



Alternatives North

May 31, 2012

Scott Vaughan
Commissioner of the Environment and Sustainable Development
Office of the Auditor General of Canada
240 Sparks Street
Ottawa ON
K1A 0G6

Dear Mr. Vaughan

Re: May 2012 Report on Federal Contaminated Sites and Their Impacts

Alternatives North is a social justice coalition based in Yellowknife, Northwest Territories. We were established 20 years ago and have been involved in a variety of issues including alternative budgeting, an anti-poverty strategy, the review of the Mackenzie Gas Project and most recently, the on-going Environmental Assessment of the Giant Mine Remediation Plan.

Personally, I have been involved in environmental matters relating to the Giant Mine for over 20 years as a resident of Yellowknife, a City Councillor and working for an environmental non-governmental organization. I was also an advisor on the October 2002 audit of Abandoned Mines in the North by a previous Commissioner of the Environment and Sustainable Development.

We read your May 2012 report on "Federal Contaminated Sites and Their Impacts" with great interest given our experience with the Giant Mine. There are a couple of areas that we believe would be very fruitful in further work on contaminated sites that we would like to bring to your attention.

Perpetual Care of Contaminated Sites

As the Federal Contaminated Sites Action Plan moves forward with remediation of sites, a number of these sites will require perpetual care. This is especially true of the Giant Mine where the arsenic trioxide stored underground will have to be monitored, inspected and maintained forever. We are concerned that not enough has been done to minimize the perpetual care requirements. The actual planning for perpetual care of the Giant Mine is completely inadequate in our view. While we cannot be sure this is the case for other contaminated sites across the country, **there does not appear to be a policy framework or guidelines for perpetual care.**

The perpetual care of the Giant Mine has been one of the main themes in the ongoing Environmental Assessment. To help us better understand what may be involved in perpetual care, we commissioned a report on a number of case studies of contaminated sites and the lessons learned from those experiences. The report is available at:

http://www.reviewboard.ca/upload/project_document/EA0809-001_Perpetual_Care_of_Contaminated_Sites_Theory_and_Practice_1328902866.PDF

We worked closely with the Yellowknives Dene First Nation and held a workshop on perpetual care at Giant Mine. We encourage you to review the report from this workshop for the many observations and insights that were recorded. The report is available at:

http://www.reviewboard.ca/upload/project_document/EA0809-001_AN_Giant_Perpetual_Care_Workshop_Report_1328904093.PDF

What we learned is that there is very little experience with perpetual care of contaminated sites but some of the most interesting and innovative work has been done in the US around nuclear waste sites. Proper perpetual care planning starts to involve the following:

- Robust public reporting and disclosure of information, independent oversight and trust building measures that include formal apologies and compensation for past mistakes;
- Communicating with future generations around the site history, remediation activities and long-term care and maintenance;
- Conservation and preservation of site records using multiple media and locations;
- Site designations and markers that help build institutional and societal memory;
- Remediation options that minimize energy use, require low technology and work with natural processes, including ultimate failure;
- Creative planning including scenarios, using diverse interests and experiences;
- Financial models and approaches, beyond normal annual budgets, to begin to ensure funding for perpetual care requirements;
- Development of an actual perpetual care plan that includes the transition of a site from active remediation to perpetual care.

We see little evidence of clear thinking or planning around the above matters for the Giant Mine. When we raised the matter of the need for long-term funding for the perpetual care of the Giant Mine, Aboriginal Affairs and Northern Development Canada responded in May 2011:

...the budgeting and approval of expenditure authority, required for all government projects, are the appropriate mechanisms to address funding of perpetual care associated with the Giant Mine Remediation Project. INAC is not prepared to research and investigate funding options outside of the ongoing and well established approach (i.e., the parliamentary budget approval process). (see

http://www.reviewboard.ca/upload/project_document/EA0809-001_AltNrth_IR_22_Response_1328899068.PDF)

Alternatives North and the Yellowknives Dene First Nation then commissioned the Pembina Institute to study and report on long-term funding options for perpetual care of contaminated sites. Several established and innovative options were identified, although there has been no commitment to date from AANDC to further investigate any of these for the Giant Mine. The full report is available at:

http://www.reviewboard.ca/upload/project_document/EA0809-001_Giant_Mine_Perpetual_Care_Funding_Options.PDF

We remain very concerned about the lack of perpetual care planning for the Giant Mine and will continue to push this issue as part of the Environmental Assessment. With an increasing number of remediated sites requiring long-term care and maintenance, an examination of the policy framework and practices in this area would be of great interest.

Adequacy of Public Consultation

Our local newspaper reported that you had visited the Giant Mine and that you said you were struck by a few things and stated “The first thing was the amount of consultation and communications with members of the community and the public. They take this consultation process very seriously.” (Yellowknifer May 11, 2012. Giant Mine top federal priority.)

However, we would strongly encourage you to meet with the other interested parties including the Yellowknives Dene First Nation, City of Yellowknife and Alternatives North.

In our view, the public consultation around remediation and perpetual care of Giant Mine has been inadequate and stands in stark contrast to the Department’s own collaborative approaches to the remediation of two other major projects at the Port Radium and Colomac mines.

A joint Action Plan was developed with the community of Deline (see http://www.reviewboard.ca/upload/project_document/EA0809-001_Port_Radium_Action_Plan_December_2002_1328900567.pdf) with a \$6 million program for community involvement in scientific and Traditional Knowledge projects.

The Colomac mine project saw a collaborative process whereby the Tlicho communities received funding to jointly develop remediation options and plans (see http://www.reviewboard.ca/upload/project_document/EA0809-001_Discussion_Paper_on_Colomac_Mine_Remediation_1328902381.pdf). This process was so successful that the communities agreed there was no need for an environmental assessment for the project or even a public hearing for the water licence to carry it out.

As we understand it, funding was finally provided to the Yellowknives Dene First Nation in late 2011 to be involved in the planning for Giant, years after the Remediation Plan was developed.

There were public calls for an environmental assessment of the Giant Mine Remediation Plan as it was being developed as early as 2002. The independent Technical Advisor on the Giant Mine

remediation recommended that the project be voluntarily referred for an environmental assessment. When this did not happen, the City of Yellowknife made a mandatory referral in March 2008 based on the potential for adverse environmental effects and public concern, the first time a local government had ever used this authority.

AANDC has resisted an environmental assessment of the Giant Mine Remediation Plan from the very beginning. During the environmental assessment there have been numerous delays caused by the proponents including 8 extensions for a total of 191 days, not including the one year delay in submitting the Developer's Assessment Report (equivalent to an environmental impact statement).

AANDC has also failed to apply for a land use permit to carry out a test freeze on one of the underground arsenic trioxide chambers even though every other party was of the view that it should do so. Most recently, AANDC failed to apply for a development permit from the City of Yellowknife to take down an old conveyor at site.

AANDC is now pushing ahead with a Site Stabilization Plan that would see some necessary work done at the site, but also includes taking down the roaster complex, the most highly contaminated structure on the surface. AANDC does not contemplate this work taking place until 2013, after the completion of the Environmental Assessment (see page 1 of the last document in this link:

<http://www.mvlwb.ca/mv/Registry/2007/MV2007L8-0031/MV2007L8-0031%20-%20Material%20for%20May%2010-12%20Meeting%20with%20Giant%20Mine%20Team%20-%20May9-12.pdf>).

We understand that AANDC is prepared to invoke its emergency powers under s. 119 of the *Mackenzie Valley Resource Management Act*, to carry out this work and exempt it from the ongoing Environmental Assessment. There have been no consultations with Alternatives North and perhaps other stakeholders regarding this action. Recent public meetings were held in Yellowknife on the Site Stabilization Plan with as little as three days notice. The Plan itself and any supporting engineering reports for an emergency have not yet been made public.

In any event, we wanted to highlight for you that the public consultation by AANDC on the Giant Mine has not been adequate in our view, especially compared to efforts on other remediation projects in the NWT. More effort appears to be aimed at avoiding proper regulation and environmental assessment rather than getting on with the project and securing a "social licence" from the community.

To be fair, there has been some progress recently with the establishment of two working groups to attempt to deal with some important matters. Oversight and environmental management plans are being discussed in these working groups. The hope is to reach some level of consensus or agreement before the public hearing and findings of the Review Board that may impose terms and conditions or even push the Giant Mine Remediation Project to a higher level of review. The environmental assessment has created the pressure and venue for the parties to begin to work together, part of the collateral benefits of environmental assessment in general. Much work

remains to be done and there is still the need for a formal apology and healing process to build a foundation for trust.

We would be please to discuss any aspect of this letter and the Giant Mine with you further at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "K. O'Reilly". The signature is fluid and cursive, with the first name "Kevin" and last name "O'Reilly" clearly distinguishable.

Kevin O'Reilly
Alternatives North

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
Rick Edjericon, Chair, Mackenzie Valley Environmental Impact Review Board