



Yellowknives Dene First Nation

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June 24th, 2014

Angela Love
Mackenzie Valley Land and Water Board
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Dear Ms. Chouinard:

Re: Gahcho Kue – Permit and License Closing Comments (MV2005L2-0015 & MV2005C0032)

The Yellowknives Dene have reviewed the information available and have little further to add that hasn't already been stated during this review. What follows is a summary of recommendations being sought by YKDFN and brief rationale.

YKDFN is frustrated by the continued lack of results from failing to adequately implement Measures from the EIR. We ask the regulatory authorities to prioritize their responses to the Measures and require results in the near term rather than the inaction that we're currently seeing in the NWT.

Recommendation:

- YKDFN ask the Board to write to the Minister to ask that the Measures be acted on under *s.136(2)* where the "responsible ministers *shall* carry out a decision under section 135 to the extent of their respective authorities" [emphasis added]. Meaningful progress must be made on behalf of government, not only to satisfy their regulatory obligations, but to enable independent developers to do the same. The status quo must be changed for the protection of YKDFN's most precious resources.

There remains significant concern around how this project will proceed without negatively effecting caribou populations. To this end, monitoring and management is critical. As the WWHPP is for Board Approval, YKDFN is left to reinforce the recommendation for a working group to be established and for this plan to be submitted for approval prior to the 2014-15 winter road season.

In terms of the WEMP, more effort needs to be directed to meaningfully engaging YKDFN in

development to address real concerns stemming from aboriginal Constitutional rights. Furthermore, YKDFN is critical of the WEMP as it does not contain sufficient links to any other actions to protect caribou nor what triggers/thresholds will be enacted. This was required to be completed prior to construction.

Recommendation:

- The Board should recommend that the project, GNWT and Parties immediately form a WEMP working group to develop and agree on a plan aimed at achieving the desired outcomes of the Review Panel's Follow-Up Program (In addition to the Measures)

- The Board should require the immediate formation of a working group to improve the design of the WWHPP such that it provides useful monitoring data for the short and long term. This working group should hold its first meeting within 90 days of licence issuance, with a requirement for the plan to be approved prior to the 2014/15 construction season.

- This working group should be charged to improve the habitat protection plan, to be submitted for approval, particularly the monitoring aspects with the following:
 - o Clarify language and decision processes – A review of the project documents will reveal an abundance of optional actions and imprecise language. This must be clarified so that the action(s) is tied to the observations and not a decision for the company to make based on costs. This requires clarity of language for all parties, meaning that precise language must replace discretionary language wherever possible.
 - o Identify meaningful and clear mitigation/action levels – as presently written, the monitoring actions are at best, weakly linked to management insofar as they occasionally slow vehicles down. The project's approach to behaviour and avoidance monitoring is not linked to adaptive management nor can it produce meaningful results to adjust operations and lower impacts.
 - o Improve monitoring of the road beyond visual range – The zone of influence (as defined by the project) for the winter road extends between 1.5 and 3.5 km, which is the area which must be monitored for changes in behaviour, avoidance, deflection (i.e. refusal to cross the road). This must include distribution monitoring as well.
 - o Develop timelines for mobilization and deployment of monitoring efforts and resources. Caribou can quickly enter and leave an area – we cannot have three plus weeks to develop a monitoring program.

- The project must develop a program that seeks to address potential barrier/permeable filter effect of the winter road. The current proposal does not include even simple mitigations to minimize this effect (road bank height < 1m, road back push outs to encourage crossing, or other known mitigation by design efforts established through operations at other mines). There is no method to utilize the beyond visual range monitoring and observations or actual crossing efforts to determine if the road acts as a barrier or what local mitigations were utilized.
- To establish a community perspective with regards to roads and impacts to Caribou, a special study should be initiated that requires the project to work with YKDFN TK division to develop research study scope for impacts of roads on caribou behaviour and health.

YKDFN strongly disagree with the project that they are minimizing the deposition of waste into the environment, particularly when it seems that there is no waste that is not being deposited in the environment. This is equally as true in the aquatic receiving environment as on land – there is no treatment nor are there any efforts to ensure that waste generated by the site is not deposited at the site. This is a particular problem with Nitrates and Ammonia, where the water entering the receiving environment will be hundreds of times higher than the baseline concentrations. While this may be acceptable for the project, YKDFN do not believe that the land and waters of the Chief Drygeese Territory should be used as a waste treatment area, when we know they could do better with existing methods.

Recommendation:

- The project should be required to meet more stringent limits for the level of contamination that it releases, which will ensure conservation and protect the Dene way of life.
- The project should be required to undertake a pre-emptive review of their blasting methodology and seek to apply best practices to improve source control. As every mine has eventually done this (including Snap Lake where they finally implemented source control methods), we should learn from this experience and require the project to demonstrate that their practices aren't simply the lowest cost, but will minimize the amount of product entering the environment. This review should be viewed as a special study to be submitted prior to the end of construction, with a review scheduled four years after the production license is issued.
- The license must require toxicity testing similar to that at Snap Lake
- Include appropriate license monitoring requirements for hydrocarbons.

- Any EQCs for Area 8 should be similar to the baseline quality

YKDFN remains deeply concerned with much of the language surrounding the closure goals/objectives to date. Despite the mines short life, the closure plan is still ill-defined and while understand that the details can be established at some point in the future, YKDFN have consistently sought to see the broad commitments advanced to a point where they have been collaboratively agreed on.

YKDFN remain steadfast that the site must look and function similar to how it exists today. While we understand that it will not be the same, it must perform the same function and must be acceptable to the people and animals who will travel and use the surrounding area. Re-vegetation of site features must be required as at other mine sites in the Territory.

Recommendation:

- Require the company to prepare a draft reclamation research plan to be completed within 6 months of the issuance of this license. This will allow the long term research items (particularly vegetation trials) to be commenced immediately and inform the closure planning process prior to the project being required to finalize sections of that plan.
- The Board should require a Closure Working Group to be initiated immediately after the submission of the reclamation research plan
- The Board should provide direction to parties that establishment of closure components and objectives should be collaboratively completed within 1 year of the license/permit being issued. These objectives should be aimed at ensuring that the current land use – wildlife habitat – can be continued.
- The closure plan for the Fine PK storage does not reflect any vegetation or medium for vegetative growth. As a large gravel pad is not reflective of the surrounding environment and provides little benefit to the wildlife who will depend on this area post closure, the Board should reject this portion of the closure plan.
- An interim closure and reclamation plan, conforming to the Board's published guidelines, should be submitted for approval prior to mill processing.
- The projects post closure water quality plan must be improved. A permanent doubling of the baseline concentrations after this operation has ceased is an excessive alteration

of the environment and improvements must be sought. This risks the recovery and health of Kennedy Lake and the health of the aquatic ecosystem at risk.

As this company moves the project towards production, YKDFN are hopeful that the project will proceed in a more responsible manner. With continued communication with DeBeers that takes YKDFN concerns into real consideration, and firm regulatory requirements, we are confident that this project can provide lasting benefits with minimal impacts to the land and wildlife.

Sincerely,



Shannon Gault
Director, Lands and Environment

cc: Veronica Chisholm (By Email)

