

Box 444
Yellowknife NT
X1A 2N3

June 18, 2008

Tawanis Testart
Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
Box 938, 5102-50th Avenue
Yellowknife NT X1A 2N7

Re: Giant Mine Remediation Project Environmental Assessment Draft Work Plan

Dear Ms. Testart

Please consider this letter as my initial comments on the May 14, 2008 Draft Work Plan for the Giant Mine Remediation Environmental Assessment (0809-001) and some reflections on the Scoping Workshop that was held yesterday.

I would like to first take the opportunity to thank the Board staff for putting on the Workshop yesterday as I found it very helpful in discussing the scope of this development and the assessment.

Please also accept this letter as an indication of my interest in appearing and presenting at the upcoming Scoping Hearing scheduled for July 22 and 23, 2008.

Comments on Draft Work Plan

It is not clear to me whether the Work Plan serves as the Board's determination of the scope of the assessment as required under the *Mackenzie Valley Resource Management Act (MVRMA)* s. 117(1). If so, I would hope that the Board intends to finalize the Work Plan only after the Scoping Hearing scheduled for July 22 and 23, 2008, rather than late June 2008 as shown in the Draft Work Plan "EA Start-up and Scoping Schedule" (see page 8 of the Draft Work Plan). It would also be helpful for the Board to issue Reasons for Decision for its determination on the scope of the assessment as required under s. 121 of the *MVRMA*.

4. Scope of the Assessment

It will be necessary for the Board to have an understanding of the geographic extent of the environmental and socio-economic effects of the Giant Mine. This mine was never the subject of a proper environmental assessment or review and began operations at a time before there was much if any environmental regulation.

The effects of the mine obviously extend well beyond the surface lease for the mining operation and should include some consideration of the effects of the mine from the emissions and depositions

from the gold-roasting operation, wind borne movements of tailings, and aquatic impacts on Baker Creek, Back Bay and Yellowknife Bay. The human health effects of the mine may extend to the entire population of the City of Yellowknife and the Yellowknives Dene First Nation communities of N'dilo and Dettah.

The Board will have to grapple with the legacy of this mining operation and a proper assessment of its impacts in determining whether the Remediation Plan actually addresses all of the significant effects from the mine now and into the future, and indeed forever, as the preferred remediation option requires perpetual care. I will present some further thoughts and recommendations on the scope of the assessment at the upcoming Scoping Hearing.

5.4 Government Bodies

I raised the issue of which Minister or Ministers have been deemed “Responsible Ministers” under the *Mackenzie Valley Resource Management Act (MVRMA)* for this Environmental Assessment at the Scoping Workshop yesterday. I also wish to know which federal and territorial government departments wish to be considered “advisors” to the Board. The response I got from Board staff was that this has not been resolved.

I urge that the Board formally request, as soon as possible, that federal and territorial departments and agencies clearly indicate what role they intend to play during this Environmental Assessment, and more specifically, whether they wish to be deemed Responsible Ministers or advisors to the Board. Parties to this Environmental Assessment need to understand what role various government departments and agencies intend to play. This information is needed for all parties to properly participate.

Participant Funding and Independent Technical Expertise

I raised the issue of participant funding in my April 23, 2008 letter and again at the Scoping Workshop yesterday. Other participants mentioned participant funding too as an issue. I understand that Board staff intend to provide a response in writing on the issue of participant funding for this Environmental Assessment.

I am aware that the Department of Indian Affairs and Northern Development indicated in a letter dated March 17, 2008 to the Mackenzie Valley Land and Water Board (now on the public registry for this Environmental Assessment) that “INAC [Indian and Northern Affairs Canada] will not be participating as an intervener on water licence application [*sic*] for this project. INAC plans to make full use of its resources and expertise, including those INAC officials who would typically perform intervener review and comment, to support its role as the proponent of the undertaking.” It is not clear to me whether DIAND will take the same approach during this Environmental Assessment or whether the Government of the Northwest Territories will similarly restrict its participation. This reinforces my point above on the need for clarity on the role that governments intend to play in this Environmental Assessment. If governments do not intend to fully participate, this will seriously affect the ability of the Board and others to conduct a thorough and informed review. **I urge the Board to seriously consider the need to retain its own expert consultants to provide technical advice during this Environmental Assessment.**

I note that DIAND has now set a precedent for participant funding for a northern environmental assessment outside of the *Canadian Environmental Assessment Act*. DIAND recently announced over \$340,000 of participant funding for the Nunavut Impact Review Board Part 5 review of the Bathurst Inlet Port and Road Project (see attached letter).

Given the amount of information available on the Giant Mine, its environmental effects, the proposed Remediation Plan and supporting documents, it is essential that participant funding be made available for meaningful participation. I anticipate that governments will restrict their participation as the proponents of this development, which makes participant funding even more critical.

Location of the Scoping Public Hearing

Finally, I understand that the Board is holding the July 22 and 23, 2008 Scoping Public Hearing at the Explorer Hotel in Yellowknife. **I urge the Board to reconsider holding part of this Hearing in N'dilo or Dettah to encourage participation by Yellowknives Dene First Nations citizens.**

Please note that I will be away from Yellowknife June 23 to July 13. If written submissions are required in advance of the Scoping Public Hearing, this will be difficult at best for me to do. Please advise me as soon as possible of any deadlines with regard to this Hearing. I look forward to the Hearing to provide further submissions on the Draft Work Plan including the scope of the development and the scope of the assessment.

Sincerely,

A handwritten signature in black ink that reads "Kevin O'Reilly". The signature is written in a cursive style with a large, prominent "K" and "R".

Kevin O'Reilly

Attachment—May 15, 2008 DIAND Letter on Participant Funding for the BIPAR Review

Affaires indiennes
et du Nord CanadaIndian and Northern
Affairs Canada

Sous-ministre adjoint Assistant Deputy Minister

Ottawa, Canada
K1A 0H4**MAY 15 2008**

Mr. Lucassie Arragutainaq
Acting Chairperson
Nunavut Impact Review Board
PO Box 1360
CAMBRIDGE BAY NU X0E 0C0

Dear Mr. Arragutainaq:

On February 19th the Nunavut Impact Review Board (the Board) forwarded to the Minister six applications from parties requesting funding to participate in the review of the Bathurst Inlet Port and Road Project (the Project). The Department proceeded with reviewing these applications in accordance with the process described in the *Nunavut Water Board and Nunavut Impact Review Board Participant Funding Guide* (the Guide). As such, an Independent Funding Review Committee (the Funding Committee), selected by the Board, was established to examine the six applications received for the environmental review of the Project.

On April 24th I received a report with recommendations from the Funding Committee. In its review, the Funding Committee determined that one applicant was not eligible for funding. It determined that Bathurst Inlet Developments is a "for profit" commercial enterprise; and thereby ineligible under the criteria identified in the Guide. The remaining five applicants were determined to be eligible for funding. Having reviewed the report I would now like to advise you I am awarding these five parties the following amounts:

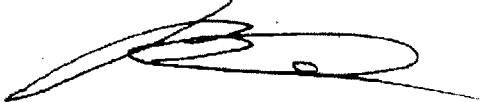
1. Yellowknives Dene First Nation: \$80,750
2. North Slave Métis Alliance: \$48,300
3. Canadian Arctic Resources Committee: \$70,073
4. Bathurst Inlet Road and Port Committee: \$104,000
5. Joint Secretariat (Ulukhaktok Hunter's & Trappers Association and Inuvialuit Game Council): \$37,250.

This funding is contingent on each party being able to enter into and meet the requirements of a contribution funding agreement with the Department. The central point of contact for these agreements will be Robyn Abernethy-Gillis in the Nunavut Regional Office. She can be reached at (867) 975-4549 or AbernethyGillisR@inac-ainc.gc.ca.

.../2

In closing, I would like to thank the Board and the Funding Committee for its role in ensuring these parties have the meaningful opportunity to bring important information to the review of the Project. I expect this information will benefit the Board's report and the Minister's subsequent decision-making with respect to this Project.

Sincerely,



Patrick Borbey
ADM, Northern Affairs Organization

- cc. Chief Ed Sangris and Chief Fred Sangris, Yellowknives Dene First Nation
Ms. Sheryl Grieve, North Slave Métis Alliance
Mr. David Gladders, Canadian Arctic Resources Committee
Mr. Boyd Warner, Bathurst Inlet Developments
Ms. Connie Kapolak, Bathurst Inlet Road and Port Committee
Ms. Christine Inglangasuk, Joint Secretariat