



National Energy Board
GH-1-2004 Hearing
Mackenzie Gas Project

Testimony of Richard Nerysoo
President of the Gwich'in Tribal Council

Inuvik, Gwich'in Settlement Area
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Good afternoon, Chairman Vollman and members of the National Energy Board. I welcome you to Inuvik and the Gwich'in Settlement Area for this next stage of the Mackenzie Gas Project regulatory review.

My name is Richard Nerysoo and I am the president of the Gwich'in Tribal Council, the governing body that represents Gwich'in Participants in the Mackenzie Delta region of the Northwest Territories and throughout Canada.

I would like to take this opportunity to provide remarks to the panel on three issues – the review process to date; the recommendations of the Joint Review Panel; and the importance of the Mackenzie Gas Project for Canada and for the Gwich'in people.

First, briefly, let me describe who we are and what we do.

Introduction

The Gwich'in Tribal Council (GTC) is an Aboriginal Organization established pursuant to the *Gwich'in Comprehensive Land Claim Agreement* signed between Canada and the Gwich'in in 1992.

We are charged with protecting and preserving the rights, interests and benefits of the Gwich'in in reference to their use, ownership and management of lands, waters and resources in the Gwich'in Settlement Area; with supporting the traditional and cultural values, customs and language of the Gwich'in; developing the programs needed to help Gwich'in become self-sufficient members of society; and upholding the rights, interests and benefits of the Gwich'in under each of the our Land Claim Agreement, Treaty 11 and the *Constitution Act* of Canada.

The GTC takes these responsibilities seriously and I will now talk a little about how they inform our submission today in the three areas I have mentioned.

The Joint Review Process

First, the process of the Joint Review Panel to date has been an exercise in frustration for many observers, but that process is now, thankfully, over and we need say little more about it.

What does concern the GTC, however, is the discredit being placed on northern boards and agencies, indeed, on the whole northern regulatory regime, for failings the JRP process.

I will note for the benefit of followers of the process that the Cooperation Agreement that established the JRP was entered into by a number of boards and agencies, not all from the north, and that the terms and conditions of the agreement were established through negotiations among those boards and agencies.

The GTC is concerned that the delays caused by the JRP process, delays that we feel are solely the responsibility of the process, not of the various management boards established pursuant to settled land claims in the NWT, will be used by others to seek major changes in how our boards and agencies conduct their regulatory reviews in the Gwich'in Settlement Area.

Both our land claim and the *Mackenzie Valley Resource Management Act*, legislation that came only following a lengthy legal fight between ourselves and Canada, provide a role for Gwich'in in the management of lands, waters and resources in the GSA and we will fight just as hard to keep that role and we had to fight to get it.

The Joint Review Panel Recommendations

The Gwich'in appeared before the JRP in three different forms – as the Gwich'in Tribal Council, as the Gwich'in Social and Cultural Institute and as members of the Gwich'in Renewable Resources Board.

We are generally pleased with many of the recommendations of the Panel but do note that the issues we raised in our various submissions remain important to us and we will continue to ensure that our concerns are met, regardless of the presence or absence of a Panel recommendation.

We note that the National Energy Board appears to agree with our stated positions in our February 11th submission concerning the JRP Recommendations that not all of the Panel's recommendations need be accepted before the Project can proceed; that matters best left to government policy should not be addressed by the recommendations; and that the completion of third party actions should not be a pre-condition to Project advancement.

We do, however, respectfully request that the National Energy Board continue to review our submitted comments on the JRP recommendations and, where appropriate, support us in addressing many of the concerns we have raised relating to environmental protection, cultural preservation and economic development for our people.

The Future and the Mackenzie Gas Project

Now, Members of the Board, let me talk a little about the future of the Mackenzie Gas Project, indeed, the future of this part of the world.

The Gwich'in, along with many other Aboriginal people in the NWT, have been from the very beginning supportive of the Mackenzie Gas Project and what it can mean for our people.

If I may, Panel Members, allow me to provide you with some history of the Aboriginal people's involvement in the proposed Mackenzie Valley Pipeline.

The formative meeting took place in Fort Simpson in late June of 2000, nearly ten years ago, when the Aboriginal Pipeline Working Group was first established.

The intent was to create a form of business alliance and develop a plan to realize the Aboriginal leaders' vision of building a partnership to maximize the ownership of, and benefits from, a Mackenzie Valley pipeline.

The leaders recognized that there were many outstanding northern political issues requiring resolution but they felt, indeed many of them still feel, that these issues could be resolved by good will on the part of governments.

While not all the regions of the NWT have chosen to join the Aboriginal Pipeline Group to date, each region is currently represented on the APG and the Gwich'in, as a shareholder of APG, will continue to support any region as it works towards a decision on active involvement.

I note here that the long-time chair of the Aboriginal Pipeline Group, and recent worthy recipient of the Order of Canada, Fred Carmichael, is a former president of the GTC who has laboured hard over the years for this project.

I also note that one of his long-time colleagues on the project, Nellie Cournoyea, the chief executive of the Inuvialuit Regional Corporation, is also an Officer of the Order and is a person with whom I share the honour of having been a premier of the Northwest Territories.

Leaders in 2000, and many others today, recognize what the successful completion of the Mackenzie Gas Project can mean to the Delta in particular and southern Canada more generally.

For the Aboriginal people of the NWT, the Mackenzie Gas Project could represent one project that can contribute to creating a sustainable economy in the North, especially within the DehCho, the Sahtu and the Beaufort-Delta regions.

The GTC supports the Mackenzie Gas Project as a means to “enable the Gwich'in to become self-sufficient and full participating members in a global society” , a goal clearly stated in the GTC's Objectives.

The National Interest

National, provincial and local leaders throughout Canada should realize that the project will provide economic benefits ranging from the purchase of supplies and materials from across the country to jobs in every province and on to an increased flow of royalties and taxes to all levels of government. The project will, additionally, provide investment opportunities to a number of sources including banks and pension funds.

The MGP will provide a new, and likely growing, source of clean natural gas to southern Canada, helping to keep the throughput on the Trans Canada Pipeline's mainline full, and the tolls low, to the benefit of Ontario consumers.

Canadian Sovereignty

And last, Members of the Board, a successful Mackenzie Gas Project will help to reinforce Canada's sovereignty in the North, a sovereignty that is under some pressure from a number of sources as the sea ice changes and others begin to covet our resources.

There are three ways to establish sovereignty in our North – through defense, which the federal government is currently seeking to do with an increased military and naval presence; through diplomacy, again which the federal government, now with the help of northern leaders, is presently engaged in; and through development of our economy, our communities and our people, which is what we are here to talk about today.

Viewed in this context, Members of the Board, the MGP represents much more than just another pipeline project.

The MGP, as one element of new infrastructure development, one that will include a highway, new electrical transmission lines and improved river access, will establish a strong, ongoing base for development in our North, one that could see more and more people living here, more and more wealth generated and a greater and more fulfilling role for the Aboriginal people of the region in their homeland.

It represents a fundamental opportunity for Aboriginal peoples to determine, support and approve a project that is key to self-determination and self-sufficiency. Surely, this must be seen as being in the public interest.

Recognizing this, what I am suggesting here is that the public interest represented by the MGP is far greater than would ordinarily be the case when the NEB looks at an application before it.

There is a national interest component to this project that is far greater than the economic benefits that it will undoubtedly bring and it would be appropriate, in my respectful view, for the Board to recognize this for, as the Board has itself noted, as recently as the Sumas 2 Decision, what constitutes the public interest can be both very comprehensive, and changing:

It must be re-emphasized that what is in the public interest or in the public convenience and necessity may vary with the specific application, the location of the project, the commodity involved, the various segments of the public affected by the decision and the purpose of the applicable sections of the NEB Act. In addition, what is in the public interest or in the public convenience and necessity may vary over time; these are not static concepts.

GTC Recommendations

The consequences of this view of the MGP are, I submit, three-fold. First, the GTC encourages the Board to grant the necessary Certificate of Public Convenience and Necessity for the Mackenzie Gas Project.

Second, the GTC recommends that the Project Proponents be required to commence project construction within three years of the granting of the Certificate in order to ensure that this fundamental element of Canada's northern sovereignty claim will be put in place without further delay.

And third, we would also recommend that the pipeline, when built, be available on appropriate, non-discriminatory commercial terms to all potential shippers and that it not be for the exclusive use of the original project proponents.

Members of the Board, on behalf of the Gwich'in Tribal Council, I thank you for this opportunity to address you today and I wish you well in your further deliberations.