

Report of Environmental Assessment and Reasons for Decision on the New Shoshoni Ventures Preliminary Diamond Exploration in Drybones Bay

February 10, 2004



Mackenzie Valley
Environmental Impact Review Board



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Review Board Environmental Assessment Decision

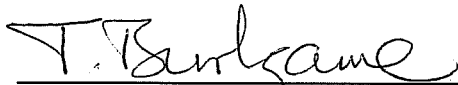
To make its decision in the environmental assessment (EA) of New Shoshoni Ventures Ltd.'s Diamond Exploration, the Mackenzie Valley Environmental Impact Review Board (Review Board) has relied upon all information in the Public Record. Having considered this evidence, the Review Board has made its decision in accordance with section 128 of the *Mackenzie Valley Resource Management Act (MVRMA)*.

The Review Board finds that even with the implementation of the commitments made by the developer in the course of this EA (See Appendix A) and with the implementation of all reasonable mitigation measures, there are no effective means to reduce or mitigate the significant adverse environmental impact of the proposed development. The proposed development is likely in the Review Board's opinion to cause an adverse impact on the environment so significant that it cannot be justified.

Therefore the Review Board has decided, pursuant to paragraph 128(1)(d) of the *MVRMA*, to:

- Recommend that the proposal be rejected without an environmental impact review.

After careful consideration, the Review Board has determined that the significant adverse environmental impact caused by this proposed development cannot be mitigated.



TODD BURLINGAME

Chair
Mackenzie Valley Environmental
Impact Review Board

February 10 '04
DATE

Summary Report of Environmental Assessment

The developer, New Shoshoni Ventures (NSV), proposes to conduct an early stage diamond exploration program in the Drybones Bay area. Up to ten holes will be drilled, mainly along the shoreline extending northward with one on land location in a low-lying area. A semi-permanent 8-person camp will also be established where a permit currently exists, roughly 75 metres from the shore on the east side of the bay. The only shoreline access for the proposed program of NSV will occur at Drybones Bay at the camp location and in area of least slope closest to the inland drill. The proposed development is expected to be 8 to 10 weeks in duration and will be completed between February and April 2004.

This environmental assessment (EA) is one of four diamond exploration activities in the same general area undergoing EA. This report is one of a series for the proposed developments in the Wool and Drybones Bay area. Although this report addresses the proposed development of NSV, all these developments are closely related due to:

- similarities in the environmental setting for the proposed developments;
- the concurrent timing of the proposed developments;
- common environmental, social and cultural issues arising from the proposed developments;
- public concern about all developments in the Wool and Drybones Bay area;
- the contributions of all these developments to cumulative effects in the Wool and Drybones Bay area; and,
- issues arising from the joint public hearing for NSV and the other developments.

Because the small size and capacity of the companies, and because of the cumulative nature of many expressed concerns, the Review Board approached this EA differently. This involved having developers describe project specific impacts, and hiring an independent consulting company to report on the broader regional issues related to potential cumulative effects of multiple land uses and to suggest possible means to address these concerns,

A review of the evidence on the public record has convinced the Review Board that:

- Drybones Bay is a vitally important cultural and heritage area for the Yellowknives Dene First Nation (YKDFN), North Slave Métis Alliance (NSMA), and Lutsel K'e Dene First Nation (LKDFN). It was the site of ongoing year round use by Aboriginal community, holds many burial sites and archaeological sites, and is used extensively today for hunting, trapping, and providing youth with cultural exposure to traditional activities and the land.
- The developer's efforts to consult with Aboriginal parties did not lead to a greater understanding of the cultural importance and use of the area thus limiting the value of the mitigation measures proposed in the Developer's Assessment Report (DAR).

- Aboriginal groups in this EA did not have adequate resources to participate fully in this proceeding, as no participant funding was available.
- Fish and fish habitat effects have been largely resolved by a commitment from the developer not to drill in depths that are likely to cause impacts to fish populations.
- Gravesites have not been adequately identified and protected during allocation of subsurface mineral interests in the staking process in this region.
- The YKDFN would like the area protected, at least for the interim.

Having considered all the evidence on the public record, the Review Board has concluded that significant adverse cumulative impacts on culture of the YKDFN and other Aboriginal parties will result from the continued development of the Wool and Drybones Bay area. The individual contribution of NSV to this impact is significant.

The Review Board therefore recommends pursuant to section 128(1)(d) of the *MVRMA* the rejection of this project because the proposed development is likely, in its opinion, to cause an adverse impact on the environment so significant that it cannot be justified.

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Abbreviations

| | |
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| CARC | Canadian Arctic Resources Committee |
| CE Study | Gartner Lee Ltd.'s Cumulative Effects Study |
| CEAA | Canadian Environmental Assessment Act |
| CGV | Consolidated GoldWin Ventures Inc. |
| CPAWS | Canadian Parks and Wilderness Society |
| DAR | Developer's Assessment Report |
| DFO | Department of Fisheries and Oceans |
| DKFN | Deninu K'ue First Nation |
| EA | Environmental Assessment |
| EC | Environment Canada |
| EIR | Environmental Impact Review |
| HADD | Habitat Alteration, Disruption or Destruction |
| INAC | Indian and Northern Affairs Canada |
| LSA | Local Study Area |
| LKDFN | Lutsel K'e Dene First Nation |
| MVLUR | Mackenzie Valley Land Use Regulations |
| MVRMA | Mackenzie Valley Resource Management Act |
| NAGRC | North American General Resources Corporation Ltd. |
| NSMA | North Slave Métis Alliance |
| NSV | New Shoshoni Ventures Ltd. |
| NWT | Northwest Territories |
| NWT Métis | NWT Métis Nation |
| RSA | Regional Study Area |
| RWED-GNWT | Resources, Wildlife and Economic Development, Government of Northwest Territories |
| TK | Traditional Knowledge |
| VC | Valued Component |
| YKDFN | Yellowknives Dene First Nation |

1. Introductory Information

This section provides background information on the referral of this development to the Mackenzie Valley Environmental Impact Review Board (Review Board) and sets out the requirements for Environmental Assessment (EA) under the *Mackenzie Valley Resource Management Act (MVRMA)*. It also provides an overview of the environmental setting and a brief description of the development proposal.

Section 2, Environmental Assessment Process, presents the Review Board's EA process and the role of each EA phase in making a determination under section 128 of the *MVRMA*. This section also describes process issues that arose during the course of the proceeding.

Section 3, Public Concern, considers the extent of, reasons for, and significance of public concern.

Section 4, Impact on the Environment, considers the environmental components that the developer was required to examine during its impact assessment of the development on the biophysical and socio-economic environment and includes the Review Board's conclusions about the environmental impacts if the proposed development and their significance.

Section 5, Summary of Recommendations and Suggestions, contains a summary of all recommendations and suggestions of the Review Board in consideration of all material on the public record (PR).

1.1. Introduction

1.1.1. *Referral of the Proposed Development to the Review Board*

On March 31, 2003, New Shoshoni Ventures (NSV) applied to the Mackenzie Valley Land and Water Board (MVLWB) for a 5-year, Type "A" Land Use Permit (MV2003C0016)¹. The proposed undertaking included access over ice from Yellowknife. The drilling program consisted of 8 drill locations and a detailed drilling area in three areas of Drybones Bay (PR #2). Most of the holes were expected to be lake-based and on ice or at the shoreline while one drill target is in a low lying area

¹ A five year permit has been applied for in anticipation of future work (PR #102). Operations described in the Land Use Permit Application only cover 2 years of activity.



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inland. Associated activities included airborne and ground geophysical surveys with line-cutting where necessary, rock and till sampling, a semi-permanent camp (already established under permit N1999C0104) and a latrine pit with grey water to sump, as well as the transport and disposal of waste to Yellowknife.²

A preliminary screening of the proposed development was initiated on March 31, 2003 as required under the *MVRMA*. On May 20, 2003, the MVLWB referred the development to the Review Board under subsection 125(1) of the *MVRMA*. The reason for the referral was a:

“clear indication of public concern about development in the Drybones and Wool Bay [...] given the evidence of the cultural, spiritual and environmental importance of the Drybones and Wool Bay Areas” (MVLWB Reasons for Decision, April 28, 2003, PR #1).

The Review Board formally notified regulatory bodies of the referral and began planning the EA in a letter dated May 22, 2003 (PR #3).

1.1.2. Requirements of the Mackenzie Valley Resource Management Act

The Review Board administers part 5 of the *MVRMA* and has decision-making responsibilities in relation to the proposed development.³ The Board is responsible for the conduct of an EA which considers the environmental, socio-economic and cultural impacts of the proposed development in accordance with section 114 and section 115 of the *MVRMA*. The conduct of the NSV EA was based the Board's *Rules of Procedure*.

Pursuant to section 117 of the *MVRMA*, the Board must determine the scope of the development and set out the factors to be considered in the EA for a development in consultation with the federal or territorial responsible Ministers, if such consultation is requested. None was in this case. The Board is also required to prepare and submit a report of EA in accordance with subsection 128(2), a decision under subsection 128(1), and written reasons for decision, required by section 121, to the Minister of Indian and Northern Affairs Canada (INAC).

² The scope of the development as presented in the Land Use Permit Application was refined with more precise depiction of drill targets and a reduction in associated activities. This is explained in detail in the scope of the development assessed.

³ The Minister of DIAND and responsible ministers make the final decision in consideration of the Review Board's recommendations and suggestions.



1.2. Overview of the Proposed Development

1.2.1. *Environmental Setting*

The environmental setting has been described based on the broad interpretation of environment under the *MVRMA* that includes land, water, air or any other component of the environment, including the social and cultural environment. Given the nature of this referral, this section emphasizes the social and cultural environment based on use of the project area.

Great Slave Lake is the fifth largest lake in Canada with a surface area of 28,400 square kilometres and the deepest lake in North America, reaching a maximum depth of 614 metres. The Drybones Bay area offers rich and varied habitat for many different species of wildlife throughout the year. The area's wetland habitat is ideal for moose and other fur-bearers including muskrat, marten and beaver. The shallow bays provide important habitat for fish spawning and nurseries. The inlets, bays, and islands along the coast, provide nesting, breeding, and/or staging habitat for waterfowl, passerines, and raptors.

The intensive historical and current use of this area by Aboriginal peoples, including the Dogrib, Dene, and Métis is well known. Cabin foundations, grave sites, traplines, and recently documented archaeological sites found in the sheltered interior of Drybones Bay demonstrate the use of the area and the richness of its heritage and cultural resources. The traditional importance of Drybones Bay is underlined by the stories of Aboriginal peoples who speak of living in and around Drybones Bay, as well as seeking protection in the shelter of Drybones Bay when inclement weather makes travel by boat too dangerous. The traditional use in the bay includes fishing, camping, hunting, trapping, picnicking, berry-picking, harvesting traditional medicines, and spiritual practices. The area has long been a gathering place for Aboriginal peoples and a place where Elders teach young people about their culture.

Residents of Yellowknife, Dettah, N'Dilo, Lutsel K'e, Fort Resolution, and Hay River regularly travel along the shores of Great Slave Lake to harvest and pursue traditional livelihoods as well as for recreation. The proximity of Drybones Bay to the growing City of Yellowknife has been linked to increased year-round recreational use. In the summer, the area is frequented by boaters, including but not limited to the recreational boaters and canoeists, as well as some members of the Great Slave Cruising Club, and Great Slave Yacht Club. Some naturalists are also known to go bird-watching in these sheltered bays which accommodate an abundance of bird species. In the winter, the area is visited by people on snowmobiles, including members of the YK Snowmobilers Club.



Commercial activities in the Drybones Bay area have included fisheries and tourism. Commercial fisheries have existed in the region since the early to mid-1900s. Tourism outfitters activities have also increased in the area (hunting and cultural tours).

Prospecting and mineral exploration activity in the Drybones Bay area dates back to the 1930s but there has been recent resurgence in staking and drilling activity in the area in search of diamonds and other minerals. This activity has been noted by traditional land users. Because there is no requirement to consult the traditional users of an area before staking mineral claims, some of the recent development activity appears to have taken place without an understanding of the intensity of local land use and of the cultural importance of the area to Aboriginal users. Treaty land entitlement negotiations, which include this area, are ongoing between the Akaitcho Treaty 8 First Nations and Canada but they have not yet been completed.

These circumstances, combined with increasing pressure on valued traditional use areas throughout the Akaitcho Territory, have prompted concern about the future development of the Wool and Drybones Bay area. Concerns have been voiced about the areas where Akaitcho First Nations and Métis believe traditional uses have already been affected due to mineral exploration and mine development. These kinds of concerns underscore the relative importance of areas, such as Wool and Drybones Bay.

1.2.2. *Description of the Operation*⁴

The developer, NSV, proposes to conduct an exploratory diamond exploration program on two identified and two potential kimberlite areas in the Drybones Bay Area of Great Slave Lake, NWT. The preliminary exploration program will involve the drilling of up to ten holes in the immediate vicinity of Drybones Bay. The holes will be drilled mainly along the shoreline extending northward, as well as on land in a low-lying area. The drilling areas are located about 500 metres west of an area that the YKDFN has identified as an archaeological site.⁵ A semi-permanent 8-person camp will also be established in an area already permitted, roughly 75 m from the shore on the east side of the bay.

The proposed program will be accessed daily by drill crews via a winter ice road from Yellowknife. An ice road to Wool Bay has been constructed annually to support winter

⁴ This description was prepared based on the Developer's Assessment Report (PR #102). The operational description includes refinements to the drill targets (i.e., 10 drill holes rather than 8 drill holes and a detailed drilling area of an unspecified number of holes), no reference to airborne geophysical surveys.

⁵ Graveyard containing 10 graves.



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fishing activities in the vicinity of Wool Bay. This proposed exploration project will require an extension of this ice road to accommodate the more distant exploratory activities of NSV, CGV, and SDC. The spur required for NSV's program extends into Drybones Bay (see Figure 1).

The drilling program will use a portable drilling unit (Longyear 38) or equivalent, which can be mounted on a self-propelled unit or towed by a small tractor to the drill site on land or on the frozen lake ice surface. The drill bit will cut a hole that is 2 to 5 inches in diameter, depending on the type of drilling being undertaken and the rock conditions. Hole depths will range from 200-400 metres,⁶ depending on the location and targets.

All land based drill sites will be kept as small as possible to minimize the disturbance footprint with of safety. The disturbance footprint associated with each drill site will be approximately 10 square metres.

The amount of cuttings (rock bits) produced will range from 0.25 to 0.5 cubic metres per hole. Cuttings from the lake-based component of the drill program will be contained and transported to Yellowknife for disposal at an approved landfill site. Cuttings from the land-based component of the drilling program will be deposited in a natural depression, well removed from the lake or nearby streams.

Less than 2000 litres of petroleum products will be on site at any time. Fuel will be stored in 205 litre drums within a secondary containment unit at the camp. The fuel barrels will be the first containment unit. The storage area will also be lined with a liquid impermeable barrier as has been an accepted practice throughout the NWT. The unit has not yet been selected and may be doubled walled. NSV will focus on spill prevention and will have a spill plan in place.

All equipment, unused consumables (i.e., fuel, drill rods, etc.), and garbage will be returned to Yellowknife upon program completion. These unused consumables and garbage will be recycled or disposed of in a manner approved by land use enforcement officers.

Any bush and trees cut for survey lines, drill pad sites or camp locales will be reduced to manageable sizes and neatly piled. Cleared vegetation will be spread on exposed soil to prevent erosion, and to enable seed stock to regenerate, where appropriate.

⁶ A discrepancy is noted between the Executive Summary and Development Description provided in the DAR (PR #102) so the range, based on minimum and maximum depths, provided by drill location is cited.



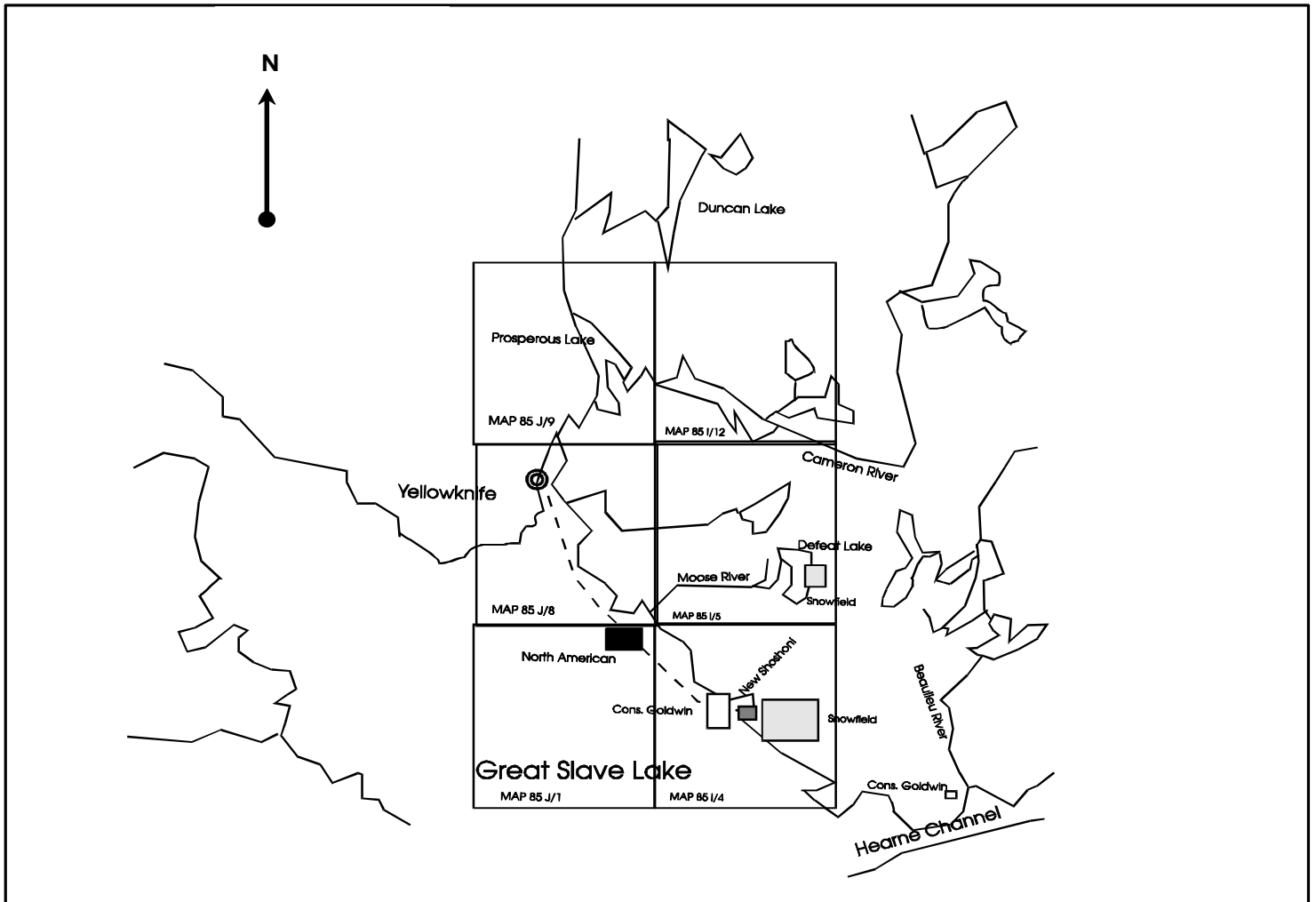


Figure 1. New Shoshoni Ventures Proposed Program Location (July 2003)

The project is expected to be between 8 and 10 weeks duration. The schedule for completion of the project is between February and April, 2004. The exact timing of operations is dependent on the conditions of the winter ice road and the ice surface at the work site.



2. Environmental Assessment Process

2.1. Parties to the EA

There were twelve parties to the Environmental Assessment (EA). According to the Review Board's *Rules of Procedure*⁷, the developer is deemed to be a directly affected party. Eleven government departments, Aboriginal groups, other organizations, and leaseholders within the vicinity of the development were also accepted as registered parties. They included:

- Indian and Northern Affairs Canada (INAC);
- Fisheries and Oceans Canada (DFO);
- Environment Canada (EC);
- Government of the Northwest Territories (GNWT);
- Yellowknives Dene First Nation (YKDFN);
- North Slave Métis Alliance (NSMA);
- Lutsel K'e Dene First Nation (LKDFN);
- Northwest Territory Métis Nation (NWT Métis);
- Deninu K'ue First Nation (DKFN);
- NWT and Nunavut Chamber of Mines; and,
- Mr. Greg Robertson.

During the EA process, representatives of government departments had the opportunity to identify their interest in the proceedings and to notify the Review Board of their Minister's intent to participate in the proceeding in the role of a "responsible minister", as defined in section 111 of the *MVRMA*. The Responsible Ministers play a role in the decision-making process. Included in this category are the Ministers of DFO, EC, and the RWED-GNWT. The Minister of INAC is the federal minister as defined by the *MVRMA* and plays the central decision-making role in the EA.

2.2. EA Approach

The EA process had three phases: a scanning phase to define information needs and to describe the development and potential impacts; an analysis phase to explore the reasons for public concern and associated environmental issues; and a decision phase

⁷ MVEIRB. *Rules of Procedure for Environmental Assessment and Environmental Impact Review Proceedings*. (May 2002).



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to consider, evaluate, and weigh evidence in order to render an EA decision. Figure 2 shows the phases and tasks undertaken in each phase.

Development of the Terms of Reference and Work Plan

The Review Board issued a *draft Terms of Reference and Work Plan* for the EA on June 20, 2003. The documents were distributed by fax and e-mail to organizations that wanted to remain on the distribution list⁸. Comments on the draft were received from June 20 to 30, 2003. INAC, DFO, and NSMA submitted comments that were considered by the Review Board.

The final *Terms of Reference and Work Plan* was issued on July 17, 2003. The Terms of Reference described the scope of development and scope of assessment and provided direction to NSV and others about their roles, responsibilities and deliverables in the EA process. The Work Plan established the milestones and identified the Review Board's timelines and expectations for the completion of the EA.

⁸ These organizations were INAC, DFO, Environment Canada, GNWT, YKDFN, NSMA, LKDFN, Northwest Territory Métis Nation, NWT and Nunavut Chamber of Mines, Great Slave Cruising Club, and CARC. Not all organizations decided to be parties to the EA while others sought status as parties just prior to the public hearing.



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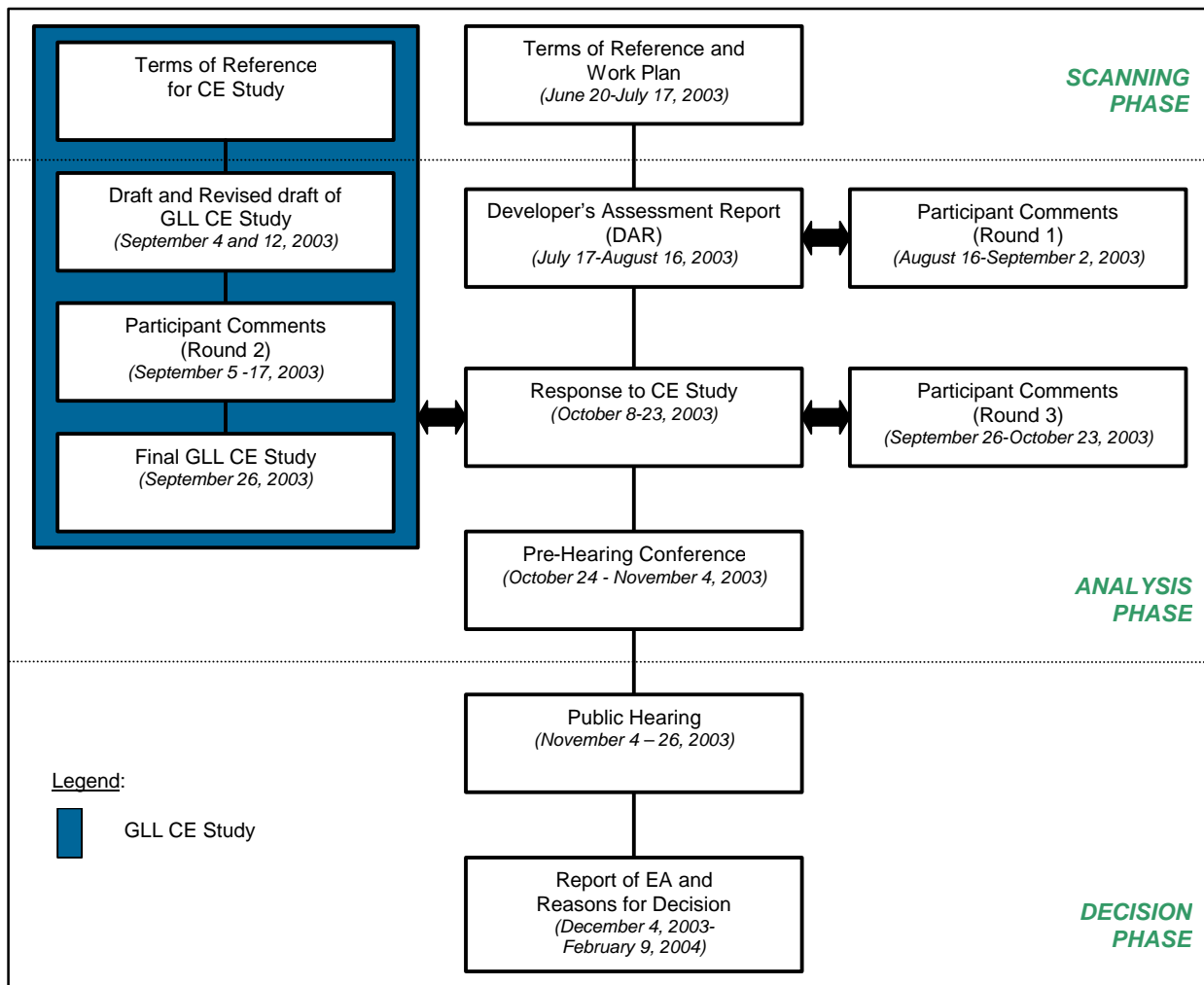


Figure 2. Overview of the Environmental Assessment Process

The Work Plan was amended by rulings of the Review Board in response to requests or concerns expressed by the parties on three occasions:

- August 11, 2003 the Work Plan was changed to accommodate the developer's late submission of the DAR and to extend the CE Study (PR #96);
- September 23, 2003 the Work Plan was changed to give parties time to comment on the CE Study and the developer's statement on cumulative effects, as well as to address requests for rulings from YKDFN (PR #182); and,
- October 10, 2003 the Public Hearing was re-scheduled to avoid a conflict with the Geoscience Forum (PR #198).



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Submission of the Developer's Assessment Report

The Developer's Assessment Report (DAR) was prepared according to the *final Terms of Reference* issued by the Review Board. The DAR was received by the Review Board on August 13, 2003 (PR # 101). The developer was asked to clarify several items in the DAR. In response, the developer submitted a revised DAR on August 15, 2003 (PR# 102) that was distributed to all parties for comment.

Participant Comment Phase for the Developer's Assessment Report

The Review Board staff analyzed the DAR with the assistance of the parties to the EA. The role of the participant comment period was explained in detail in correspondence from the Review Board dated August 18, 2003 (PR #103). The purpose was "to encourage discussion among the parties focused on the Developer's Assessment Report (DAR)". Participation in this phase of the EA was high. Submissions were received from INAC, DFO, GNWT, NSMA and YKDFN. The developer was invited to make adjustments to its submissions in response to the comments of the parties.

Three parties registered just prior to the Public Hearing, including LKDFN, DKFN and Mr. Greg Robertson. LKDFN however did submit comments on the DAR on November 3, 2003 (PR #221).

Release of the Cumulative Effects Study

The Review Board commissioned an independent regional Cumulative Effects Study (CE Study). This was done in recognition of:

- the limited resources of the parties;
- the limited experience of the developer in the conduct of cumulative effects assessment (given that mining exploration activities had never before been referred to this Review Board for EA); and,
- the Board's concern that the relationship between the developer and Aboriginal parties appeared to be discouraging information sharing.

This study was intended to serve as a resource for all parties to the EA. It was further intended to:

- identify suitable Valued Components (VCs),
- explore the importance of the region from a ecological, cultural and economic perspective,
- highlight contentious issues emerging within the region associated with potentially conflicting land uses,
- pinpoint sensitive areas under pressure from cumulative effects;



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- provide a decision-making framework for the sub-region based on risk analysis; and,
- offer advice on mitigations to be applied on a sub-regional basis to alleviate any potential cumulative effects.

This work was commissioned to increase the efficiency of the EA process by providing a resource for the developer and other parties. The report was intended to aid parties in generating their own evidence based on a regional perspective.

The Review Board directed the consultant to finalize suitable boundaries based upon the cumulative effects research. The CE Study was managed openly. All draft and final versions of the report were distributed unchanged by the Review Board and staff, to ensure the independence of the work.

By the time of its completion the CE Study, the report had been reviewed three times. Drafts were distributed on September 5 and 16, 2003. The final version of the CE Study was released on September 26, 2003.

Developer's Statement on Cumulative Effects

The developer was invited to make a submission in response to the Gartner Lee Ltd (GLL) CE Study that would serve as its submission about the predicted cumulative effects. To ensure the developer's submission was adequately focused, the Review Board provided a series of questions for the Developer to answer, in correspondence dated October 8, 2003 (PR #194). The developer's statement was distributed to the parties for comment.

Participant Comment Phase for the CE Study and the Developer's Response

The Review Board staff, with assistance from the parties, analyzed the CE Study. The draft CE Study Report, exclusive of conclusions, was distributed on September 5, 2003 with a subsequent revision circulated on September 16, 2003. The draft report was distributed to verify the inputs to the decision model. External verification of model inputs by the parties (i.e., definition of boundaries, selection of VCs, etc.) was intended to give the Review Board some assurance of the quality of impact analyses and predictions. YKDFN, NSMA, DFO, INAC and RWED provided comments.⁹

All comments, about the draft CE Study were circulated and placed on the public registry. GLL was asked to finalize the CE Study report. Wherever possible, the comments of the parties were addressed in the final refinement of the CE Study.

⁹ Some literature and databases could only be accessed and used with permission (i.e., Values at Risk database housed at RWED), and permission was not granted.



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The most common comments on the draft CE Study report were:

- The temporal boundaries were too narrowly defined to consider full-scale mine development. Mine development was viewed as speculative given the preliminary nature of the programs proposed and on this basis was excluded.
- The spatial boundaries did not reflect the dynamics of the VCs. Some parties also thought the area should be expanded to include the Slave Geological Province to consider operating diamond mines, such as Diavik and BHP. This was deemed too broad given the nature of the proposed exploration programs.
- The TK was underrepresented. Primary TK research was not included in the CE Study but all registered Aboriginal parties were invited to provide information¹⁰. NWT Métis compiled their TK but did not submit it for the CE Study. YKDFN and NSMA provided information but confidentiality concerns limited the extent to which this TK could be used and shared. NSMA eventually withdrew their information.
- The land use information appeared inaccurate and incomplete. Several critical data sources were identified that appeared not to have been consulted (i.e., Dene Mapping Project, Land Use Inspector's Reports, etc.).

The final version of the CE Study was released on September 26, 2003. The developer was asked to prepare a response to the CE Study. This response was circulated on October 8, 2003.

There were no detailed comments from the parties about the developer's statement but several parties provided extensive comments on the final CE Study report. GLL then prepared a response to all comments received. This document was distributed and filed on the public registry on November 6, 2003 (PR #220).

Pre-Hearing Conference

A pre-hearing conference was held by Review Board staff and legal counsel on November 4, 2003 in Yellowknife. The public were notified via public radio and newspaper announcements. Parties to the EA and the public were invited to attend.

The pre-hearing conference was devoted to a discussion of the hearing process and procedures, and setting a day-by-day draft agenda for the public hearing. Comments compiled during this process were used as a basis for expanding opportunities for presentations by Elders and other community members.

¹⁰ The EA process did not prevent parties from presenting TK information independently as the YKDFN did. Parties also had the opportunity to present TK in oral testimony at the public hearing.



Public Hearing

A public hearing (for this EA and two EAs for other diamond explorations in the area) was held November 25-26, 2003 in Yellowknife. The public was notified of the Public Hearing by means of public radio announcements and newspaper ads. The principal goal of the Public Hearing was to allow the public an opportunity to hear and participate in a discussion of technical issues unresolved during the EA Process leading up to the Public Hearing, and to enable members of the public to speak to issues they perceived to be of importance.

Presentations were made by the developer, GLL, and all other parties to the EA. All other parties to the EA also had the opportunity to question other parties to the EA. The scope of the hearing addressed the direct and indirect impacts highlighted by the parties.

EA Decision

The Review Board will provide the Minister of INAC and the designated regulatory authority (the MVLWB) with its *Report of Environmental Assessment* as per section 128(2) of the *MVRMA*. The Minister of INAC will distribute the report to every responsible minister as per 128(2)(a) of the *MVRMA*. The developer and the other parties will also receive copies of the *Report of Environmental Assessment*.

2.3. Determinations of Significance

Section 128 of the *MVRMA* requires the Review Board to decide, in its opinion, based on all the evidence on the public record, whether or not the proposed development will likely have a significant adverse impact on the environment or be a cause for significant public concern. These conclusions are contained in this *Report of Environmental Assessment*.

The parties to the EA were asked to assist the Review Board by providing the basis for their conclusions about the significance of the potential impacts of the development. The Review Board asked the parties to identify the expertise applied and, if possible, the source of the information used as a basis for their conclusions. Ultimately, however, the Review Board is required by law to make its determination on the question of impact significance. In so doing, the Review Board considers the following characteristics of any impacts identified:

- Magnitude;
- Geographic extent;
- Frequency;
- Nature of the impact;



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- Timing;
- Duration;
- Irreversibility of the impact;
- Probability of occurrence; and,
- Predictive confidence level.

If the evidence on the public record raises issues of public concern, the Review Board evaluates that evidence both in its own right and in light of any determinations made about the significance of the impacts caused by the development. Significant public concern is also a test under which the Review Board could refer the development to environmental impact review (EIR).

The Review Board's analysis and the reasons for its determination of the significance of the impacts which are likely to result from the NSV development are described in details in sections 3.0 Public Concern and 4.0 Impact on the Environment.

2.4. Scope of the Proceeding

2.4.1. *Scope of the Proposed Development*

The scope of the development includes the elements of the proposed development that will be considered in the EA. The scope of development takes into account both principal and accessory development activities.

In this case, there were discrepancies between the initial land use permit application and the subsequent submissions by the developer. Inconsistencies were also noted in the DAR. At the public hearing, the developer acknowledged the discrepancies, stating,

"[I]ndeed, yes, in the land use application there were a number of more drill holes plotted than probably what was shown on the DAR. And I think the DAR was probably prepared for the purposes of this hearing and in the example of the land use permit application... I mean some of those holes could have possibly been planned for four (4) years down the road. [...]"

- Max Braden, NSV (Public Hearing Transcript (177:17-25), November 25, 2003, PR #254)

The scope of the development for this EA was limited to the description presented in the DAR and the developer's presentation at the public hearing, as amended in response to the questions of the Review Board and parties. The scope of the development assessed determines the activities which can be undertaken pursuant to any



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subsequent land use permit and these may not exceed the scope of the EA without the need for further preliminary screening.

Based on the developer's evidence, the Review Board identified the principal development activities to be:¹¹

- Drilling mainly along lake shore at Drybones Bay with additional drilling inland, if required;
- Line clearing for geophysical surveys and to access inland drill sites; and
- Drill cuttings disposed of in natural depression¹².

Additional developments and activities are:

- Previously permitted camp;
- Incineration of garbage or disposal to Yellowknife;¹³
- Latrine pit and grey water sump; and
- Fuel supply and transfer.

2.4.2. *Scope of the Environmental Assessment*

The scope of assessment covers the components of the environment that will be evaluated for impacts from the proposed development. In determining the scope of assessment, the Review Board was conscious of its obligation under subsection 117(2) of the *MVRMA* to consider:

- the impact of the development on the environment including the impacts of malfunctions or accidents;
- any cumulative effects that are likely to result from the development in combination with other developments; and,
- comments submitted by members of the public.

After considering the relevant information available in the public record, the Review Board decided on the scope of assessment. The scope of the assessment focused on

¹¹ This represents a reduction in the scope of development described in the land use permit application and therefore was *not* assessed. Activities not reflected in the DAR include "airborne and ground geophysical surveys, including line cutting for surveys where necessary; and rock and till sampling". Neither of these items is therefore assessed by the developer. "Line clearing for geophysical surveys and to access inland drill sites" is mentioned in the DAR but is not explicitly assessed. (Refer to PR # 2 and PR #102)

¹² As per DAR, disposal of cuttings from lake-based programs will now be disposed of in Yellowknife, with cuttings from land-based drilling programs being disposed of in a natural depression (PR #102).

¹³ Incineration was mentioned in the land use permit application but has not been addressed in the DAR and therefore has not been assessed. (Refer to PR # 2 and PR #102)



the potential impacts of the proposed development on subsistence and traditional land use, fish and wildlife resources, cultural and heritage resources, and cumulative effects.¹⁴ In the case of cumulative effects, the developer was asked to prepare a response to the CE Study in consideration of all the comments received by other parties.

2.5. Process Issues

2.5.1. *Community Engagement*

The Review Board encourages community engagement in its EA process. The Review Board believes that through effective community engagement, a developer can build constructive relationships with communities, create a better program design through the incorporation of TK, and address public concerns on the basis of mutual understanding. These are just some of the reasons that developers should involve the affected communities in the development of their DAR and throughout the EA process.

Community engagement should begin before the preliminary screening. During preliminary screening, NSV's strategy was to engage the communities identified by the MVLWB. Communities were contacted by letter, and follow up phone calls. A community meeting organized and hosted by YKDFN on April 3, 2003 was attended by the developer.¹⁵ This meeting to discuss development in the Wool and Drybones Bay areas gave the developer an opportunity to introduce their proposed project, and to begin to understand community concerns.

The NSV development was subsequently referred to EA. The DAR and other documents on the public record shows no further evidence of community engagement after the referral, despite ongoing encouragement from Board staff to work with the parties to identify and address concerns (PR #77, and 211). On September 2, 2003, YKDFN expressed concern about the commitment of the developer to consult (PR

¹⁴ The semi-permanent camp mentioned in the land use permit application and the DAR has been excluded, except as it pertains to cumulative effects since it is already permitted.

¹⁵ See comments of Louie Azzolini, Consultant to YKDFN, Public Hearing Transcript (57:2-14), November 25, 2003, PR #254.



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#109).¹⁶ It does not appear that this concern was resolved before the public hearing. The developer did however attempt to respond to concern raised by DFO.¹⁷

The value of meaningful consultation was highlighted at the public hearing by questions from the YKDFN. They sought undertakings from the developer to consult with them before commencing the development. The developer, however, felt it had already addressed these concerns, so YKDFN withdrew the request for undertakings given their view that the developer was not interested in engaging their communities (Public Hearing Transcript (5:16-6:6), November 26, 2003, PR #255).

Direct communications in the less formal setting outside a hearing might have led to the resolution of these issues without prompting similar concerns among other parties. The NWT Métis also expressed dissatisfaction with in the developer's response saying,

"When an aboriginal government asks, and submits the public registry using the Board's rules and procedures and looking for answers, I think it's very important for the developers not to give us such a smug answer that, you know, we've answered it in so many ways, to so many different parties. But, you know, when Yellowknives Dene have taken time and effort to put these questions on the public registry and I believe they should be answered"

- Jason LePine, President NWT Métis (Public Hearing Transcript (166:11-19), November 25, 2003, PR #254)

Nevertheless, the developer appeared to view the EA process as consultation¹⁸. This is illustrated by the developer's statement,

"[W]e're just going through the review process [...] there's nothing to consult with [...] you've had your input, we've had [...] input [...] in consultation through the MVEIRB."

- Laurence Stephensen, CGV and NSV (Public Hearing Transcript (24:23-25:1), November 25, 2003, PR #254)

¹⁶ YKDFN's *Review and Comments on the New Shoshoni Ventures Ltd., Consolidated GoldWin Ventures Inc. and North American General Resources Corporation Developer's Assessment Reports* claims that the "consultation information is inaccurate" (p.8) and that "Consolidated does not demonstrate the willingness or capacity necessary to undertake its proposed development in a manner that protects the environment, the public interest, or Aboriginal people" (p.9). Reaffirmed by NSMA, NWT Métis, LKDFN and DKFN at the Public Hearing on November 25, 2003 (Public Hearing Transcript, PR #254)

¹⁷ Refer to PR #119, 161, 166-172.

¹⁸ "[W]e're just going through the review process [...] there's nothing to consult with [...] you've had your input, we've had [...] input [...] in consultation through the MVEIRB[.]" (Laurence Stephensen, Public Hearing Transcript (24:1-25:1), November 25, 2003 (PR# 254))



The developer stated that “New Shoshoni has no disagreement with working together with the First Nations in a mutual, respectful arrangement” (Laurence Stephensen, Public Hearing Transcript (137:19-21), November 25, 2003, PR #254). No details of a community engagement plan were filed on the public record.

The Review Board believes that the adequacy and effectiveness of community engagement depends on the relationship between the developer and the parties, especially Aboriginal communities. Both the developer and the parties are responsible for effective community engagement - the developer by reaching out and the community by responding¹⁹. The Review Board can encourage community engagement and can confirm the efforts of the parties but cannot dictate how this engagement must occur. Unfortunately, in this case, it appears to the Review Board that the developer did not engage all Aboriginal parties as effectively as it could have.

2.5.2. *Consultation*

During the course of the EA, the issue of “consultation” was raised on several occasions. Various parties, including YKDFN, LKDFN, and NSMA, as well as representatives of the federal and responsible Ministers commented on the connection between the Review Board’s EA process and the “duty to consult” as framed by the courts in cases involving the infringement of Aboriginal rights.

YKDFN wrote to the Review Board on July 31, 2003 (PR #100). This letter referred to correspondence from Honorable Robert D. Nault, Minister of INAC, dated June 30, 2003, that clearly stated that “the MVLWB, together with the MVEIRB, are the primary vehicles for effective environmental assessment consultation with First Nations that may be affected by a proposed development” (as cited by YKDFN, July 31, 2003, PR #100).

At the hearing, the NSMA raised concerns about whether consultation through the EA process could fulfill fiduciary obligations based on lower court and Supreme Court decisions, including:

“Consultation must involve substantially addressing the concerns of the North Slave Métis and also providing sufficient information for the North Slave Métis to make informed decisions about the impacts of these proposed developments on our peoples, in our land use activities, and our culture.”

- Mark Stevensen, Consultant to NSMA (Public Hearing Transcripts (29:1-13), November 25, 2003, PR #254)

¹⁹ Required under section 3.1 (b) of the *Interim Measures Agreement between the Akaitcho Territory Dene First Nations and the Government of Canada*, although the applicable schedule is not yet complete.



Many of the parties to this EA were not clear about the respective roles and obligations of government, the developer and the Review Board in the consultation process. As a result, it is necessary, in the Review Board's view, to revisit this matter in this report of EA.²⁰

The Crown has a fiduciary obligation to consult with Aboriginal groups whose rights may be infringed by activities authorized by government. A number of cases decided by the Supreme Court of Canada support this assertion. The "duty to consult" can vest in either the federal or provincial governments, depending on the nature of the approval being given. By extension, in appropriate circumstances, this duty could also vest in the GNWT. INAC's correspondence to the YKDFN suggests that the government's duty to consult with Aboriginal groups whose rights might be infringed upon by regulatory approvals can be achieved, at least in part, through the environmental impact assessment process.

There is, to the Review Board's knowledge, no case law to support the position set out by the Minister of INAC and his officials about the role of the Review Board's EA process in Crown consultation. It is our understanding, as set out in the *De Beers Snap Lake Diamond Project Environmental Assessment Report* that the only case law available indicates that an EA process by itself is not sufficient to discharge the Crown's responsibility.

Neither officials of INAC or of any other federal or territorial department have addressed the Review Board about the role of the *MVRMA's* part 5 process in satisfying the Crown's duty to consult. To the best of the Review Board's knowledge, none of these departments has a formal policy or procedures outlining their approach to Crown consultation. The absence of such a framework complicates the Review Board's proceedings and also makes the boundaries of the community engagement obligations vested in private developers difficult to determine. The end result is confusion and ongoing difficulties for Review Board processes.

The Review Board notes the recent pilot study initiated by Natural Resources Canada (NRCan) and the National Energy Board (NEB) and involving INAC and DFO, south of 60, on the development of consultation techniques for NEB regulated energy projects.²¹ North of 60, where a larger proportion of the population exercises Aboriginal rights, government departments have not initiated a similar effort.

²⁰ The Review Board has already expressed its opinion on its role in the Crown's consultation process. See for example pages 18 to 20 in the Report of Environmental Assessment and Reasons for Decision on the DeBeers Canada Mining Inc. Snap Lake Diamond Project.

²¹ The *Development of a Crown Consultation Model for NEB-Regulated Projects Discussion Paper* was circulated for comment in December 2003 by NRCan and INAC.



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The federal Minister's expectations are about the role of "environmental assessment consultation" in the consultation required of the Crown when the infringement of Aboriginal rights may result from a development are not clear. In the case of the *Mikisew Cree First Nation*²², the Federal Court noted that the duty to consult was a positive one that may vary depending on the circumstances and the nature of the potential infringement. The Board cites *Mikisew* because the case dealt with consultation issues in the context of a screening under the *Canadian Environmental Assessment Act (CEAA)*. The question of whether First Nation consultation had to be "separate and distinct" from the process offered to other stakeholders was considered. The court held that merely involving the First Nation in the consultation of the general public during the screening was not sufficient. *Mikisew* has been appealed but the appeal of this decision has not yet been decided. Nevertheless, the Board notes that statements that its EA process is somehow a component of, or may be in satisfaction of the Crown's duty to consult, are not consistent with this decision. Not at least, without some additional consultation efforts by the actual decision-makers.

Furthermore, the assertion that the EA process is part of government consultation could confuse the adjudicative functions of the Review Board in the environmental impact assessment process with the fiduciary relationship between the Crown and Aboriginal rights holders. The comments of YKDFN and NSMA, based on the federal Minister's correspondence, reflect the view that the Review Board plays an instrumental role in the Crown's consultation process.

The Review Board does not have a direct role in the Crown's consultation process. The Review Board must be fair to the parties which participate in its proceedings. The issue of the role of administrative tribunals in the consultation process was considered by the Supreme Court of Canada in *Quebec*.²³ In that case the suggestion that the NEB had a fiduciary obligation to the Cree while also fulfilling an adjudicative function was refuted by the Supreme Court of Canada.

The Review Board holds the view that it cannot play a direct role in the consultation process arising from the Crown's fiduciary duties. The Review Board must be fair, independent and ensure a complete environmental impact assessment process by thorough public and community engagement in its proceedings. Consultation, if required, is the Crown's responsibility. Government departments are, of course, free to choose to wait until after an EA process is complete before determining and acting on their duty to consult. Ultimately, however, this obligation will have to be honoured.

²² *Mikisew Cree First Nation v. Sheila Copps, Minister of Canadian Heritage and the Thebacha Road Society*, 2001 FCT 1426.

²³ *Attorney General v. Canada (National Energy Board)*, [1994] 1 SCR 159.



In order to address this recurring issue and to address the process difficulties resulting from confusion over roles in the consultation process, the Board suggests that:

- S1. Indian and Northern Affairs Canada (INAC), Environment Canada (EC), Fisheries and Oceans Canada (DFO) and the Government of the Northwest Territories (GNWT) should design and test a model for Crown consultation with Aboriginal rights holders for developments in the Mackenzie Valley at the earliest possible date.**

2.5.3 *Roles and Responsibilities*

The NSV EA process was designed to reduce the burden on the parties given that all the proposed developments in the Wool and Drybones Bay area would have to be assessed individually even though the environmental setting and other factors for the proposed developments in the Wool and Drybones Bay area were similar. This similarity warranted and made possible a combined EA process. Several parties expressed concern that the combined process resulted in a change to the roles and responsibilities of the parties and the Review Board regarding submission of evidence in the proceeding.

For clarity, the Board has made its decisions about the significance of potential adverse environmental impacts and public concern by evaluating the evidence in each individual case. The Review Board kept separate records for each of these EAs and has evaluated the development proposed by NSV on its individual merits.

The Review Board engaged consultants to address cumulative effects issues in this instance on behalf of all participants. The consultant did not advise the Board directly at any time. Rather it produced a report which was made available to the parties for their use in addressing cumulative effects. This initiative was taken by the Review Board in light of the small size of the NSV development and the very small size of the CGV and NAGRC projects as well. This was a discretionary decision made by the Board to facilitate the review process in these EAs. As a general rule, the Review Board has no role in generating the evidence in its proceedings.

The parties and the developer provide evidence for consideration by the Board. The onus is on those submitting evidence to convince the Board of their position as described under Rule 18 of the *Rules of Procedure* that states,

Any party or member of the public has the responsibility of introducing information or evidence to support their position. Any party or member of the



public seeking to convince the Review Board of any point or position during a proceeding bears the burden of proof in so doing.

The evidence submitted by the parties is judged according to the reliability of the information, its relevance to the environmental setting and the issues in the EA, the logic and clarity of the arguments, and other criteria, as appropriate. The Review Board gives whatever weight is appropriate to the evidence submitted by the parties. In the end, the onus lies on the developer to convince the Review Board that the proposed development can go forward and that it will not cause significant adverse environmental impacts or significant public concern.

2.5.4 *Participant Funding*

Throughout the EA process, there were indications that capacity limitations were affecting the participation of Aboriginal parties in this proceeding. NSMA and LKDFN emphasized the challenges to participate in the EA process due to the lack of capacity in the absence of participant funding in several instances:

“[T]he level of technical research that's required to digest and understand the scope of the environmental and cultural impacts of this project is well beyond the capacity of our organization.”

- Kris Johnson, NSMA, Public Hearing Transcript (191:3-6), November 26, 2003, PR #255)

“As with other Aboriginal parties to these EAs, we severely lack the personnel and financial resources to adequately respond to these reports, especially within the unreasonable time limitations imposed. We have had very little time to gather relevant information and conduct research, especially over the extremely busy summer months when many of our community members are otherwise engaged in cultural and subsistence activities on the land.”

- Monica Krieger, LKDFN (Fax of November 3, 2003, PR #221)



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"I'm sure all the aboriginal governments here would agree that it's pretty hard to do one of these, for most part we're under funded and understaffed when it comes to having to deal with environmental assessments in our territories."

- Jason LePine, NWT Métis (Public Hearing Transcript (165:24-166:3), November 25, 2003, PR #254)

YKDFN re-organized its resources, obtained funding and hired consultants to help with a rapid cultural and social impact assessment. The work of the YKDFN was commendable and clearly shows how funding to support the efforts of the parties can enhance the quality of evidence submitted in a proceeding. Nevertheless, YKDFN has also noted the strain of participating in the EA process.²⁴

The Board recognizes the value and importance of the participation of Aboriginal groups and non-government organizations in the EA process and their contributions to the Board's decision. This is particularly noteworthy for EAs of proposed developments where the determination of significance must rely on TK. In these instances, the only way to ensure a quality EA is to provide the resources to allow the parties to conduct the preparatory work needed to participate effectively.

Under the *MVRMA*, there is no mechanism to provide participant funding at the EA level. Only when a project is referred to an environmental impact review (EIR) can the authorities take steps to secure participant funding. The Review Board has not conducted an EIR in the five years since the Act was called into force. Even in the case of an EIR, participant funding under the *MVRMA* would be established on a case-by-case basis. The additional funding would be negotiated for both the EIR process and participant funding, with INAC.

If participant funding were made available as part of a Board EA or EIR proceeding, arrangements would have to be made for an independent third party to make decisions about the distribution of the funds. Given the Board's obligation to be fair in its EA processes, it could not take responsibility for decisions about participant funding. Arm's length arrangements such as this are in place for panels created under *CEAA*.

Arrangements were originally made for participant funding in EIRs under the *MVRMA* because they are the equivalent to panel reviews under the *CEAA*. However, the Review Board has held hearings on several major projects, including the DeBeers Snap

²⁴ Rachel Crapeau expresses this challenge in saying, "[A] lot of our people don't really understand how many meetings we attend and how many times we have to speak on behalf of our people" (Public Hearing Transcript (268:2-4), November 26, 2003, PR #255).



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Lake Diamond Project, without an EIR, by setting out an EA process which includes public hearings.

Recent amendments to *CEAA* have been made to provide intervenor funding for Comprehensive Studies. As of October 30, 2003, the Canadian Environmental Assessment Agency expanded its participant funding program to facilitate public participation in Comprehensive Studies. This means that Aboriginal groups and NGOs in the south or the Inuvialuit Settlement Region can now receive participant funding for Comprehensive Study processes as well as panel proceedings. Residents of the Mackenzie Valley do not have the same opportunities despite the importance of their participation role in the part 5 process, their valuable contributions to Review Board proceedings and the clear capacity pressures they are experiencing.

Participant funding should be provided in appropriate cases where broad participation may be integral to an EA decision. The EA is the closest equivalent under the *MVRMA* to a Comprehensive Study under *CEAA*.

The Board recognizes that some delays were necessary in this EA process in order to accommodate Aboriginal organizations as a result of their limited available human resources. Had participant funding been available, communities could have hired additional assistance and a more timely EA process would have been possible. Delays due to inadequate resourcing of Aboriginal organizations during EA processes are likely to continue to occur unless a more comprehensive participant funding mechanism is established for the Mackenzie Valley.

These capacity issues outlined above limit the ability of the Board to meet its statutory obligations “to ensure that the concerns of aboriginal people and the general public are taken into account” (*MVRMA*, section 114(c)) and for the protection of the “environment” and “social, cultural and economic well-being of residents and communities in the Mackenzie Valley” (*MVRMA*, section 115(a) and (b)).

The Review Board has commented on the need for participant funding in previous *Reports of Environmental Assessment*.²⁵ Recent changes to participant funding under the *CEAA* may place northerners at a disadvantage relative to participants in federal EA processes elsewhere. Northerners should not be treated as second class citizens. The Review Board therefore suggests:

²⁵ Refer to section 1.5.3, p. 21 of *Report of Environmental Assessment and Reasons for Decision on the DeBeers Canada Mining Inc. Snap Lake Diamond Project*.



S2. The Government of Canada should at an early date develop and institute a method to provide participant funding at the EA level under the *MVRMA* to be equivalent to the Comprehensive Study Review funding practices under *CEAA*.

2.5.5 Adequacy and Quality of Submissions

YKDFN, NSMA, LKDFN and DFO made comments about the technical adequacy and quality of the DAR. A Request for Ruling about the conformity, completeness and technical adequacy of the DAR was submitted by the YKDFN on September 2, 2003. The Review Board, in correspondence dated October 8, 2003, described its conclusion that the DAR was in conformity based on the developer having “provided evidence in response to all items set out in the Terms of Reference” (PR #193). The Review Board declined to rule on the technical adequacy of the DAR because it recognized that additional submissions by the developer and parties prior to the public hearing would provide more technical evidence and address technical issues over the course of the EA process (PR #193).

At the public hearing, the YKDFN expressed concern that the Review Board had set a new standard of DAR acceptability, stating “The assessment reports simply do not meet the minimum professional requirements necessary for such documents and I hope that they are not a new standard the Review Board is setting for its future assessment reports.” (Rachel Crapeau, YKDFN, Public Hearing Transcript (274:5-8), November 26, 2003, PR #255). This concern was shared by other parties. Some parties, including the NSMA, even suggested that the NSV development should undergo the same level of scrutiny as a producing diamond mine.

The Review Board does not agree. Each development must be assessed on its own merits. The evidence provided by NSV clearly indicated that there was no guarantee that further exploration would take place. NSV’s future plans are dependent on the drill results. In the Review Board’s opinion, this is reasonable approach to the assessment since future development applications will also be subject to the EIA process. Further, the Review Board does not believe that there is a uniform standard of analysis applicable to all developments.

The rigor and level of effort in an EA must be driven by the nature of the issues, consideration of the scale of the development, the location of the development, and the nature of the activity proposed. The evidence submitted by a developer should also be consistent with the nature of the application and the reason for referral.

Small-scale, short-duration projects with little to no physical infrastructure that are referred on the basis of public concern should not be expected to fulfill the same



requirements as a multi-year development with new construction for access, processing, storage, waste management and camp facilities. The level of effort in an EA should match the level of risk associated with the project. A project with the technical complexity of a producing diamond mine, such as the DeBeers Snap Lake Diamond Project, may require workshops, site visits, and hearings, but a diamond exploration program, such as that proposed by NSV, should not be expected to adopt the same process. EA must be a flexible tool and in the end, the onus is on the developer to prove there will be no significant adverse effect to the environment.

Given unique requirements for addressing public concern under the *MVRMA*, however, adjustments in the EA process must be made for developments referred due to public concern. In these instances, the public concern requires greater effort with respect to community engagement and consultation. The substantive content of the DAR may not change beyond the documentation of efforts to work with affected communities, consult, identify issues, and resolve disputes.

2.6. Proposed Recommendations, and Suggestions

Legal consequences flow from the Review Board's determinations. Where the Review Board determines that a significant adverse impact on the environment is likely or that mitigative or remedial measures are required to prevent a significant adverse impact on the environment, it may make recommendations for consideration by the federal and responsible Ministers. This authority is based on section 128 of the *MVRMA* and provisions in the Gwich'in and Sahtu Dene and Métis Comprehensive Land Claim Agreements. If the federal and responsible Ministers accept the Review Board's recommendations, "a first nation, local government, regulatory authority or department or agency of the federal or territorial government affected by a decision made under this section shall act in conformity with the decision to the extent of its authority" (*MVRMA*, subsection 130(5)).

During the EA, the Review Board can consider the effects of a development in light of government activities, policies and operations. The Board also considers the development in relation to other developments. Even where significant adverse environmental impacts are not identified, the EA process may result in insights about the development, the development process, or the potential response to the development by government agencies and others. In such instances, the Review Board may make non-binding suggestions to government and other authorities. These suggestions are intended to help government and others affected to encourage a more comprehensive response to the development. Implementation of suggestions is not mandatory even if the federal and responsible Ministers accept this *Report of Environmental Assessment*.



The Review Board's legal authority to make recommendations to mitigate the impacts of the proposed development is based on the *MVRMA* and on the language of subsections 24 and 25, respectively, of the *Gwich'in and Sahtu Dene and Métis Comprehensive Land Claim Agreements*. The Board's interpretation of these authorities is set out below. Subsection 128(1) of the *MVRMA* outlines the Review Board's options upon completion of an EA as follows:

- 128. (1) On completing an environmental assessment of a proposal for a development, the Review Board shall,*
- (a) where the development is not likely in its opinion to have any significant adverse impact on the environment or to be a cause of significant public concern, determine that an environmental impact review of the proposal need not be conducted;*
 - (b) where the development is likely in its opinion to have a significant adverse impact on the environment,*
 - (i) order that an environmental impact review of the proposal be conducted, subject to paragraph 130(1)(c), or*
 - (ii) recommend that the approval of the proposal be made subject to the imposition of such measures as it considers necessary to prevent the significant adverse impact;*
 - (c) where the development is likely in its opinion to be a cause of significant public concern, order that an environmental impact review of the proposal be conducted, subject to paragraph 130(1)(c); and*
 - (d) where the development is likely in its opinion to cause an adverse impact on the environment so significant that it cannot be justified, recommend that the proposal be rejected without an environmental impact review.*

The Review Board's authority to make recommendations arises in the context of subparagraph 128(1)(b)(ii) of the Act. A reading of paragraph (b) and subparagraph (ii) indicates that the Review Board has the authority to recommend measures to mitigate impacts when the Board has found a significant adverse environmental impact.

The language in these provisions also seems to require that any recommendations made must be directly linked to the finding of a significant adverse environmental impact. A strict interpretation of this paragraph could prevent the Review Board from recommending measures to prevent adverse environmental impacts from becoming significant. In other words, a strict reading of paragraph 128(1)(b) and subparagraph (ii) could arguably indicate that if an adverse environmental impact is not already significant



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then the Review Board has no authority to recommend measures to reduce or prevent a significant adverse impact (this is called the “restrictive interpretation” below). This result is not consistent with good EA practice.

One of the important benefits of an EA is the opportunity to minimize all identified adverse impacts through the imposition of mitigative measures. Consequently, the Review Board has adopted a more remedial interpretation of 128(1)(b). This interpretation is in keeping with the overall purpose of *MVRMA* and the land claims upon which the Act is based. There is clear authority for such an interpretation of paragraph 128(1)(b) and subparagraph (ii). The Board’s reasons are outlined below.

Any measures recommended by the Review Board under paragraph 128(1)(b) are considered by the federal and responsible Ministers under paragraph 130(1)(b) of the *MVRMA*. If the recommended measures are adopted, they must be carried out by responsible Ministers to the extent of their jurisdiction under subsection 130(5) and by the Land and Water Boards under section 62. The EA process is linked to the regulatory process and adopted by the appropriate decision-makers must be carried out by regulatory authorities. The result is the “integrated system of land and water management” referred to in the long title of the *MVRMA* and required by the Gwich’in and Sahtu land claims.

The interpretation of paragraph 128(1)(b) will determine whether the Review Board has the authority to recommend measures to mitigate any adverse environmental impacts which might become significant, or only those which have already been determined to be significant. This distinction is important and strikes at the heart of the EA process under the *MVRMA*. If the restrictive interpretation prevailed, the EA process may fail to achieve these statutory goals expressed in section 115 of the *MVRMA*. This section speaks to the need to protect the environment and the social, economic and cultural wellbeing of residents of the Mackenzie Valley. The Review Board’s view is that ignoring evidence of adverse impacts which can be mitigated because the impacts are not yet significant is not consistent with the *MVRMA* or with the Review Board’s duty to protect the environment. The Review Board has considered this issue and has decided that it has the authority to recommend measures to reduce the effect of a significant adverse environmental impact below the level of significance and measures to prevent an adverse environmental impact from becoming significant.

The authority for this interpretation is based in section 24.3.5 (a) of the *Gwich’in Comprehensive Land Claim Agreement* and in section 25.3.5 (a) of the *Sahtu Dene and Metis Comprehensive Land Claim Agreement*. These sections are identical so the relevant portion of Sahtu claim only is reflected below:

25.3.5 (a) subject to 25.3.3(a), a development proposal shall be assessed by the Review Board in order to determine whether the proposed development will be



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likely to have a significant adverse impact on the environment or will likely be a cause of significant public concern. In making its determination the Review Board may consider terms and conditions to the proposed development which would prevent significant adverse impact on the environment and may recommend the imposition of such terms and conditions to the Minister. Such terms and conditions shall be subject to review pursuant to 25.3.14.

This provision clearly intended that the Review Board be able to recommend terms and conditions (measures) to the Minister to “prevent significant adverse impact on the environment”. This authority goes beyond the restrictive interpretation of paragraph 128(1)(b) discussed above. It does not require that an impact already be determined to be significant before the Review Board can recommend measures. Instead the Review Board can recommend measures to prevent an impact which is not yet significant from becoming so.

In this regard, the restrictive interpretation of paragraph 128(1)(b) of the MVRMA is not consistent with these paragraphs of the Gwich'in and Sahtu land claims. The Review Board is therefore of the view that the interpretation of paragraph 128(1) (b) should be more liberal in order to make it consistent with the land claims and with section 115 of the MVRMA as well.

Section 3.1.18 of the Sahtu land claim (3.1.19 of the Gwich'in claim) specifies that the Agreement may be used as an aid to interpretation where there is any doubt in respect of any legislation implementing the provisions of the Agreement. Section 3.1.22 of the Sahtu land claim (3.1.23 of the Gwich'in) and part 5 of the MVRMA specify that when there is an inconsistency or conflict between any law and a land claim agreement that the land claim agreement applies to the extent of the inconsistency or conflict. This legal hierarchy is clear. The land claim provisions are paramount. Consequently, the Review Board has the authority to recommend measures both to reduce significant adverse environmental impacts below the level of significance and to prevent adverse environmental impacts from becoming significant. This finding is in keeping with good EA practice and is consistent with both the Gwich'in and Sahtu land claims.



3. Public Concern

3.1. Approach

Public concern is not defined under the *MVRMA*. The *MVRMA* nevertheless requires the Review Board to consider public concern, and if a determination of significance is made under paragraph 128(1)(c), the Board must order an environmental impact review (EIR).

Under the *MVRMA*, no distinction is made between public concern expressed by Aboriginal people and the public. These concerns are given equal weight although the Board makes an effort to interpret the concerns of Aboriginal people in a culturally appropriate manner but within the legal context of the *MVRMA*.

The Review Board's approach to public concern includes consideration of the submissions of the parties to this environmental assessment (EA), analysis of public concern within the context of the *MVRMA*, and the Board's determination of the significance of public concern.

3.2. Submissions of the Parties

The Review Board has heard from many parties and from individuals, Elders and representatives of Aboriginal organizations about the importance of the Drybones and Wool Bay areas. As has been indicated above, this application was referred to EA by the MVLWB on the basis of public concern. There is no doubt, in the Review Board's opinion, that the evidence in this proceeding provides a firm foundation for the concerns expressed about these areas, particularly in relation to the possible effects of the proposed development on the cultural and heritage resources important to the YKDFN, NSMA, NWT Métis, LKDFN and DKFN.

3.3. Analysis

Part 5 of the *MVRMA* makes provision for the Review Board to address public concern which arises in the context of environmental impact assessment processes. When such evidence is heard in an EA, the Review Board must decide how to respond. This analysis explains the approach adopted by the Board to address the evidence of public concern heard in this proceeding.



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The *MVRMA* provides a legal framework within which public concern can contribute to the decision-making about developments in the Mackenzie Valley. It is necessary to examine the treatment of public concern through the environmental impact assessment process set out in part 5 of the *MVRMA* in order to determine the appropriate approach to a decision about public concern.

Preliminary screeners exercising their decision-making authority under paragraph 125(1)(a) of the *MVRMA* can make a referral to the Review Board if, in their opinion, the development might be a cause of public concern. That is what happened in the case of New Shoshoni Ventures. The test for public concern in paragraph 125(1)(a) is a low one. Unfortunately, the *MVRMA* does not give any direction to preliminary screeners or the Review Board about how to measure public concern. Since Parliament left the screening decision-makers with a subjective test and a low threshold for public concern, the Review Board then concludes that the EA process is intended to address any public concern which results in a referral from the preliminary screening stage.

The context in which public concern is raised in paragraph 125(1)(a), like the context in section 128(1), leads to the inference that the *MVRMA* is talking about public concern about the impacts on the environment that might result from a development. Part 5 is about environmental impact assessment and the process therein is directed at the identification and, if possible, mitigation of significant adverse environmental impacts. When the broad scope of the definition for the term “impact on the environment” in section 111 of the *MVRMA* is considered, it is clear that public concern about impacts on the environment can encompass a wide range of issues, including effects on the social and cultural environment and on heritage resources.

Paragraph 128(1)(c) of the Act continues the *MVRMA*’s focus on the theme of public concern and makes this matter a determinant in a decision of whether or not an Environmental Impact Review (EIR) should be ordered by the Review Board. There must however be “significant public concern” before the Review Board can exercise its discretion to order an EIR. This establishes a higher threshold before an EIR can be ordered on the basis of public concern.

Paragraph 117(2)(c) of the *MVRMA* requires the Review Board to consider the public’s comments on a proposed development. Thus, in the Review Board’s view, the statute anticipates that the EA process will address any public concern which led to a referral or arises during an EA process. The result is an EA process that includes a review, analysis and determination by the Board of public concern, as well as on the other factors set out in subsection 117(2).

Upon review of the statutory scheme, good environmental impact assessment process and on consideration of the evidence in this EA, it is clear to the Board that mitigation measures which will alleviate adverse environmental impacts should also alleviate



public concern about those impacts. Some of these measures and the community engagement process required by an EA may address public concern directly but the Review Board is also of the view that mitigation measures which reduce impacts on the environment will also reduce public concern.

If this mitigation is not possible or if the EA process brings further issues which cause concern to light and if the public concerns remaining at the end of the EA process are significant, then one possible outcome is a referral to EIR on the basis of significant public concern under paragraph 128(1)(c).

3.4. Conclusion

There were issues raised before the Board, which related to issues of EA process and the quality of the DAR. These concerns are categorically different than public concerns about the potentially adverse impacts on the environment considered in the EA. Process and other issues have been dealt with separately in part 2 of this report of EA. The Review Board is, however, not of the view that this kind of concern is relevant to a paragraph 128(1)(c) decision. In the Board's view, the significant public concern referred to in paragraph 128(1)(c) is concern about the effects of the project on the environment.

The Review Board's specific findings on public concern are set out in part 4 below.

4. Impact on the Environment

4.1. Review Board's Approach

4.1.1. Structure of Analysis

The impact analysis covers the biophysical environment and cultural landscapes. These topics are interrelated because cultural landscapes reflect the connection between Aboriginal people and the land based on beliefs, values, and customs (such as traditional uses like hunting, trapping, berry picking, and harvesting of medicinal plants). The analysis of topics below is organized under the following headings:

- Description of Issue;
- Summary of Developer's Submissions;
- Summary of Responses from the Parties; and,



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- Conclusions.

Project-specific and cumulative effects on the biophysical environment are discussed under section 4.3.1. Project-specific and cumulative effects are discussed for the cultural landscape under section 4.3.2.

4.1.2. *Issues Identification*

The Review Board's *Report of Environmental Assessment* is based on an analysis of issues raised through the Environmental Assessment (EA) process. The Board's approach to identifying the issues considered in this *Report of Environmental Assessment* follows.

A comprehensive listing of the issues was developed based on the evidence and comments submitted by the parties.

Some issues are not discussed in this *Report of Environmental Assessment*. Issues considered to be beyond the scope of the EA, resolved by the parties or during the EA process, or not requiring explanation or analysis in this *Report of Environmental Assessment* beyond listing in the summary of the issues are not discussed further below.

Some evidence or comments which were, in the Review Board's view, indicative of a larger issue are aggregated and considered jointly below (see for example, cultural landscapes). After the Review Board's analysis of the evidence, issues were placed into one or more of the following categories:

- the evidence indicated that the issue was resolved to the satisfaction of the developer and the parties to the EA or it was determined to have been resolved by the Review Board after reviewing all the evidence in this proceeding;
- the issue was not pursued or carried forward to the public hearing by the parties;
- the issue was carried forward to the public hearing along with a related issue;
- the issue was resolved by way of a commitment made by the developer;
- the issue was without foundation in the evidence on the public record; or
- the issue was not addressed and resolved by the developer or the parties.

The Review Board has narrowed its consideration of the issues for the purposes of this *Report of Environmental Assessment* to those matters which, in the Board's opinion, fall into the last category above or required additional discussion, analysis and, in some cases, action by Responsible Ministers. A summary of the issues raised in this EA process is provided in Appendix B.



4.1.3. *Developer's Commitments*

The developer made a series of mitigation commitments throughout the EA process. A table of these commitments has been compiled by the Review Board from a review of the public record. These commitments are presented in Appendix A.

The Review Board considered the developer's commitments in drawing its conclusions about environmental impacts and their significance, and in setting out its suggestions and recommendations. The Board's decision has been made on the assumption that the developer will fulfill all of its commitments. The Review Board's determination of impacts and the significance of those impacts depend on these commitments. A failure by the developer to fulfill these commitments would affect the determination of the significance of the adverse residual environmental impacts.

4.2. **Impact Study Areas**

The following describes the study areas defined or accepted by the developer for examining potential impacts on the environment from the proposed program.

The developer adopted a single local study area (LSA) and regional study area (RSA) irrespective of the environmental component analyzed. The LSA was defined as the area that may be directly disturbed by the physical operations of the development. The LSA was limited mainly to the footprint of drilling operations. The access road, although depicted in the maps of the proposed development was excluded from consideration in the assessment of impacts for several Valued Components (VCs).

The developer adopted the RSA from the Cumulative Effects Study (CE Study) as the basis for their statement of cumulative effects. This RSA was roughly based on a region of traditional land use, including 5 kilometres offshore to 10 kilometres inland from the community of Dettah to Matonnabee Point. The developer's response to the GLL CE Study and presentation at the public hearing did not contradict these boundaries although there was some concern that the spatial scope was so expansive that it would lead to delays.

The Board has not accepted the LSA and RSA used by the developer. The LSA and RSA do not encompass all possible impacts of the development to VCs. This is particularly noted for wildlife displacement by noise in the LSA, and for the effects which may result from enhanced access for traditional and other users due to winter road construction in the RSA.



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The LSA accepted by the Board includes the ice road, the drill sites and potential on land disposal locations for wastewater from drilling. The RSA adopted by the Review Board is focused on an area of intensive overlapping traditional use, based on the evidence provided by the Aboriginal parties. NSV did not identify any VCs for culture and so in order to meet its statutory obligation to consider impacts on the social and cultural environment, the Review Board had to set one. In the Board's view, there was a need for a larger RSA to accommodate cultural impacts. In the absence of comprehensive TK from all Aboriginal parties, the Review Board has relied heavily on the YKDFN's traditional use map and other reports as a basis for the bounding for the RSA. See Figure 3.



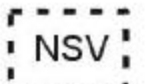




Figure 3:

Regional Study Area

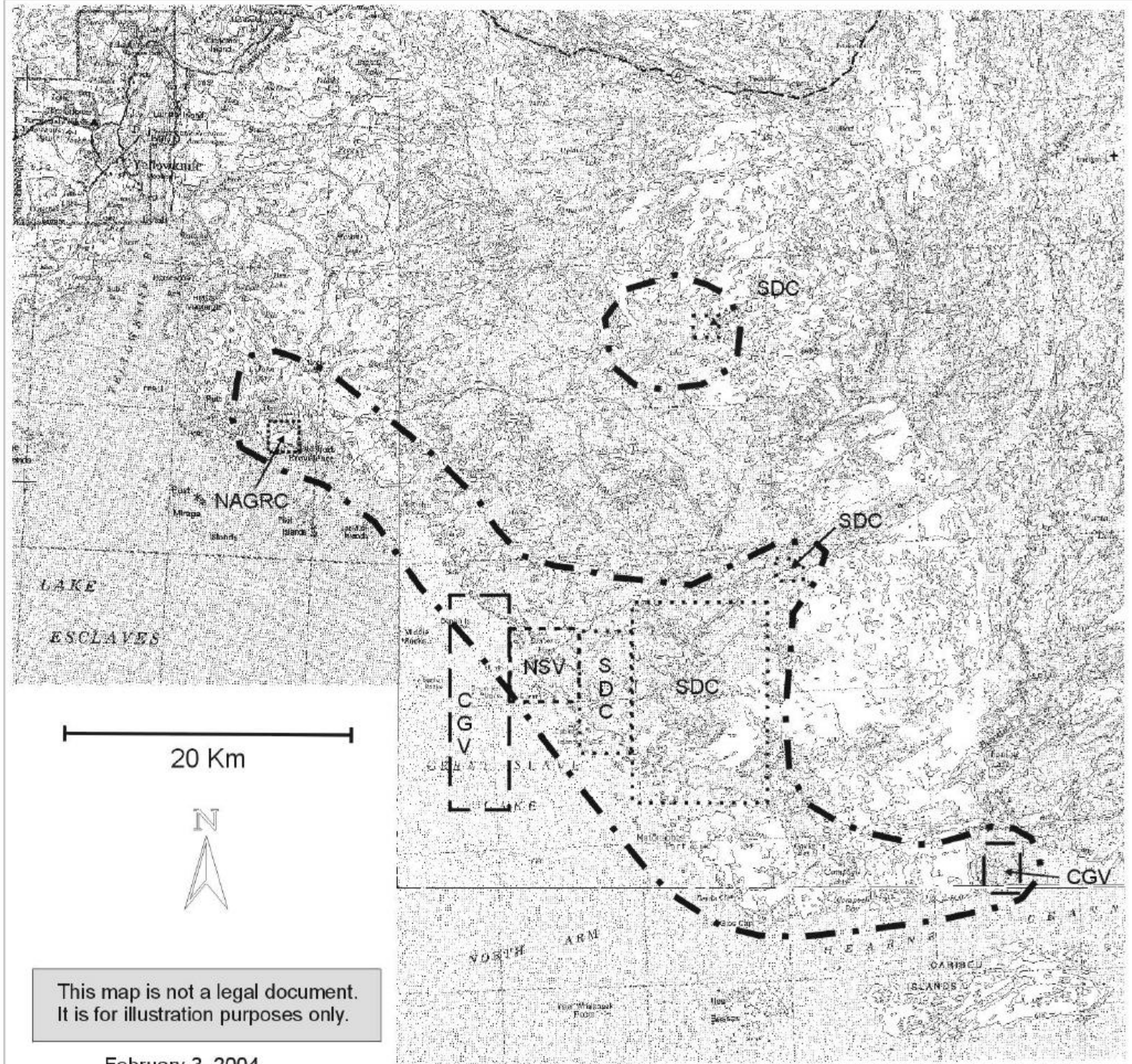
Drybones Bay / Wool Bay
Environmental Assessments

Legend

-  Approximate Boundary of Regional Study Area
-  SDC Approximate Location Snowfield Development
-  NSV Approximate Location New Shoshoni Ventures Development
-  CGV Approximate Location Consolidated Goldwin Ventures Development
-  NAGRC Approximate Location North American General Resources Development



Mackenzie Valley
Environmental Impact Review Board



This map is not a legal document.
It is for illustration purposes only.

February 3, 2004

4.3. Biophysical Environment

The Review Board has an obligation to make determinations of significance for impacts on the environment. Section 111 of the *MVRMA* defines impact on the environment as:

“any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.”

This part of the impact analysis focuses on the land, water, air or any other component of the environment as encompassed by biophysical environment.

The public record was examined for unresolved issues relating to the biophysical environment. Aspects of the biophysical environment that were addressed in the EA process and in the evidence were fish and wildlife and their habitat, focusing mainly on the physical changes to the land and water.

Although concerns were expressed regarding potential development effects on wildlife and their habitat, no evidence was presented to warrant a more detailed consideration of these potential effects.²⁶ Only direct impacts and cumulative impacts to fish habitat alteration, disruption and destruction are considered further below.

4.3.1. *Fish Habitat Alteration, Disruption, and Destruction*

Description of Issue

The possibility of fish habitat alteration, disruption and destruction were identified due to uncertainty in whether the drill locations coincided with fish spawning habitat and nurseries. Habitat in the drill locations could be adversely affected by sedimentation.

Developer’s Position

The DAR (PR #102), correspondence with DFO (PR #120), response to the CE Study (PR #194), and presentation at the public hearing (PR #254) indicate that significant, lasting impacts to fish or their habitat are unlikely. The developer did not provide detailed evidence to support this claim.

²⁶ Environment Canada, GNWT, and INAC all indicated that direct impacts to wildlife and wildlife habitat would be negligible given the nature of the proposed development.



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DFO asked the developer to provide background documents to support their assertion of negligible impacts associated with the choice of drill locations (PR #189). The developer provided more detailed drilling locations anticipating further refinements, depending on “the circumstances and conditions [...] encountered [...] once the drilling actually starts” (PR #210). The developer also stated that Nautical Map #6368 showed the water to be deep and concluded there “are no shoals in any of these areas” (PR#210).

DFO was invited to provide information to the contrary so the locations could be “adjusted to avoid any perceived conflict” (PR #210). At the public hearing, the developer indicated that it would be possible to adjust drill locations to drill in water depths greater than 11 metres. The developer suggested that,

“[P]erhaps it might be desirable to move some of the near-shore, but on-shore proposed locations to slightly off-shore, they would all be located in bottom-fast ice conditions and, if that was acceptable to DFO, and subject to technical feasibility, that's the way they might well be undertaken.”

- Rick Hoos, Consultant to NSV (Public Hearing Transcript (181:21-182:1), November 25, 2003, PR #254).

Positions of the Parties

Several parties expressed general concern about potential impacts to fish but only DFO presented evidence to identify the nature of and mechanism for the potential impact. Correspondence from DFO, dated September 2, 2003, requested supporting documentation to show that the proposed development would avoid fish and their habitat (PR #110). In particular, DFO noted that shoals used by lake trout for spawning or rearing occur in depths up to 10 metres while the developer planned to drill in depths greater than 15 metres. Supporting information to this conclusion was not provided (PR #110).

To be assured that drill locations would avoid adverse impacts to fish, DFO asked that the developer drill in areas frozen to bottom or in depths greater than eleven metres.²⁷ The developer committed to do so if feasible.

By the end of the public hearing, DFO still had concerns about fish habitat based on inconsistencies in the developer's submissions, including the land use permit application, the DAR, and other submissions to clarify operations. Examples include

²⁷ Refer to Public Hearing Transcript (181:11-15), November 25, 2003, PR #254.



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whether or not there will be cut lines and rock and till sampling, and, if so, the physical extent of these activities in relation to fish and fish habitat.²⁸

DFO also questioned the need for a five year land use permit given the description of operations. By the end of the hearing, DFO was satisfied that another EA would occur if the company proposed to drill in sites different than those presented in the DAR.

Conclusions

The Review Board recognizes DFO's concerns about potential adverse impacts to fish due to alteration, disturbance or destruction of habitat. The Review Board is aware of DFO's obligations under section 35(1) of the *Fisheries Act* which provides that "[n]o person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat."

The Review Board has noted the developer's willingness to drill in water depths greater than eleven metres or that are frozen to bottom for lake-based operations. This mitigative measure can now be effectively implemented given the availability of bathymetric data for the area. The lake depth information can be used to avoid shoals thereby preventing a significant adverse impact to fish habitat.

The Review Board concludes that there will be no significant direct environmental impacts on fish or fish habitat resulting from NSV's operations.

4.3.2. *Biophysical Cumulative Effects*

Description of Issue

The residual impacts of all lake based drilling programs on fish or their habitat could result in a cumulative effect.

Developer's Submission

The developer stated in its submission on cumulative effects dated October 6, 2003, that their program is not expected to result in any cumulative effects much less significant cumulative effects.

²⁸ Refer to Public Hearing Transcript (251:22-25), November 25, 2003, PR #254.



Submissions of the Parties

GNWT, DFO and INAC all clearly stated that the short term nature of drill program, if mitigated, would be unlikely to result in any residual biophysical effects. In the absence of residual effects, no cumulative effects would be expected to the biophysical environment.

Conclusions

The Review Board accepts the conclusions of the developer, supported by DFO, GNWT, and INAC that no residual impacts are expected with mitigation. As a result, there can be no significant adverse impacts on the environment due to cumulative effects as a result of the NSV development.

4.4. Cultural Landscapes

The Review Board must make determinations of significance for impacts on the environment, including “any effect on the social and cultural environment or on heritage resources” (*MVRMA*). This part of the impact analysis focuses on the social and cultural environment and heritage resources as encompassed by cultural landscapes.

The public record was examined for unresolved issues relating to cultural landscapes. Cultural landscapes are places or series of places linked together by water and land routes valued by an Aboriginal group due to the long history of connection to that land and water. The cultural landscape embodies the traditional knowledge of ancestors, past and present relationships, spirits, wildlife, fish and plants, and knowledge of biodiversity and ecology.²⁹ The cultural landscape and associated oral traditions also embody knowledge of responsibilities that show respectful stewardship. Material remains in the cultural landscape may be prominent, but are more often minimal or absent. Intangible cultural heritage, such as oral narratives, are also associated with the cultural landscape.³⁰

A number of tangible and intangible dimensions of the environment are linked in cultural landscapes. The issues discussed in this section include archaeological sites, burial sites, and cumulative effects to cultural landscapes. Changes to the cultural landscape

²⁹ Mitchell, N. and S. Bugghey 2000. Protected Landscapes and Cultural Landscapes: Taking Advantage of Diverse Approaches. *George Wright Forum* 17(1):35-46.

³⁰ See Bugghey, Susan, 1999. "An Approach to Aboriginal Cultural Landscapes". Parks Canada, HSMBC agenda paper 1999-10.



as a result of impacts to physical aspects of the environment, such as archaeological and burial sites, and impacts to the social and cultural environment by virtue of changes to heritage resources may result in cumulative effects that influence cultural identity and well-being. Cumulative effects to the cultural landscape can either negatively or positively impact cultural identity and well-being. For this reason archaeological and burial sites will be considered separately but they will also be dealt with together in a discussion of cumulative cultural effects, this approach is in keeping with the intent of the YKDFN.

“...[W]e don't want our cultural identity treated like points on a map that can be simply managed and mitigated or made less important. Those places, the cultural representations, the landscape and the information those places contain are not just archaeological sites. They're part of our social, spiritual and cultural identity. [...] Those places out there are how we communicate who we are and [...] pass on our culture to our children.”

- Chief Darrell Beaulieu, YKDFN (Public Hearing Transcripts (12:12-21), November 26, 2003, PR #255)

While the Review Board was advised of the existence of spiritual sites in the Drybones and Wool Bay areas, specific sites beyond burial sites were not identified and their role and relative importance to culture was not explained in the submissions made by the Aboriginal parties. Nevertheless, several submissions emphasized the sacred importance of Drybones Bay. Spiritual sites and sacred places are dealt with relative mainly to burial sites and in the context of cultural identity and well-being under the heading of cumulative effects.

4.4.1. Archaeological Sites

Description of Issue

The proposed development area has never been the subject of a complete survey of historical or archaeological sites. The information available in the Prince of Wales Northern Heritages Centre's (PWNHC) database is not complete for this area. In the absence of detailed information for the proposed project area, the ability to recognize and effectively mitigate potential project impacts to known and suspected archaeological sites, as specified under the *MVLUR*, is uncertain.



Developer's Submission

The developer, in its DAR (PR #102), indicated the presence of archaeological sites within the vicinity of the program. In this regard, the developer stated,

"[A]rchaeological sites identified by YKDFN and the Prince of Wales North Heritage Centre within 1 kilometre [...] will be respected and local community sources will be consulted to provide any information to ensure that all sites [...] will be respected. Company will be using First Nation advisors to ensure no interference." (DAR, p. 11, PR #102)

At the public hearing, the developer indicated that no archaeological expertise would be available on-site at the time of operation as any suspected and known archaeological sites would be covered in snow. Nevertheless, the developer indicated that the YKDFN's archaeologist, along with the YKDFN, would be in "the best position to identify where there would where there might be a potential site of some consequence" (Public Hearing Transcript (159:6-7), November 25, 2003, PR #254). The developer then committed to

"[...] abide by whatever direction they receive there from those parties. That would be the most effective way to ensure that they are protected."

- Rick Hoos, Consultant to NSV (Public Hearing Transcript (159:9-11), November 25, 2003, PR #254)

When asked at the public hearing whether NSV would avoid conflict with any cultural or archaeological sites identified by YKDFN to the extent requested by the YKDFN, the developer responded,

"I think it's very difficult for people to make a commitment when we don't know what the details are of the commitment that's being asked for. I think if you're -- if you're trying to head in a direction that suggests that the Drybones Bay area, in total, is of cultural and spiritual significance to the people of that area which we've understood is the case and if, as a result of that, you're asking, therefore, will -- will, in this case New Shoshoni, not drill there if asked not to drill there, I think that would probably be a bit unreasonable. [...] It would, however, be perfectly reasonable [...] for the company to avoid any [...] specific site declared to be or identified to be of significant spiritual, cultural, traditional or other significance."

- Rick Hoos, Consultant to NSV (Public Hearing Transcript (153:10-24), November 25, 2003, PR #254)



The developer also suggested that pre-operations surveys, although standard practice in most areas, should be different for the Drybones Bay area due to previous exploration in stating,

“[T]ypically an archaeological survey or assessment is undertaken before an exploration program is carried out. In this particular area, exploration has been carried out over many years previous to the present time and during the course of that, one or more archaeological sites could potentially have been impacted, but at this point in time, I think all the companies are fortunate in having had a rather good study done by archaeologists working for the Yellowknives and that will -- that puts us in a much better position to ensure that no archaeological sites will be impacted by the proposed drilling this winter.”

- Rick Hoos, Consultant to NSV (Public Hearing Transcript (164:6-16), November 25, 2003, PR #254)

Nevertheless, the developer indicated that it would consult to identify archaeological sites in the vicinity of the project to ensure it does not conflict with shoreline access, drill cuttings disposal site, cut lines, and other activities. It should also be noted that NSV offered to move all shoreline drill locations to depths greater than eleven metres, if feasible (see section 4.3.1). If undertaken, this would lessen the direct impacts of shoreline drill locations. The ice road into Drybones Bay to the camp and the drilling planned as a land based operation does not, however, alleviate the YKDFN concerns about the effects of access.

Submissions of the Parties

The legal framework for the protection of historical and archaeological resources was set out by the PWNHC. It consists of several legal instruments, including the *NWT Archaeological Sites Regulations*, *MVRMA*, and *MVLUR*. The *Access to Information Act* and *Privacy Act* also provide some protection indirectly by controlling the sharing of archaeological information. Each statute or regulation serves a role in the overall management of these resources.

The *NWT Archaeological Sites Regulations* defines an archaeological artefact as “any tangible evidence of human activity that is more than 50 years old, in respect of which an unbroken chain of possession cannot be demonstrated”. Sections 4 and 5 protect archaeological sites, places where archaeological artefacts are found, by making it illegal to search for, excavate, or otherwise disturb archaeological artefacts or sites without holding a valid NWT Archaeologists Permit. The territorial minister responsible



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for heritage is responsible for issuing the permits under section 6. Section 13 makes the PWNHC the sole legal repository for archaeological artefacts in the NWT.

The *MVRMA* defines heritage resources as “archaeological or historic sites, burial sites, artefacts and other objects of historical, cultural or religious significance, and historical or cultural records.” Under Part 5 of the Act, an “impact on the environment” includes any effect on the social and cultural environment or on heritage resources.

The *MVLUR* address archaeological site protection relative to permitted land uses in sections 6 and 12. Under paragraph 6 (a), “unless expressly authorized by a permit or in writing by an inspector, no permittee shall conduct a land use operation within 30 m of a known monument or a known or suspected historical, archaeological site or burial ground”. Section 12 describes requisite actions during a land-use operation if a suspected historical or archaeological site is discovered. The developer, or permittee, must “immediately suspend operations on the site or burial ground and notify the Board or an inspector; and [...] notify any affected First Nation and the department of the Government of the Northwest Territories responsible therefore of the location of the site or burial ground and consult them regarding the nature of the materials, structures or artifacts and any further actions to be taken” (*MVLUR*, section 12)..

Section 19 of the *Access to Information Act* and *Privacy Act* ensures that information about the location of archaeological sites is restricted: This provides protection to the sites because PWNHC “may refuse to disclose information to an applicant where the disclosure could reasonably be expected to result in damage to or interfere with the conservation of sites having an anthropological or heritage value or aboriginal cultural significance” (PR # 232)

In correspondence dated July 7, 2003, Charles Arnold, the Director of Culture, Heritage and Languages, noted that

“There has never been a systematic archaeological survey conducted along the north shore of Great Slave Lake, and as a result we lack archaeological baseline data for the Drybones/Wool bay area. Judging by the extensive record of traditional land use known through the Yellowknife Dene First Nation oral histories, it is clear that the area has a long history of human activity. Consequently, it is expected that there would be many archaeological sites in the area.” (PR # 116)

Since this time, the YKDFN has filed with the Review Board the results of their summer field survey.³¹ This field work relied on TK of YKDFN to identify previously

³¹ Reports entitled *Archaeological Assessment of Mineral Exploration and Aggregate Extraction in the Vicinity of Drybones and Wool Bay, Great Slave Lake, Northwest Territories* and *A Preliminary Report on*



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undocumented archaeological and historical resources in the Wool and Drybones Bay area. The study included the shoreline at Drybones Bay. A total of 64 new sites were discovered ranging from pre-contact to contemporary historical sites.³² Several of these new sites appeared to occur near NSV's proposed on land drill location, cut lines and previously permitted camp.

LKDFN and NSMA expressed their own concerns about potential historical and archaeological sites in the vicinity of the projects, including NSV's development indicating that capacity limitations had hindered their ability to document those sites that may be important to their communities. These parties noted the importance of locating these sites based on TK, as the LKDFN have already done closer to their community.

Familial ties of members of the LKDFN to the YKDFN, evident in the Elders' presentations at the public hearing, show considerable travel between Lutsel K'e and the former Aboriginal communities at Wool and Drybones Bay. Many deep bays were emphasized as important areas of traditional use. This was particularly noted for Drybones Bay, the use of which is discussed in detail under cultural cumulative effects.

The incompleteness of the archaeological survey for the area was emphasized in the submissions of YKDFN, LKDFN, and NSMA. Aboriginal parties emphasized the PWNHC's estimate that less than 1 percent of potential archaeological sites in the Wool and Drybones Bay area are documented (PR #232).

At the Public Hearing, Tom Andrews, an archaeologist with the PWNHC, indicated that there are regions that are more likely to hold archaeological sites. He stated that,

"[T]raditional land use, in the absence of specific data pertinent to the distribution of heritage sites, traditional land use is a very important indicator of where people have been, traditionally named places... that kind of information is critical to providing an assessment of what potential impact a project will have on -- on heritage sites in the area."

The traditional land use map submitted by YKDFN clearly shows that NSV's proposed development coincides with the portion of Drybones Bay bearing a traditional place name. Although the name of this site was not described in the evidence, the potential for archaeological and heritage sites in the area was emphasized in parties' questions about the developer's ability to identify and avoid sites in the absence of pre-operations archaeological survey in the proposed program area.

Cultural and Historical Resources of the Drybones and Wool Bay Areas dealt with historical and burial sites.

³² A discrepancy was noted by YKDFN in the hearing that acknowledge the actual number of sites is more likely between 56 and 58 due to the inclusion of some recent cabins (Public Hearing Transcript (257:5-7), November 26, 2003, PR #255).



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The YKDFN study revealed a total of thirty-five heritage sites, over twenty of which were within a two kilometer radius of the NSV drill locations (PR #179). These sites include: tent rings, habitation sites associated with potential missionary or traditional uses, a quartz quarry, a processing site, a cabin and camp sites, a toboggan building site, commercial fish camp, cairns and travel markers.

The sites represent a range of pre-contact, historic and contemporary sites that are viewed as a non-renewable resource. Several require the completion of documentation, research, and interpretation in order for a determination of their significance to be made.

The YKDFN archaeological and heritage resources report suggests that the potential for disturbance is high. Given the history and intensity of the traditional use of Drybones Bay, the Review Board is of the opinion that other (suspected) sites may occur in the NSV area and that a full assessment of the heritage resources of the area based on a comprehensive and systematic study of the shoreline is required.

YKDFN, LKDFN, and NSMA questioned whether or not the developer, in spite of its commitments to avoid and protect archaeological sites, would be able to do so. The absence of a trained archaeologist on-site and winter operations when the physical evidence of archaeological sites would be hidden by snow were emphasized. During the YKDFN field study, Callum Thompson, archaeologist to YKDFN, noted one instance where development had been too close to archaeological sites, where he noted a “[c]ut line running very close to a couple of habitation sites.” (Public Hearing Transcript (261:8), November 26, 2003, PR #255).

By the end of the public hearing, the Aboriginal parties remained unconvinced that the potential adverse impacts to historic and archaeological sites could be mitigated effectively. The Aboriginal parties requested a pre-operations survey with a qualified archaeologist.

Conclusions

The Review Board finds that, although several drill holes may occur in water depths greater than eleven metres, NSV is operating in a sensitive area with abundant archaeological resources. NSV's development area is accessed by an ice road that extends to the camp, to one drill location inland and presumably to the natural depression(s) where drilling waste water will be deposited. The presence of this road is expected to result in indirect effects as a result of improved access to the area.

The main impacts associated with on land activities are destruction of or damage to artefacts due to compaction from accessing the drill site, natural depression for the disposal of drilling waste water and drill cuttings and camp, or drilling into an artefact.



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The ice road access to this sensitive area is expected to enhance use such that the impact may not be localized and limited solely to the access route or drill location.

Packed snow, although one measure of protection for archaeological sites, may be ineffective to protect fragile artefacts. Drilling into an artefact, although a low probability, may be higher in this area given the abundance of archaeological artefacts and the need for more detailed documentation of each site. Concern is also associated with the potential alteration of archaeological sites such as tent rings consisting of rings of rocks. The interpretive value of these sites may be diminished when rocks are displaced.

Given the characteristic rocky shoreline at Drybones Bay, artefacts may be expected to be found mainly at the surface but would be covered by snow at the time of operations. The Review Board accepts the preliminary findings from YKDFN's heritage and archaeological study which indicates a need for further documentation of the area and PWNHC's submissions that extensive traditional use of the area (by YKDFN, LKDFN, NSMA, and DKFN) is associated with a high potential for finding more sites.

The YKDFN's submission documents adverse impacts to existing historical and heritage sites. The Review Board finds that the procedures outlined by the developer will not effectively mitigate potential impacts to archaeological sites during winter operations. The sensitivity of Drybones Bay due to the abundance of known sites in combination with the high potential for suspected sites has convinced the Review Board that significant adverse effects to known and suspected archaeological sites can not be avoided. When known and suspected archaeological sites in the proposed NSV operations area are considered and the minimum buffer zones prescribed under legislation are taken into account, the archaeological resources of the Drybones Bay area are not merely points but aggregate into a sensitive area.

The Review Board notes the evidence produced by the developer about the history of mineral exploration in the area. The fact that activity took place in the past in this area does not convince the Board that the historical and archaeological values of Drybones Bay have been significantly diminished. In fact, the Board is concerned that more development in the area without a proper survey will place these resources at further risk. The *MVRMA* and *MVLUR* are clear on the requirement to exercise a precautionary approach relative to historical and archaeological resources. That is why these laws protect both known and suspected sites. Since we know the likelihood of finding more sites in this area is high, the Review Board finds that a higher standard of care is required. This requirement is already enshrined in the *MVLURs* and other legislation.

Given the density of the occurrence of newly discovered archaeological sites and the high potential for suspected sites in the area, as well as the incompleteness of the archaeological record for this area, the Review Board finds that the developer can not effectively mitigate potential impacts to archaeological sites during winter operations.



The Review Board concludes that the NSV development will result in a significant adverse impact on the cultural environment.

Given the Review Board's findings that cumulative effects to culture (discussed in section 4.4.3) can not be mitigated, the Board has not provided any recommendations on significant adverse impacts to archaeological and historic sites. Should this report not be accepted by the Minister, the Review Board reserves the right to consult on suitable mitigation for impacts to archaeological and historic sites.

4.4.2. *Burial Sites*

Description of Issue

Documented and undocumented, as well as marked and unmarked burial sites may occur within the developers claim areas. The ability to recognize and protect these burial sites, in keeping with the requirements of the *MVLUR*, is the issue of concern.

Developer's Submission

In its DAR (PR #102) and public hearing presentation (PR #254), the developer noted the presence of one cemetery near the camp proposed for use in association with this development. The cemetery is situated in plain view across the bay from the camp.

In the DAR, the burial sites were discussed as a subsistence or traditional land use and later as a cultural or heritage resource. Statements made about burial sites near NSV's development were:

"During the public meeting, no traditional land use or any subsistence use was noted on the map or raised during the meeting with respect to New Shoshoni's proposed drilling program areas except for the gravesites located east of the area of the proposed drilling." (DAR, p.14, PR#102)

"This area is located at least 500 metres west of an area that the Yellowknives Dene First Nation (YKDFN) has identified as being an archaeological site (Graveyard with approximately 10 graves in it)." (DAR, p.1, PR#102)

In assessing potential impacts to these sites, the developer stated,



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“[N]o direct or indirect effects on cultural or heritage sites are expected to occur as a result of implementation of the proposed New Shoshoni exploration drilling program (DAR, p.22, PR#102)

The basis for the developer’s conclusion regarding potential impacts to the burial sites appears to be limited solely to consideration of direct physical impacts since the development occurs in a different location. No consideration is given to the traditional practices or cultural concerns associated with burial sites. No evaluation of potential adverse impacts to intangible aspects of the social and cultural environment was attempted.

Nevertheless, the developer made several commitments to work with Aboriginal parties and to stay away from burial sites.

Submissions of the Parties

Many parties, particularly LKDFN emphasized the requirements for the protection of known and suspected burials sites. Many cited section 12 of the *MVLUR* which describes what must be done when a development occurs in the vicinity of historical sites, archaeological sites or burial grounds. The management prescriptions for burial sites are clearly set out in sections 6 and 12 of the *MVLUR*.

YKDFN (PR #176 and 255) and LKDFN (PR #288) in their submissions on the public record all indicated concerns about the proximity of burial sites to the area of operations. Although some sites were known, their evidence indicates that others are suspected.

YKDFN provided evidence of grave sites in the Drybones Bay area as part of their summer 2003 field study (PR #255). The traditional land use map and heritage study provided by YKDFN identified the locations of the two burial sites in Drybones Bay, one of which can be seen from NSV’s camp. This information may not be complete as suggested by statements, such as,

“[O]ur relatives, grandparents are buried over there and the families of Mary Beniah -- their relatives are buried there, too. [...] And in that K’òtiche area, there’s grave sites along there and sometimes people will say that there was only two or three grave sites when there was lots. But no one knows that. Our history says that there was a lot of grave sites there, but the moose used to come out and wreck all the crosses and all the fencing and the cribbings because that was their -- their place where the people had been buried. So, they used to tear down the crosses and everything and people said, okay, we’ll give up fixing up the grave site, let



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the moose do what it wants. So, there's lots of history and there's culturally significant areas. There's spiritually significant areas."

- Rachel Crapeau, YKDFN (Public Hearing Transcript (85:8-86:4), November 26, 2003, PR #255)

In LKDFN's presentation at the public hearing, they indicated that the documentation of graves for the area is still incomplete (PR #255). Further, TK suggests the possible presence of burial sites in the Drybones Bay area as indicated by the following statement,

"Burial grounds - due to oral history of the Elders, it indicates traditional use of the area. Many of our people have been buried along the shore of Great Slave Lake, particularly at the area of concern or in close proximity. The burial sites are continuing to be recorded from the old history. It is known that there are many unrecorded burial sites in that area."

- Angie Lantz, LKDFN (Public Hearing Transcript (132:16-24), November 26, 2003, PR #255)

The precise location of the sites, although important, appeared less important than the perceived sensitivity of the burial sites and appropriate activities near these sites. This is evident in statements made at the public hearing, such as

"[O]ur ancestral burial grounds and our spiritual belief grounds are all in those areas and once the explorations go into those areas they're going to demand that a lot of these burial grounds be exhumed in order for them to continue their exploration [...] – I think that is not right."

- Judy Charlo, YKDFN (Public Hearing Transcript (57:13-18), November 26, 2003, PR #255)

An Elder of the LKDFN described the experience of encountering previously unknown gravesites. The experience was described in saying,

"And sometimes, when I walk, hunting, all of a sudden I would -- I would walk upon a grave out there. Nobody knows where the site is, and I just find it by accident. [...] It's like that on our land, [...] we have respect for ancestral burial grounds."

- Albert Boucher, YKDFN (Public Hearing Transcript (156:6-10), November 26, 2003, PR #255)



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The possible adverse impact to the environment was highlighted relative to incomplete documentation of graves. A YKDFN elder explained this concern in saying,

“I’ve went into that area that you guys are blasting and drilling. I went there this summer to take a look at what you guys have been doing. You are drilling near grave sites.”

- Alfred Baillargeon, YKDFN (Public Hearing Transcript (25:9-12), November 26, 2003, PR #255).³³

Ultimately, the Elders of the Aboriginal parties want the developers to show respect for these sensitive areas. The intensity of emotion related to protecting burial sites suggests that some development is too close as evident in this statement by a YKDFN elder,

“[O]ur ancestors and our ancestors before that, we have been buried there for years [...] said, no, those burial grounds will never be touched or exhumed or anything, that is what they said. [...]. We also have a lot of our -- our ancestors history, our other historical areas that are all in those areas that we use in order to teach our children, our community and our spiritual beliefs.”

- Judy Charlo, YKDFN (Public hearing transcript (57:13 -58:4), January 26, 2003, PR #255)

Conclusions

There is no evidence to indicate that the developer has investigated the nature of the impact to burial sites within the visual and acoustic impact zone of the development, or whether the development will be an impediment to the access of those sites that continue to be honoured by the Aboriginal parties. The onus is on the developer to prove that there will be no significant adverse impact on the environment as a result of its development. Burial sites are components of the heritage resources and of the social and cultural environment that must be considered in an EA.

The Review Board accepts the YKDFN’s evidence that the abundance of graves is not reflected by grave markers. It is, in the Board’s view, likely that the number of sites in

³³ This statement does not refer to the proposed program of New Shoshoni Ventures, which is not yet in operations. Nevertheless, it does illustrate what could happen if the location of grave sites is not known based on other observations of development activity in the general area.



Drybones Bay is higher than the number of grave markers due to destruction of cribbings by moose and over time by the elements.

The Review Board has listened to the Elders concerns about respectful behaviour near burial sites, and their view that development too close to burial sites is viewed as disrespectful and, therefore, incompatible. Concerns expressed by the YKDFN about the presence of burial sites in Drybones Bay where NSV's development is proposed suggest that the development is too close to these sites and that the ancestors, once buried, were not to be disturbed.

The *MVLUR* is clear about the requisite setbacks for permitted activities relative to all known and suspected burial sites (section 6(a) and 12). The Review Board notes with interest the YKDFN's evidence of other developments failing to observe the 30 metre buffer. These observations may represent a contravention of the regulations and are disrespectful to those descended from, as well as those buried in these areas. The Review Board further finds that in such sensitive areas where an abundance of graves can be found, the 30 metre buffer would not be sufficient to protect the cultural interests affected by the development.

Any activity conducted in the vicinity of burial grounds could have significant adverse impact on the social and cultural environment. The effect of the development is not physical but represents a diminished value of sacred sites because the burial sites are viewed as sacred. The Review Board finds that the NSV development will have a significant adverse impact on the social and cultural environment by adversely affecting the well-being of the families that want and continue to honour their ancestors buried in Drybones Bay through spiritual practices.

Given the Review Board's findings that cumulative effects to culture (discussed in section 4.4.3) can not be mitigated, the Board has not provided any recommendations on significant adverse impacts to burial sites. Should this report not be accepted by the Minister, the Review Board reserves the right to consult on suitable mitigation for impacts to burial sites.

4.4.3. *Cultural Cumulative Effects*

Description of Issue

The quality of the social and cultural environment is linked to the integrity of cultural landscapes. Residual impacts to the biophysical environment and the heritage



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resources of the area (archaeological sites, grave sites) will result in incremental effects on culture (such as language, values, beliefs, traditional ways). The cumulative effects of exploration and development in the Wool and Drybones Bay area may cause undesirable changes to the relationship between the Aboriginal people and the land as reflected in cultural identity and well-being.

Developer's Submission

The developer's submissions on the public record, particularly statements at the public hearing generally addressed past, current and future developments in the vicinity of the proposed project (PR#254 and #255).

The developer noted the long history of exploration in the area and indicated that past exploration has been environmentally benign; and further that regulatory measures were sufficient to ensure no impacts. The developer also pointed out that its mining claims were lawfully obtained in accordance with the *Canada Mining Regulations*. Given the long history of staking and exploration in the area, surprise was expressed at the concern about the sensitivity of the area and the proposed exploration³⁴. The evidence presented by NSV did not discuss potential cultural effects of the development.

In terms of current and recent uses, the developer viewed its proposed program as a continuation of previous undertakings within Drybones Bay. The implication was the program was too short, too small to have any real consequence or adverse impact on culture.

In response to concerns about the cumulative effects of the winter road, the developer pointed out that winter use of the area occurs with or without a winter road. NSV further stated that winter roads on ice "tend (to) not cause any kind of environmental problems unless [...] there was an accident or spillage of fuel" (Rick Hoos, Consultant to NSV and CGV, Public Hearing Transcript (150:24-151:4), November 25, 2003, PR #254). Other potential access related effects due to cabin construction and timber harvesting were not discussed because a winter road is viewed as a public road.

Future development discussed in the DAR did reference archaeological and heritage resources, as well as burial sites (PR #102). No VCs were selected to evaluate impacts to Aboriginal culture. No evidence or analysis was provided regarding potential effects to the cultural landscape.

³⁴ Refer to statements of Rick Hoos, consultant to NSV at the Public Hearing (PR #254).



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At the public hearing, when asked by Angie Lantz of the LKDFN, if the developer understood “[...] the meaning of spiritual connections of the First Nation people and the land [...]”³⁵, the developer replied,

“I think it's fair to say that it is unreasonable for people -- for us as I'll call us white people - to necessarily understand spiritual connection of the Yellowknives or other aboriginal peoples with the land the way they do simply because we have not had the kind of life experience with the land the way the Yellowknives and others have. So it would be unreasonable for us to say we understand it just as well as the Yellowknives do or in the same way that the Yellowknives do.”

- Rick Hoos, consultant to NSV and CGV, (Public Hearing Transcript (78:11-20), November 25, 2003, PR #254)

The developer did say that they gained a greater appreciation for the spiritual and other connections of the Aboriginal parties with the land through the EA process. The developer indicated that they want to build this relationship and learn as activities in the area proceed. The developer advised that, along with the other companies, it “[...]] want(s) to make sure that any and all concerns that the people have are addressed in a way that is satisfactory to the people”. (Rick Hoos Consultant to NSV and CGV, Public Hearing Transcript (79:14-16), November 25, 2003, PR # 254)

Early in the EA process, the developer did not respond to requests to make commitments about working together so the YKDFN and other Aboriginal parties could share information about their culture.³⁶ Commitments to work together with Aboriginal people during operations are clear from the public hearing, however.

The developer believed there were no cumulative effects attributable to the short term project. According to the developer,

“Because of the short term, highly localized, relatively innocuous and reversible nature of this exploration drilling program, no significant environmental or cultural effects are expected to occur” (DAR, p. 2, PR #102).

Future development discussed in the DAR did reference archaeological and heritage resources, as well as burial sites (PR #102). No VCs were selected by the developer to

³⁵ Refer to questions by Angie Lantz, LKDFN (Public Hearing Transcript (77:11-13), November 25, 2003, PR #254).

³⁶ YKDFN requested several commitments pertaining to identifying areas used for berry picking, collecting medicinal plants and other cultural uses. YKDFN also asked whether or not the developer would be willing to participate in a cultural exchange. (PR #176)



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evaluate impacts to Aboriginal culture in spite of efforts by the YKDFN to identify suitable VCs.³⁷ No statements were made regarding potential effects to the cultural landscapes.

Submissions of the Parties

The value of Wool and Drybones Bay to the Aboriginal parties was described in the public hearing. The NSMA indicated that “Drybones and Wool Bay are an important harvesting area for the NSMA membership”³⁸ and are “very spiritually, as well as culturally, important sites to the North Slave Métis Alliance.”³⁹ The NSMA have a particular concern with disruption of the sediment in the bottom of Drybones Bay. This concern stems from the loss of one of their members in a drowning incident, in which the body was never recovered from the depths of the Bay. (Public Hearing Transcript (199:4-10), November 26, 2003, PR #255)

For the YKDFN, the importance of this cultural landscape to the identity of the people was also established. This is emphasized by the following statements:

“[...] Drybones Bay and Wool Bay are not just archaeological treasure troves. They are still actively used by our membership. They are just as important to our culture now as they were two hundred (200) years ago. So I just want to say that today we're -- genuinely want to protect those places. I think my membership, those of us that are here and other members believe in their hearts and souls that to do otherwise is unthinkable.”

- Chief Darrell Beaulieu, YKDFN (Public Hearing Transcript (15:18-20), November 26, 2003, PR #255)

The Review Board was presented with ample evidence that this area is extremely important to the Akaitcho people.⁴⁰ In terms of the role of this place to the well-being of the people, it is a place for gathering strength. Drybones Bay is a place where:

³⁷ Refer to correspondence from YKDFN (PR #) and YKDFN's comments on the DAR and accompanying meeting minutes (PR #109).

³⁸ See correspondence from Kris Johnson, NSMA, dated September 2, 2003 (PR #196).

³⁹ See Public Hearing Transcripts (122: 21-24), November 25, 2003, PR# 254.

⁴⁰ Michel Paper's story showed the importance of the area in the YKDFN's history in saying, “When the flu epidemic went through the territories, [...] we lost a lot of our people. After that, because we lost a lot of our people, [...] there weren't a lot of our people left in the community. Our ancestors were very strong people. Before the white people came in, they hunted and trapped and lived a very rich life and they used to be very rich because they knew how to hunt and they knew how to gather fur but today it is different.” (Public Hearing Transcript (29:16-24), November 26, 2003, PR #255).



- Aboriginal people seek refuge and healing.

“It’s a place where many of us were born, many of us grew up, spent their summers there home -- at home from residential school.”

- Chief Darrell Beaulieu, YKDFN (Public Hearing Transcript (13:17-19), November 26, 2003, PR #255)

- Beliefs, values and customs are taught there to live a good life.

“[O]ur ancestral burial grounds and our spiritual belief grounds are all in those areas... We also have a lot of our –our ancestors history, our other historical areas that are all in those areas that we use in order to teach our children, our community and our spiritual beliefs.”

- Judy Charlo, YKDFN (Public Hearing Transcripts (57:13-18) November 26th, 2003, PR #255)

“Our ancestors have taught us how to live on this land. Just like today, the education, going to school, our ancestors have taught us how to live off the land, how to travel on the land with a dog team. [...] if we don't make a trail for them, there's nowhere for them to travel. It's like making [...] a highway for them.”

- Michel Paper, YKDFN (Public Hearing Transcript (31:21-32:6), November 26, 2003, PR #255)

- Stories of survival are written on the landscape.

“When I was young there was no disease or no sickness among us [...] -- people just don't usually get sick and die. We used to live long lives but since 1928⁴¹ when the flu epidemic went through the Northwest Territories a lot of our people [...] passed away, died and since then a lot of [...] our families, our people, have been dying from disease. So at that time the people used to live in the Drybone Bay area and the people made a decision to move to the -- to Dettah where we are presently today. It seem -- because a lot of people have passed away in that area and [...] a lot of our people are buried in that Wool Bay -- Drybone Bay.”

⁴¹ Historical documents note that the Spanish Flu pandemic occurred in 1918.



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- Michel Paper, YKDFN (Public Hearing Transcript (29:4-15), November 26, 2003, PR #255).

- Harmonious relationships between individuals, families, and communities evolved from spending time and sharing what the land offers.

“[O]ral histories have verified that current relationship exists between the Dene of Yellowknife and Lutsel K'e on the traditional use of Wool Bay and Drybone Bay. We know this because our Elders have identified the traditional names of the exploration sites that will be brought up by the Elders when they speak.”

- Monica Krieger, YKDFN (Public Hearing Transcript (130:14-18), November 26, 2003, PR #255)

“[W]e would gather. Sometimes we would see people from Fort Rae. They would spend springtime with us there and sometimes people from Fort Resolution would spend springtime there to go muskrat hunting and also people from Lutsel K'e when they used to travel that area when -- they would pass by Drybones Bay and stop for a little while. Because the area is plenty with fish and other animals, people would stop there and harvest what they need for their travel on to the next area, that's how people used to travel.”

- Elder Helen Tobie⁴², YKDFN (Public Hearing Transcript (38:5-16), November 26, 2003, PR #255)

In general, there was a perceived incompatibility of the NSV development and other land uses with the values of the important cultural landscapes of the Akaitcho and Métis peoples. This is highlighted in the YKDFN's letter requesting referral to EA (PR #2). This letter and submissions by other parties provide a more comprehensive picture of traditional use and occupancy that is considered by Aboriginal groups to be threatened by this and other proposed developments⁴³. The potential dishonouring of sacred burial grounds and spiritual sites vital to the cultural identity of the parties are some examples of connections to the land that may be adversely affected. NSMA, LKDFN, and, to a lesser extent, DKFN also highlighted the importance of these areas for traditional use.

⁴² Grand-daughter to Michel Drybones after whom Drybones Bay is named. (Elder Helen Tobie, Public Hearing Transcript (35:21-22), November 26, 2003, PR #255).

⁴³ North American General Resources Corporation, New Shoshoni Ventures and Snowfield Development Corporations' diamond exploration programs in the Wool and Drybones Bay areas.



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The parties provided several submissions about past, current and future development that were contributing to cumulative effects to culture in the Drybones and Wool Bay area. The main submissions about the effects of past development on culture were provided in the stories of Elders at the public hearing (PR #255) however YKDFN provided some background in their 2003 field study (PR #208).

Historic activities were highlighted by the YKDFN, NSMA, LKDFN, and DKFN in discussions of mineral staking throughout the Wool and Drybones Bay area. Most of the submissions focused on the traditional importance of the area and concerns about not being consulted prior to the access and use of these lands. The inclusion of burial grounds, as well as historical and archaeological sites of Akaitcho and Métis peoples in the staked claims subject to past exploration has had consequences. The YKDFN's study has highlighted some residual impacts resulting from the preliminary exploration activities on archaeological sites and burial sites (see section 4.3.1 and 4.3.2 of this report).

Additionally, the YKDFN, in submissions to the public record and in Elders statements at the public hearing (PR #254 and 255), described the historic use of the Wool and Drybones Bay area. The parties explained past impacts of Con and Giant Mine on environmental quality of traditional use areas, citing concerns about water contamination and the fact that drinking water is now transported to Dettah at a cost to the people. Similar concerns were expressed about the deterioration of medicinal plants. The message was unequivocal, the YKDFN were bearing the burden of the environmental and therefore cultural costs of development in and around Yellowknife.

Cumulative land use pressures in the Drybones Bay area were also emphasized by YKDFN. Current activities such as expanded trail use, unauthorized cabin development, and further prospecting were highlighted (PR #2). The mechanism for the enhanced use was explained relative to the (ice) road in noting that the (ice) road will increase land use pressures "[...] because increased accessibility by vehicles does increase hunting pressure,[...] does increase [...] the amount of people who will haul out wood so they can build their cabin and boat out there,[...] does increase accessibility." (Louie Azzolini, Consultant to YKDFN, Public Hearing Transcript (152:7-11), November 25, 2003, PR #254)

Access creates access making the area a more attractive place to develop. NSMA expressed concern about the current and future pace of development in correspondence dated October 9, 2003 stating "Development is not occurring at a rate that is sustainable for Aboriginal communities that must adapt to changes." (PR #196). NSMA further cites the report released by the Conference Board of Canada, *Setting the Pace for Development: An Economic Outlook Report for the Northwest Territories* that states that "the benefits of rapid development occurring in the North are not going to the people who need the benefits the most – namely, Aboriginal peoples." (PR# 196)



This has implications for local people. Increasing development in and around Yellowknife is driving up the cost of living, as highlighted by the statements of YKDFN's Elders. A YKDFN member, Jimmy Beaulieu, noted that if costs continue to rise due to development "[...] our young people might have to go back to our traditional way of life [...]." (Public Hearing Transcript (77:16-20), November 26, 2003) Elder Michel Paper expressed concern at the future development possibilities saying,

"In the next ten years how will their future be with all this mining activities. We have to think about them. We have to make a plan for the next ten years so that we can take care of these young people that are going to be in our position." (Public Hearing Transcript (31:10-14), November 26, 2003, PR #255)

YKDFN were clear in what they wanted to happen in the Drybones Bay area in response to their cultural concerns, as illustrated by the following statements:

"The Yellowknives Dene First Nation wants these areas protected."

- Chief Darrel Beaulieu, YKDFN (Public Hearing Transcripts (23:25-24:1), November 26, 2003, PR #255)

"It's a place that we want protected. We're in -- in a corner here because we have no land claim settled. Our treaty entitlement negotiations are still ongoing. Nothing's been settled. We haven't withdrawn any lands from development."

- Rachel Crapeau, YKDFN (Public Hearing Transcript (93:25-94:3), November 26, 2003, PR #255)

"So what I want is a moratorium on the lands so that no industry or nothing will happen until we have settled our land."

- Elder Lisa Enzoe, LKDFN (Public Hearing Transcript (143:21-23), November 26, 2003, PR #255)

Chief Peter Liske concluded, "When we say, no, that's what we mean." (Public Hearing Transcript (21:9), November 26, 2003, PR #255). Elder Michel Paper pointed out that the decision to oppose the development was not easy, saying "We're not here to have an argument about anything. So when we say no, (we know) it's not good always to say no." (Public Hearing Transcript (28:8-10), November 26, 2003, PR #255).



Conclusions

The Review Board has heard from many parties and from individuals, Elders and representatives of Aboriginal organizations about the importance of the Wool and Drybones Bay areas. The Review Board concluded that Wool and Drybones Bay are culturally significant. The Board also finds that development in the traditional use area of the YKDFN, in particular, which includes the immediate vicinity of Yellowknife, has already changed the cultural landscape. This change has resulted in a significant adverse impact to cultural identity and well-being based on the deterioration of the physical elements of the cultural landscape and oral tradition that contains knowledge of the environment, values, and identity. The social and cultural environment has been effected.

This change has resulted from the activities, including development of Con and Giant Mines in the YKDFN's traditional use areas. This effect has expanded as a result of staking, exploration and development throughout other traditional use areas.

With reference to past development and staking, the Review Board recognizes that the *Canada Mining Regulations* allow prospectors to stake claims, providing they hold a valid permit. Paragraph 11(1)(b) states that "subject to any regulations made under the *Territorial Lands Act*, a licensee may enter, prospect for minerals and locate claims on lands other than lands used as a cemetery or burial ground." As INAC pointed out, "In the NWT, land is either available for staking or it is not" (David Livingstone, INAC, Public Hearing Transcript (285:9-10), November 26, 2003, PR #255). The lands in the Drybones Bay area are still open for staking. As yet, no efforts have been made by Aboriginal parties to have these culturally sensitive areas or burial sites set aside.

The Akaitcho Dene First Nations are in the midst of treaty land entitlement negotiations and these commitments may limit their ability to address this issue at this time. The Review Board recognizes the value of consultation before staking in the interests of protecting cultural sites known only through TK and to give developer a better sense of when they may potentially be venturing into culturally sensitive areas. Section 29 of the *Canada Mining Regulations* specifies how the NWT will be divided for the issuance of permits and the procedures for applying for prospecting permits. This section establishes the vicinity of Yellowknife as a free entry mining area. The schedules set for the issuance of prospecting permits for other regions, such as the Inuvialuit Settlement Area, allow for consultation.



The Review Board suggests:

S3. INAC should consider establishing a prospecting permit approach pursuant to section 29 of the *Canada Mining Regulations* for this area in order to provide Aboriginal communities concerned about the Wool and Drybones Bay areas and to avoid conflict over land use.

In determining the significance of potential adverse cumulative effects attributable to the proposed NSV development, the Review Board considered the scope of the development as well as the components of the environment that will be adversely affected by the development. In the case of NSV, there will be an ice road constructed into Drybones Bay. Drilling will occur mainly on the bay, if feasible, and inland for one drill location. Cutlines will be used to further advance exploratory activity in the area. The development will also be supported by a camp and storage area across within eyesight of a known gravesite. A number of new archaeological sites have been documented within the area and Drybones Bay bears a traditional place name. Drybones Bay is an area that is and has been used for teaching youth, hunting, trapping, berry picking, spiritual practices, and gathering.

In determining whether or not the cultural landscape in the Drybones Bay area is adversely affected, the Review Board considered the effects of the development on the tangible heritage resources of archaeological, burial, spiritual (as related to burial sites), and sacred sites (as Drybones Bay is stated to be), as well as the intangible heritage resources including the beliefs, values and customs linked to the use of Drybones Bay.

The Review Board accepts the evidence of the Aboriginal parties that development too close to archaeological and historic sites, and burial grounds can have a lasting effect on the values and beliefs associated with cultural landscapes. Evidence has been presented of past, present and potential future impacts to archaeological and historic, burial and/or sacred sites in the Drybones Bay area.

Drybones Bay is a vital cultural landscape for the YKDFN and other Aboriginal parties to this EA. This is clearly demonstrated through the evidence. Access to and the drilling program proposed by NSV in the heart of Drybones Bay will have an adverse effect on this area and will affect the relationship of people to the land in this area. This will affect traditional use of the area (such as teaching, hunting, trapping, berry picking and other uses).

Considering all this evidence, the Review Board finds that the individual contribution of the NSV development to cumulative effects will be significant and adverse. The Board also finds that the mitigation proposed by the developer is not adequate to reduce these impacts to an acceptable level. The location of the proposed program, entirely within Drybones Bay, will contribute significantly to the cumulative effects on both the tangible



and intangible aspects of culture that are central to the social and cultural well-being of the YKDFN.

Consequently, the Review Board recommends:

- R1. The Minister of INAC reject NSV’s proposed diamond exploration program in Drybones Bay, pursuant to section 128(1)(d), because the proposed development is likely to cause an adverse impact on the environment so significant that it cannot be justified.**

5. Summary of Recommendations and Suggestions

In consideration of all evidence on the public record, the Review Board has made a number of findings. The cultural importance of Drybones Bay is substantial. In the Board’s view, significant adverse cumulative impacts on culture of the YKDFN and other Aboriginal parties will result from this development. This finding is based on the special characteristics and cultural importance of Drybones Bay itself. The NSV development will cause immitigable effects to the tangible (burial, archaeological, spiritual and sacred sites) and intangible (spiritual practices, values, beliefs and customs) elements of the cultural landscape. The development will:

- Result in direct and indirect impacts to the abundant known and suspected archaeological sites in Drybones Bay due to land-based activities and induced land use as a result of ice road access;
- Adversely affect the well-being of the families that want and continue to honour ancestors buried in Drybones Bay through religious practices; and,
- Alter the traditional use of Drybones Bay and diminish the cultural identity and well-being of Aboriginal parties.

It is the Review Board’s opinion, the proposed development is likely to cause an adverse impact on the environment so significant that it cannot be justified.

Table 1. Summary of Suggestions

| Item | Description | Section |
|------------------------|---|----------------|
| <i>Recommendations</i> | | |
| R1 | The Minister of INAC reject NSV’s proposed diamond exploration program in Drybones Bay, pursuant to section 128(1)(d), because the proposed development is likely to cause an adverse impact on the environment so significant that it cannot be justified. | s. 4.4.3, p.62 |



Report of EA and Reasons for Decision on the New Shoshoni Ventures Diamond Exploration Project

| Item | Description | Section |
|---------------------------|---|-----------------|
| <i>Suggestions</i> | | |
| S1 | Indian and Northern Affairs Canada (INAC), Environment Canada (EC), Fisheries and Oceans Canada (DFO) and the Government of the Northwest Territories (GNWT) should design and test a model for Crown consultation with Aboriginal rights holders for developments in the Mackenzie Valley at the earliest possible date. | s. 2.5.2, p. 21 |
| S2 | The Government of Canada should at an early date develop and institute a method to provide participant funding at the EA level under the <i>MVRMA</i> to be equivalent to the Comprehensive Study Review funding practices under <i>CEAA</i> . | s. 2.5.4, p. 25 |
| S3 | INAC should consider establishing a prospecting permit approach pursuant to section 29 of the Canada Mining Regulations for this area in order to provide Aboriginal communities concerned about the Wool and Drybones Bay areas and to avoid conflict over land use. | s.4.4.3, p. 61 |



GLOSSARY

Cultural Identity – the defining of values, beliefs and morals that guide ancestral customs and which create a sense of belonging for an individual within a community

Cultural Landscape – environmental features that underpin and help to preserve oral narratives and contain knowledge about identity, history, culture and subsistence

Cultural Risk – any external influence that threatens the shared values, beliefs, and/or customs, that may be linked to the physical, mental or spiritual environment) that may result in feelings of loss and self-destructive behaviors (depression, suicide, violence and substance abuse)

Culture – refers to the beliefs, values and customs that define a group of people inherent to the art, language, spirituality and social institutions that dictate appropriate behavior among individuals and between individuals and the land, animals and spirits

Development - means any undertaking, or any part of an undertaking, carried out on land or water

Environment - means the components of the Earth and includes

- (a) Land, water and air, including all layers of the atmosphere;
- (b) All organic and inorganic matter and living organisms; and
- (c) The interacting natural systems that include components referred to in paragraphs (a) and (b).

Follow-up program - means a program for evaluating

- the soundness of an environmental assessment or environmental impact review of a proposal for a development; and
- the effectiveness of the mitigative or remedial measures imposed as conditions of approval of the proposal.

Harvesting - hunting, trapping or fishing activities carried on pursuant to aboriginal or treaty rights.

Heritage Resources - means archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records.

Impact on the environment - means any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.

Mitigative or remedial measure - means a measure for the control, reduction or elimination of an adverse impact of a development on the environment, including a restorative measure.



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Scope of the assessment - the components of the environment that will be evaluated for impacts from the proposed development.

Scope of the development - a description of the development and associated parts as determined by the Review Board.



Appendix A. Developer's Commitments

| Source | Volume | Page # | Line # | Representative | Commitment |
|---------|--------|--------|--------|-----------------------------------|---|
| PR #254 | 1 | 79 | 14 | Rick Hoos | The companies want to make sure that any and all concerns that the people have are addressed in a way that is satisfactory to the people. |
| PR #254 | 1 | 137 | 4 | Laurence Stephensen | [M]ost of our activites will be close to the shoreline and if there's any conflicts, the nature of our program is such that in cooperation with the First Nations representatives, we will avoid conflict with those sites. |
| PR #254 | 1 | 144 | 2 | Greg Empson - Laurence Stephensen | [W]e have your undertaking (NSV) to avoid conflict with any cultural or archaeological sites that are pointed out by First Nations representatives including moving a drill site, if necessary (agreed to by LS). |
| PR #254 | 1 | 144 | 11 | Greg Empson - Laurence Stephensen | I have your undertaking that you will use reasonable steps to move your drill site should it be necessary? (agreed to by LS) |
| PR #254 | 1 | 145 | 5 | Laurence Stephensen | [W]e'll work together with the First Nations and if they want to have someone to monitor the area (winter road), I don't see a problem with that. |
| PR #254 | 1 | 149 | 14 | Rick Hoos | [I]f the shoreward location, the landfall of the winter road is problematic, it could be moved. |
| PR #254 | 1 | 159 | 8 | Rick Hoos | [A]nd the company would abide by whatever direction they receive there from those parties (re: archaeological sites). |
| PR #254 | 1 | 159 | 22 | Rick Hoos | I'm sure the company would be happy to take Elders and anyone else who has some knowledge of a site out to the site before they drill. |
| PR #254 | 1 | 172 | 5 | Laurence Stephensen | (All the water for land based drill sites will come from) Great Slave Lake. |
| PR #254 | 1 | 186 | 16 | Laurence Stephensen | (With regard to Greg Robertson's concerns) ... [T]he best we can say is that we will advise you when we're moving in and when we're moving out. |
| PR #254 | 1 | 188 | 7 | Rick Hoos | Suitable would be based on sites that are found to be acceptable by the various parties that have a concern about depositing this material on land, on consultation with the company. |
| PR #254 | 1 | 196 | 11 | Laurence Stephensen | [I]t's (water) all coming from Great Slave Lake. |



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| Source | Volume | Page # | Line # | Representative | Commitment |
|---------|--------|--------|--------|----------------|---|
| PR #254 | 1 | 205 | 13 | Rick Hoos | The plan is to take all of this material generated from on lake drilling, we're talking about Great Slave Lake here, to Yellowknife for disposal in the dump and the plan for drilling onshore is to leave it onshore at an acceptable location. Acceptable to the regulatory folks, acceptable to First Nations interests and, of course, acceptable to the company as well. |
| PR #254 | 1 | 255 | 16 | Rick Hoos | I will speak for these companies and say that they would certainly be prepared to report such a circumstance if it were to arise (breakage in drill casing). |
| PR #254 | 1 | 257 | 1 | Rick Hoos | Great Slave Lake would be used for all water for both - to meet needs of both the NSV and CGV projects. |



Appendix B. Summary of Issues

This list contains a summary of the issues raised during this proceeding. For complete details, please refer to the Public Record, PR #145.

- Regulatory issues (business license to operate in the NWT, insurance coverage, etc.)
- Environmental performance and proof of relevant experience suited to diamond exploration in northern cultural and physical environment
- Adherence to environmental management system (ISO 14000 certification)
- Response mechanisms for most likely accidents associated with diamond exploration (fuel spills, etc.)
- Rigour and defensibility of impact analysis methods (expertise of DAR author(s), suitability of the VCs selected, definition of study area, complete consideration of impacts), impact predictions (significance criteria, uncertainty in predictions) and effectiveness of proposed mitigation
- Adequacy and quality of community engagement of Aboriginal parties by developer before, during and after operations
- Adequacy and quality of consultation of Aboriginal parties by government and Review Board
- Willingness of developer to recognize treaty rights in unsettled areas
- Roles and responsibilities of developer, Aboriginal parties, government departments and the Review Board in the collection of baseline data, analysis of data, submission of evidence and decision-making
- Challenges to participation due to restrictive timelines and capacity limitations (human resources, funding) mainly for Aboriginal parties
- Lack of available baseline information about fish and wildlife populations and habitat (waterfowl, raptors, moose, caribou, etc.), heritage resources (archaeological, historical, and burial sites), and traditional use areas (medicinal plants, berry picking, spiritual/sacred places, etc.)
- Ability to identify, assess and mitigate impacts to fish and fish habitat (drilling in important fish habitat, drawdown effects in fish bearing lakes, spills, etc.) in the absence of baseline information or site specific data
- Ability to identify, assess and mitigate impacts to heritage resources (known and suspected archaeological sites, historic sites, etc.) during winter operations with limited familiarity of the site
- Ability to identify, assess and mitigate impacts to burial sites (known and suspected cemeteries, graves, etc.) during winter operations with limited familiarity of the site
- Ability to identify, assess and mitigate cumulative effects on culture due to induced development from ice road access and mineral development throughout the traditional use areas of the Akaitcho and Métis peoples (enhanced access, change in land quality due to noise and visual impact of development, change in cultural value of place to people, change in traditional use of area, effects on cultural identity and well-being, etc.)
- Certainty in effective mitigation through collaboration with government and Aboriginal parties familiar with the area to identify effective mitigation and to monitor effectiveness to adapt mitigation measure to be more effective, if required
- Contingencies or approaches planned in the event of conflicts with traditional land use (hunting, fishing, etc.)
- Adequacy and accurate interpretation of TK in the preparation of DARs and development design
- Future plans in claim area (exploration, bulk sampling, mining) and associated contribution to cumulative effects
- Employment opportunities
- Pace of development and distribution of benefits among Aboriginal people, non-Aboriginal residents and non-residents
- Water sources and alternatives for land-based holes
- Volumes and disposal locations for waste and waste water
- Effects on drinking water



Appendix C. Public Registry Index



Report of EA and Reasons for Decision on the New Shoshoni Ventures Diamond Exploration Project

New Shoshoni Ventures Ltd.
Diamond Exploration Program at Drybones Bay
MVEIRB Ref. No. EA-03-004

| Volume | PR # | Description | Originator | Date Received/Sent | Date Added |
|--------|------|--|---|--------------------|------------|
| 1 | 1 | Letter of Referral for EA and Reasons for Decision to MVEIRB. | Melody McLeod, MVLWB | 22-May-03 | 23-May-03 |
| 1 | 2 | Preliminary Screening for NSV. | MVLWB | 3-Apr-03 | 23-May-03 |
| 1 | 3 | Notification of Referral to EA for NSV. | Sherry Sian, MVEIRB | 22-May-03 | 23-May-03 |
| 1 | 4 | Request for Great Slave Cruising Club to remain on NSV Distribution List. | Glen Abernethy, Great Slave Cruising Club | 26-May-03 | 28-May-03 |
| 1 | 5 | Correction of address (to MVEIRB). | Billia Park, NSV | 28-May-03 | 28-May-03 |
| 1 | 6 | Response to correction of address (PR #5). | Sherry Sian, MVEIRB | 28-May-03 | 28-May-03 |
| 1 | 7 | Notification of referral sent to CGV. | Sherry Sian, MVEIRB | 29-May-03 | 30-May-03 |
| 1 | 8 | Letter to confirm interested parties. | Sherry Sian, MVEIRB | 30-May-03 | 30-May-03 |
| 1 | 9 | E-mail request from LKDFN to remain on the CGV distribution list. | Monica Krieger, LKDFN | 30-May-03 | 2-Jun-03 |
| 1 | 10 | Notice of a Cumulative Effects EA for the Drybones & Wool Bay areas | Sherry Sian, MVEIRB | 3-Jun-03 | 4-Jun-03 |
| 1 | 11 | Faxes regarding Wool Bay & Request to remain on Wool Bay Public Registries. | Shelagh Montgomery, CARC | 30-May-03 | 18-Jun-03 |
| 1 | 12 | June 17th, 2003 letter to MVEIRB confirming Counsel for YKDFN | Galbraith Empson, YKDFN | 17-Jun-03 | 20-Jun-03 |
| 1 | 13 | MVEIRB (VC) response to Galbraith Empson's June 17th, 2003 Letter (PR 12). | Vern Christensen, MVEIRB | 19-Jun-03 | 20-Jun-03 |
| 1 | 14 | June 2nd, 2003 YKDFN Letter Re: NAGRC Referral to EA. | YKDFN | 2-Jun-03 | 20-Jun-03 |
| 1 | 15 | May 16, 2003 YKDFN Letter re: CGV May 8th, 2003 Letter. | YKDFN | 16-May-03 | 20-Jun-03 |
| 1 | 16 | Recent correspondance re: Drybones Bay/Wool Bay EAs - to Galbraith Empson (PR 12, 13, 14, 15). | Sherry Sian, MVEIRB | 19-Jun-03 | 20-Jun-03 |
| 1 | 17 | Draft Terms of Reference and Workplan for NSV EA. | Sherry Sian, MVEIRB | 20-Jun-03 | 24-Jun-03 |
| 1 | 18 | Question of interest in remaining on NSV EA Distribution List (to Greg Robertson). | Sherry Sian, MVEIRB | 20-Jun-03 | 25-Jun-03 |
| 1 | 19 | "Out-of-office" Auto-reply. | Greg Robertson, GNWT | 20-Jun-03 | 25-Jun-03 |
| 1 | 20 | Re-send of the Terms of Reference and Workplan. | Sherry Sian, MVEIRB | 24-Jun-03 | 25-Jun-03 |
| 1 | 21 | Note to File - call from Louie Azzolini for the YKDFN re: the CEA for Wool Bay & Drybones Bay Areas. | Sherry Sian, MVEIRB | 24-Jun-03 | 26-Jun-03 |
| 1 | 22 | Diamonds North Resources Ltd. Referral to EA (to Yellowknife Dene First Nation). | Todd Burlingame, MVEIRB | 14-May-03 | 26-Jun-03 |
| 1 | 23 | Note to File - call from Elaine Blaise, DFO re: comment period on Draft Terms of Reference for EAs in Wool Bay and Drybones Bay Areas. | Sherry Sian, MVEIRB | 24-Jun-03 | 26-Jun-03 |
| 1 | 24 | Re: CEA for EAs in Drybones and Wool Bay. | Elaine Blaise, DFO | 27-Jun-03 | 30-Jun-03 |
| 1 | 25 | Identification of Standing for NAGRC, NSV and CGV EAs . | Kris Johnson, NSMA | 26-Jun-03 | 30-Jun-03 |
| 1 | 26 | General CEA for Drybones/Wool Bay Area - Draft Terms of Reference. | Sherry Sian, MVEIRB | 26-Jun-03 | 30-Jun-03 |
| 1 | 27 | CEA for Drybones & Wool Bay - Terms of Reference. | Sherry Sian, MVEIRB | 26-Jun-03 | 30-Jun-03 |
| 1 | 28 | Re: NSMA request for Directly Affected Party status and TOR review comments. | Sherry Sian, MVEIRB | 26-Jun-03 | 30-Jun-03 |
| 1 | 29 | Comments re: TOR and Workplans for Drybones and Wool Bay. | Sherry Sian, MVEIRB | 26-Jun-03 | 30-Jun-03 |
| 1 | 30 | re: Meeting Request for Drybones/Wool Bay EA Processes. | Sherry Sian, MVEIRB | 26-Jun-03 | 30-Jun-03 |
| 1 | 31 | Request for extension to comment period for EAs in Drybones and Wool Bay. | Sherry Sian, MVEIRB | 26-Jun-03 | 30-Jun-03 |
| 1 | 32 | NSMA request for Directly Affected Party status and TOR review comments. | Kris Johnson, NSMA | 26-Jun-03 | 30-Jun-03 |

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|---|----|---|-----------------------------------|-----------|-----------|
| 1 | 33 | re: Meeting Request for Drybones/Wool Bay EA Processes. | Mike Fournier, EC | 26-Jun-03 | 30-Jun-03 |
| 1 | 34 | Materials re: YKDFN concerns. | Elaine Blaise, DFO | 25-Jun-03 | 30-Jun-03 |
| 1 | 35 | Note to File: CEA in the Wool Bay Area/Drybones Bay Area. | Sherry Sian, MVEIRB | 25-Jun-03 | 30-Jun-03 |
| 1 | 36 | re: Meeting Request for Drybones/Wool Bay EA Processes. | Eric Yaxley, INAC | 25-Jun-03 | 30-Jun-03 |
| 1 | 37 | re: Meeting Request for Drybones/Wool Bay EA Processes. | Sherry Sian, MVEIRB | 25-Jun-03 | 30-Jun-03 |
| 1 | 38 | Identification of Standing for NSV EA. | Sherry Sian, MVEIRB | 25-Jun-03 | 30-Jun-03 |
| 1 | 39 | re: Meeting Request for Drybones/Wool Bay EA Processes. | Gavin More, GNWT | 25-Jun-03 | 30-Jun-03 |
| 1 | 40 | re: Meeting Request for Drybones/Wool Bay EA Processes. | Gavin More, GNWT | 25-Jun-03 | 30-Jun-03 |
| 1 | 41 | Fwd. Meeting Request for Drybones/Wool Bay EA Processes | Eric Yaxley, INAC | 25-Jun-03 | 30-Jun-03 |
| 1 | 42 | re: Meeting Request for Drybones/Wool Bay EA Processes. | Elaine Blaise, DFO | 25-Jun-03 | 30-Jun-03 |
| 1 | 43 | re: Meeting Request for Drybones/Wool Bay EA Processes. | Sherry Sian, MVEIRB | 25-Jun-03 | 30-Jun-03 |
| 1 | 44 | Meeting request re: Drybones/Wool Bay EA Processes. | Sherry Sian, MVEIRB | 24-Jun-03 | 30-Jun-03 |
| 1 | 45 | Comments received digitally June 23-30, 2003.. | Sherry Sian, MVEIRB | 30-Jun-03 | 2-Jul-03 |
| 1 | 46 | Comments on NSV EA's Terms of Reference. | Gavin More, GNWT | 26-Jun-03 | 2-Jul-03 |
| 1 | 47 | NSV Comments and Materials on the PR (PR 25, 45, 46). | Sherry Sian, MVEIRB | 30-Jun-03 | 2-Jul-03 |
| 1 | 48 | Identification of Standing for NSV EA. | NWT Metis | 27-Jun-03 | 2-Jul-03 |
| 1 | 49 | Identification of EA Roles for NSV. | Mike Vaydik, NWT Chamber of Mines | 26-Jun-03 | 2-Jul-03 |
| 1 | 50 | Identification of EA Roles for NSV. | Gavin More, GNWT | 30-Jun-03 | 2-Jul-03 |
| 1 | 51 | NSV EA - Identification of Standing. | Sherry Sian, MVEIRB | 25-Jun-03 | 2-Jul-03 |
| 1 | 52 | GNWT Comments on the Terms of Reference for NSV EA. | Gavin More, GNWT | 26-Jun-03 | 2-Jul-03 |
| 1 | 53 | Identification of EA Roles for NSV. | Mike Fournier, EC | 26-Jun-03 | 2-Jul-03 |
| 1 | 54 | Identification of EA Roles for NSV. | Elaine Blaise, DFO | 2-Jul-03 | 3-Jul-03 |
| 1 | 55 | Comments on Draft Terms of Reference. | Dave Balint, DFO | 30-Jun-03 | 3-Jul-03 |
| 1 | 56 | General Cumulative Effects Assessment for Drybones/Wool Bay Area. | Sherry Sian, MVEIRB | 27-Jun-03 | 3-Jul-03 |
| 1 | 57 | NSV - Comments on Draft Terms of Reference (PR 58, 59, 60). | Sherry Sian, MVEIRB | 2-Jul-03 | 3-Jul-03 |
| 1 | 58 | Comments on Draft Terms of Reference. | Dave Baline, DFO | 30-Jun-03 | 3-Jul-03 |
| 1 | 59 | Comments on CGV, NAGRC and NSV terms of reference and workplan. | Eric Yaxley, INAC | 2-Jul-03 | 3-Jul-03 |
| 1 | 60 | Comments on Draft Terms of Reference. | Max Braden, NSV | 2-Jul-03 | 3-Jul-03 |
| 1 | 61 | June 30th Letters to Melody Mcleod, MVLWB and Todd Burlingame, MVEIRB | YKDFN | 2-Jul-03 | 4-Jul-03 |
| 1 | 62 | Identification of EA Roles for NSV | Rachel Crapeau, YKDFN | 3-Jul-03 | 4-Jul-03 |
| 1 | 63 | Re: Identification of EA Roles for NSV (Refer to Item 51, 62) | Sherry Sian, MVEIRB | 3-Jul-03 | 4-Jul-03 |
| 1 | 64 | Response to June 30th, 2003 letter from YKDFN - Re: CE study of the Drybones & Wool Bay Area (Refer to Item 61) | Todd Burlingame, MVEIRB | 3-Jul-03 | 4-Jul-03 |
| 1 | 65 | Identification of EA Roles for NSV | INAC | 4-Jul-03 | 7-Jul-03 |
| 1 | 66 | Response to correspondence dated June 23, 2003 re: participant funding (PR 25). | Sherry Sian, MVEIRB | 7-Jul-03 | 8-Jul-03 |
| 1 | 67 | Automatic Response - Away from the Office. | Angela Plautz, DOT | 24-Jun-03 | 17-Jul-03 |
| 1 | 68 | Re: Meeting Request re: Drybones/Wool Bay Area EA Processes. | Sherry Sian, MVEIRB | 3-Jul-03 | 17-Jul-03 |
| 1 | 69 | Re: Greg Robertson as a Lease holder in the Drybones Bay Area. | Kenneth Dahl, INAC | 10-Jul-03 | 17-Jul-03 |
| 1 | 70 | Re: Leases in the Drybones Bay area (to Kenneth Dahl). | Sherry Sian, MVEIRB | 11-Jul-03 | 17-Jul-03 |
| 1 | 71 | GNWT's comments on Drybones Bay CE study Terms of Reference. | Jason McNeill, GNWT | 11-Jul-03 | 17-Jul-03 |
| 1 | 72 | NSMA comments on the Drybones Bay CE & Terms of Reference. | Kris Johnson, NSMA | 9-Jul-03 | 17-Jul-03 |

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|---|-----|---|--------------------------|-----------|-----------|
| 1 | 73 | INAC's comments on the Drybones Bay CE Study & Terms of Reference. | Lionel Marcinkoski, INAC | 11-Jul-03 | 17-Jul-03 |
| 1 | 74 | DFO's comments on the Drybones Bay CES study & Terms of Reference. | Elaine Blaise, DFO | 11-Jul-03 | 17-Jul-03 |
| 1 | 75 | Distribution of comments on the Drybones Bay CE Study & Terms of Reference (Refer to Items 71, 72, 73, 74). | Sherry Sian, MVEIRB | 14-Jul-03 | 17-Jul-03 |
| 1 | 76 | Comments on Drybones/Wool Bay EA - recommendation for archaeological survey. | Chuck Arnold, ECE - GNWT | 7-Jul-03 | 17-Jul-03 |
| 1 | 77 | Final Terms of Reference for NSV. | Sherry Sian, MVEIRB | 17-Jul-03 | 21-Jul-03 |
| 1 | 78 | Note to File - Meeting with Developers summary from June 9th. | Sherry Sian, MVEIRB | 9-Jun-03 | 25-Jul-03 |
| 1 | 79 | Note to File - Inquiry about Developer's Meeting. | Sherry Sian, MVEIRB | 27-Jun-03 | 25-Jul-03 |
| 1 | 80 | Note to File - Meeting re: EA Process with Regulators. | Sherry Sian, MVEIRB | 3-Jul-03 | 25-Jul-03 |
| 1 | 81 | Note to File - Parties with Standing for EA in Drybones and Wool Bay Area. | Sherry Sian, MVEIRB | 21-Jul-03 | 25-Jul-03 |
| 1 | 82 | Re: Comments on CE Study of Drybones/Wool Bay. | Sherry Sian, MVEIRB | 24-Jul-03 | 28-Jul-03 |
| 1 | 83 | Final Terms of Reference & Workplan for CE Study of Drybones/Wool Bay Area. | Sherry Sian, MVEIRB | 23-Jul-03 | 28-Jul-03 |
| 1 | 84 | NSV Update (PR 82, 83). | Sherry Sian, MVEIRB | 24-Jul-03 | 28-Jul-03 |
| 1 | 85 | Re: Diamonds North Referral to EA. | Bob Overvold, INAC | 2-Jun-03 | 30-Jul-03 |
| 1 | 86 | Standing of Parties - CPAWS as an observer. | Jennifer Morin, CPAWS | 27-Jul-03 | 31-Jul-03 |
| 1 | 87 | Comments on the Draft Terms of Reference. | Lionel Marcinkoski, INAC | 29-Jul-03 | 31-Jul-03 |
| 1 | 88 | Re: CE Study of Drybones/Wool Bay. | Jason Lepine, NSMA | 1-Aug-03 | 5-Aug-03 |
| 1 | 89 | Public Registry additions for CGV, NSV and NAGRC. | Sherry Sian, MVEIRB | 5-Aug-03 | 5-Aug-03 |
| 1 | 90 | Re: Letter about CE Study Site Visit - Drybone/Wool Bay. | Sherry Sian, MVEIRB | 1-Aug-03 | 5-Aug-03 |
| 1 | 91 | Fax cover sheet (PR 90). | Sherry Sian, MVEIRB | 1-Aug-03 | 5-Aug-03 |
| 1 | 92 | Re: CEA Site Visit. | Kris Johnson, NSMA | 31-Jul-03 | 5-Aug-03 |
| 1 | 93 | Traditional Land Use and CE Study - Additions to Public Registry (Refer to 88, 89, 90 & 92). | Sherry Sian, MVEIRB | 5-Aug-03 | 5-Aug-03 |
| 1 | 94 | Re: EA of NSV, CGV, NAGRC and Snowfield - Aug 1, 2003 letter to Minister Nault. | Rachel Crapeau, YKDFN | 1-Aug-03 | 6-Aug-03 |
| 1 | 95 | Re: NWT Metis Report - CE Drybones/Wool Bay. | Jason LePine, NWT Metis | 6-Aug-03 | 12-Aug-03 |
| 1 | 96 | Joint Process/Schedule Extension - Drybones/Wool Bay CE- EA. | Sherry Sian, MVEIRB | 11-Aug-03 | 13-Aug-03 |
| 1 | 97 | Re: NSV Developer's Assessment Report. | Laurence Stevenson, NSV | 14-Aug-03 | 14-Aug-03 |
| 1 | 98 | Re: NSV- DAR. | Sherry Sian, MVEIRB | 14-Aug-03 | 14-Aug-03 |
| 1 | 99 | Weledeh Gondi - March/April 2003 Newsletter - Issue 08/Volume 3. | YKDFN | | 15-Aug-03 |
| 1 | 100 | Authority of Dettah & Ndilo and the MVRMA. | Chief Peter Liske, YKDFN | 31-Aug-03 | 15-Aug-03 |
| 1 | 101 | NSV's DAR. | Laurence Stevenson, NSV | 13-Aug-03 | 15-Aug-03 |
| 1 | 102 | Revised DAR for NSV. | Sherry Sian, MVEIRB | 15-Aug-03 | 21-Aug-03 |
| 1 | 103 | Start of Participant Comment Period. | Sherry Sian, MVEIRB | 18-Aug-03 | 21-Aug-03 |
| 2 | 104 | Public hearing announcement for CGV, NSV and NAGRC. | Sherry Sian, MVEIRB | 25-Aug-03 | 26-Aug-03 |
| 2 | 105 | Correction to the Public Hearing Date | Sherry Sian, MVEIRB | 26-Aug-03 | 26-Aug-03 |
| 2 | 106 | Letter to YKDFN re: Report on Field Studies in the Drybones Bay/Wool Bay Areas | Vern Christensen, MVEIRB | 27-Aug-03 | 28-Aug-03 |
| 2 | 107 | Reminder of Important Deadline for Participant Comments on DARs for CGV, NAGRC & NSV | Sherry Sian, MVEIRB | 28-Aug-03 | 29-Aug-03 |
| 2 | 108 | Distribution of Request for change to hearing date. | Sherry Sian, MVEIRB | 28-Aug-03 | 29-Aug-03 |
| 2 | 109 | Review/Comments NSV-NAGRC. | YKDFN | 2-Sep-03 | 2-Sep-03 |
| 2 | 110 | Comments on DAR/Drybones/Wool Bay. | Elaine Blais, DFO | 2-Sep-03 | 2-Sep-03 |
| 2 | 111 | Comments on DAR's/Drybones/Wool bay. | Eric Yaxley, INAC | 2-Sep-03 | 23-Sep-03 |
| 2 | 112 | Comments on DAR's/Drybones/Wool bay. | Gavin More, GNWT | 2-Sep-03 | 23-Sep-03 |
| 2 | 113 | Comments on DAR of CGV, NAGRC and NSV. | Alan Ehrlich, MVEIRB | 3-Sep-03 | 23-Sep-03 |
| 2 | 114 | Draft for discussion. | Gartner Lee Ltd. | 1-Sep-03 | 23-Sep-03 |
| 2 | 115 | Draft CES(Gartner Lee) | Alan Ehrlich, MVEIRB | 9-May-03 | 23-Sep-03 |
| 2 | 116 | NSMA comments on DAR . | Kris Johnson, NSMA | 9-Feb-03 | 23-Sep-03 |

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| 2 | 117 | NSMA comments on DAR . | Alan Ehrlich, MVEIRB | 9-May-03 | 23-Sep-03 |
| 2 | 118 | CGV and NSV response to DFO. | Sherry Sian, MVEIRB | 9-Sep-03 | 23-Sep-03 |
| 2 | 119 | DFO Sept 2 letter - response. | Laurie Stephenson, NSV | 9-Aug-03 | 23-Sep-03 |
| 2 | 120 | Response to DFO re DAR of CGV and NSV. | Sherry Sian, MVEIRB | 9-Aug-03 | 23-Sep-03 |
| 2 | 121 | CE Document. | Sherry Sian, MVEIRB | 9-Aug-03 | 23-Sep-03 |
| 2 | 122 | CE Study. | Sherry Sian, MVEIRB | 9-Aug-03 | 23-Sep-03 |
| 2 | 123 | Re send of CE Study report. | Sherry Sian, MVEIRB | 9-Aug-03 | 23-Sep-03 |
| 2 | 124 | CE study draft report. | Sherry Sian, MVEIRB | 9-Aug-03 | 23-Sep-03 |
| 2 | 125 | CGV, NSV and NAGRC, EA process update. | Sherry Sian, MVEIRB | 9-Sep-03 | 23-Sep-03 |
| 2 | 126 | CGV, NSV and NAGRC, EA process update. | Mike Fournier, EC | 9-Sep-03 | 23-Sep-03 |
| 2 | 127 | CGV, NSV and NAGRC, EA process update. | Sherry Sian, MVEIRB | 9-Sep-03 | 23-Sep-03 |
| 2 | 128 | Draft CE Study. | Sherry Sian, MVEIRB | 9-Sep-03 | 23-Sep-03 |
| 2 | 129 | Process update for EA of CGV, NAGRC and NSV. | Sherry Sian, MVEIRB | 9-Sep-03 | 23-Sep-03 |
| 2 | 130 | Process update for EA of CGV, NAGRC and NSV. | Mike Vaydik, NWT Chamber of Mines | 9-Sep-03 | 23-Sep-03 |
| 2 | 131 | CE Study, Snowfield IRs/pre-hearing NSV, CGV & NAGRC EA's. | Sherry Sian, MVEIRB | 9-Oct-03 | 23-Sep-03 |
| 2 | 132 | Process update for EA of CGV, NAGRC and NSV. | Sherry Sian, MVEIRB | 9-Oct-03 | 23-Sep-03 |
| 2 | 133 | Draft CE study. | Sherry Sian, MVEIRB | 9-Oct-03 | 23-Sep-03 |
| 2 | 134 | Process update for EA of CGV, NAGRC and NSV. | Mike Vaydik, NWT Chamber of Mines | 9-Oct-03 | 23-Sep-03 |
| 2 | 135 | Process update for EA of CGV, NAGRC and NSV. | Sherry Sian, MVEIRB | 9-Oct-03 | 23-Sep-03 |
| 2 | 136 | Draft CE study. | Sherry Sian, MVEIRB | 9-Oct-03 | 23-Sep-03 |
| 2 | 137 | CE Report. | Sherry Sian, MVEIRB | 9-Nov-03 | 23-Sep-03 |
| 2 | 138 | CE Report. | Sherry Sian, MVEIRB | 9-Nov-03 | 23-Sep-03 |
| 2 | 139 | Revised DAR for NSV. | Sherry Sian, MVEIRB | 9-Nov-03 | 23-Sep-03 |
| 2 | 140 | CE Report. | Sherry Sian, MVEIRB | 9-Dec-03 | 23-Sep-03 |
| 2 | 141 | CE Report. | Sherry Sian, MVEIRB | 9-Dec-03 | 23-Sep-03 |
| 2 | 142 | GLL revised draft of CE study. | Sherry Sian, MVEIRB | 9-Dec-03 | 23-Sep-03 |
| 2 | 143 | Correspondence re: GLL revised draft of CE study. | Terra-Firma Consultants | 9-Dec-03 | 23-Sep-03 |
| 2 | 144 | NAGRC CGV and NSV comments. | Sherry Sian, MVEIRB | 14-Sep-03 | 23-Sep-03 |
| 2 | 145 | CGV, NAGRC and NSV issues summary for EA. | Sherry Sian, MVEIRB | 14-Sep-03 | 23-Sep-03 |
| 2 | 146 | CGV, NAGRC and NSV EA process update. | Sherry Sian, MVEIRB | 14-Sep-03 | 23-Sep-03 |
| 2 | 147 | appl. for party status EA-03-002/003/004/006 | Sherry Sian, MVEIRB | 11-Sep-03 | 23-Sep-03 |
| 2 | 148 | CGV, NAGRC and NSV CE comments. | Sherry Sian, MVEIRB | 14-Sep-03 | 23-Sep-03 |
| 2 | 149 | CGV, NAGRC and NSV EA process update. | Sherry Sian, MVEIRB | 14-Sep-03 | 23-Sep-03 |
| 2 | 150 | Draft CE Study. | Sherry Sian, MVEIRB | 15-Sep-03 | 23-Sep-03 |
| 2 | 151 | Pre-hearing conference guide and worksheet. | Sherry Sian, MVEIRB | 15-Sep-03 | 23-Sep-03 |
| 2 | 152 | Draft CE maps. | Sherry Sian, MVEIRB | 15-Sep-03 | 23-Sep-03 |
| 2 | 153 | CGV, NAGRC and NSV pre-hearing conference guide. | Sherry Sian, MVEIRB | 15-Sep-03 | 23-Sep-03 |
| 2 | 154 | Draft CE maps. | Kris Johnson, NSMA | 15-Sep-03 | 23-Sep-03 |
| 2 | 155 | Guidelines for Ice Roads. | Angela Plautz, DOT | 16-Sep-03 | 23-Sep-03 |
| 2 | 156 | Comments on draft CE Study report. | Jane McMullen, GNWT | 17-Sep-03 | 23-Sep-03 |
| 2 | 157 | Correspondence re: draft CE Study. | Elaine Blaise, DFO | 17-Sep-03 | 23-Sep-03 |
| 2 | 158 | Correspondence re: draft CE Study. | CARC | 17-Sep-03 | 23-Sep-03 |
| 2 | 159 | CE Document. | Gavin More, GNWT | 17-Sep-03 | 23-Sep-03 |
| 2 | 160 | CE Document. | Gavin More, GNWT | 17-Sep-03 | 23-Sep-03 |
| 2 | 161 | DFO Comments EA03-002/004 | Dave Baline, DFO | 17-Sep-03 | 23-Sep-03 |
| 2 | 162 | INAC Comments on draft CE Study -Drybones/WoolBay. | Miki Promislow, INAC | 17-Sep-03 | 23-Sep-03 |
| 2 | 163 | CE Study comments DB/WB. | Chief Peter Liske, YKDFN | 17-Sep-03 | 23-Sep-03 |
| 2 | 164 | Draft CE Study from GLL. | Elaine Blaise, DFO | 17-Sep-03 | 23-Sep-03 |
| 2 | 165 | Announcement of revised schedule for pre-hearing conference. | Sherry Sian, MVEIRB | 18-Sep-03 | 23-Sep-03 |
| 2 | 166 | DFO concerns. | Laurence Stephenson, NSV | 18-Sep-03 | 23-Sep-03 |
| 2 | 167 | DFO concerns. | Laurence Stephenson, NSV | 18-Sep-03 | 23-Sep-03 |
| 2 | 168 | DFO concerns. | Laurie Stephenson, NSV | 18-Sep-03 | 23-Sep-03 |

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| 2 | 169 | DFO concerns. | Sherry Sian, MVEIRB | 18-Sep-03 | 23-Sep-03 |
| 2 | 170 | DFO concerns. | Elaine Blais, DFO | 18-Sep-03 | 23-Sep-03 |
| 2 | 171 | CGV and NSV discussion about clarifications needed by DFO. | Sherry Sian, MVEIRB | 18-Sep-03 | 23-Sep-03 |
| 2 | 172 | DFO critique of NSV's responses to DFO's concerns. | Sherry Sian, MVEIRB | 18-Sep-03 | 23-Sep-03 |
| 2 | 173 | YKDFN request for ruling EA-03-002/003/004 | Sherry Sian, MVEIRB | 18-Sep-03 | 23-Sep-03 |
| 2 | 174 | Guidelines for Ice Roads. | Sherry Sian, MVEIRB | 22-Sep-03 | 23-Sep-03 |
| 2 | 175 | Access to guidelines for ice roads. | Sherry Sian, MVEIRB | 23-Sep-03 | 24-Sep-03 |
| 2 | 176 | Access to guidelines for ice roads. | Sherry Sian, MVEIRB | 23-Sep-03 | 24-Sep-03 |
| 2 | 177 | Diamonds in the NWT. | Sherry Sian, MVEIRB | 26-Sep-03 | 30-Sep-03 |
| 2 | 178 | Distribution CE Study - Final Report. | Sherry Sian, MVEIRB | 26-Sep-03 | 30-Sep-03 |
| 2 | 179 | Request for ruling on confidential information of YKDFN. | Vern Christensen, MVEIRB | 23-Sep-03 | 3-Oct-03 |
| 2 | 180 | Request for ruling on confidential information of YKDFN. | Vern Christensen, MVEIRB | 23-Sep-03 | 3-Oct-03 |
| 2 | 181 | Request for ruling on confidential information of YKDFN. | Vern Christensen, MVEIRB | 23-Sep-03 | 3-Oct-03 |
| 2 | 182 | Work Plan Amendments-CGV, NAGRC and NSV. | Vern Christensen, MVEIRB | 23-Sep-03 | 3-Oct-03 |
| 3 | 183 | Comments on Draft CE Study. | Sherry Sian, MVEIRB | 30-Sep-03 | 6-Oct-03 |
| 3 | 184 | Confidentiality of NSMA information. | Sherry Sian, MVEIRB | 1-Oct-03 | 6-Oct-03 |
| 3 | 185 | Advice for developers in response to CE Study. | Sherry Sian, MVEIRB | 1-Oct-03 | 6-Oct-03 |
| 3 | 186 | Materials. | Sherry Sian, MVEIRB | 23-Sep-03 | 7-Oct-03 |
| 3 | 187 | Comments on CE Study. | Sherry Sian, MVEIRB | 6-Oct-03 | 7-Oct-03 |
| 3 | 188 | INAC trip report. | Sherry Sian, MVEIRB | 6-Oct-03 | 7-Oct-03 |
| 3 | 189 | Verification of drill locations for NSV. | Sherry Sian, MVEIRB | 7-Oct-03 | 7-Oct-03 |
| 3 | 190 | Note to File about CE comments. | Sherry Sian, MVEIRB | 7-Oct-03 | 7-Oct-03 |
| 3 | 191 | New directly affected party, DKFN. | Sherry Sian, MVEIRB | 7-Oct-03 | 7-Oct-03 |
| 3 | 192 | Conformity, completeness and technical adequacy. | Sherry Sian, MVEIRB | 8-Oct-03 | 9-Oct-03 |
| 3 | 193 | Review Board ruling on conformity and technical adequacy. | Sherry Sian, MVEIRB | 8-Oct-03 | 9-Oct-03 |
| 3 | 194 | CE submissions for CGV and NSV. | Sherry Sian, MVEIRB | 8-Oct-03 | 9-Oct-03 |
| 3 | 195 | Regional CE Study for Drybones and Wool Bay. | Sherry Sian, MVEIRB | 9-Oct-03 | 14-Oct-03 |
| 3 | 196 | NSMA submission re GLL CE Study. | Kris Johnson, NSMA | 9-Oct-03 | 14-Oct-03 |
| 3 | 197 | Correction to INAC trip report. | Sherry Sian, MVEIRB | 9-Oct-03 | 14-Oct-03 |
| 3 | 198 | Pre-hearing conference and public hearing | Sherry Sian, MVEIRB | 10-Oct-03 | 14-Oct-03 |
| 3 | 199 | Boom's benefits flowing south, report concludes. | Kris Johnson, NSMA | 18-Jun-03 | 14-Oct-03 |
| 3 | 200 | Setting the pace for development | Kris Johnson, NSMA | 14-Oct-03 | 14-Oct-03 |
| 3 | 201 | Application for potentially directly affected party. | Sherry Sian, MVEIRB | 15-Oct-03 | 20-Oct-03 |
| 3 | 202 | Representation at the public hearing. | Sherry Sian, MVEIRB | 17-Oct-03 | 20-Oct-03 |
| 3 | 203 | Assesment role. | Sherry Sian, MVEIRB | 30-Sep-03 | 23-Oct-03 |
| 3 | 204 | Update for CGV, NAGRC and NSV | Sherry Sian, MVEIRB | 20-Oct-03 | 23-Oct-03 |
| 3 | 205 | Pre-hearing conference worksheet. | Mike Fournier, EC | 23-Oct-03 | 28-Oct-03 |
| 3 | 206 | Change in participant. | Patrick Simon, DKFN | 27-Oct-03 | 28-Oct-03 |
| 3 | 207 | Participant comments on regional CE Study. | Sherry Sian, MVEIRB | 27-Oct-03 | 28-Oct-03 |
| 3 | 208 | YKDFN request for ruling of acceptance of confidential materials. | Sherry Sian, MVEIRB | 28-Oct-03 | 28-Oct-03 |
| 3 | 209 | New additions to the Public Registry. | Sherry Sian, MVEIRB | 29-Oct-03 | 29-Oct-03 |
| 3 | 210 | NSV response to DFO's concerns. | Sherry Sian, MVEIRB | 29-Oct-03 | 29-Oct-03 |
| 3 | 211 | Pre-hearing conference materials. | Sherry Sian, MVEIRB | 2-Oct-03 | 30-Oct-03 |
| 3 | 212 | YKDFN's request for ruling. | Sherry Sian, MVEIRB | 31-Oct-03 | 31-Oct-03 |
| 3 | 213 | YKDFN's comments. | Sherry Sian, MVEIRB | 31-Oct-03 | 31-Oct-03 |
| 3 | 214 | Pre-hearing conference worksheet. | Sherry Sian, MVEIRB | 31-Oct-03 | 11-May-03 |
| 3 | 215 | Correction to filing dates. | Sherry Sian, MVEIRB | 31-Oct-03 | 7-Nov-03 |
| 3 | 216 | Pre-hearing worksheet, INAC. | Sherry Sian, MVEIRB | 31-Oct-03 | 7-Nov-03 |
| 3 | 217 | Pre-hearing worksheet, DFO. | Sherry Sian, MVEIRB | 31-Oct-03 | 7-Nov-03 |
| 3 | 218 | Submissions on YKDFN's request for ruling. | Sherry Sian, MVEIRB | 31-Oct-03 | 7-Nov-03 |
| 3 | 219 | Announcement of new party - Greg Robertson. | Sherry Sian, MVEIRB | 6-Nov-03 | 7-Nov-03 |

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| 3 | 220 | Release of GLL supplement. | Sherry Sian, MVEIRB | 6-Nov-03 | 7-Nov-03 |
| 3 | 221 | Announcement of new party - LKDFN. | Sherry Sian, MVEIRB | 6-Nov-03 | 7-Nov-03 |
| 3 | 222 | Correction to DFO worksheet. | Sherry Sian, MVEIRB | 6-Nov-03 | 7-Nov-03 |
| 3 | 223 | Pre-hearing conference worksheet, PWNHC. | Sherry Sian, MVEIRB | 31-Oct-03 | 7-Nov-03 |
| 3 | 224 | Clarification of information from NSV. | Sherry Sian, MVEIRB | 10-Nov-03 | 13-Nov-03 |
| 3 | 225 | Supplementary material on cultural landscape. | Sherry Sian, MVEIRB | 10-Nov-03 | 13-Nov-03 |
| 3 | 226 | GLL presentation for the public hearing. | Sherry Sian, MVEIRB | 10-Nov-03 | 13-Nov-03 |
| 3 | 227 | NSV presentation for the public hearing. | Sherry Sian, MVEIRB | 10-Nov-03 | 13-Nov-03 |
| 3 | 228 | YKDFN's confidential reports. | Sherry Sian, MVEIRB | 10-Nov-03 | 13-Nov-03 |
| 3 | 229 | NSMA and YKDFN submissions. | Sherry Sian, MVEIRB | 10-Nov-03 | 13-Nov-03 |
| 3 | 230 | Identification of EA Roles for NSV. | Sherry Sian, MVEIRB | 27-Oct-03 | 18-Nov-03 |
| 3 | 231 | Representation at the public hearing. | Sherry Sian, MVEIRB | 17-Nov-03 | 18-Nov-03 |
| 3 | 232 | Information re: heritage protection from PWNHC. | Sherry Sian, MVEIRB | 17-Nov-03 | 18-Nov-03 |
| 3 | 233 | Presentations for joint public hearing. | Sherry Sian, MVEIRB | 18-Nov-03 | 18-Nov-03 |
| 3 | 234 | Presentations for joint public hearing. | Sherry Sian, MVEIRB | 18-Nov-03 | 18-Nov-03 |
| 3 | 235 | Reminder for presentation deadline. | Sherry Sian, MVEIRB | 17-Nov-03 | 20-Nov-03 |
| 3 | 236 | INAC's participation. | Sherry Sian, MVEIRB | 18-Nov-03 | 20-Nov-03 |
| 3 | 237 | Presentations for joint public hearing. | Sherry Sian, MVEIRB | 18-Nov-03 | 20-Nov-03 |
| 3 | 238 | Update on elders session and revised agenda. | Sherry Sian, MVEIRB | 18-Nov-03 | 20-Nov-03 |
| 3 | 239 | Credentials for joint public hearing. | Sherry Sian, MVEIRB | 18-Nov-03 | 20-Nov-03 |
| 3 | 240 | Distribution of draft agenda for joint public hearing. | Sherry Sian, MVEIRB | 20-Nov-03 | 20-Nov-03 |
| 3 | 241 | LKDFN's hearing presentation. | Sherry Sian, MVEIRB | 20-Nov-03 | 20-Nov-03 |
| 3 | 242 | On ice exploration drilling - powerpoint presentation from Ann Wilson, EC. | Sherry Sian, MVEIRB | 20-Nov-03 | 20-Nov-03 |
| 4 | 243 | Powerpoint presentations. | Sherry Sian, MVEIRB | 21-Nov-03 | 25-Nov-03 |
| 4 | 244 | Distribution of request for ruling letter from INAC. | Sherry Sian, MVEIRB | 6-Nov-03 | 25-Nov-03 |
| 4 | 245 | NSMA expert (Mark Stevensen) credentials. | Sherry Sian, MVEIRB | 21-Nov-03 | 25-Nov-03 |
| 4 | 246 | Fax advising of expert advisor to MVEIRB, Alice Legat. | Sherry Sian, MVEIRB | 21-Nov-03 | 25-Nov-03 |
| 4 | 247 | Updates to public registry. | Sherry Sian, MVEIRB | 24-Nov-04 | 25-Nov-03 |
| 4 | 248 | Revised draft hearing agenda. | Sherry Sian, MVEIRB | 24-Nov-03 | 25-Nov-03 |
| 4 | 249 | Announcement re: public hearing transcripts available on line. | Sherry Sian, MVEIRB | 2-Dec-03 | 3-Dec-03 |
| 4 | 250 | Comments from LKDFN on public hearing. | Sherry Sian, MVEIRB | 2-Dec-03 | 3-Dec-03 |
| 4 | 251 | YKDFN's presentation for joint public hearing. | Rachel Crapeau, YKDFN | 26-Nov-03 | 5-Dec-03 |
| 4 | 252 | Resume Howard Dean Cluff, RWED-GNWT. | Howard Dean Cluff, GNWT | 26-Nov-03 | 5-Dec-03 |
| 4 | 253 | Presentations. | Various presentations | 26-Nov-03 | 5-Dec-03 |
| 4 | 254 | Transcripts for joint public hearing, November 25, 2003. | Wendy Warnock, DigiTran | 26-Nov-03 | 5-Dec-03 |
| 4 | 255 | Transcripts for joint public hearing, November 26, 2003. | Wendy Warnock, DigiTran | 26-Nov-03 | 5-Dec-03 |
| 4 | 256 | INAC's submission of supplementary materials for joint public hearing. | Sherry Sian, MVEIRB | 4-Dec-03 | 5-Dec-03 |
| 4 | 257 | Susan Weaver's presentation for joint public hearing. | Susan Weaver (Public) | 4-Dec-03 | 29-Dec-03 |
| 4 | 258 | Correspondence re: the Review Board's independent expert. | Galbraith Empson, YKDFN | 4-Dec-03 | 29-Dec-03 |
| 4 | 259 | MVEIRB's response to INAC's request for ruling. | Sherry Sian, MVEIRB | 4-Dec-03 | 29-Dec-03 |