controlled scale and pace could make a contribution towards sustainability, but we are far from that ideal world. The JRP recommendations are the bare minimum for a net positive

contribution to sustainability but we think there should be more, particularly from our governments.

- We noted the discussion about the intent and message in the JRP's response to the NEB's proposed modifications and draft conditions. It is too bad that you cannot engage the JRP directly but we would observe that most of the future-oriented recommendations on completion of the MVRMA, scenario-based cumulative effects assessment and the like, are actually aimed at government. The JRP really did not have a lot to respond to from the NEB. The recommendations to government, if implemented, will make future regulatory decisions clearer and likely more efficient. The far more interesting JRP letter will be the one that follows the government consult-to-modify communications, for which there is no commitment for any public involvement, let alone disclosure. We all need to see how governments may intend to change or modify the JRP's recommendations and how the JRP responds. This should be part of your record and there should be an opportunity to comment to the NEB before you make your final decision, as we suggested earlier.

Dehcho Elders and Dehcho Harvesters Councils
Lidlii K'ue First Nation
Dehcho First Nations

- We support the need for an approved Dehcho land use plan before the MGP proceeds. Benefits, access and harvester compensation agreements and arrangements for independent monitoring should likewise be completed well before construction starts. The Dehcho process negotiations should also be completed before construction begins.
- We noted that the funding under the Mackenzie Gas Project Impact Funding has not started to flow and that this is a shared concern as mentioned yesterday by the Inuvialuit. The Act and program have been put forward as a form of mitigation by governments and we suggest that the NEB should give it little weight as it is not unfolding as it should.

GNWT

- Surprised that GNWT participated in the final argument given that there has been no GNWT response to the JRP recommendations. You should know that this GNWT position was developed without any public consultation and does not reflect the views of Alternatives North or perhaps other intervenors or residents of the NWT.
- We were also surprised to hear the narrow scope of the public interest as described by Mr. Sanderson wherein he advised the NEB to ignore those who call for a properly managed scale and pace of this basin-opening project. We understand that Mr. Sanderson has presented a legal argument but GNWT has

thus repudiated and rejected many of the concerns, aspirations and apprehensions as expressed by its own citizens and as documented by the JRP, and is not consistent with sustainability. We are of the view that the NEB has authority under CEAA and the MVRMA to condition future expansion of the MGP. As an aside, we expect that GNWT will fully support all the JRP recommendations as a responsible authority or Minister, and will work to tirelessly to ensure that the federal government accepts all of the recommendations aimed at it.

- We are of the view that the Socio-economic Agreement for the MGP is not a good one, compared to the agreements for the diamond mines and was not the subject of any prior public consultation. Our further views, and two independent reviews of the SEA, were presented to the JRP. Although we do not object to having a condition in MGP approvals regarding the SEA, we are of the view that the NEB should give little weight to the SEA as a form of socio-economic mitigation or monitoring. This condition in a MVP certificate will be rather meaningless as the agreement itself is unenforceable and contains no sanctions for non-compliance. GNWT should have negotiated a better agreement to make it enforceable rather than passing the proverbial buck to the NEB.

Mackenzie Valley Aboriginal Pipeline Limited Partnership

- I think I heard Mr. Smith make some rather troubling analogies between southern anti-fur, anti-harvesting groups and Alternatives North. I personally take offence to such a characterization of our NWT-based non-profit organization. Our proposal to limit the capacity of the MVP is not a straightjacket proposal, as any future development could proceed if the work outlined in the JRP recommendations proceeds in a timely fashion, and such development fits within approved land use plan thresholds, thus making a net positive contribution to sustainability.

On a more positive note, we thank the NEB staff for setting up this bottom-up reply by teleconference and the interpreters for their patience and hard work in helping people throughout the Mackenzie Valley to understand what is happening.

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Link to the Actual Transcript of the National Energy Board Final Argument Hearing for April 21, 2010: https://www.neb-one.gc.ca/ll-eng/livelink.exe/fetch/2000/90464/90550/338535/338661/395552/613539/A1S5Z3_-_Vol.57-WedApr21.10?nodeid=613540&vernum=0

[Note that there are some small differences in the Transcript vs. the Speaking Notes]