

May 7th, 2012

To: Parties of the Giant Mine Remediation Project Environmental Assessment (EA 0809-002)

Re: Additional Information Requests

Please see the attached information requests. Two of these are directed to the developer only, and one is directed to the developer, the Yellowknives Dene First Nation and Alternatives North.

The Review Board is issuing these pursuant to Rule 37 of its Rules of Procedure, which authorizes it to “seek information from any party at any time by way of a written Information Request”.

The response deadline for these Information Requests is Monday, June 11th, 2012.

Please feel free to contact me with any questions or for further information.

(Original signed by)

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Enc.

May 7th, 2012

**Mackenzie Valley Environmental Impact Review Board
Additional Information Requests – May 2012
EA 0809-02: Giant Mine Remediation Project**

Review Board IR# 1 Stable long term funding

To: Developer

Reference

- DAR s. 6.2.7 Long-term Freeze Maintenance, p. 6-30/31

Terms of Reference Section

ToR s.3.2.2

Provide a “description of project feasibility... including financial feasibility, and required a discussion of funding certainty for the development and related monitoring”.

The Deficiency Statement issued by the Review Board on Nov. 26, 2010 stated:

In order for the Board to assess INAC’s ability to actively manage the site as proposed, the Board requires a meaningful in-depth discussion of the likelihood of receiving this funding over the long term, the conditions on which this depends, and relevant underlying assumptions. For example, if government funding priorities change in the future, how does that affect project feasibility? What is INAC’s confidence that it will always have secure funding for the necessary activities?

Preamble

Active site management is required forever to address risks in this project, estimated in the DAR (section 6.13.5) at a cost of \$1.91 million per year. This cost will eventually exceed the initial cost of the project. **Project success depends on these activities happening, and these activities depend on funding.**

The its Dec. 14th, 2010 response to the deficiency statement, the developer said that it expected that this project will remain a priority “based on the significant investment to date and the consistent priority given to the management of risks at the Giant mine site”. The same response notes that funding is earmarked only until fiscal year 2019-2020, and that it is not possible to commit a future government definitively to funding a specific priority or project decades into the future. It acknowledges that “changing circumstances in a wide variety of areas could alter any number of the above described factors”.

In its May 31st, 2011 response to Alternatives North IR#22, the developer stated it is “not currently prepared to research and investigate funding options outside of the current ongoing and well established approach (i.e. the parliamentary budget approval process)... However, should conditions change, INAC would be open to considering the most effective and efficient funding mechanism that would maintain the integrity of the Remediation Project”.

In previous information requests, the developer was unable to provide any concrete commitments by the government of Canada to provide stable long term funding required. In the Review Board’s view, this is an important part of the viability of this project. The Review Board has identified its interest in this issue in the Terms of Reference, Information Requests, and technical sessions. Stable funding is a part of the perpetual care plan currently being discussed between the developer and parties.

Requests

1. In light of the above, has the developer identified a stable funding mechanism? Please describe progress to date.
2. History has demonstrated that priorities, governments, countries and entire civilizations have limited lifespans. Considering this,
 - a. Why does the government of Canada expect future governments in the very long term to have both the capacity and willingness to conduct the on-site management activities required to keep the arsenic safely contained?
 - b. What assumptions about future scenarios is this conclusion based on?

Review Board IR# 2

Risks to the project from Baker Creek

To: Developer

Reference

DAR Section 6.9.2 Method Selection, Alternatives and Preferred Alternative

Terms of Reference Section

ToR s.3.2.5 Accidents and Malfunctions

Preamble

In the Technical Session of October 28, 2011, the developer described a contingency of diverting Baker Creek around the mine site to the north. As stated in the preamble to the Review Board's Round 2 IR#2 (issued on Dec. 1st, 2011):

- *During the Technical sessions, the developer stated that “one of the greatest site risks at Giant Mine is Baker Creek” (Day 2, p207), and confirmed that the developer would “be willing to pursue relocating it if the creek were to pose an unacceptable long-term risk to arsenic containment” (Day2, p208)*
- *In the technical session, the Board's technical advisor on risk assessment noted 1) that the projects' design tolerances mean there was a five percent probability of failure to contain Baker Creek during the first 25 years; and 2) this was characterized as a “staggering” risk considering the implications of failure during that period. (Day 4, p262).*
- *In response, the developer stated that it acknowledges the risk, that is not comfortable with the risk, and that is why the Giant Team has started looking at the north diversion of Baker Creek as a contingency (Day 4, p262).*

In the same document, Review Board stated “because of the risks associated with Baker Creek it is important that the Review Board understand the options and trade-offs as they relate to project design and implementation”.

In the Feb. 17th, 2012 response, the developer stated that is not currently pursuing the North Diversion as a contingency for flooding risks. It stated that it still considers Baker Creek a high risk, but is conducting a review of short-term risk mitigation strategies. The Review Board has yet to receive this review.

Cost has been a factor identified by the developer regarding the possible North Diversion of Baker Creek.

Requests

- 1) Based on your existing studies of the North Diversion channel please provide a rough estimate of the cost of construction. Please include both the design that allows fish passage and the design providing flood conveyance only (as described in the Technical Session of October 18th 2011).
- 2) Please estimate the annual cost of water treatment based on the expected difference in water volumes with and without Baker Creek passing through the mine site.
- 3) The developer has identified risks posed by the creek prior to establishing frozen conditions (i.e. in the first 25-30 years of the project). In the very long term, if the site is not actively managed due to circumstances beyond the developer's control and arsenic chambers thaw, would risks from Baker Creek to arsenic containment be similar to the initial risks?

Review Board IR# 3 Independent monitoring

To: Developer
 Yellowknives Dene First Nation
 Alternatives North

Reference

DAR 14.1.6, p14-5

“(I)np[ut] from Aboriginal communities and the public will continue to be sought throughout the life of the Remediation Project... As the implementation of the Remediation Project advances, and in response to monitoring results, the public and Aboriginal communities will be engaged in the review of monitoring results and the identification of adaptive management approaches needed to address any environmental issues identified through the monitoring program”.

Terms of Reference

ToR 3.6 Monitoring, Evaluation and Management

Preamble

Oversight was the subject of Review board IR#27, issued on Feb. 9th, 2011. In that IR, the Review Board asked the developer to “describe any plans being considered for establishing an independent monitoring agency for the duration of the Giant Mine Remediation Project, specifying who might participate, and in what capacity”.

In response, on June 17th, 2011 the developer described characteristics of the long term monitoring proposed, emphasized its environmental management system, and stated that it does not intend to establish an independent agency.

The subject of oversight has been examined in a Feb. 28th, 2011 report prepared for this EA by the Faculty of Law at the University of British Columbia. The subject has also been discussed between parties and the developer at the March 6-7 2012 workshop on oversight at the Giant Mine as a way to address public concern, particularly in light of the many roles of the federal government with respect to this project. Discussions between the developer and parties have continued on this subject.

Considering the history of the site and its proximity to N’Dilo, Dettah and Yellowknife, and the requirement for active management of the site forever, **public trust is a fundamental part of community acceptance for this project.** The Review Board is interested in progress towards an agreement on an oversight mechanism to address this issue.

Request

- 1) Please describe the current areas of agreement and disagreement in the ongoing discussions regarding oversight.
- 2) Please describe your rationale for the areas where there is disagreement.