



BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-48-93

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CANADA

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AN ORDER IN THE MATTER OF the Utilities Commission
Act, S.B.C. 1980, c. 60, as amended

and

A Public Review of the Kemano Completion Project

BEFORE: L.R. Barr, Chair of the Review Panel;)
P.A. Larkin, Commissioner; and) June 16, 1993
J.A. McVey, Commissioner)

WHEREAS:

- A. Pursuant to Sections 2 and 6 of the Utilities Commission Act ("the Act") and in conformance with Order in Council No. 0033, 1993 dated January 18, 1993 ("the OIC"), Lorna R. Barr, Deputy Chair of the Commission and Peter A. Larkin and J. Alistair McVey, Temporary Commissioners were appointed to undertake a public review of the impacts of the Kemano Completion Project ("KCP"); and
- B. The OIC requested the Commission to undertake the KCP review in the same manner as for a review under Section 20 of the Act and issued Terms of Reference that defined the Commission's mandate for the KCP Review; and
- C. The Commission, by Order No. G-21-93, held Community Meetings in April 1993 in Prince George, Fort Fraser and Kitimat and received submissions on matters concerning the locations, dates and scope of future public hearings, and the issues within the Terms of Reference that should be addressed; and
- D. After considering the submissions from the interested parties, the Commission decided that the review process should include pre-hearing workshops and conferences followed by public hearings to be held at various locations within the areas defined by the Terms of Reference.

NOW THEREFORE the Commission orders as follows:

1. The Commission will hold Community Public Hearings into KCP in the following communities: Fort St. James, Vanderhoof, Stoney Creek, Burns Lake, Grassy Plains, Fort Fraser, Prince George, and Kitimat. The details of the dates and locations of these hearings are set out in Appendix "A". A Notice of Public Hearing will be published at times closer to the actual hearing dates. The Community Hearing will focus on gathering information about the impacts of KCP, as outlined in the Preliminary List of Issues attached as Appendix "B", as well as how any negative impacts can be minimized or mitigated.
2. The Commission will hold a Technical Public Hearing commencing in Prince George. The dates and locations are set out in Appendix "A". During this hearing the Commission will examine the technical and scientific evidence of the impacts of KCP within the context of the Terms of Reference, and as outlined in the Preliminary List of Issues in Appendix "B". Cross-examination of experts and witnesses will be conducted.
3. The Commission may hold Workshops at locations and dates to be determined so Participants may discuss technical and scientific information with Commission Consultants and staff in preparation for the Technical Hearing.
4. The Commission may hold Pre-Hearing Conferences at locations and dates to be determined to discuss procedural issues for the Public Hearings that will follow.

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5. Interested Parties who wish to register as a Registered Participant must file their Notice to Participate with the Commission by July 23, 1993.
6. Registered Participants who wish to file technical or scientific evidence must file it with the Commission by September 10, 1993.
7. Registered Participants who wish to make Information Requests of other Registered Participants must file their requests with the Commission and on the the Registered Participant by September 30, 1993.
8. The procedures for these Hearings, Workshops, Conferences, and the Review in general, are set out in Appendix "C", Directions on Procedures.
9. Included with this Hearing Order are the following documents:
 - Appendix A: Hearing Locations, dates, and addresses.
 - Appendix B: Preliminary List of Issues.
 - Appendix C: Directions on Procedures.

DATED at the City of Vancouver, in the Province of British Columbia, this 30th day of June 1993.

BY ORDER



Loma R. Barr
Deputy Chair and
Chair of the Division

Attachments

*British Columbia Utilities Commission
Kemano Completion Project Review*

HEARING DATES AND LOCATIONS

Community Hearings:

- September 8, 1993* **Fort St. James**
Fort St. James Fire Hall
Manson Street
- September 9, 1993* **Vanderhoof**
Vanderhoof Fire Department
2230 Nechako Avenue
- September 10, 1993* **Stoney Creek**
Stoney Creek Elders Potlatch House
RR #1, Site 12, Comp. 15
Kenney Dam Road.
- September 13, 1993* **Burns Lake**
Burns Lake Library
- September 14, 1993* **Grassy Plains**
Grassy Plains Community Hall
Highway 35
- September 15, 1993* **Fort Fraser**
Fort Fraser Community Hall
- September 16, 1993* **Prince George**
Holiday Inn
444 George St.
- September 21, 1993* **Kitimat**
River Lodge Community Centre
270 City Centre

Technical Hearing:

- October 12 - 15, 1993* **Prince George**
October 18 - 21, 1993 Holiday Inn
444 George St.
- October 25 - 29, 1993* **Prince George**
Esther's Inn
1151 Commercial Drive

The times for the Community and Technical Hearings will be announced through the local media at a later date.

British Columbia Utilities Commission
Kemano Completion Project Review

PRELIMINARY LIST OF ISSUES

(a) River Hydrology

General

- Water quality characteristics, which have impacts on fisheries and other community concerns, including:
 - temperature
 - turbidity
 - degree of pollution
 - reduced & erratic flow
 - gas supersaturation
 - sediment transport
 - water releases to modify temperature and flow

Nechako River Watershed and Reservoir Issues

- Water Supply and Related Issues, including:
 - flooding and flood control
 - municipal and residential uses (water supply & sewerage, fire protection, lawn & garden, etc.)
 - ability to supply growing region
 - industrial uses
 - reduced dilution factor for effluents (municipal, industrial, farming)
- Ground Water, including:
 - residential use (wells)
 - aquifer recharge
 - forestry and wildlife impacts of lower water table
 - irrigation

Kemano River Watershed Issues, including:

- increased erosion due to greater water flow

(b) Fisheries Issues

- Fisheries, including:
 - commercial fishery
 - sport fishery
 - anadromous fish habitat
 - freshwater fish habitat
 - eulachon fishery

(c) Cost-Benefit Analysis

- Mitigation and Compensation, including:
 - cost-effectiveness of proposed measures
 - local benefits fund

- Provincial Benefits, including:
 - B.C. Hydro ratepayers
 - project spending
 - employment potential

(d) Aboriginal Concerns, including:

- disruption of traditional way of life
- fish depletion and enhancement
- safety of fish for food with reduced water flow
- food and medicinal plant availability
- hunting
- trap lines
- flooding on the Kemano River
- disturbance of burial grounds
- eulachon fishery

(e) Other Issues

- Tourism and Recreation, including:
 - guide & outfitters
 - float plane operation (Vanderhoof)
 - river navigation difficulties (boats and canoes)
 - impacts on wildlife (viewing and hunting)
 - swimming

- Property and Aesthetic, including:
 - riverside municipal parks (re-landscaping)
 - river front property prices and scenic values

- Wildlife and Habitat, including:
 - wildlife (fur-bearing, moose & deer, bear, eagles)
 - national migratory bird sanctuary
 - wetlands

- Agriculture, including:
 - existing irrigation licences and irrigation in general
 - impact on future irrigation for farming expansion
 - cattle fencing and watering

**BRITISH COLUMBIA UTILITIES COMMISSION
KEMANO COMPLETION PROJECT REVIEW**

DIRECTIONS ON PROCEDURES

1. Review Panel

- 1.1 Members of the Review Panel are Ms. Lorna Barr, Dr. Peter Larkin and Mr. Alistair McVey. Ms. Barr is the Deputy-chair of the B.C.U.C. and the Chair of this Review Panel. Dr. Larkin and Mr. McVey have been appointed as temporary Commissioners for the purpose of the Review.

2. Commission Secretary

- 2.1 The Commission Secretary for the B.C.U.C. is Mr. Robert Pellatt who may be reached at:

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, British Columbia
V6Z 2N3

Phone: (604) 660-4700 (B.C. toll free at 1-800-663-1385)
Facsimile: (604) 660-1102

- 2.2 The Commission Secretary is the official liaison for the Review Panel. Questions about this Review and its procedures may be directed to the Commission Secretary or Commission Counsel. The Commission Secretary maintains a mailing list of those persons who have requested that their names be added to the list of Registered Participants. The Commission Secretary also maintains the Public File and coordinates the distribution of notices and newsletters related to the conduct of this Review. Copies of all notices and newsletters are available from the Commission Secretary upon request.

3. Commission Counsel

- 3.1 Commission Counsel for the Review Panel are Mr. David Bursey and Mr. Brian Wallace. They may be contacted through the offices of the B.C.U.C. or directly at the offices of Bull, Housser & Tupper, (604) 687-6575.
- 3.2 Commission Counsel are available to assist parties with questions about the conduct of the Hearing.

4. Notice of Participation - Registered Participants

4.1 Any party that wishes to have their name registered on the list of Registered Participants for the purpose of receiving all notices and mailings associated with the Review Hearing should file a Notice of Participation with the Commission Secretary by 23 July, 1993 setting out :

- (i) their name, address, telephone and facsimile numbers;
- (ii) whether they represent any individuals, groups or organizations;
- (iii) the nature of their interest;
- (iv) a brief description of the issues on which they would like to comment, including any issues that are not on the Preliminary List of Issues (Appendix "B" of Hearing Order) which they believe are within the Terms of Reference and should be included;
- (v) the extent to which they wish to receive documentation and expect to participate in the Pre-Hearing Workshops or Conferences; and,
- (vi) the extent to which they wish to participate in the Review, in particular at which Community Hearing, if any, they would like to make their submissions, and whether they intend to make submissions at the Technical Hearing.

5. Meetings and Hearings

5.1 Pre-Hearing Process (April to September)

Various Pre-Hearing Conferences and Workshops may be held in advance of the formal Review Hearings. The Conferences and Workshops are intended to be consultations with interested participants so that procedural and technical matters can be discussed in an informal setting. A summary of the matters discussed will be kept but will not form part of the evidentiary record upon which the Review Panel will base its report. The Panel members were present at the Procedural

Meetings in April, however, they will not be present at the Workshops or the Pre-Hearing Conferences to allow for more informal discussions to take place. The Pre-Hearing process will be run by B.C.U.C. staff and Commission counsel.

(a) Pre-Hearing Procedural Conferences

The intent of these conferences is to clear up any outstanding procedural issues with Registered Participants in an informal setting prior to the start of the Review Hearings. Although the Review Panel will not be present, it is the Panel that will ultimately determine any unresolved procedural issues.

(b) Site Visits

The Panel will tour the Nechako River and the sites of the proposed Kemano Completion Project work. The time, itinerary, and other details of the site visits will be placed on the Public File.

(c) Workshops

If there is sufficient interest expressed by Registered Participants, Workshops will be held to discuss technical information with the technical consultants hired by the B.C.U.C.. Each technical consultant's draft report will be placed on the Public File in advance of the Workshops. At the Workshops, Participants will be able to get a better understanding of the technical evidence and issues so that they may be better prepared to make their submission in the Review Hearings. Participants will also be able to suggest other areas that they would like the report to address. Notice of the Workshops will be given to Registered Participants.

5.2 Hearing Process (September to October)

Review Hearings will be divided into two phases as explained in the following sections. These procedures may be modified following the Pre-Hearing Conferences.

(a) Community Hearings

The Commission has scheduled Community Hearings in a number of communities in the areas affected by the KCP. These Hearings will mark the beginning of the formal Public Review. The purpose of these Hearings is to gather information about the community impacts of KCP, as well

as suggestions as to how negative impacts can be minimized. The Community Hearings will be held in different locations to accommodate Registered Participants so they may attend the most convenient location to present their views. The Hearing structure will be as informal and flexible as reasonably possible and it is not intended that persons making submissions will be subject to cross-examination by other Participants. Participants making submissions will be required to do so under oath or affirmation. A written transcript will be produced and the evidence gathered at the Community Hearings will form part of the same record as the evidence from the Technical Hearing. The Commission may ask Registered Participants, individuals, groups, or organizations to restrict their submissions to one Community Hearing.

(b) Technical Hearing

The Technical Hearing is planned to be held in one location, but may be held at two locations depending on the need. This part of the Review will focus on the presentation of technical and scientific evidence. Witnesses will give evidence under oath or affirmation and will be subject to cross-examination. A written transcript will be kept. In the absence of a project applicant, the Commission's consultants will speak to their reports first (written copies will have been previously filed and served on Registered Participants). The Order of Presentation for questions and subsequent witnesses will be determined by the Panel following the Pre-Hearing Conferences.

(c) Final Argument

There will be an opportunity for oral final argument after the close of the evidentiary record at the Technical Hearing. Parties who have made earlier submissions at the Community Hearings or filed written comments need not present further oral argument if they wish to rely on their earlier submission. At the conclusion of the Review Hearings, the Review Panel may also announce a further time period during which it will receive additional written statements and materials.

6. Notice of Hearing Dates, Times and Locations

Notices of the dates and locations of the Review Hearings are contained in the Hearing Order, Appendix "A". Hearing times will be announced through the local media.

7. List of Issues

Attached to the Hearing Order as Appendix "B" is a Preliminary List of Issues that have been identified from the Terms of Reference for this Review and the preliminary Procedural Meetings held in April. Any Registered Participant that wishes to propose additional issues for the Review that fall within the Terms of Reference is invited to write to the Commission with their suggestions and accompanying explanations by 23 July 1993. This may be done as part of an interested party's Notice of Participation.

8. Written Comments

Interested parties who are unable to attend the Community or Technical Hearings are invited to make written submissions to the Review Panel at any time during the Review process until the close of the Hearing record. These submissions should contain the name and address of the sender. Submissions may identify issues of concern, questions to be addressed in the Review, information for the Review Panel's consideration, or proposed solutions or recommendations for action with respect to the subject of the Review.

9. Pre-filed Evidence for the Technical Hearing

Participants who wish to refer to or present evidence of a technical nature or to rely on any specific reports, studies or documents are requested to file twenty (20) copies with the Commission Secretary by 10 September 1993 and to make copies available in advance of the Technical Hearing, as the Commission may direct. When such documents are filed at the Technical Hearing, the Participant filing the document should ensure that they make sufficient copies available for other Participants.

10. Information Requests

- 10.1 If a Registered Participant intends to ask questions of other Registered Participants during the Technical Hearing that will involve time to prepare the answer, they should submit their questions in writing to the Commission Secretary by 30 September, 1993. Questions submitted to the Commission Secretary will be placed on the Public File and forwarded to Registered Participants.

10.2 Registered Participants may ask questions of the Commission's Technical Consultants by sending written information requests to the Commission Secretary by 30 September, 1993. Questions submitted to the Commission Secretary will be placed on the Public File and forwarded to Registered Participants.

11. Participation at the Meetings and Hearings

11.1 Attendance at the Pre-Hearing Conferences and Workshops is not mandatory and does not affect the opportunity to participate in the Review Hearings. During the Community Hearings, Participants need only present their views at the Hearing sitting location that is most convenient.

11.2 The order of presentation will be determined by the Review Panel. Ordinarily, Registered Participants will precede other participants. To ensure all parties have an opportunity to speak, the Review Panel may limit the time for presentations as it considers appropriate. Where Registered Participants have submitted a written presentation, they will be encouraged, in their oral presentation, to simply highlight the written presentation rather than repeat it in detail. Participants with a common interest are also encouraged to choose a spokesperson to give a joint presentation so duplication can be minimized and the Hearing time can be used efficiently.

11.3 Participants wishing to use audio visual or other equipment in their presentations are requested to advise the Commission Secretary of the nature of the presentation, the type of equipment required at least seven (7) days prior to the commencement of the Hearing at which they will be participating.

11.4 Following a presentation by a participant, the Review Panel may ask the Participant questions for the purpose of information and clarification.

11.5 The Review Panel, at all times, has control over its own procedure and may limit or exclude any statements, questions or comments at the Review Hearings which are irrelevant, argumentative, needlessly lengthy or repetitive, or which fall outside the scope of the Review Panel's mandate as the Review Panel may determine.

12. Public File

- 12.1 Subject to 12.4, all information submitted to the Review Panel will be made public by placing it on the Public File and may be disclosed otherwise as the Review Panel may direct.
- 12.2 Any request by the Review Panel for further information from a participant will be placed on a Public File and Registered Participants will be advised of the request.
- 12.3 All of the Community and Technical Hearings will be recorded in their entirety by official reporters and transcripts will be placed on the Public File. For the Pre-Hearing Conferences and Workshops, summary minutes will be placed on the Public File.
- 12.4 Upon request, the Review Panel may determine that, in the public interest, certain information or documents may be properly regarded as confidential. In that event, the Review Panel may direct that the information or documents be received by the Review Panel in confidence, and that a statement of the general nature of the information or documents without detail be placed on the Public File. The Review Panel would not expect to grant such a request except in unusual circumstances.
- 12.5 The Public File will be available for examination by the public at the Commission's offices in Vancouver and at the following locations:
1. Hazelton Public Library
 2. Kemanan Public Library
 3. Kitimat Public Library
 4. Prince George Public Library
 5. Smithers Public Library
 6. Terrace Public Library
 7. Vancouver Public Library (750 Burrard St.)
 8. Vanderhoof Public Library
- 12.6 Copies of decisions, procedural directions, newsletters and notices from the Commission will be distributed to Registered Participants. Other documents on the Public File may be examined or copied at the locations indicated at the Participant's expense.

13. Attendance of Witnesses

- 13.1 Registered Participants are responsible to arrange for the attendance of the witnesses and evidence that they wish to present in support of their submission. If a Registered Participant is unable to obtain the cooperation of a relevant witness, the Commission may, at the request of that Participant, exercise its subpoena power as appropriate. For the purposes of the attendance of witnesses and production of documents in this Review, the Commission has all the powers, rights and privileges of a judge of the Supreme Court of British Columbia.
- 13.2 Any party that wishes to have the Commission assist in arranging the attendance of a witness whose testimony would be relevant to the review, may apply to the Commission in writing, at least twenty-eight (28) days before the date of the proceedings at which the attendance is required, setting out:
- (a) the name, address and telephone number of the person;
 - (b) the expertise or position held by the person that is relevant to the review;
 - (c) the issues in this review to which the person is qualified to speak;
 - (d) the efforts that the applicant has made to arrange for the attendance of the person;
 - (e) the reasons why the knowledge or information held by this person cannot be obtained by other means; and
 - (f) the commitment of the applicant to pay the person's travel and accommodation expenses during his or her attendance at the Hearing as well as a daily witness fee of \$20.00 per day, in accordance with the rates and fees schedule set out in the British Columbia Rules of Court.
- 13.3 Upon receipt of an application, the Commission will consider whether the applicant has raised sufficient grounds to establish the importance of having the person participate in the review. If so persuaded, the Commission will send a copy of the application along with a letter from the Commission to the witness requesting them to appear before the Commission to speak to the issues identified.
- 13.4 The person receiving the request from the Commission will have an opportunity to respond to the information set out in the application and indicate whether he or she is able to attend. The person may also be asked to provide other relevant information that would assist the Commission in assessing the suitability of the person as a witness in the proceeding.

13.5 In the event that the person is unwilling to participate as requested by the applicant, the Commission may further consider whether the use of its subpoena power is warranted. In this regard, the Commission expects that it would only issue a subpoena in extraordinary circumstances, taking into account the relevance and importance of the information to the Hearing and the hardship that may be imposed on the person that would be required to attend.

13.6 Following the issuance of a subpoena by the Commission, the applicant will be responsible for serving it on the person identified. The subpoena must be served no later than seven (7) days before the date the person is to appear before the Commission. At the same time the subpoena is served, the applicant is required to provide the witness fee and advance payment of travel and accommodation costs.

14. Technical Consultants

14.1 The Review Panel will retain the services of consultants with special knowledge or expertise to provide information and analysis on complex technical issues that may be raised throughout the Review Panel review process. In addition to examining issues as directed by Commission Staff, the consultants will assist in identifying issues and questions that may otherwise be overlooked.

14.2 Any comments, opinions or advice given by the technical consultants to the Review Panel will be placed on the Public File.

14.3 The primary role of the technical consultants will be the preparation of their reports to the Panel. However, the consultants may be available to answer questions from Registered Participants to the extent that the requests for information can be reasonably answered in the consultant's report, or individually, and as time permits. The information requested must be related to the Terms of Reference and the consultant's area of expertise. Written information requests should be submitted through the Commission Secretary.

14.4 The answers, comments, opinions and advice given by a technical consultant to a Registered Participant will be placed on the Public File and forwarded to Registered Participants.

14.5 Although the areas of inquiry for the technical consultants will be directed by the Commission staff, the consultants themselves, and their evidence and findings, will be independent in the sense that the findings will be those of the consultant and not the Commission or its staff. The reports and findings of the various consultants will be placed on the Public File and there will be an

opportunity for interested parties and the Commission to question those findings at the Technical Hearing. The evidence from the technical consultants will be considered along with all other evidence on the record as part of the Commission's deliberations

15 General

In the interests of conducting fair and efficient public Hearings, the Review Panel may vary any procedure or time limit, change the sequence of presentations or Hearings, adjourn and reschedule the Hearings or any portion of the Hearings, allow additional time for review and preparation of submissions and materials, make any necessary interpretations and decide all matters relating to the procedures to be followed.