

Section 119 (b) Determination - AANDC- Giant Mine, NT

#	Reviewer	Topic	Reviewer Comment	Reviewer Recommendation	Company Response	Board Staff Recommendation	Board Decision
1	DFO	Sec 119	Regarding comments on the Giant Mine Remediation Team's request that the MVLWB proceed directly to licensing as per Section 119(b) of the MVRMA, it is DFO's understanding that this decision is solely within the mandate, and at the discretion, of the Board.	Not Applicable	The evidence before the Board demonstrates that the deteriorating condition of the roaster complex and the instability of the underground chambers and stopes constitutes an emergency. Technical evidence from independent engineers and the results of the Project Team's internal risk assessments were provided in the application package and summarized in the covering letter to our response package.	Not Applicable	
2	YKDFN	Sec 119 - Roaster Complex Deconstruction	<p>The Yellowknives Dene have reviewed the application and are prepared to support the s.119 exemption for the Roaster, but not for the underground.</p> <p>FOR FURTHER INFORMATION SEE LETTER FROM YKDFN DATED FEBRUARY 15, 2013.</p>	YKDFN accept Mr. Schmidtke's experience and <i>[sic]</i> credentials as a qualified person and in no way wish to interfere with a response to this emergency.	The Project Team notes the support of the YKDFN with respect to roaster deconstruction.		
3	YKDFN	Sec 119 - Underground Stabilization	<p>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.</p> <p>FOR FURTHER INFORMATION SEE LETTER FROM YKDFN DATED FEBRUARY 15, 2013.</p>	This part of the 'Site Stabilization Plan' does not meet the statutory test set out and cannot be severed from the EA.	The evidence before the Board demonstrates that the condition of the underground workings constitutes an emergency. Please refer to our covering letter for our response package and to the letters provided by AECOM and Golder Associates dated December 17, 2012 for a complete discussion on the evidence.		

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4	Alternatives North	Sec 119	<p>Following the circulation in October 2012 of a draft water licence application and our comments of November 5, 2012 that questioned the evidence of an emergency situation at the Giant Mine, AANDC finally had its engineering consultants reassess the Roaster Complex and clearly state that it is in a “state of emergency” in the letter from AECOM dated December 17, 2012. We note that the memo from Golder Associates dated December 17, 2012 states that the underground work is needed “to avoid a failure and subsequent emergency situation”. This is not the same as a response to an emergency and in our view, fails to meet the standard required for s. 119(b) exemption.</p> <p>FOR FULL DETAILS SEE LETTER FROM ALTERNATIVES NORTH DATED FEBRUARY 15, 2013 AND VARIOUS ATTACHMENTS.</p>	<p>- AN requests that should the MVLWB issue a water licence for this work, that a Public Engagement Plan similar to the Talston facility water licence MV2011L4-0002 – NTPC (Taltson) condition B.7 be required for the approval of the MVLWB for this undertaking....</p> <p>- We believe that is imperative to request more information of the applicant, particularly in relation to dust suppression and monitoring, for review and approval before any work begins at the site. It may be more reasonable to request that the contractor apply for the water licence as there will be more information available on the specific methods to be used for the work, mitigation and monitoring. It may also be advantageous to split the application into two parts giving higher priority to the roaster complex deconstruction....</p> <p>- We ask that in the absence of detailed dust management and monitoring plans for arsenic emissions, that the MVLWB consider a public hearing on this application.</p>	<p>Please refer to the covering letter for our responses to the use of Section 119; requirement for an Engagement Plan; and the request for a public hearing to address dust and air quality issues.</p> <p>As the custodian of the Giant Mine site, Aboriginal Affairs and Northern Development Canada must be the Licensee, not the contractors on site. Regulation of the site would be piecemeal if individual contractors applied for their own licenses, potentially resulting in increased risk to the environment and worker health and safety.</p>	NOTE THAT THESE STATEMENTS ARE EXCERPTS FROM ALTERNATIVES NORTH LETTER DATED FEBRUARY 15, 2013. PLEASE SEE COMPLETE LETTER/ATTACHMENTS FOR FURTHER DETAILS.	
5	Alternatives North	AANDC Dec. 19, 2012 Covering Letter (Reviewer Comment Table - Row 15)	This letter does not clearly indicate whether the proposed undertaking is in response to an emergency at the Giant Mine site. No evidence is contained in the letter that the applicant intends to carry out the work forthwith.	AANDC and GNWT should clearly indicate, whether in their respective views, the proposed work is in response to an emergency at the Giant Mine site and provide evidence that the work is to be carried out forthwith with a clear schedule including details on contracting.	The evidence before the Board demonstrates that the condition of the underground workings constitutes an emergency. Please refer to our covering letter for our response package and to the letters provided by AECOM and Golder Associates dated December 17, 2012 for a complete discussion on the evidence.		

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6	Alternatives North (Reviewer Comment Table - Row 17)	Golder Associates Dec. 17, 2012 Memo	This memo does not clearly state that the underground stabilization work is necessary in response to an emergency at the Giant Mine site. It states that the work is to "avoid a failure and subsequent emergency situation". We also understand that AANDC has contracted for drilling of some of these sites over this winter and that this work may now be complete, pursuant to land use permit MV2012S0019.	AANDC should provide any further evidence it has from the drilling done under land use permit MV2012S0019 to support its attempt to use s. 119(b) of the MVRMA for the underground stabilization part of the application.	The drilling program that took place this past winter investigated areas along Baker Creek to determine bank stability related issues under the Design Support Drilling & Testing and 2.3.3 A1, B1 & C1 Pit Channel Stability programs identified in the LUP application (sections 2.3.2 and 2.3.3 of the LUP project description). The stabilization contractor will complete the necessary drilling to support the underground stabilization program. This drilling information, once collected, will be used to plan the stabilization activities for individual underground workings. Completed and forecasted stabilization activities are to be reported on in the annual reports. Please note that we recommend that these reports be submitted every 6 months rather than 12 months as identified in our suggested changes to the draft WL conditions.		