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MAJOR RIVER VALLEY  
ENVIRONMENTAL PROTECTION  
SPECIAL AGENT

## TO/A:

Name/ Nom	Vern Christensen
Organization/Company Organisation/Compagnie	Executive Director, MVEIRB
Telephone Number/ Numéro de téléphone	
Facsimile Number/ Numéro de téléphone	766-7074

## MESSAGE:

Reasons for Decision Questions for the MVEIRB.

## FROM/DE:

Name Nom	Elaine Blais, Area Habitat Biologist
Telephone Number Numéro de téléphone	(867) 669-4912
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Your file / Votre référence

Our file / Notre référence

SC00196

May 15, 2003

Vern Christensen  
Executive Director  
Mackenzie Valley Environmental Impact Review Board  
Box 938, 5102-50<sup>th</sup> Avenue  
Yellowknife, NT X1A 2N7

**Re: Snap Lake Diamond Project – Reasons for Decision on IRs**

Dear Mr. Christensen;

In response to the Mackenzie Valley Environmental Impact Review Board's (MVEIRB) Reasons for Decision issued on March 4, 2003, the Department of Fisheries and Oceans (DFO) has concerns with the reasons provided for refusing Information Requests (IRs). DFO is particularly concerned with the MVEIRB refusing IRs put forward by responsible ministers.

We understand that the IR process is a formal mechanism established by the MVEIRB that compels a party to respond. For example, a question put to the MVEIRB from the public, that has no legislated power to request a response themselves, could be addressed to a particular party in an IR whereby that party is required to respond. It is our view that the IR process is not the only option for responsible ministers to seek information or clarification from the developer during an environmental assessment.

After reading rules 41 to 49, it is not clear how the MVEIRB can refuse an IR from a responsible minister. We understand in the Draft Rules of Procedure (March 21, 2001) that Rule 44 simply means that all IRs are issued only by the MVEIRB. We note that the Reasons for Decision say that MVEIRB only issues IRs under its authority for those that are approved. The following discussion outlines why DFO believes that this power to approve responsible ministers' IRs may not be within the authority of the MVEIRB nor was it intended in the Rules of Procedure.

Through the development of the terms of reference, DFO, as a responsible minister provides input into setting the scope of the assessment based on our legislated mandate. In order to gather the necessary information from a developer to meet the requirements set out in the scope of assessment, DFO puts forward

its questions directly to the developer or through the IR process. It is our opinion that questions put forward by responsible ministers in the IR process must be forwarded to the developer by the MVEIRB and is supported by Rules 42 and 44. In addition, subsection 117(2)(e) of the Mackenzie Valley Resource Management Act (MVRMA) gives the responsible ministers the authority to consider any other matter it deems relevant within the scope of the assessment. This makes sense as this process must be able to assist responsible ministers with meeting their legislated mandates. It is also not clear how the MVEIRB can judge whether a particular information gathering question is outside a responsible minister's legislated mandate.

Based on our review of the reasons for decision, we believe the MVEIRB still has not provided adequate reasons why some questions were deemed outside the scope of the assessment and not forwarded to the developer especially those questions put forward by responsible ministers. As such, clarity is required on these matters for this and future environmental assessment reviews. DFO respectfully requests the MVEIRB to:

- explain and clarify the intent and use of the IR process;
- respond to our understanding of the powers as stated above regarding subsection 117(2)(e); and
- respond to our understanding that questions from responsible ministers processed through IR process can not be rejected by the MVEIRB.

If you require clarification or would like to discuss these matters, please do not hesitate to call me at 669-4911.

Sincerely,



Julie Dahl  
Area Chief, Habitat  
Fish Habitat Management  
Department of Fisheries and Oceans - Western Arctic Area

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Canada