



Alternatives North

Richard Edjericon
Chairperson
Mackenzie Valley Environmental Impact Review Board
Box 938
Yellowknife NT X1A 2N7

March 8, 2012

Dear Mr. Edjericon

Re: EA0809-001 [2008] Round Two Information Request Responses

Alternatives North (AN) has participated in good faith in the ongoing Environmental Assessment of the Giant Mine Remediation Project. We were pleased to be part of the five-day Technical Sessions held in October 2011 and felt that significant progress had been made in resolving a number of difficult technical areas and that there was a commitment to work together on some of the outstanding issues including monitoring, oversight, perpetual care and other matters.

We have reviewed the Round Two Information Request (IR) Responses filed by the Developer, specifically the Responses to the Round Two IRs filed by AN. We are alarmed at these Responses as most do not respond to the questions posed. In many cases, a series of new questions or issues are raised including the exemption of significant parts of the development from the Environmental Assessment. We have serious doubts regarding the Developer's commitment to complete and comply with the ongoing Environmental Assessment.

Analysis of the Round Two Information Request Responses to AN

The Developer provided no answers or partial answers to many of the AN IRs (see Table 1 and Appendix 1). Of the 55 questions we posed in our 26 IRs to the Developer, in our view 16 were not answered or partially answered. For example:

- AN #1 question 1—not all commitments were compiled (for example, to make all audits public);
- AN #1 question 2—there are no timelines provided for commitments;
- AN #3 question 2—the Developer confuses environmental components for mine components;
- AN #5—Table provided does not compile all perpetual care requirements and no information provided on tools, equipment and skills required for the work;
- AN #11—no information provided on potential institutional land use controls;
- AN #12 question 2—Developer did not prepare a cost estimate for remediation that would allow for proposed end land uses for the townsite area by the City;

- AN #19 question 2—a summary of the May 4, 2011 Oversight Committee was not provided; and
- AN #22—Developer did not provide an explanation as to why commitments to cover independent oversight in the Developers Assessment Report were not fulfilled.

Well over half of the responses provided by the Developer to the AN IRs raise new questions, including:

- AN #2 question 1—Developer did not provide a copy of the Site Stabilization Plan (see below);
- AN #7 question 1—Developer did not provide any specific effluent levels for application of off-the-shelf Best Available Technology for various parameters. With the design of the water treatment not yet complete, the Developer still draws a conclusion that there will be no significant adverse environmental effects;
- AN #8—Developer will not commit to pay for any incremental municipal water treatment costs caused by the project and does not provide any information on the Claims Against the Crown process;
- AN #10—far field modelling of water quality in Back Bay and Yellowknife Bay yet to be completed but Developer concludes that effects will not be significant;
- AN #19 question 3—Developer does not provide any details on how future Oversight Committee meeting summaries will be made public;
- AN #23 question 4—Developer appears to be backing off its previous commitment to conduct 3D modelling for freezing the arsenic chambers which would be crucial to determining measures of success and early warning of melting; and
- AN #27—Developer appears to be open to the frozen shell option for freezing of the arsenic chambers which should then be within the scope of this Environmental Assessment.

Significance of the Issues Raised in the Round Two IRs

Several key pieces of research, design or other work are still missing and essential for the Review Board to assess the significance of the environmental effects of the development and possible measures that should be imposed. These matters were discussed in the Technical Sessions and many were covered again in the IRs (further detail is found in Table 1 attached to this letter).

- CALPUFF modelling essential for a proper cumulative effects assessment of potential air emissions caused by the development which the Developer already admits will be above accepted standards at some publicly accessible locations along the Ingraham Trail highway. The Developer committed to submitting this information to the Review Board during the Technical Sessions in February 2012 (see Technical Sessions Transcripts Day Four, pg. 5). This information is not yet filed.
- There has been no thermal modelling or field tests conducted on the thinning of ice in the winter along a 29 m swath above the diffuser in Back Bay.
- Research on the effects on water quality in Back Bay and Yellowknife Bay from the diffuser effluent has not been completed so the aquatic effects remain unknown.

- A risk assessment for Baker Creek has apparently been redone but not yet submitted to the Review Board. It is unclear whether North Diversion is still on the table for further discussion.
- The wetting process for the frozen block technique has not been researched or field tested and it is unclear whether it can be made to work. The Developer has now suggested that the Frozen Shield method may still be used for the underground arsenic chambers.

A number of issues related to public concern with the proposed development have not been concluded to date. Without progress on these matters, significant public concerns with the development will remain. These issues were discussed with the Project Team following the Technical Sessions where a helpful and optimistic atmosphere prevailed but little progress has been made on anything except oversight. A list of these issues is presented below along with some comment on their current status:

- Environmental Management System including the structure and organization of environmental management plans. *A half day workshop has now been scheduled for March 5, 2012.*
- Independent Oversight. *Workshop on Oversight at Giant Mine already agreed upon for March 6-7, 2012 and funded through a contribution agreement with Alternatives North. There was agreement to set up a working group with a facilitator to continue to work on this issue.*
- Perpetual Care Requirements at Giant Mine including communicating with future generations (site markers, management of historical and current records), long-term funding options, site designations (including institutional land use controls). *No specific progress but a workshop including a guest speaker from the Office of Legacy Management (see <http://www.lm.doe.gov/home.aspx>) may prove helpful.*
- A formal apology from the federal government, possible compensation and a commitment to do better with prevention of perpetual care and overall mine site closure and reclamation *Subject to further discussion between the Yellowknives Dene First Nation and Aboriginal Affairs and Northern Development Canada.*
- A land use plan for end use of the site *Possible workshops and public meetings jointly between Aboriginal Affairs and Northern Development Canada and the City of Yellowknife*

Site Stabilization Plan

There has been no consultation with stakeholders or parties to the Environmental Assessment on exempting parts of the development from the Environmental Assessment other than a brief mention of some short-term priorities at the Technical Sessions (see Technical Sessions Transcripts Day Four pg. 227-230 and 232-236).

The Site Stabilization Plan appears to have been developed in secret over a substantial period of time. The Plan has apparently already been approved by the Minister as a response to emergency situations at the site (see Round Two AN IR #2 Response pg. 2). Ministerial approval would require a substantial amount of time and effort. If this IR had not been filed or responded to, it is not clear how or when the Developer intended to notify parties to the Environmental Assessment of this matter.

There is no indication if or how these portions of the development will be exempted from the ongoing Environmental Assessment, perhaps pursuant to the *Mackenzie Valley Resource Management Act* s. 119. It is unclear who would have the authority to make such a determination. We are curious to know whether there have been any consultations with the Review Board or the Mackenzie Valley Land and Water Board on this subject and we request that any records related to such consultations be made public as soon as possible.

The Developer has offered little or no evidence to substantiate claims that all of the proposed measures in the Site Stabilization Plan constitute a response to an emergency. For example the site-wide soil sampling and drilling (see Item 12 in Round Two AN IR #3 Response, pg. 6) could hardly constitute or be considered an emergency. There has been no previous public indication that the entire roaster complex is in an emergency situation that requires immediate demolition. Note there was no mention of the complex during the Technical Sessions discussion on short-term priority work (see Technical Sessions Transcripts Day Four pg. 227-230 and 232-236) or from the most recent meeting summary of the AANDC-GNWT Giant Mine Oversight Committee meeting held in October 2011 (see Round Two AN IR #19, pg. 3-4).

We are very concerned about any Environment Assessment or regulatory exemption of the Giant Mine roaster complex, the most contaminated and dangerous structure on the surface of the mine. An exemption could mean no environmental terms and conditions for this part of the project as no land use permit or water licence may be required. This could also mean no regular inspections by AANDC inspectors.

We urgently request that the Review Board compel the Developer to submit the Site Stabilization Plan along with supporting evidence (including stamped engineering reports) and a legal rationale as to why portions of the development should be exempted from the Environmental Assessment.

Commitment of the Developer to Complete and Comply with the Environmental Assessment

The Developer has consistently resisted an Environmental Assessment of this project from the very beginning. The Developer did not accept the advice of its own Technical Advisor to make a voluntary referral of the Giant Mine Remediation Project for an Environmental Assessment (see Technical Session Transcripts Day One, pg. 103-104). This latest move to apparently remove significant portions of the project in a less than open and transparent fashion, raises serious doubts about the Developer's commitment to complete and comply with this Environmental Assessment.

This Environmental Assessment is now more than two years behind the initial workplan schedule released in May 2008. The Developer has requested delays and extensions 8 times for a total of 191 days. The Developer's Assessment Report itself was submitted almost two years behind the original submission date and a year later than the amended workplan following the scoping determination by the Review Board. It would appear that the Developer has not dedicated sufficient resources to fulfill its obligations during this Environmental Assessment. We wonder whether the time spent on the Site Stabilization Plan may have been better used to

fully engage in the Environmental Assessment process and with the community in building trust and confidence in the project.

Options for Dealing with Outstanding Issues

In addition to our above recommendation on the Site Stabilization Plan, AN would like to suggest some options for dealing with the remaining outstanding issues (as discussed above) that are crucial to a determination on environmental effects and public concern. The following come to mind as options for dealing with these outstanding issues:

- Do nothing and have the parties raise these matters as part of the public hearing;
- Review Board could encourage the parties to sort out the issues before the public hearing. Note that the parties other than the Developer do not have the funding or capacity to record and report back the results of any private meetings;
- Another round of Information Requests; and/or
- Another Technical Session

Any or all of the above may have the effect of delaying or prolonging the public hearing. This is clearly not our intention as we wish for a public hearing that is an effective and efficient session.

AN recommends that more work be done to attempt to resolve the outstanding issues beforehand. We do not believe that another round of IRs will resolve these issues as the Developer has already demonstrated a pattern of not fully responding. **We believe that another focused Technical Session would be of assistance and respectfully request that the Review Board schedule such a meeting.**

We would be pleased to discuss these matters with the other parties and your staff in an effort to resolve the outstanding issues in a constructive manner.

Sincerely,



Kevin O'Reilly
Alternatives North

Attachments—Table 1. Round Two AN IR Response Analysis and Appendix 1

cc. Chiefs, Yellowknives Dene First Nation
Adrian Paradis, A/Manager, Giant Mine Team, AANDC
Ray Case, Environment and Natural Resource, GNWT
Gordon Van Tighem, Mayor, City of Yellowknife
Bob Bromley, MLA Weledeh
Willard Hagen, Chair, Mackenzie Valley Land and Water Board