



Yellowknives Dene First Nation

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February 15th, 2013

Lynn Boettger
Mackenzie Valley Land and Water Board
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Mackenzie Valley Land
& Water Board

File _____

FEB 15 2013

Application # MV 2012 LG 0010
Copied To LBI Reg

Dear Ms. Boettger:

Re: Giant Mine Water License Exemption – MV20120010

The Yellowknives Dene have reviewed the application and are prepared to support the s.119 exemption for the Roaster, but not for the underground. The project simply has not met the clear and unambiguous threshold in the latter case.

The *Mackenzie Valley Resource Management Act, section 119* reads:

119. No preliminary screening, environmental assessment or environmental impact review is required to be conducted in relation to a proposal for a development

(b) that is carried out in response to an emergency in circumstances such that it is in the interest of protecting property or the environment or in the interest of public welfare, health or safety to carry out the proposal forthwith.

The added bold is the key – ‘in response to an emergency’. The Yellowknives Dene have been clear throughout the engagement that this is the threshold which must be met – that they need to have a Qualified Person provide a clear statement to this effect.

Part One: Roaster

In the AECOM letter of December 17th, 2012 Rudy Schmidtke provides a clear statement: “The roaster complex...is considered to be in a state of emergency”. YKDFN accept Mr. Schmidtke’s experience and credentials as a qualified person and in no way wish to interfere with a response to this emergency.

We would have preferred that there were additional clarity in terms of the criteria that will be met during the tear down, but given the nature of the situation, we trust that the Board will

employ standards protective of the very high use of the receiving environment.

Part Two: Underground

The Underground Stabilization Detailed Project Description provides no such declaration. YKDFN do not doubt that the site is deteriorating and there is some risk, but the evidence provided does not meet the threshold in the legislation – ‘in response to an emergency’.

- Golder’s report of December 17th, 2012 from Darren Kennard and John Hull notes that the mitigations are required to ‘avoid a failure and subsequent emergency situation’.
 - o YKDFN accept that John Hull meets the expectations of a Qualified Person.

Thus, these actions are not being undertaken in response to an emergency. No one is more concerned about the safety of this site than the Yellowknives Dene First Nation. No one has been more effected – suffering the impacts to human health and changed landscape. This is why YKDFN wanted an Environmental Assessment in the first place, to provide for a careful consideration of the future of this site.

This part of the ‘Site Stabilization Plan’ does not meet the statutory test set out and cannot be severed from the EA.

There are other issues that should form part of the consideration in this decision. At no point has the project sought or exercised any emergency contracting authority. Secondly, the Site Stabilization Plan was approved in October 2011 and has clearly been in existence much longer than that. Considering this, YKDFN are concerned that the Project is not approaching the matter in good faith – if this were an actual emergency, YKDFN expect that the project would have emergency spending powers, would have rapidly developed, permitted and implemented a response plan that stabilized the matter in a manner meeting community expectations. The process that has unfolded does not bear any of the urgency suggested by the project.

Part Three: Objectives and Criteria

YKDFN are concerned that the Objectives and Criteria presented as part of this plan are lacking. While YKDFN have accepted that the proposed reclamation plan is the best approach at this time, we still want to have a clear understanding if the work being done has met expectations.

The documentation provided to date, particularly in the case of the underground stabilization, fails to provide a clear picture on what will be done as the ‘proposed activities’ are concatenated to the results carried out under MV2012S0019. Essentially the project is proposing that this board authorize SOMETHING in response to a non emergency situation, and they aren’t clear what the work will do beyond broad statements. Lastly, there is no discussion on how the parties or the board will know if the risk has been mitigated.

Closing

YKDFN have made it plain to the Project on what the requirements for support would be – if those responsible for maintaining the site no longer feel that this can be done without emergency action, YKDFN will not oppose the matter so long as the evidence is there. If you have any questions or concerns, please contact our Land and Environment Office at 766-3496.

Sincerely,



Chief Edward Sangris
Yellowknives Dene First Nation (Dettah)

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Phone: _____ Date: _____

Re: Giant Mine Water License Exemption - MV201A0010

Urgent For Review please Comment Please Reply please

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