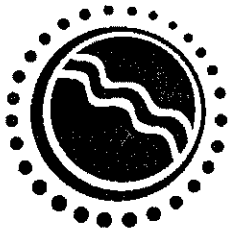


03-004



## Mackenzie Valley Environmental Impact Review Board

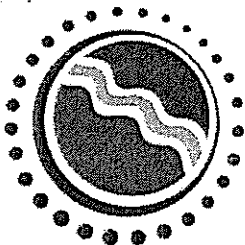
Box 938 , 5102-50th Avenue, Yellowknife, NT X1A 2N7

[www.mveirb.nt.ca](http://www.mveirb.nt.ca)

From:	Sherry Sian	Fax:	867-766-7074
	EAO	Phone:	867-766-7063
Date:	November 6, 2003	Pages:	11 including this page
To:	Snowfield Development Corporation	Fax:	
		CC:	
Subject:	LKDFN Approval as Party to Snowfield Development Corp. EA (EA-03-006)		

### NOTES:

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## Mackenzie Valley Environmental Impact Review Board

Our File: EA-03-002  
EA-03-003  
EA-03-004  
EA-03-006

November 6, 2003

Ms. Monica Krieger  
Lutsel K'e Dene First Nation  
Box 28  
Lutsel K'e NT X0E 1A0

Dear Ms. Krieger;

**Re: Directly Affected Party Status for the Environmental Assessments of Consolidated Goldwin Ventures (EA-03-002), North American General Corp. (EA-03-003), New Shoshoni Ventures (EA-03-004), and Snowfield Development Corp. (EA-03-006)**

On November 4, 2003 the Review Board considered and approved the Lutsel K'e Dene First Nation's (LKDFN) request for directly affected party in the above noted environmental assessments (EAs). This decision was based on the information provided about LKDFN land use in the vicinity of the proposed developments and the proximity of Lutsel K'e to the affected area.

The threshold for directly affected party status is a low one and this decision reflects the importance attached by the Review Board to an inclusive approach to community and first nation involvement in its EA processes. We caution, however, that directly affected party status in a Review Board EA is not intended to have any effect or be relevant to external processes such as the negotiation of Impact Benefit Agreements, Interim Measures Agreements or Treaty Negotiations.

As these EAs are already underway, please ensure that you are aware of critical deadlines. Should you have any questions about the process, please contact me at 867-766-7063.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sherry Sian".

Sherry Sian  
Environmental Assessment Officer

WILDLIFE LANDS & ENVIRONMENT

FROM THE DESK OF THE ADMINISTRATIVE ASSISTANT

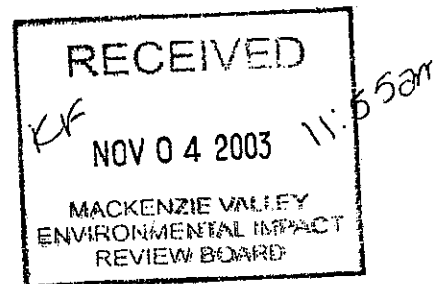
TO: Sherry Sián FROM: Monica Kneeger  
COMPANY: MVEIRB DATE: 11/4/2003  
FAX NUMBER: 766-7074 TOTAL NO. OF PAGES INCLUDING COVER: 9  
PHONE NUMBER: SENDER'S REFERENCE NUMBER:  
RE: Comments on CE Study YOUR REFERENCE NUMBER:

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

I'll let you know later this week  
(hopefully!) re: possibility of elders attending  
and/or making a presentation.

Also, does MVEIRB provide any funding to  
parties to attend public hearings? Our lack of  
\$ will really limit how many people  
we can send.

Thanks,  
Monica



BOX 28 LUTSELKE DENE FIRST NATION  
LUTSELKE, NT X0E 1A0  
TEL: (867) 370 3051 OR 3151  
FAX: (867) 370 3143

11/04/2003 TUE 11:36 [TX/RX NO 5031]



## **Lutsel K'e Dene Band**

Post Office Box 28  
Lutsel K'e, Northwest Territories  
X0E 1A0

Telephone: 867 370-3051  
Fax: 867-~~370-3051~~  
370-3143

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November 3, 2003

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Sherry Sian  
Environmental Assessment Officer  
Mackenzie Valley Environmental Impact Review Board  
Box 938, 5102-50<sup>th</sup> Ave.  
Yellowknife, NT X1A 2N7  
Fax (867) 766-7074

### **Re: Comments on Draft Cumulative Effects Study from Gartner-Lee Ltd.**

Please accept the following comments. We again apologize for our lateness in submitting these comments, but our lack of resources and time have prevented us from responding sooner. You will find that our comments echo many of the concerns already expressed by other parties to this EA.

#### **General Comments**

In general, we find this report to be severely lacking in vital baseline information pertaining to the natural and cultural values of the Drybones Bay/Wool Bay areas, in particular the use of these areas by Aboriginal groups. As such, we cannot have confidence in the conclusions drawn nor the recommendations for mitigation. How can one accurately evaluate the potential cumulative effects of projects when there is insufficient information on which to assess impacts and the effectiveness of proposed mitigation measures?

It is extremely disturbing that such a short time frame was granted to conduct this important study. Gartner-Lee did not even have time to include Dene Mapping Project information in the study, and there was no invitation extended to the Lutsel K'e Dene First Nation to contribute traditional land use information for consideration. There were limited sources of information used in this study, and time constraints again played a role in the inability of Gartner-Lee to fully research and utilize available information for this area. There is a complete lack of consideration of traditional knowledge in this study, especially in terms of information which could have been provided on vegetation, wildlife, and cultural/heritage resources. The VECs identified by the Yellowknives Dene First Nation were not even incorporated into this study, suggesting a total disregard for what the generations of primary land users consider important.

We do not believe that this cumulative effects study accurately or adequately considers the past, present and future land use in this area. It fails to consider the impacts of improved access, regardless of whether it is confined to the winter months. We echo the concerns of the Yellowknives Dene First Nation that the scoping of this environmental assessment and subsequent cumulative effects study is inherently flawed. Numerous Aboriginal parties raised concerns about the potential impacts of these proposed developments on both environmental and cultural/heritage resources, as well as cumulative effects. These concerns have been reduced to stating that these applications were referred to environmental assessment solely because of concerns over potential cumulative effects.

The lack of information on archaeological sites in the area is particularly disturbing. Not only has there never been a systematic archaeological survey of this area, even the report on the preliminary work done this summer by Callum Thomson is not required to be submitted until March 2004. We remind the MVEIRB that Section 6(a) of the Mackenzie Valley Land Use Regulations states that no permittee shall "*conduct a land use operation within 30m of a known monument or a known or suspected historical, archaeological site or burial ground*". When there is a general lack of information on where such sites are located, the potential for impact is great and we believe the precautionary principle should take precedence here.

As well, Section 19(3)(b) of the Mackenzie Valley Land Use Regulations states that an application for a permit must include a preliminary plan that shows:

*"The approximate location of all*

- (i) existing lines, trails, rights-of-way and cleared areas proposed to be used in the land-use operation,*
- (ii) new lines, trails, rights-of-way and cleared areas proposed to be used in the land-use operation,*
- (iii) buildings, structures, campsites, air landing strips, air navigation aids, fuel and supply storage sites, waste disposal sites, excavations and other works and places proposed to be constructed or used in the land-use operation, and*
- (iv) bridges, dams, ditches, railroads, roads, transmission lines, pipelines, survey lines, monuments, historical and archaeological sites, burial grounds, air landing strips, watercourses, traplines and cabins that may be affected by the land use operation."*

We have certainly not seen any of this required information adequately researched or documented by any of the proponents in their DARs. If they think that attendance at one community meeting, and subsequent misrepresentation of the information provided to them at that meeting, comprises adequate research into traditional land use areas, they are sadly mistaken. Lutsel K'e Dene First Nation has certainly never been approached by any of the proponents nor the authors of the cumulative effects study to contribute information in this regard. The proponents have not even met the minimum requirements for application for a permit, and the cumulative effects study is based on this inadequate

information. Therefore, we have serious doubts regarding the validity of the conclusions drawn about potential impacts.

We must also formally object to the ruling against Yellowknives Dene First Nation (and therefore in theory all Akaithcho First Nations) qualifying as a "local government" as defined by the Mackenzie Valley Resource Management Act. We remind the MVEIRB that the rights of First Nations to govern themselves are entrenched in Section 35 of the Canadian Constitution and Treaty 8, and further enshrined in the Framework Agreement and the Interim Measures Agreement signed between Akaithcho First Nations and the federal and territorial governments. Section 5(2) of the MVRMA states that *"For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the Consitution Act, 1982"*. By denying the YKDFN the ability to make decisions on their own lands, the MVEIRB most definitely infringes upon Aboriginal and Treaty rights.

### **Specific Comments**

#### **1.3 Environmental Assessment Process**

We again object to the suggestion that the Drybones/Wool Bay developments were referred to EA solely "due to public concern about potential cumulative effects". Numerous Aboriginal groups expressed specific concern about the potential impacts on the natural and cultural/heritage resources of the area, *as well as* cumulative effects due to the close proximity and similarity of the developments.

#### **2. Milestones and Deliverables**

How can this report propose to have gathered all available information on "historical and current land uses and existing biophysical, cultural, heritage and archaeological resources found in the Regional Study Area", when there was "no time for obtaining information from the Dene mapping project at the time of this draft"(footnote 2)? This incomplete information cannot accurately be called "baseline knowledge" upon which to base assessments of potential impacts. As such, this study cannot be used as a decision-making tool for the MVEIRB to consider potential cumulative effects.

##### **3.2.1 Yellowknives Dene First Nation Field Trip**

We strongly object to the statement that "this study was being conducted as a separate project, and was not related to this cumulative effects project". The Yellowknives Dene First Nation has identified numerous attempts to involve proponents and contractors in their fieldwork, to no avail. The intent of conducting their own fieldwork was to address (to the degree possible given the short time frame) the complete lack of baseline data collected by the proponents. To state that this work was not related to the assessment of the potential cumulative effects of these developments borders on the ridiculous.

### **3.2.2 Information Gathering**

Could someone please tell us how “the archaeological, cultural and heritage importance of the Regional and Local Study Areas was obtained by the consultant” through only three days of discussions with YKDFN members and “visual observations”?

#### **3.3.1 Information Gathering**

Lutsel K'e Dene First Nation has no record of ever being asked to contribute traditional land use information to this study, despite the fact that we are one of the “various Aboriginal groups that are known to use these areas”. Again, footnote 4 refers to the lack of inclusion of data from the Dene Mapping Project, a “potentially major source of information not considered due to time constraints”.

#### **4.1.4 Heritage Resources: Archaeology**

The severe lack of documented information on archaeological and historical resources in the Drybones Bay and Wool Bay areas is abundantly clear in this section. Prior to the summer of 2003, only 6 sites were previously recorded (or is it 4, as mentioned in footnote 13?). In just a two-week period, Yellowknives Dene First Nation identified 64 additional sites (or is it 68, as mentioned in Table 2?). This obviously shows the extremely high potential for even more archaeological sites to be present in the area that are being considered neither in this study nor in the EA.

Also, one of the previously documented sites is referred to as Old Fort Resolution. We think this is an error, and should instead be Old Fort Providence.

#### **4.2.2 Soils**

“No specific information was located on this subject for the Regional Study Area”. How can you predict impacts and effective mitigation measures when you have no specific information?

#### **4.3.2 Vegetation**

“No literature sources were located in the ASTIS or other databases searched on vegetation studies specific to the Regional Study Area”. The Yellowknives Dene First Nation and other Aboriginal groups who utilize this area have generations of knowledge of the plants here, but their expertise was not sought for this study.

#### **4.3.3 Fauna: Mammals**

The herd size estimate for the Bathurst caribou should be updated to reflect the most recent surveys. Herd size has dropped substantially since these 1990 estimates. “Little specific literature related to the presence of moose in the Regional Study Area is available.” Again, there are generations worth of traditional knowledge about moose

held by Aboriginal groups, which Gartner-Lee failed to even attempt to integrate into this study. To reduce such knowledge to "anecdotal" reflects a disturbing lack of respect for Aboriginal world views and the validity of such information. How can you assess potential impacts and suggest mitigative measures when "no population data is available"? The same concerns apply to furbearers, where "no literature sources were located in the ASTIS or other databases". Gartner-Lee relies far too exclusively on very limited literature searches on which to base their conclusions, and completely ignores traditional knowledge that doesn't happen to be in their precious databases, which in their view makes it somehow less valid.

#### 4.4.1.1 Consolidated Goldwin Ventures (MV2003C0003)

We fail to understand why the third drill site was not included in the Local and Regional Study Areas, and therefore "not considered in this project". Should not a cumulative effects study, whose stated purpose is to "develop a decision-making tool to help the MVEIRB make decisions about the contribution the referred developments have to potential cumulative effects, and for the Board to make effective recommendations concerning development in the Drybones Bay and Wool Bay areas" (p.1), not include all aspects of those developments?

In Table X, it states that "drilling is short-term, winter based and offshore, and therefore does not affect archaeological, cultural or historical sites". We know of no studies on which these sweeping generalizations are based, and due to the lack of documentation on such sites, cannot be rationalized. Also, what is the "approved manner" for the disposal of used water, drill cuttings, and other waste?

In the second Table X (?), it states that "no archaeological sites were identified by Prince of Wales Northern Heritage Centre within 1km of the work areas". This again places far too high a value on the data held by the PWNHC, which has been shown to be far from complete for these areas. As well, it states that "local community sources have not provided any information as yet". We know of no systematic attempts by CGV to gather this information from communities. We are somewhat encouraged by the fact that they do say "should information be provided we will ensure that all sites will be respected".

For all the other identified issues, CGV uses the fact that the program is conducted in the winter as if this somehow guarantees no impacts will occur. Given their complete lack of baseline information, we fail to see how they can be so confident. A further concern refers to medicinal plants. Table X states "no land will be disturbed so could not disturb any medicinal plant growth". Here is a perfect example of why the third drill site, which is located on land, should have been included in this study. To do otherwise results in a misleading and inaccurate assessment of potential impacts.

Other concerns with the topics in this table have previously been mentioned in our comments on the DARs, but as a reminder there are a multitude of vague terms such as "conducted in a workmanlike way", and an obvious lack of knowledge about wildlife. Wildlife species travel over large areas - they do not have an "immediate site" where they



are continuously located, and only ground squirrels and bears are hibernating during the winter, not "most wildlife".

#### 4.4.1.2 New Shoshoni Ventures (MV2003C0016)

In the section in Table X (now the third Table X – we assume the X refers to as yet undetermined numbers for tables) referring to drilling, the proposed mitigation addresses waste disposal and water use but not to disturbance of archaeological, cultural or historic sites. As well, why does NSV need to dispose of used water and drill cuttings "in an approved manner on land", whereas CGV was able to contain and remove these wastes to Yellowknife for disposal there?

The second Table X in this section is virtually identical to the one for CGV, and the same concerns expressed above apply equally here. Some additional concerns are as follows:

There is a commitment here that "local community sources will be consulted to provide any information to ensure that all sites will be respected", but we wonder when they plan to do so. This company seems to feel that attendance at one community meeting, where they drew their own interpretations of the information presented, comprises adequate consultation in this regard. Can they commit to surveying and documenting all culturally and spiritually significant sites before February 2004, their proposed start date, so as to ensure no disturbance will occur? If they cannot commit to this, we can have no confidence in their predictions of potential impacts.

As well, for medicinal plants it states that "no land will be disturbed", but on page 30 it states that "drilling will be through the ice in water greater than 15 metres depth, and land-based locations". Could NSV please explain how drilling holes 200-400 metres into the ground does not disturb the land?

#### 4.4.1.3 North American General Resources Corporation (MV2003C0008)

Again, why can't used drill water be contained and transported to Yellowknife for disposal rather than being "disposed of on land, at least 30 metres from shore"? This concern is especially relevant for this program, when crews are travelling daily back and forth from Yellowknife to the drill site. There should be no reason why any wastes should be left behind, whether they are disposed of in "an approved manner" or not.

We are somewhat encouraged that NAGRC "will ensure that all sites will be respected and avoided", but again there is a current lack of documentation on such sites and we seriously doubt that the company will be able to commit to doing so before their projected start date of late January 2004. As well, we appreciate the fact that NAGRC recognizes that some impacts, regardless of how negligible, will occur as a result of drilling activities. This is reflected in their statements that there will be "no remnant impact to the area" or future activities and "no perceivable conflict", a refreshing change from the other proponents' adamant claims that there will be no impact whatsoever. As well, NAGRC has at least done a bit more homework on wildlife than the other

proponents, reflected in their statement that "most wildlife hibernating, migrated or in land during program".

Additional concerns with supposed resolutions to the issues raised are identical to those already mentioned for the other proponents.

#### **4.4.1.4 Snowfield Development Corporation (MV2003C0023)**

The first Table X identifies that "drilling is all land based, using from 1 to 30 sites and drilling between 1 to 20 drill holes per site". It is extremely difficult to estimate the potential impacts of this activity when the number of drill holes could range anywhere from 1 hole at 1 site up to 600 holes at 30 sites. We also have the same concerns previously expressed for the disposal of drill fluids and drill cuttings "onland in an approved manner". Also, how wide is "minimal" for gridline cutting widths?

The second Table X mentions numerous times Snowfield's intent to "continue using First Nation advisors to ensure no interference". This is encouraging, but there are still some areas of concern here. How will Snowfield "monitor and minimize any noise or conflict" for raptors and other wildlife? In terms of impacting medicinal plant areas, Snowfield states that "no land will be disturbed" - how does a completely land-based drilling program, with the potential to drill up to 600 holes at 30 different sites, cause no disturbance to the land?

Other concerns raised previously in these comments also apply equally to this program.

#### **4.5 Analysis and Discussion**

This section is not yet complete, but we already have serious concerns about how it is being approached. The following statement is extremely disturbing: "For example, in the case of the Yellowknives, their traditional territory also includes Giant Mine, Colomac, BHP, Diavik, Snap Lake, the winter road, etc. Changes have taken place to the traditional lands already. Depending on how those changes are weighted into the evaluation, the significance determination could change." This suggests that because so much development has already occurred and changes have taken place, to add a few more exploration programs to the equation wouldn't be a big deal. In fact, the approach to this cumulative effects study should be just the opposite. Regardless of how benign, short-term, and low-impact these new proposals purport to be, they add to and amplify the overall impacts on the area. We hope that we are misinterpreting this statement, and that what Gartner-Lee is trying to say is that because so many changes have already occurred to the traditional lands, the impact of additional developments would be extremely significant. We need some clarification on this issue.

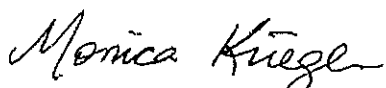
#### **6. Literature Cited**

We realize that time constraints played a role here, but this list seems extremely limited given the vast amount of resources available for research, both in print and on the

Internet. We again express our concern with the high value placed on literature searches rather than field research and community consultation in this document, the lack of consideration of traditional knowledge, and the lack of baseline information on which to base conclusions about potential cumulative effects and the effectiveness of proposed mitigation measures.

We look forward to participating in the public hearings to resolve some of these outstanding issues.

Sincerely,

A handwritten signature in cursive script that reads "Monica Krieger".

Monica Krieger  
Manager  
Wildlife, Lands and Environment Department