



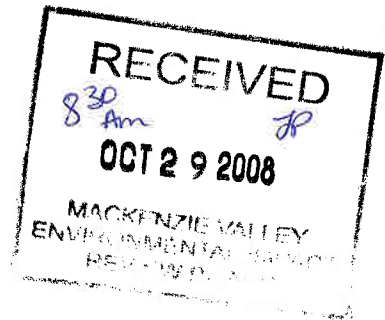
Yellowknives Dene First Nation
Lands Management / Land & Environment Office

FACSIMILE TRANSMITTAL SHEET

TO: Alistair MacDonald FROM: Rachel Crapanz
 COMPANY: MVEIRB DATE: Oct 28, 2008
 FAX NUMBER: 766-7074 TOTAL NO. OF PAGES INCLUDING COVER: 10
 RE: Tyhee NWT CORP EA - Scoping Session

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:



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October 28, 2008

Alistair MacDonald
A/Senior Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
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Fax: 766-7074

RE: Tyhee NWT Corp EA Scoping Submission (EA0809-003)

Dear Mr. MacDonald:

Thank you for the opportunity to participate in the scoping session for the Tyhee NWT Corp Yellowknife Gold Project.

You will find our scoping submission attached, including the working document that contained the issues we wanted to bring forward at the session. Not of all of these issues were raised at the session because of time and opportunity, but the list is included for reference.

One last issue not directly applicable to the scoping submission involves the provision of intervener funding. We have already allocated some of our discretionary spending on retaining outside reviewers for this project as it is a very large, complex proposal, with many technical aspects beyond the capacity of our in house staff. Unfortunately, outside experts are a necessity in order to fully engage the process and ensure that infringements to the Yellowknives Dene First Nation (YKDFN) are recognized and properly addressed. Notwithstanding our efforts thus far, this has been a significant constraint to our ability to effectively participate in the environmental assessment process. Put simply, if Indian and Northern Affairs is using the environmental assessment process to fulfill its Aboriginal consultation requirements than intervener funding must be made available to the YKDFN to adequately participate in the process. To do otherwise would illegitimize Indian and Northern Affairs' assertion that it has honorably consulted with the YKDFN.

If you have any questions or concerns regarding this letter, please contact the YKDFN Lands and Environment office.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Crapeau".

Rachel Crapeau
A/ Director of Lands

Copy: Chief Fred Sangris, YKDFN Ndilo, Fax: 867-873-8545
Chief Edward Sangris, YKDFN Dettah, Fax: 867-873-5969
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Preamble:

The Yellowknives Dene First Nation (YKDFN) is not against further development in our Territory at the Discovery site, so long as it is undertaken in a way that ensures environmental health and provides sustainable benefits to YKDFN members to the degree possible. Considering this, it is expected that Tyhee will enter into negotiations with the YKDFN for the purpose of compensating the YKDFN for the full value of the forgone ecological productivity and resulting infringement to Treaty rights, any environmental damage that results from any mining process, and provide assurance respecting the provision of socio-economic benefits.

The Yellowknives foremost concern is the destruction of a freshwater resource as part of the mining proposal. As Chief John Allen French from the Takla First Nation said when discussing a similar mining proposal that involved a schedule two listing under the Metal Mining Effluent Regulations (MMER), "As a nation we are not opposed to mining or economic development but we have to remember what is important. Gold does not run through our blood. We are all made of water". The YKDFN has experienced the bitter legacy of the former Discovery, Giant and Con mines. In their wake lies a poisonous past enforcing the alienation of YKDFN lands and the loss of a significant hunting area.

The YKDFN has already experienced the widespread contamination and alienation of our most productive land and water bodies by the operation and abandoning of mines scattered throughout the YKDFN Territory. Quite simply the YKDFN want assurance from the proponent and the regulatory community that this project is appropriately scrutinized in order to ensure the highest regard to environmental protection in the construction, operation, and reclamation stages of the mine's life. This level of environmental protection is only possible through an Environmental Impact Review. This is a reasonable expectation considering a private party (Tyhee) is asking the public and Aboriginal owners of the environment to permanently destroy a vital freshwater resource. The YKDFN strongly encourages the MVEIRB to consider that with every other mining project associated with a MMER schedule two exemption has either been referred to a Panel review or rejected outright.

Mackenzie Valley Environmental Impact Review Board Questions to participants:

Q1 & Q2) Issues important to environmental assessment

A: We'll assume that the board staff adequately captured YKDFN concerns as voiced at the meeting. The following are issues that the YKDFN wish to convey particular concern about. We appreciate there is a degree of repetition between these comments and those provided at the scoping session, however the YKDFN do not want there to be any confusion as to the seriousness that surrounds the following issues. Please also see the attached list of issues which the YKDFN addressed at the scoping session.

Primary Issues:

Lake Destruction: This is the first time in the Northwest Territories that a fish bearing, freshwater lake has been redefined as a Tailings Containment Area. Destroying a fresh water lake is a serious action that requires significant thought and consideration given the level of concern expressed by the YKDFN and others. The importance of water and fisheries to the YKDFN is an area of great concern, as it is for all Aboriginal and non Aboriginal people, with no less than four major water conferences in the Territory during the past year.

Caribou: The population of caribou continues to decline. There is tremendous level of concern and focus on any project that may affect caribou in any way. The area around Discovery is important during the spring hunt area for the YKDFN, and is becoming increasingly vital as a source of food with the declining success of the fall hunt at Mackay Lake. There are many likely and valid pathways between the proposed Project and YKDFN interests. For example, the Project could affect caribou noise, activity and increased access/traffic; dusting/degrading of vegetation, destruction of vegetation and changes the species composition/distribution. This list is by no means comprehensive, but provides an example of just some of the project specific impacts that could be amplified through cumulative effects. Finally, the YKDFN want to make emphasize that making caribou harder to harvest for the YKDFN translates into rights infringements.

Water Quality: This development is occurring in the Yellowknife River Watershed which provides drinking water to Yellowknife, Ndilo and Dettah. Ensuring that the outflows from the Tailings Containment Area are low impact and the risk from catastrophic failure is next to zero, is the foundation to assessing other effects. The MMER regulations are not sufficient to ensure the former and more stringent requirements are required. The impacts associated with the pulses of water proposed for release from the TCA are also of concern. Further, there is concern about the influx of chemicals and increased metal concentrations will do to the water quality and the organisms within the water column.

Cyanide: The use of cyanide is of concern to the YKDFN. All issues surrounding the use, transportation and disposal of the substance need to be carefully reviewed.

Security: Tyhee is a junior exploration company with limited capital reserves and significant shareholder dilution. Therefore, the YKDFN is concerned that the company lacks the capital base, operational capabilities and experience of more established mining companies and essentially less resilient. There are already several hundred million dollars worth of mine cleanups underway in the NWT, and the YKDFN want full assurance that taxpayer funds will not be used to subsidize mining operations in any way.

Ground Water: Ground water movements in northern lake systems is recognized water quality effects pathway resulting in the spread of pollution from one water body to possibly many others. Tyhee's proposed use of an existing fresh water lake for tailings containment and water treatment will alter the ground water discharge quality and possibly result in the discharge of concentrated effluents into surrounding water bodies. Tyhee must characterize the geology and subsurface fracturing of the rock in and around the proposed tailings containment area and between the old Discovery underground workings and the proposed new workings. Without this characterization it will be impossible to understand ground water movements and their consequential impacts on the environment.

Access: Access into productive YKDFN hunting areas is increasing. The increased access is disrupting wildlife and reducing the effective quality of habitat so that it supports fewer animals that the YKDFN have a Treaty right to harvest. The amount of hunting effort required to achieve the same returns as in years past continues to increase.

Q3) Does Tyhee NWT Corp's *Project Description* (PDR Section 2.0) provide sufficient information regarding the proposed mining activities and mining-support activities to conduct the environmental assessment?

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A: In the opinion of the YKDFN, the Project Description is deficient. We can only evaluate the full costs and benefits of mining projects, especially those that have very high initial impacts, in a holistic, cradle to grave manner. The Project Description does not have any Closure and Reclamation vision, plan, or costing. Without this section, the PDR is only incomplete and we cannot properly assess the impacts against any future benefits. To proceed to environmental assessment at this point is premature.

The PDR is also deficient in the information it provides with regards to the alternatives associated with the selection of Winter Lake as a Tailings Containment Area (TCA). The two alternatives proposed in the PDR are not actually alternatives because they do not meet the minimum requirement of holding the required amount of tailings. As such they should not be considered as viable tailings options, unless in combination with other TCA(s). A full, substantive and compelling rationale and analysis must be provided by Tyhee explaining why the only viable alternative is the destruction of Winter Lake. From the YKDFN perspective it appears destroying Winter Lake was the most convenient and cheapest solution; not the all round best solution. The YKDFN view is that the destruction of a freshwater lake should be the choice of last resort.

Mining Method: The YKDFN also request a full, robust and transparent rationale as to selection of underground vs. Open pit mining methods. As underground mining has less impact surficially, it is the preferred alternative. Tyhee should be required by the MVEIRB to provide sound and compelling rationale as to why the open pit method is the only alternative for economically extracting the resource.

Q4) Does Tyhee NWT Corp's *Description of the Environment* (PDR Section 3.0) provide sufficient information regarding the receiving environment to accurately assess the Development's potential impacts on the environment? If no, then what additional information is required to carry out the EA?

A: In our opinion, the Description of the Environment is one dimensional in that it consists almost entirely of observations. There is no discussion or analysis of what these observations mean in terms of the proposed Project and describing patterns and relationships between the project and the environment from a systematic level.

In order for the YKDFN to assess the impacts of this development, we need to understand what environmental components will be destroyed and degraded, and the current value of these assets. As the adage goes, 'you don't miss your water until the well runs dry'. The YKDFN do not intend on making that mistake. Just as the gold in the ground has a tangible value once extracted, so to does the land and water and the flora and fauna that our Nation relies on. For example, the Beverly and Qamanirjuaq Caribou Management Board recently released a report that every caribou harvested from this herd in the NWT has a monetary replacement value in excess of a thousand dollars. If this development impacts the population of the Bathurst Caribou, or the ability of our members to exercise their treaty rights, then the value is real and it is significant. We understand that this is a new field of inquiry, but this must be undertaken so that we can properly quantify the impacts and weigh them against the benefits. The YKDFN has no intention of sacrificing natural assets as a subsidy to an industrial project unless there is an adequate benefit for the members.

Tyhee's consultation efforts are spotty, erratic and unproductive. The YKDFN assert that Tyhee has not consulted in a meaningful way, and that unless it does so, and secures YKDFN consent for the Project via a signed Impacts and Benefits agreement, the YKDFN will vigorously defend its Treaty rights. To

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mitigate possible consultation concerns the MVEIRB should require Tyhee to outline a consultation and engagement plan in order to communicate, address rights issues, and build relations with the First Nation.

Lastly, Tyhee's archaeological program does not meet our acceptance. Previous practices involved joint projects by the company and the YKDFN. Neither YKDFN staff nor archaeologist was involved in this project. Despite the findings of their work, we remain concerned that there are heritage resources at risk and more work needs to be done. Initial work done in our office has identified an important cultural site in the vicinity (It was a common canoe rendezvous where people rested and recreated before heading to or from the barrens). Given the lack of clarity with regards to heritage resources and YKDFN involvement, additional work needs to be undertaken to ensure that there are no sites in the area that will be degraded or destroyed.

Q5) Does Tyhee NWT Corp's PDR adequately define the geographic and temporal scope in relation to the identified valued components

A: The scope that Tyhee uses in the PDR is far too restricted. Their level of scope is either very local to the site of development or the wider claim block that they have rights to. The YKDFN have always assumed that the scope must be reflective of the range of impacts on Valued Components. Working from this principle, it's clear that the implicit geographic scope considered by Tyhee is unacceptable for the purposes of assessing the proposed Project. Thus, the scope should be similar to that found in the original terms of reference, including the range of the Bathurst Caribou Herd and the Yellowknife River watershed. These two specifics are mentioned because the former is the foremost Valued Component (VC) and is the critical focus for Cumulative Effects, while the latter will be the receiving environment of impacts from a catastrophic tailings containment failure or wider water quality issue.

Q6) Is there adequate consideration of impacts on the environment that may result from malfunctions or accidents?

No. There is very little consideration of these events as far as I can tell. Things as small as birds landing in the tailings pond or caribou being hit by road traffic to issues as significant as worst case scenarios such as a tailings breach or large cyanide spill are absent from the PDR. The large scale/worst case scenarios and the redundancies in place to prevent them are the first step to assuring that the benefits of the project outweigh the impacts. Unless there is virtual certainty that the worst case is addressed and the risk minimal, then other issues cannot be considered.

Q7) Is there adequate consideration of cumulative impacts?

No. There is no cumulative effects assessment. Just as with the closure and reclamation section being absent, it is not possible to review the project with this critical element missing.

Q8) Are there any other significant areas in the PDR that the parties believe to be omitted or under-examined, which could play a significant role in the EA?

Language and Clarity: There are numerous instances throughout the PDR where the phrasing or language used is contrary, unclear or lacking specificity. For instance, in the Executive Summary in the PDR, the document indicates on one page that Winter Lake is not fish bearing, then on the next page, it mentions the fish that were caught. A second, more troubling instance in the PDR's Executive Summary is the

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claim that there are no heritage resources in the area, despite the fact that in the description of the environment and the 2005 archaeology report, three sites were found on Winter Lake.

Previous Terms of Reference:

After reviewing the previous terms of reference (ToR) from 2005, YKDFN feels that this would be a good place to start the environmental impact review process. Given that these terms of reference were valid for the previous project submitted to the MVEIRB, and the large amount of similarities and overlap between the two submissions (See Tyhee's document 'Comparison of Scope for 2005 project and Present Project'), there seems to be reason that the previous ToR should be discarded. Rather, they should be updated to reflect any additional concerns expressed at the scoping session on October 17th, 2008 and a new scope of development. Other areas that may need updating are those that are concatenated to the new scope of development, namely the wider range of impacts and complicated closure and remediation efforts resulting from the change from an underground to open pit mine.

Closing:

In closing the YKDFN would like to thank MVEIRB for undertaking the issues scoping meeting regarding the proposed Tyhee Yellowknife Gold Project. We hope the results of the meetings and the subsequent follow-up provide MVEIRB sufficiently clear and sound recommendations regarding the assessment of the proposed Project. In closing the YKDFN is pleased to submit a summary list of items that should be included in Tyhee's future Terms of Reference for the Environmental Assessment should the MVEIRB decide a full mine is not worthy of an Environmental Impact Review.

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Working Document: Outline of issues raised at the Scoping Session

1. **Corporate Assurity**
 - Tyhee's financial stability
 - Tyhee's mining experience/capacity
 - Price of gold needed to trigger care & maintenance

2. **Public and First Nation's Assurity**
 - Provide a complete list of required authorizations
 - Record of Tyhee's accommodation efforts with the YKDFN
 - Record of Canada's consultation efforts with the YKDFN
 - Preliminary determination of infringement (hunting cabins on Project site)

3. **Alternatives**
 - Provide a transparent multi-criteria assessment of feasible Project alternatives
 - Build into the alternatives analysis the ability to capture key elements of uncertainty, otherwise known as sensitivity analysis*
 - Identify unresolved mining planning issues
 - Identify Project concepts eliminated from further consideration by Tyhee or its consultants
 - Key elements of the alternatives analysis are:
 - *to describe and prioritize Project components ;*
 - *to specify an evaluation framework for assessing the performance of potential alternatives that would address the goal;*
 - *to define the alternatives to be considered; and then to evaluate the alternatives in terms of how they best meet the mine's multiple objectives.*
 - *To provide a quantitative and where necessary qualitative assessment of Project alternatives, including temporal alternatives (i.e., production profiles and mine life)*
 - *Identify Project alternatives to accommodating an extended mine life.*
 - *Waste rock*
 - *Tailings containment*
 - *Water treatment*
 - *Others*

4. **Construction materials**
 - Identify preferred and secondary aggregate sources

5. **Acid rock drainage**
 - Provide results of the Nicholas L. ARD tests
 - Communicate a definitive understanding of ARD potential
 - Provide contingency plans in the event of ARD
 - Tyhee's ARD monitoring philosophy
 - *Monitor water quality for ARD (early detection)?*
 - *Visual inspection followed by monitoring if necessary (late detection)?*

6. **Terminology and implementation considerations**
Tyhee's water management (and other) objectives should minimize the use of vague language to communicate its objectives e.g., "minimize"
Provide, to the extent possible, specific and measurable objectives
Include a table of proponent commitments
7. **Environmental and socio-economic**
Present land uses
 - *By season*
 - *By user type*
 - *YKDFN use*
 - *Regional context and land uses*
8. **Demonstrate how environmental setting influenced**
Project design
Alternatives considered
Site-specific design features (e.g., tailings, road alignment etc...)
9. **Provide an accounting of vegetation (types and quality) directly and indirectly impacted and:**
Report lost energetic capacity (food for caribou) from Project disturbance to full vegetation recovery
Report the present value of lost energetic capacity (how much food for wildlife in total is forgone)
10. **Identify environmental:**
MVEIRB should require Tyhee to identify and report the Environmental services possibly affected by the proposed Project and assess the impact of the proposed Project on those environmental services (e.g., Project is upstream of the City of Yellowknife water supply, fish and caribou for food etc...).
11. **Hydrology**
Project is in the Yellowknife River drainage basin
Identify past and existing land uses in the drainage basin
Impacts of an annual pulse of tailings water discharge
Anticipated peak discharges from the outlet of Narrow Lake
Closure planning including future put uses (e.g., filling)
12. **Ground Water**
Interconnection of ground water between old and new mine workings
Winter Lake ground water transport of metals
Winter Lake ground water transport through major faults
Provide an analysis of local and regional ground water conductivity
Provide an analysis of Project impacts under differing Open pit inflow scenarios

13. Wildlife

Impacts (mortality, avoidance and interaction) of the Project on

- *Caribou*
- *Wolves*
- *Wolverine*
- *Bears*
- *Foxes*
- *Carnivores*
- *Birds*

Impact of the tailings pond and open pit on wildlife

- *As an attractant*
- *As a dangerous physical feature*

14. Consultation

Results of consultation – What did Tyhee learn?

Implementing learning's – How did Tyhee put what it learned from the YKDFN into practice?

What consultation matters remain outstanding?

What type of First Nations consultation is/has Tyhee the GNWT and Canada undertaken?

- *Mere consultation*
- *Moderate consultation*
- *Deep consultation*
- *Consent*

15. Closure and Reclamation

Provide a conceptual closure plan for Project components including end-point targets

Provide a cost estimate of the conceptual closure plan

Describe Project post closure environmental management and monitoring plans

Demonstrate how progressive reclamation and closure are built into the mine design and mine plan

16. Benefits and cost accounting

Provide a balance sheet of environmental accounts showing

- *Current environmental and socio-economic assets possibly affected by the mine*
- *Current environmental liabilities including past and current mines and access roads the Project may interact with*
- *Change in environmental stock (assets) from pristine baseline conditions without the proposed Project*
- *Change in environmental stock (assets) from pristine baseline conditions including the proposed Project*
- *Report the results using a multiple accounts analysis*
- *Report current environmental services possibly affected by the Project as a public account asset*
- *Report the change in environmental service assets with the proposed Project.*

8.