



canadian
energy
pipeline
association | association
canadienne
de pipelines
d'énergie

Suite 200, 505 – 3rd St. SW
Calgary, Alberta T2P 3E6
PHONE 403.221.8777
FAX 403.221.8760

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Tara Shannon
Director, Resource Policy and Programs
Aboriginal Affairs and Northern Development Canada
15 Eddy Street
Gatineau , QC K1A 0H4

RE: Proposed Amendments
Mackenzie Valley Resource Management Act
NWT Waters Act
Territorial Lands Act

Dear Ms Shannon,

Thank you for the opportunity to comment on the proposed amendments to the Mackenzie Valley Resource Management Act (MVRMA) and foundational land and water legislation for the Northwest Territories and Nunavut. The comments that follow are those of the members of the Canadian Energy Pipeline Association (CEPA). Our member companies operate transmission pipelines that carry 97% of the oil and natural gas produced in Canada safely to markets throughout North America. Our members construct and operate both federally (NEB) and provincially regulated facilities, including pipelines in the Northwest Territories.

CEPA is supportive of the amendments to implement regulatory reform in the North and to enhance certainty and predictability of process. This is a time of great challenge as changes to federal environmental legislation are implemented and as the NWT approaches devolution. As we said in our comments on the legislative proposal in July, we believe the amendments should be focussed on enhancing timeliness, efficiency, and facilitating best use of scarce technical resources in both environmental assessment and regulatory review of projects in the Mackenzie Valley. We support the establishment of timelines for all phases of review, including ministerial decision-making.

Part of the government's program of Responsible Resource Development involved reducing jurisdictional overlap/duplication and increasing the certainty of timing for regulatory processes. One specific action taken to accomplish this was amendments to the *National Energy Board Act* (NEB Act) that consolidated and clarified NEB's mandate for environmental assessment under the NEB Act and CEAA 2012. CEPA is concerned that the proposed amendments to the MVRMA do not acknowledge those changes and do not provide a clear path forward for projects in the NWT that are regulated by the NEB. Lack of clarity in this regard would not be consistent with the overall objectives and direction under Responsible Resource Development.

As a Designated Regulatory Agency, the NEB has defined roles and responsibilities under the MVRMA. However, the manner in which the MVEIRB and the NEB would cooperate on environmental assessment for an NEB-regulated project is unclear. The NEB is now one of only three Responsible Authorities under CEAA 2012, and the process by which assessment is integrated into decision-making is set out clearly in CEAA 2012 and the NEB Act. When the NEB conducts an assessment of a Designated Project under CEAA 2012, it reports to the Minister of NRCAN, not to the Minister of the Environment (see CEAA 2012 s 29(2)). Hence, reliance on actions by the Minister of the Environment to initiate joint processes for NEB-regulated projects is no longer an option. Consideration of Joint Panels with the NEB is listed as one of the topics that was addressed under the Joint Examination Project and has resulted, it appears, in proposed repeal of s 139 of the MVRMA dealing with joint processes. It is not clear to CEPA what has replaced this provision. Without clarification of these key relationships, proponents may be wary of undertaking a lengthy and expensive regulatory process.

At this point, CEPA does not recommend further amendment to the MVRMA to address this matter. We recommend, however, that the NEB and the Mackenzie Valley Environmental Impact Board undertake to work together to clarify for stakeholders how assessment would proceed under CEAA 2012, the NEB Act and the MVRMA through a protocol or memorandum of understanding and that they seek input from interested parties in development of such a process. Without resolution of this uncertainty, the objectives of regulatory reform will not be achieved – and the first project through the process if these amendments are passed will be subject to these questions as the MVEIRB and the NEB determine if and how they will interact. Put another way, it is more efficient and effective to clarify processes and accountabilities for environmental review prior to the next project application being filed than during the course of the review itself.

The amendments to introduce administrative monetary penalties are also of interest to CEPA member companies. We have recently provided input to the NEB on the development of regulations to implement its AMP program, and we look forward to the opportunity to engage with AANDC on this matter at the appropriate time.

Thank you again for this opportunity. Please contact the undersigned if we can provide any further information or clarify our comments.

Yours truly,



Brenda Kenny
President and CEO