



Yellowknives Dene First Nation

P.O. Box 2514, Yellowknife, NT X1A 2P8

March 15th, 2011

Shannon Hayden
Mackenzie Valley Land and Water Board
Po Box 2130
Yellowknife, NT X1A 2P6
Fax: (867) 873-6610

Dear Ms. Hayden:

**Mackenzie Valley Land
& Water Board**

File _____

MAR 15 2011

Application # MV2011C0002

Copied To SH/Reg

Re: Alex Debogorski Land Use Permit (MV2011C0002)

The Yellowknives Dene First Nation (YKDFN) have reviewed this application and request that the Land and Water Board immediately refer this application to Environmental Assessment.

Simply put, the land in this area is of such value to the First Nation that it cannot afford to have further development, indeed the original developments were allowed despite the opposition of the YKDFN, with the Crown and the Boards asserting that the imposition of measures, recommendations, and terms and conditions would prevent 'significant environmental impacts'. What the Crown (and Boards) refused to understand and acknowledge is that when the land is this important, no level of risk is acceptable. Even if we accept the technocratic mantra that Risk = Significance x Likelihood, then the Board have badly misjudged not just the significance despite the volumes of evidence on the Registries, but the likelihood of impact-causing activities as well.

Likelihood of Significant Impacts

The YKDFN directly place the blame associated with the degradation and destruction that has already occurred in this area squarely at the feet of this Board. This Board and the Crown created conditions that allowed a company to destroy values upon which a price cannot be set. It was the Mackenzie Valley Land and Water Board which permitted the Snowfield operations in Drybones Bay that lead to a large forest fire which burned more than a thousand acres (Territorial Case T-1-CR-2008-000814). This fire destroyed a cemetery and changed the nature of the land, altering the relationship the YKDFN have with the area. The traditional use of this area has been altered already – further development and risk is unwelcome as the land is just starting to heal. Proponents will assert that this was a simple accident, a unique and unfortunate event. If only that were the case – in 2006 a Board permitted process operation resulted in a large truck going through the ice. The Crown, through DFO and EC, have not seen fit to remedy this issue, exposing this area to a future fuel spill when the fuel tanks are compromised. The YKDFN would like to remind the Board that these operations were subject to the MVRMA process yet still resulted in irreparable impacts.

Significance of Impacts

The YKDFN steadfastly maintains its opposition to permits in Drybones Bay. At a community meeting in 2007, the membership unanimously opposed development. YKDFN are asking that this file be referred to Environmental Assessment. There are no commitments, mitigations or terms and conditions that will result in the significant impacts. This application should simply be refused, but as that is not possible the only option is to continue this through review to an EA, thereby burdening everyone involved in a process that YKDFN will requesting nothing less than the permit refusal through every means available.

When Mr. Debogorski contacted the YKDFN he was informed of this but has chosen to continue with his application - this area has been subject to Environmental Assessments (EA) for six previous applications, and this application should be seen in the same light. The applicant proposes to drill five holes on the North border of his claim block, immediately adjacent to the area which New Shoshoni proposed to explore. This EA (EA03-004) rejected the development stating:

"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 impacts 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"

This is the same area, with the same values at risk – there is no reason to suspect that the impacts would be any different with this project. With this in mind, the YKDFN ask the Board to place the registry entries for all of the Environmental Assessments and corresponding MVLWB files as part of this file (EA03-002, EA03-003, EA03-004, EA03-006, EA0506-005, EA0506-006 and MVLWB files MV2003C0003, MV2003C0008, MV2003C0016, MV2003C0023, MV2004C0038, MV2004C0039). The vast amount of relevant evidence already before the Boards cannot (Elders have passed away) and should not have to be reproduced yet again. The evidence presented to the Board in those cases, *beyond any doubt*, is directly applicable to this file and convinced the Review Board that:

"Drybones Bay is a vitally important cultural and heritage site for YKDFN...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." (EA03-002)

It seems clear that this Board and the Review Board accept that there is a significant public concern and significant adverse environmental impacts. If necessary, YKDFN will once again restate the concerns and impacts already listed many times in previous proceedings.

Ongoing Significant Impacts from Incomplete Measures – False Confidence

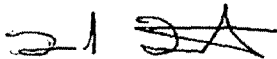
As a final note, YKDFN note that there are a large proportion of outstanding issues from previous EAs yet to be implemented. Few of the measures have been addressed and

implemented, especially the most important mitigation measures – for instance, there has been no land use planning in the area and no management plan has been mentioned since the EA reports. This is an example of the mitigation strategies recommended by the Review Board not coming into force – in their absence the likelihood of significance increases. In the EA0506-005 decision the MVEIRB stated *“Collectively, these measures will avoid or reduce the otherwise significant impacts that would have occurred.”* (Bold added)

For instance, in the Wool Bay/North American General Resources EA03-002 report, the Board states *“The Review Board, however, is of the view that effective mitigation of these adverse environmental impacts ... can alleviate public concern”* Thus, the absence or failure to implement these mitigations suggests that *“Unless the measures recommended in this Report of Environmental Assessment are implemented, the Review Board does not believe the significant adverse environmental impact can be mitigated and the associated public concern can be addressed”*. Most specifically, *“No new land use permits should be issued for new developments with the Shoreline Zone and within Drybones Bay and Wool Bay proper, until a plan has been developed to identify the vision, objectives and management goals based on the resource and cultural values for the area”*. Once again, we have an example of the Crown and the Board processes acting in isolation and without follow up – creating a series of empty gestures without meaningful results. The continued issuance of permits in this area invalidates the mitigations of the previous EA reports. The continued issuance of permits has led to cumulative impacts that have had serious and irreparable impacts to the YKDFN and this permit will only add to the impacts.

The Drybones Bay permitting history is a perfect example of the breakdown of the system – the Boards are acting in isolation, the Crown does not protect the Rights or address the concerns of the First Nations, and development continues with only a mild inconvenience. The entire system designed to mitigate the impacts and accommodate the concerns which YKDFN expressed at the EA hearing has failed – and we’re faced with no other alternative but to once again trust to this same system that continues on cruise control with no one assuming the mantle of responsibility. Previously in Drybones Bay the companies were to be held to tight standards and research and administrative actions would be taken to limit impacts – all to permit development in a culturally critical area without significant impacts. In the end, the company did not conform to the terms and conditions, the majority of the mitigation actions were never enacted, and there were long term destructive impacts to cultural, heritage, and Aboriginal and Treaty pursuits.

Sincerely,



Chief Ted Tsetta
Yellowknives Dene First Nation (Ndilo)

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Yellowknives Dene First Nation
Lands Management / Land & Environment Office

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
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COMPANY:	DATE:
MVLWB	March 15, 2011
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
873-6610	4
RE:	
Alex Debogorski LUP MVA011C002	

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

NOTES/COMMENTS:

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