Mackenzie Valley
Review Board

IN THE MATTER OF:	**The Gahcho Kue Environmental Impact Review Proceeding;**
AND IN THE MATTER OF:	**A decision by the Mackenzie Valley Environmental Impact Review Board on Panel Composition:**

REASONS FOR DECISION

INTRODUCTION:

After conducting an Environmental Assessment of the De Beers Canada Inc. (De Beers) proposal for the development of the Gahcho Kue the Mackenzie Valley Environmental Impact Review Board (MVEIRB or Review Board) ordered an Environmental Impact Review (EIR) of the project on June 12th, 2006. Among other steps required for the EIR, the Review Board sought expressions of interest from prospective panel members and appointed a seven member panel to conduct the Review.

The Review Board's announcement of panel membership[1] indicated that the Board wanted to ensure that a core group of current Board members would be joined by representatives from potentially affected aboriginal groups and members with expertise in mining and socio-economic impact assessment.

Filing of the EIR had originally been expected in May 2008 but De Beers deferred that submission until later that year. Economic conditions then changed dramatically occasioning further delays in the filing of the EIR. Between May 2008 and May 2010, De Beers reported regularly to the panel but was still not in a position to file the Environmental Impact Statement (EIS), despite ongoing work on the project. On May 26, 2010 the panel adjourned the proceeding *sine die.*

At this point in the proceeding, almost four years after the EIR was ordered, no EIS has been filed and no hearings have been held.

[1] May 7th, 2007.

THE ISSUE:

In the period since panel establishment, membership of the Review Board has changed thus affecting the Board's goal of ensuring that the Gahcho Kue EIR is managed by an experienced core of current Board members. These changes have also raised questions about the requirements of s. 132 of the *Mackenzie Valley Resource Management Act* (MVRMA) and panel membership. Review Board concerns about the cost and effectiveness of a large panel have also contributed to a need to reconsider panel composition.

THE DECISION:

The Review Board has decided to reduce the size of the Gahcho Kue panel and to complete the proceeding with a panel composed of five current Board members.

THE AUTHORITIES:

Pursuant to section 132 of the MVRMA, the Review Board has the power to appoint members to an EIR panel. Pursuant to the MVRMA and the *Interpretation Act*[2] the MVEIRB has the authority to change the composition of a panel.

REASONS:

The Review Board's primary goal at the time that the Gahcho Kue panel was appointed was to ensure that the core of the panel was comprised of current members of the MVEIRB. Circumstances, both internal and external, affecting Review Board operations have changed significantly since the appointment of the current panel over three years ago. At this point, only one of seven members remaining on the panel is a Review Board member and one of the external members, appointed for experience in relation to mining projects, is now a Board member.

Likewise, in the Review Board's view, s.132 of the MVRMA requires that more than one panel member also be a Board member.

In the Board's view, the time when a change in panel membership can be made is now, before the proponent files its case and before any hearings are held.

The Review Board is cognizant of the difference in the cost structure between a panel composed almost entirely of external members and a smaller panel of current Board members. Finally, it is the Board's view that a smaller but nonetheless representative panel can be more efficient and should be able to come to a decision more quickly than a larger panel.

---

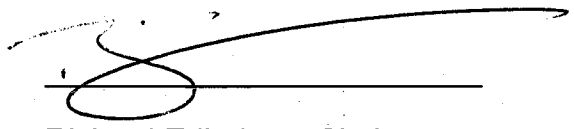
[2] R.S.C. 1985, c. I-21.

For these reasons, the MVEIRB decided to reorganize the panel and to complete the Gahcho Kue EIR with a panel composed of five current Review Board members. A separate announcement will be made listing the new membership of the panel.

The current panel has done an excellent job and their contributions, individual and collective are appreciated by the Review Board.

FOR THE MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD:

DATED: September 24, 2010:



Richard Edjericon, Chairperson