



**Mackenzie Valley**  
Environmental Impact  
Review Board

Report of Environmental Assessment  
and Reasons for Decision

**Consolidated Goldwin Ventures Inc.**  
**Mineral Exploration Program**  
**EA0506-005**

November 30<sup>th</sup>, 2007

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### List of Acronyms

CGV	Consolidated Goldwin Ventures
DFO	Department of Fisheries and Oceans
DKFN	Deninu Kue First Nation
INAC	Indian and Northern Affairs Canada
NSMA	North Salve Metis Alliance
MVEIRB	Mackenzie Valley Environmental Impact Review Board
MVLWB	Mackenzie Valley Land and Water Board
MVRMA	Mackenzie Valley Resource Management Act
PWNHC	Prince of Wales Northern Heritage Centre
YKDFN	Yellowknives Dene First Nation

## Review Board Environmental Assessment Decision

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

It is the Review Board's opinion that this development, in combination with the cumulative effects of other present and reasonably foreseeable activities, is likely to cause significant adverse cultural impacts of a cumulative nature. However, these impacts can be reduced or avoided with the measures prescribed by the Review Board.

The Review Board recommends, pursuant to section 128(1)(b)(ii) of the MVRMA, that the development may proceed only with these measures to prevent the predicted significant impacts.

Gabrielle Mackenzie-Scott

NOVEMBER 30, 2007

Gabrielle Mackenzie-Scott  
Chairperson of the Mackenzie Valley  
Environmental Impact Review Board

DATE

## Executive Summary

The Mackenzie Valley Environmental Impact Review Board (“Review Board”) did an environmental assessment of a diamond exploration project proposed by Consolidated Goldwin Ventures on the north shore of Great Slave Lake between Wool Bay and Drybones Bay. The proposed project involved drilling up to three holes on each of nine different mineral claims, using a drill that could be moved by helicopter. Most of these spots are within five kilometres of the shore of Great Slave Lake. The company proposes to build a new 22 kilometre winter road, from the shore to Defeat Lake.

The Review Board heard from Aboriginal groups, government and members of the public. During a public hearing at Yellowknife, Northwest Territories, many cultural and social concerns were raised about how important the area next to the shore of Great Slave Lake (called the “Shoreline Zone” in this report) is to the Aboriginal people. The Review Board heard concerns about possible disturbance of heritage sites, including graves. Parties described to the Review Board that other activities on the land are affecting traditional harvesting. These include other mineral development projects, and many recreational snowmobilers and hunters accessing the area from the nearby City of Yellowknife. Parties described how these activities are impacting traditional harvesting, and how the proposed project in combination with what is already happening would result in a significant loss of the traditional value of the area.

The Review Board finds, based on the evidence on the record:

1. The subject area, and Shoreline Zone in particular, is of high importance to Aboriginal land users. It contains many heritage sites, including graves, and there are likely many more that have not yet been officially recorded. Together, these form a culturally important landscape (See sections 6.2.8.1 and 6.2.8.2)
2. Location of traditional activities matters to Aboriginal land users. This area matters more than other locations where harvesting could be pursued. (See section 6.2.8.3)
3. Changes on the land are affecting traditional activities. These changes are caused in part by increasing recreational snowmobilers and hunters, and in part by increasing development, including the proposed development, (See section 6.2.8.3)
4. These changes on the land will affect cultural practices of Aboriginal groups that use the land. (See section 6.2.8.3 and 6.2.8.4)
5. All of these impacts are made worse because there is no plan for the future of the Shoreline Zone. (See section 6.2.8.5)

The Review Board finds that cultural impacts are being caused by the increasing number of developments, including the proposed project, in this important area, and that these cultural impacts are at a critical threshold. Unless certain actions are taken, this would result in a diminished cultural value of this particular area, which would be an unacceptable cumulative impact on Aboriginal land users.

If government, with the help of Aboriginal land users, can manage this area properly, then activities can be managed to prevent this cultural threshold from being exceeded. This will require local planning in combination with an assessment of the heritage resources throughout the area. These activities, described in measures by the Review Board, are necessary to prevent the significant impact that is otherwise likely.

The Review Board finds that the following measures are required to prevent significant impacts:

- All access routes and drill locations will be scouted by an Aboriginal Elder and an archaeologist to identify possible heritage resource sites;
- No part of the development will happen within 100 meters of any known or suspected archaeological, burial or sacred site;
- A Plan of Action must be produced by government working with Aboriginal groups to make clear recommendations about future developments, considering the cultural values of Aboriginal peoples;
- A long-term monitoring program will track and evaluate the effects of changes in the Shoreline Zone on the culture and well-being of the Yellowknives Dene First Nation;
- The Prince of Wales Northern Heritage Centre, with funding from the federal and territorial governments, will conduct a thorough study to look for heritage sites throughout the Shoreline Zone. Aboriginal land users will help design and carry out this study; and
- Instead of building a new winter road inland to Defeat Lake, the company will only be allowed to use helicopter access for this development. The only exceptions will be for snowmobiles going to and from inland camps. The Yellowknives Dene First Nation will have a role in choosing where these camps will be.

# 1 Introduction

This is the Mackenzie Valley Environmental Impact Review Board's (MVEIRB or Review Board) *Report of Environmental Assessment* for Consolidated Goldwin Ventures Inc.'s (CGV) proposed mineral exploration program on the north shore of Great Slave Lake in the Northwest Territories. The purpose of this report is to satisfy the reporting requirements of MVRMA s. 128(2) and 128(4) and to convey the Review Board's decision on whether the proposed development is likely to cause significant adverse impacts on the environment, or be a cause of significant public concern.

## 2 Setting and Project Background

### 2.1 Setting

The proposed mineral exploration program is located near the north shore of Great Slave Lake, NWT. It is southeast of Yellowknife Bay and the communities of Yellowknife, Ndilo and Dettah. The development area is ecologically characterized by sub-arctic boreal forest and Canadian Shield, with soils containing discontinuous permafrost. The area contains numerous small lakes, often linked by fast-flowing streams that eventually flow into Great Slave Lake. Black spruce bogs are typical of low areas. Wildlife includes moose, black bear, boreal caribou, wolf, beaver, muskrat, snowshoe hare, spruce grouse, marten and lynx. Most of the bird species are migratory, although some over-wintering species are present. Mean summer and winter temperatures are 11°C and -21.5°C respectively.

The area has been used extensively by aboriginal communities in the region, with several having recorded intensive historical and current use, and particularly of the Shoreline Zone. Due to its proximity to communities of Yellowknife, Ndilo and Dettah (see Fig. 1), the area is relatively accessible. The area is increasingly used by Yellowknife residents for recreational purposes.

The proposed development is in an area that has been the site of mineral exploration activities since the 1930s. Exploration interest in the area has been renewed with the discovery of diamonds in the NWT and the subsequent development of the Ekati, Diavik and Snap Lake diamond mines. Much of the area near the shoreline of Great Slave Lake has been staked and claimed.

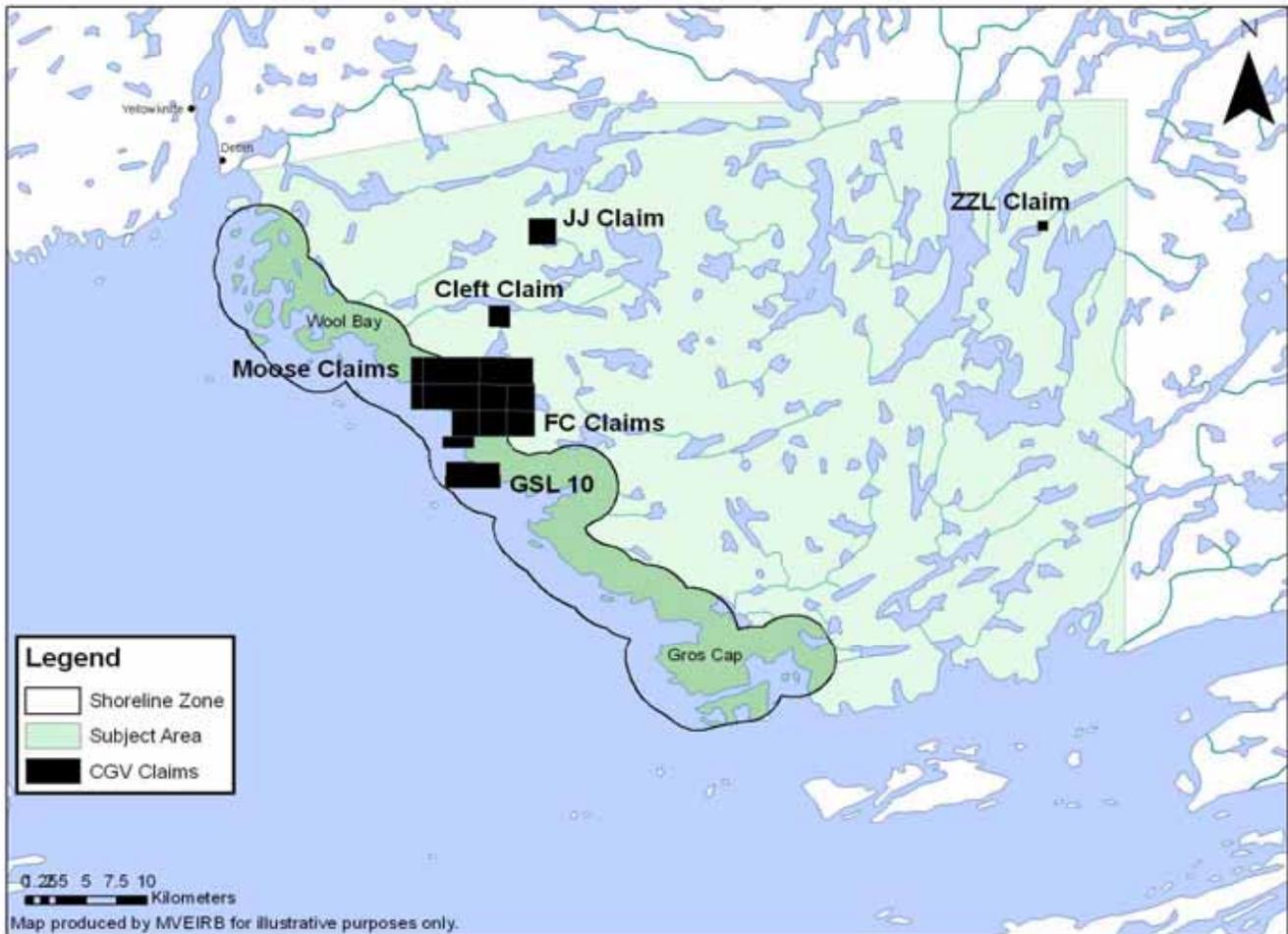


Figure 1: Development setting, Shoreline Zone and subject area

## 2.2 Defining Geographic Terms

The specific definitions of the geographic terms used in this report are defined below.

Throughout the hearings of this environmental assessment and previous environmental assessments dealing with the same area, the Yellowknives Dene First Nation (YKDFN) frequently used the term “Drybones Bay” to refer to a much larger area than the bay itself, but also referring to a length of surrounding shoreline and points inland. During the hearing, YKDFN legal counsel Greg Empson identified the challenge of providing a detailed boundary to the area, and explained that Elders are “looking at a broad perspective of a land they’ve used for generations” (p62 day 2).

The Review Board received a map of land use based on traditional knowledge from the YKDFN produced in regard to the proposed development. It indicated the traditionally used areas in the vicinity. The Review Board received further clarification from YKDFN specifying what was meant when YKDFN members referred to “the whole of the Drybones Bay area” (PR#146)<sup>1</sup>. The YKDFN stated that the traditional land area that its members had previously referred to as the area around Drybones Bay referred to “the whole of the area, not only around Drybones Bay, but all of the lands east of Great Slave Lake south of the community of Dettah to the East Arm of Great Slave Lake and thence inland” (April 23, 2007 YKDFN letter, PR#149). It confirmed that this is the area that was referred to by YKDFN members during the environmental assessment hearing, and stated that further details were unavailable due to confidential land claim negotiations that are underway.

The Review Board has considered this information. It is aware that the cultural concerns voiced by the YKDFN and others (see section 6) are related in part to traditional use, and this requires that the traditionally used area be duly considered in evaluating cultural impacts. However, the area described by the YKDFN includes a larger region than the general area of the claim blocks where the development is proposed. In the opinion of the Review Board, it is not appropriate to extend its consideration of impacts as far as the East Arm of Great Slave Lake. These areas are very unlikely to be affected by this development and to do so would lessen the focus of this assessment on areas of primary importance. The Review Board has therefore attempted to balance the need for inclusion of traditionally used areas in the general vicinity of the development with the need to focus on areas of particular concern. The subject area it has defined below reflects this.

Within this report, the term “**subject area**” refers to the general area of focus for this Environmental Assessment (see Figure.1). It encompasses the land area that is:

- south of the northern tip of Jennejohn Lake (62°27'17"N, 113°41'16" W);
- west of the eastern shore of Campbell Lake (62°21'51" N, 112°53' 18" W); and,
- bordered to the south and west by the extent of near-shore islands adjacent to the shoreline of Great Slave Lake.

This is identified as the subject area, encompassing all the locations of proposed drill sites (which extend west to Zig Zag Lake, next to Campbell Lake), and includes the majority of the traditionally named areas, traditional trails and burial sites identified by the YKDFN.

The term “**Shoreline Zone**”, as used within this report, refers to the portion of the subject area found between Wool Bay and Gros Cap within three kilometres of any part of the shore of Great Slave Lake. This is an area with highest levels of traditional use and the highest density of heritages sites. It is consistent with the area described as the Shoreline Zone in previous Environmental Assessments reports on Consolidate Goldwin Ventures, North American General Resources Corp., and Snowfield Development Corp. (See Map

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<sup>1</sup> Throughout this report, references to documents on the Public Registry are denoted by their Public Registry number (“PR#”). The appendix of this report lists the document titles and authors by these numbers.

2). It also extends to include the area surrounding nearshore islands and bays adjacent to the shoreline.

## **2.3 Proposed Development**

### **2.3.1 SCOPE OF DEVELOPMENT**

The scope of the development, as described this section (2.3), is based on the description of the proposed development from the following sources:

- The amended *Land Use Permit Application* (MV2004C0038) dated September 15, 2004, submitted to the Mackenzie Valley Land and Water Board (MVLWB) by CGV (PR#5), and supporting information submitted by the developer in support of the application (eg. PR# 141);
- Information request responses submitted by CGV (PR#11; 34; 45; 156);
- The developer's presentation (PR#119; 120) and statements at the environmental assessment hearing held on April 3<sup>rd</sup> and 4<sup>th</sup> 2007; and
- Any additional materials submitted by the developer to the public registry

The developer proposes to conducted mineral exploration to delineate economic mineral deposits of diamonds. Given the nature of mineral exploration, the project may or may not lead to future drilling or advanced exploration. The Review Board determined the scope of development to be that described in CGV's application for a land use permit to the Mackenzie Valley Land and Water Board (MVLWB) which was deemed complete and distributed for preliminary screening on December 7, 2004.

The Scope of Development includes:

- Exploration drilling of one to three bore holes at nine target sites, including three targets in the FC Claim Group, and one target in each of the JJ, Cleft, ZZL, Moose and GSL Claim Groups (see Figure 2).
- Helicopter support for much of the operation.
- Depending on the needs of the applicant, a temporary six person camp, in the form of a trailer, may be set up near Moose Bay.
- Possible establishment of a temporary helicopter supported camp at the Cleft, JJ, and ZZL targets.
- The project will involve fuel storage of 410 litres of diesel, 20 litres of gasoline, a 100 lbs cylinder of propane, and 40 litres of lubricants.
- The equipment to be used includes a Boyles 38 drill, two assorted pumps, one tractor, and a helicopter.
- The project includes construction and maintenance of a winter road approximately 22km in length from Great Slave Lake near Old Fort Providence (south of Wool Bay) inland to Defeat Lake.
- The project includes construction and maintenance of a winter road from Yellowknife to the Moose Bay Area.
- A tractor may be used on existing trails to move the drill rig between drill sites on FC and Moose Claims
- Wastes, including empty fuel drums and food containers, and lake-based drill cuttings will be contained and transported to the Yellowknife landfill site.
- Land-based drill cuttings will be deposited in a sump away from lakes or nearby streams.
- The applicant has requested a Land Use Permit with a term of five years.

For more details about the development, please refer to CGV's *Land Use Permit Application* (MV2004C0038; PR#5).

### **2.3.2 AMENDED SCOPE OF DEVELOPMENT**

The Review Board has determined pursuant to subsection 117(1) of the MVRMA that the following actions and commitments by the Developer should be included in the Scope of Development, based on the developer's statements and submissions since the time of the application.

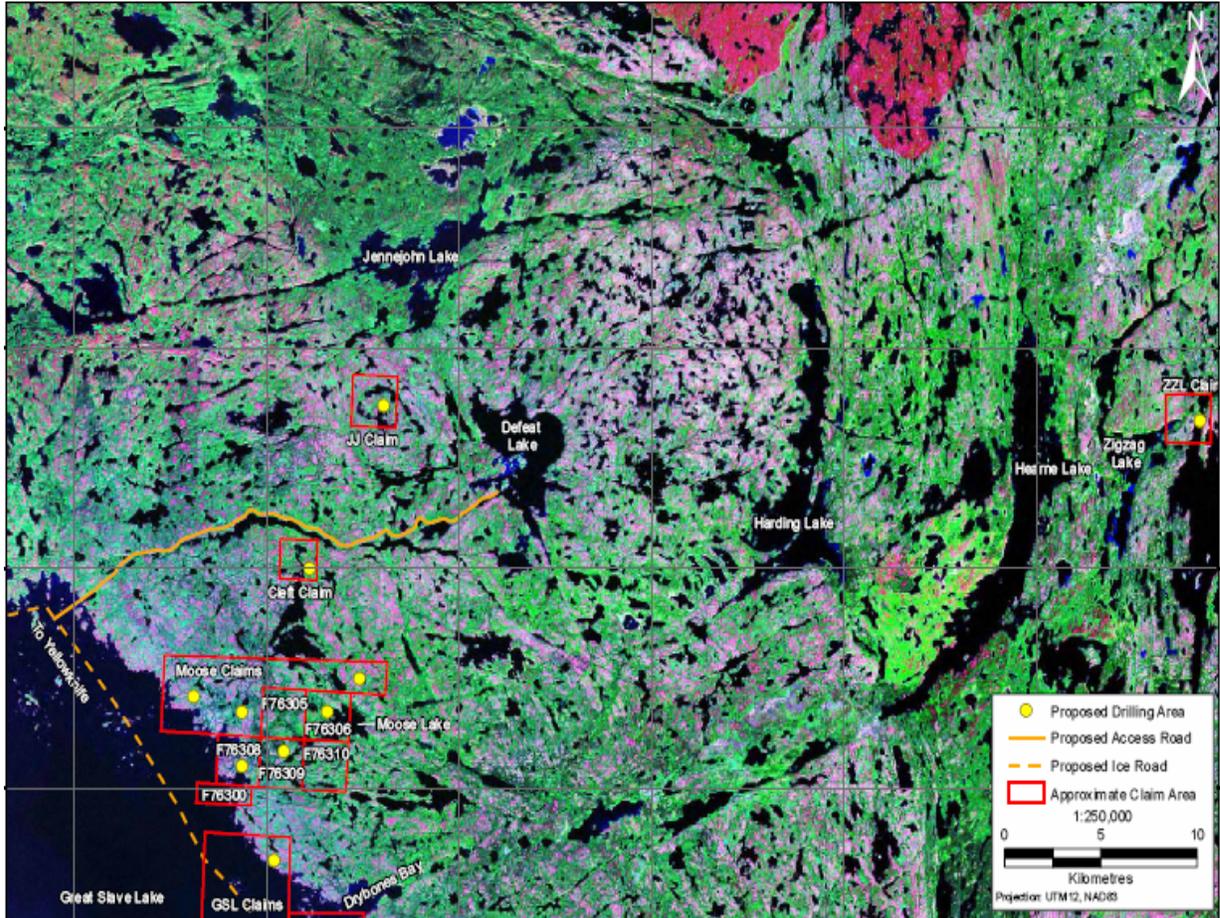


Figure 2 – Consolidated Goldwin Ventures Proposed Drilling Areas (PR#57)

During the course of the environmental assessment the developer committed to the following:

- Fixed wing may be employed (PR#11)
- Consideration of use of an ice road if available (PR#11)
- A maximum number of 3 drill holes per target area (PR#57)
- Drilling target in the Moose Claims areas will be on land (PR#57)
- All drill cuttings from on-ice drilling will be removed and transported to Yellowknife for approved disposal. All drill cuttings from on-land drilling will be placed in a natural depression, or as regulated by the Land Use Permit (PR#57)
- The minimum distance CGV considers to be well removed from surface waters would be thirty metres of the normal high water mark of any water body (PR#57)

- CGV will access the NWT Archaeological Sites database on an annual basis to obtain the locations of all archaeological sites within their development areas. (PR#57)
- Through the delineation of drill site locations on water, a visual inspection will be carried out on the lake for spawning shoals and a depth estimate. If required, a bathymetric survey will be conducted to determine the presence of spawning shoals, and the volume and depth of the lake (PR#57)
- On ice drilling will only occur during the frozen months and will only be located on areas frozen to the substrate or areas greater than 11 m deep (PR#57)
- CGV is prepared to work with the YKDFN over an extended period of time to ensure protection of heritage resources; hence the reason CGV is willing to enter a Memorandum of Understanding with the YKDFN (PR#57)

### **3 Environmental Assessment Process**

#### **3.1 Environmental Assessment Approach**

In developing the process for this environmental assessment, the Review Board considered the nature and scale of the proposed development together with the Review Board's existing knowledge based on four similar assessments in the same subject area in adapting the process described in its *Environmental Impact Assessment Guidelines* to one it considered appropriate for this development. The Review Board described its approach in the *Environmental Assessment Workplan*, released on Sept. 27, 2005 (PR#13).

The environmental assessment involved two potential phases. Phase one consisted of a round of information requests and potentially a public hearing to clarify the scope of the development, to clarify the scope of the assessment, to gauge the level of public concern and identify its sources, and to provide the Board with information to address the factors it must consider in environmental assessment.

Following the hearing, if there was deemed sufficient evidence, the Board would close the public record, enter its deliberations, and issue its report of environmental assessment without entering phase two. The Board reserved the right to issue further information requests to parties if it concluded it was necessary.

In the event that the record did not provide the Board with sufficient information, the Board could enter a second phase of the environmental assessment. This would involve all the typical stages of an environmental assessment including issuance of a Terms of Reference, requirement for a Developers Assessment Report, information requests, as well as Technical Reports. The chronology of the actual process is described in section 3.3.

## **3.2 Environmental Assessment Scope**

### **3.2.1 PROCESS UNDERTAKEN TO DETERMINE THE SCOPE OF ASSESSMENT**

To establish the Scope of Assessment, the Review Board reviewed CGV's *Land Use Permit Application* to the MVLWB (MV2004C0038). The Review Board also considered comments submitted to the MVLWB during the preliminary screening of same application.

In determining the scope of the assessment, the Review Board considered previous environmental assessments of similar types of mineral exploration programs which have taken place in close proximity to the areas currently targeted for drilling. For that reason the Review Board gave consideration to the public records of the environmental assessments which occurred in 2003: Snowfield Development Corp. (EA03-006); New Shoshoni Ventures (EA03-004); North American General Resources Corp. (EA03-003); and Consolidated Gold Win Ventures (EA03-002).

### **3.2.2 SCOPE OF ASSESSMENT DEFINITION**

As required pursuant to s. 117(2) of the MVRMA the Review had to consider:

- the impact of the development on the environment, including malfunctions or accidents and any cumulative impact that is likely to result;
- the significance of any such impact;
- any comments submitted by members of the public;
- the imposition of mitigation measures, where an impact is found; and
- any other matter including available alternatives to the development.

When assessing social and cultural impacts the geographical scope of this assessment included NWT communities that have traditionally used the subject area.

Although the development activities occur primarily on CGV's nine mineral claim blocks, consideration of a larger area is required to assess the project-specific and cumulative impacts. The physical scope of the assessment includes the subject area.

The temporal boundaries for this environmental assessment were established to consider cumulative impacts, including past, present and reasonably foreseeable future impacts. This requires broader temporal boundaries than just the operational phase of the drilling program. Therefore the temporal scope was determined to include all phases of the mineral exploration program, from mobilization to post-operation, until such time that no potential significant adverse impacts attributable to the development are predicted to occur.

### **3.2.3 TRADITIONAL KNOWLEDGE**

The Review Board recognizes the important role that aboriginal cultures, values and knowledge play in its decision-making. In accordance with the requirements of Section 115.1 of the *MVRMA*, the Review Board considered any traditional knowledge that was made available during the environmental assessment.

The Review Board, through its experience with conducting the previous Drybones Bay environmental assessments (EA03-002, EA03-003, EA03-004 and EA03-006), became aware of the high importance of the general region to the aboriginal communities of the North Slave in addition to numerous site specific concerns. Regarding the latter, the Review Board sought specific information regarding the drill targets.

At the request of the YKDFN (PR#90), several documents from previous environmental assessments were included on the public registry for the present environmental assessment. These documents provided the Review Board with useful information to assist it in the Review Board's determinations. Traditional Knowledge, in the form of testimony by Elders at the public hearing for this environmental assessment, was also considered by the Review Board.

### **3.3 Environmental Assessment Chronology**

This Environmental Assessment was conducted in accordance with the Review Board's *Environmental Impact Assessment Guidelines*, with modifications as described above, and in accordance with its *Rules of Procedure*. The timetable for this assessment was long and drawn-out. Therefore, the Review Board deems it suitable to include Table 1, which describes the environmental assessment chronology.

**Table 1: Chronology of Environmental Assessment Process**

<b>Date</b>	<b>Stage of Assessment</b>
Sept. 13, 2004	Application received by MVLWB. Deemed incomplete.
Oct. 19, 2004	Application received by MVLWB. Deemed incomplete.
Nov. 2, 2004	Application received by MVLWB. Deemed incomplete.
Nov. 16, 2004	Application received by MVLWB. Deemed incomplete.
Dec. 7, 2004	Application deemed complete by MVLWB
Jan. 13, 2005	MVLWB require further study in response to concerns raised by YKDFN
Aug. 24, 2005	MVLWB decides to approve proposal in principle.
Aug. 26, 2005	MVEIRB receives new information from YKDFN, requests MVLWB refrain from issuing permit.
Sept. 8, 2005	MVEIRB initiates environmental assessment on its own motion pursuant to MVRMA s.126(3) in response to YKDFN concerns regarding the proposed development and consultation issues
Sept. 27, 2005	Workplan issued
Sept. 28, 2005	Call to parties for proposed information requests
Oct. 20, 2005	Information requests issued
Nov.11, 2005	Assessment adjourned due to inadequacy of developer's responses to information requests
Feb. 1, 2006	Developer re-submits information request responses

Feb. 9, 2006	MVEIRB notifies developer that responses are inadequate
July 6, 2006	MVEIRB asks developer to report on application status <sup>2</sup>
Oct. 19, 2006	Information responses received from developer. Assessment reactivated by MVEIRB. Workplan updated accordingly.
Dec. 15, 2006	Information responses received from parties
March 14, 2007	Pre-hearing conference
April 3-4, 2007	Public hearing in Yellowknife
May 3, 2007	Public record closed
Aug. 3, 2007	Second round of information requests issued regarding parties' views on measures under consideration <sup>3</sup>
Aug. 29, 2007	Responses received
Sept. 1, 2007 to present	Review Board deliberated, produced Report of EA

### 3.4 Environmental Assessment Participants

The Terms of Reference for this Environmental Assessment outlined roles and responsibilities of the various participants. The developer was responsible for producing the information necessary for the Review Board and other Parties to evaluate the potential impacts that the GGV program might have on the environment. Table 2 indicates the parties and their involvement in the public hearing and information request responses.

**Table 2 – Role of Parties**

Party	Public Hearing	IR responses
Consolidated Goldwin Ventures	✓	✓
Yellowknives Dene First Nation	✓	✓
North Slave Métis Alliance	✓	
GNWT – Prince of Wales Northern Heritage Centre	✓	✓
GNWT – Environment & Natural Resources	✓	
Department of Indian and Northern Affairs	✓	✓
Environment Canada	✓	
Department of Fisheries and Oceans	✓	
Deninu Kue First Nation	✓	
Northwest Territory Métis Nation (including the Fort Resolution Métis Council)	✓	
Dene Nation		
Akaiicho Interim Govt./IMA Office		

✓ = actively participated in this step of the environmental assessment

<sup>2</sup> Between Nov. 11<sup>th</sup>, 2005 and Oct. 19<sup>th</sup>, 2006, the assessment did not proceed due to outstanding information required from the developer.

<sup>3</sup> This was a new step in the process, conducted to provide further evidence to assist Board deliberations.

## 4 Community Engagement

The issue of community engagement arose at several points during this environmental assessment. A meaningful and respectful approach to community engagement is required to effectively involve Aboriginal communities and allow them to develop a relationship with the developer. This section describes the items on the public record pertaining to these issues.

The Review Board's analysis of the preliminary screening for the currently proposed development found evidence of inadequate community engagement on the developer's part. This, coupled with the previously stated public concerns regarding the subject area, was cited as the reason the Review Board decided to undertake an environmental assessment on this development (MVEIRB Reasons for Decision Sept. 12, 2005, PR#2).

### 4.1 Developer's Submissions

The developer submitted an application for the current project on September 13<sup>th</sup>, 2004. On July 25, 2005, during the preliminary screening, the developer sent a generic fax to the Aboriginal groups on the MVLWB's North Slave distribution list. The fax instructed recipients to contact the developer for further information. There was little response to this fax. The developer later stated that sending the group fax was an adequate community engagement effort.

In the Public Hearing, Laurie Stephenson stated on the developer's behalf, "We definitely tried to make contact with you... and this information was sent to you... With respect to consultation, we were making all effort" (day 2, p129)<sup>4</sup>. The developer confirmed that as of September 26, 2005, there were no further attempts at community engagement with the YKDFN (CGV letter Sept. 26, 2005: PR#11).

On February 1<sup>st</sup>, 2006, the Review Board received a response from CGV to information requests. In it the company described the involvement of Aboriginal people in its previous work, and added "We have consulted and will continue to consult with YKDFN as demonstrated during our current LUP" (Feb.1, 2006, p10: PR#45). The Review Board notes that the developer's involvement of Aboriginal people in this work was not voluntary but was legally required by Review Board measures. This was not deemed adequate to illustrate a meaningful and respectful approach to community engagement. The Review Board wrote to CGV to describe the unsatisfactory nature of CGV's IR responses.

On November 2<sup>nd</sup>, 2006, CGV resubmitted its responses to the information requests originally issued on Oct. 10<sup>th</sup>, 2005. With respect to community engagement, the response stated that "CGV recognizes the cultural, spiritual and historical significance of the area proposed for exploration, and thus the importance of consultation with First Nations.

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<sup>4</sup> Throughout this document, references to statements from the public hearing will be identified by the day on which they were raised (one or two) and the corresponding transcript page. Hearing transcripts in their entirety are included on the Public Registry (PR#141).

Therefore CGV has formally requested consultation with the YKDFN and is attempting to set up a Memorandum of Understanding to begin the consultation process". The company also stated that it was "prepared to accommodate the YKDFN needs regarding the full protection of significant cultural areas... CGV is prepared to work with the YKDFN over an extended period of time to ensure protection of heritage resources...". The same response stated that "CGV accepts that the areas where drilling is proposed have cumulative cultural landscape value" (CGV IR Response, Nov 2, 2006 pp 2-1 to 2-4: PR#57).

During the environmental assessment hearing, the developer justified its approach to community engagements referring to the MVLWB as the source of its contact lists (day 1 p77). Greg McKillop spoke at the hearing on behalf of the developers regarding community engagement efforts, stating (day 1 pp33-34):

*... We weren't aware of your concerns and we didn't hear about them until the pre-hearing conference, and so we will see what we can do, now that we are aware of your concerns... The companies are committed to working cooperatively with First Nations. They've hired Rescan to assist with their consultation efforts. Last fall Rescan tried to engage the Yellowknives Dene in negotiation of a memoranda of understanding, we weren't successful in completing those negotiations, but there's still an interest in doing that.*

Mr. Laurence Stephenson responded on behalf of the developer to a question from the YKDFN asking what assurance the First Nation has that it will be consulted about archeological sites (day 1 p46). Stephenson stated:

*We had two First Nations people working with us to help identify that, if there was anything that came up, that...they would be the first to be able to inform us of that. I think we've demonstrated in the past that our ability and our efforts and actions speak louder than words; that we will consult and we intend to consult with the First Nations and -- and all the affected communities.*

At the end of the second day of the hearing, Rachel Crapeau of YKDFN stated that she had collected information on the subject area, and respecting the bounds of confidentiality relating to claims negotiations, she was prepared to share it with the government, but was no longer willing to meet with this particular developer. In its written closing remarks of April 27, 2007, the developer responded to this, stating (PR#151):

*Despite our diligent attempts to consult affected communities, we believe we can always improve our consultation efforts. We expect to adapt our approach as we learn more about potentially affected communities... We intend to improve our approach to include more follow up on our initial contact to determine expressions of interest.*

## 4.2 Parties' Submissions

On Oct. 10, 2005, the YKDFN stated the following view (PR#28, p14)

*The Yellowknives Dene do not consider Mr. Stephenson (of CGV/Sidon)'s effort to be consultation. The demonstrated efforts do not even meet the minimum threshold of discussion. It is important to emphasise that Mr. Stephenson has not communicated with the YKDFN or its consultants. That is unfortunate because exploration and mining companies working in the NWT that have made a genuine effort to consult the YKDFN have been able to do so. We have found members of the Chamber of Mines to be an informed group and generally consultative and encourage Mr. Stephenson to draw on the Chamber's knowledgeable members.*

Problems with community engagement were raised again by YKDFN during the pre-hearing conference held by the Review Board on March 14<sup>th</sup>, 2007 (Pre-Conference Hearing Notes: PR#100). This was reinforced in a March 28<sup>th</sup>, 2007 letter from Mr. Greg Empson, legal counsel to YKDFN, who stated that this has made it "difficult if not impossible to respond to issues of primary concern to the YKDFN" (PR#127).

YKDFN Elder Alfred Baillargeon expressed his concern over the developer's approach to community engagement, saying (day 1 p130; day 2 p 312):

*You said you met with the Yellowknife's First Nations in Dettah. We've never seen you. You've never come to make any presentations in our community... You cannot... call us or send us fax in order to communicate. You have to come, sit down, and talk to us...*

Gary Bailey of NWT Metis Nation raised a similar concern, saying (day 2 p130):

*For a developer to say you've tried, you've sent us faxes -- yeah, I've seen a few faxes where I've reviewed a bit of your process late in the game. ...You got twenty-one holes in there without our approval. Nobody asked us yet, we're surprised that that actually has taken place already.*

Kara King, President of NWT Metis Nation, voiced concerns regarding the developer's approach to community engagement (day 2 p127):

*Consultation has not taken place. We haven't received any correspondence, any phone calls. This is the first time I've actually seen them. They haven't come to the community, and you know, told us anything about their programs...*

In a March 8<sup>th</sup>, 2007 letter in response to the Review Board's request for details regarding further community engagement that has occurred since 2004, the developer provided a detailed description of all community engagement efforts (PR#97, 98). Several phone

calls were listed, all occurring between August and October of 2006. At this time, the company decided to propose a Memorandum of Understanding with the YKDFN regarding its cooperation in archaeological studies. No agreement was reached.

### **4.3 Board Analysis and Conclusions on Community Engagement**

The Review Board notes that the developer's record of community engagement with potentially affected communities has been disappointing. This developer has heard directly from YKDFN of its capacity issues dealing with the large number of land use applications it receives. The developer has also heard directly from many community members, including Elders, of the cultural importance of this subject area, and of the degree of public concern. The Review Board is of the view that the rational lesson for a developer to take from the parties' concerns and the Review Board's conclusion in the previous environmental assessment was that careful and respectful community engagement is a very important aspect of proposing any development in this vicinity.

Notwithstanding this, the developer repeatedly asserted that sending a fax to communities constitutes "making all efforts" at sufficient community engagement (p129 day2). The Review Board is of the view that group e-mails are no substitute for community visits and meeting with Chief and council. The developer's efforts at community engagement, particularly over the first year following its application, were inadequate.

The Review Board does not accept the developer's references to the previous environmental assessment hearings in 2003 as adequate community engagement for this application. These hearings did not occur by the developer's choice, and did not address the current application. The previous environmental assessment should have sensitized the developer to the area of importance to the YKDFN, emphasizing the need for meaningful future community engagement. There is no evidence that this occurred.

The developer's March 8<sup>th</sup>, 2007 letter (PR#97, 98) provided details of community engagement that has occurred since 2004. It confirms that no attempts at community engagement were made for over a year following the initial group fax, and that the efforts that followed were limited to telephone calls and e-mail correspondence. At no time did the developers meet with the YKDFN.

The developer has asserted that "our efforts and actions speak louder than words", and cited the previous involvement of members of YKDFN as community monitors, and the involvement of Elders in archeological surveys, as indications of its commitment to community engagement and involvement. The Review Board does not accept this argument. The involvement of Aboriginal people in the work the company was undertaking was externally imposed and legally required by Review Board measures. Accordingly, this does not establish the adequacy of the community engagement policies of the company.

The developer stated at the hearing that “We weren't aware of your concerns and we didn't hear about them until the pre-hearing conference” (day 1, pp33-34). This suggests that the developers gained little insight into the issues voiced in the previous environmental assessment, or of the issues on the public record in this assessment. Had the developer undertaken more meaningful community engagement, it would have been aware of the concerns. In the view of the Review Board, it is primarily due to the developer's own approach to community engagement that it was not aware of the existing concerns.

In the developer's closing statement it stated that the company will adapt its approach as it learns about potentially affected communities (PR#151). The Review Board notes that this contrasts with what has been demonstrated by the developer. First Nations and the Review Board made their concerns with the developer's approach to community engagement clear during the previous CGV environmental assessment (EA 0304-002), and the YKDFN have raised identical concerns throughout this environmental assessment. It was not until over one year after submitting its application that the developer attempted anything more than sending a fax. To date, the developer has held no meeting for this development application with any Aboriginal communities outside of the Review Board's hearings.

Although the developer's approach appears to have changed in August of 2006, ten months into this environmental assessment when an environmental consulting company was introduced, no meetings have resulted. By that time, it is clear that communities felt this was too little and too late, and refused to participate. Although community engagement requires efforts from both the developer and the community, in the view of the Board, in this case the responsibility for the community engagement issues is largely the developer's.

The community engagement problems noted in this assessment demonstrate the need for some developers to engage third party assistance, such as qualified environmental consulting firms with representatives known to the communities, preferably based in the North. Measures 1, 3, 4, 5 and 6, required by the Review Board later in this document, provide opportunities for substantive input from Aboriginal parties, in part to address issues noted above (see sections 6.1.3, 6.2.10, 6.2.11 and 6.3.3 for details).

## **5 Project-Specific Biophysical Issues**

Several biophysical issues were considered during this environmental assessment. The Review Board issued information requests on Oct. 19, 2005 dealing with disposal of drill cuttings, fish and fish habitat, sewage and grey water. The Review Board also advised the developer to give careful consideration to questions posed by the YKDFN including questions concerning impacts on the forest, wildlife, streams, fish, and wetlands (PR#29).

## **5.1 Developer's Submission**

In the developer's Nov. 2, 2006 responses to information requests, it provided information pertaining to drill cuttings, fish habitat, and grey water disposal (PR#57).

Regarding drill cuttings, in response to information request 1.14, the developer stated that all drill cuttings from on-ice drilling will be transported to Yellowknife for approved disposal, and all cuttings from drilling on land will be placed in a natural depression over 30m from the high water mark of any water body, approved by a INAC land use inspector (p1-4: PR#57).

Regarding fish habitat, in response to information request 1.16, the developer stated that depth estimates to identify sensitive fish habitat will be conducted visually, and a bathymetric survey will be conducted if necessary. The developer committed to drilling only in locations frozen to the bottom or greater than 11m deep to avoid spawning shoals (p3-1: PR#57).

Regarding camp sewage and grey water disposal, in response to information request 1.19, the developer committed to the following if a camp is used (p5-1: PR#57):

- Waste will undergo a minimum of primary treatment to remove all suspended solids and floatable materials;
- There will be no discharge of floating solids, garbage, grease free oil or foam;
- Discharge of the effluent should take place in a diffuse manner to self-contained areas with minimal slope; and,
- All discharges will occur at a minimum of 100m from any water body.

## **5.2 Parties' Submissions**

DKFN expressed concern over water and water monitoring, asked about wildlife effects monitoring

Mr. Tom Unka of DKFN raised specific questions during the hearing regarding project-specific biophysical issues (day 2 p74-76). Unka asked for several particular details pertaining to project-specific biophysical impacts, including details on sediment control, a 3D model of the drill and contact with the lake bottom, a cross-section of underground activities in relation to hydrology of the area, a chemistry profile on all materials, a containment plan, a water monitoring program and a spill contingency plan.

Several parties expressed concerns over impacts on wildlife. For example, the YKDFN letter of Dec 18, 2006 (PR#79) cites concerns over the disturbance of wildlife. In the hearing, Elder Isidore Tsetta asked (as paraphrased by Rachel Crapeau) (day 1 p126):

*The wildlife area at Drybones Bay is really good... to provide sustenance to families and if our ability to hunt, fish, and trap in that area is impacted and seriously adversely affected, how are we going to live?*

A written submission from YKDFN (PR#79, p3) raised concerns regarding disturbance to moose, saying:

*TK verified by on the land experience confirms an abundance of moose trails that extend down the shoreline of GSL from Dettah; however the traditional moose migrations inland and towards the GSL shoreline are being disrupted by development activities. Consequently, the moose are beginning to move northward away from the shoreline of GSL making them much more inaccessible.*

The Department of Fisheries and Oceans (DFO) examined the potential for the development to affect fish and fish habitat. It identified three potential concerns it considered when reviewing the proposed development. These were impacts from winter water withdrawal, drill cuttings, and drilling on spawning shoals.

DFO cited its *Winter Water Withdrawal Protocol* (PR#132) as sufficient to ensure that water withdrawals do not impact fish or fish habitat. It analyzed the developer's proposed method for dealing with drill cuttings and concluded that these are adequate mitigations to protect fish. It also concluded that drilling is not likely to impact fish or fish habitat by physical destruction or by spreading sediment given the mitigations the developer will employ (drilling in ice frozen to the bottom or in depths greater than 11m) (PR#123). DFO concluded that "the project will not likely impact fish or fish habitat if the mitigation measures proposed are implemented" (PR#131).

Environment Canada identified the following issues in its review of the proposed development (PR#114):

- Transport, storage and disposal of fuel and hazardous material;
- Appropriate sump siting;
- Disposal of drill waste;
- On-ice storage;
- Non-winter activities coinciding with migratory birds;
- Winter ice road decommissioning over land;
- Demobilization of on-site camp; and,
- Species at risk.

Ivy Stone presented on Environment Canada's behalf at the hearing. With respect to the first four of these items above, Environment Canada concluded that the mitigations proposed will mitigate the impacts so that adverse impacts are unlikely. It notes that the development will be carried out in winter when migratory birds are not present. In terms of species at risk, peregrine falcon and rusty blackbird occur in the subject area, but not during the winter season. Accordingly, Environment Canada does not predict an adverse

impact on those species. Wolverine are a species listed by the Committee on the Status of Endangered Wildlife in Canada, but the GNWT is the lead agency responsible for their protection, so Environment Canada did not address potential impacts on wolverine. No potential impacts on wolverine were identified by the GNWT during its later presentation.

Environment Canada summarized that “based on the information provided... and provided that appropriate planning and mitigation practices are in place, Environment Canada does not foresee any significant environmental effects from these projects” (day 2, p291-295).

The Department of Indian Affairs and Northern Development (INAC) provided a technical review of other project-specific biophysical impacts. It looked at the spill contingency plan, the temporary camp proposed on Moose Bay, camp sewage and greywater disposal, and conflicts with land leases. David Livingstone of INAC emphasized that this project uses drilling methods that are well established and understood. INAC identified no potential adverse impacts that cannot be properly mitigated through land use conditions (day 2 p207-208).

Biologist Dean Cluff of the GNWT Department of Environment and Natural Resources presented his research on moose in the subject area during the hearing. Cluff noted that much of the useful information on moose in the vicinity came from wildlife studies conducted with the YKDFN, involving incorporation of Traditional Knowledge. This occurred during an eleven day workshop organized by the YKDFN as an outcome of the previous environmental assessments of developments in the subject area. The GNWT helped map information provided by the YKDFN, showing seasonal movements and habitat use. The results show the high importance of moose as a traditionally harvested species in the subject area (p256, d2). The GNWT described aerial surveys of moose, and the community moose monitoring program. Other mammals in the subject area include caribou, wolverine, beaver, muskrat, mink, martin, lynx, and otter. Caribou bulls are known to congregate in winter in the vicinity of Zigzag Lake.

The GNWT clarified that most of the information available on moose is baseline information, which may serve as a useful basis for recognizing evaluating future changes. With regard to moose, Cluff stated that “this specific development proposal... will not, in my view, have any adverse impacts, especially if anything is mitigated” (p272, day 2).

Cluff stated that moose will move away from a local disturbance such as noise (see section 6.2.8.3), but that such movements are not likely to cause population level impacts. Cluff identified two potential sources of impacts to moose populations- increased recreational hunting and increased access (pp278-281, day 2). Access issues are discussed further in section 6.3.

### **5.3 Review Board Analysis and Conclusions**

The Review Board understands the importance of the components of the ecosystem, particularly in a setting where the land and people are closely related through traditional lifestyle. The concerns of Aboriginal communities regarding water, fish, waste and

wildlife are understandable. However, the Review Board finds it important to note that the proposed development consists of small-scale diamond drilling. The project-specific biophysical impacts can be effectively mitigated with standard regulatory conditions.

If this were not the case, or if this were a much larger project such as a mine, then the additional types of information requested by DKFN may be needed. On a project specific basis, the aquatic effects monitoring programs or a wildlife effects monitoring programs typically conducted at large mines are usually required to address uncertainty over impact predictions. In this case, the Review Board is satisfied based on the evidence from expert departments that there is no such uncertainty for project specific biophysical impacts. Similarly, regarding DKFN's request for three-dimensional models of drills and sediment control, these might be useful for understanding complex technologies involved in other projects, but in this case the effects of diamond drilling are already well understood. In the Review Board's view, the impacts in this case can be reasonably predicted without such models.

The Review Board therefore accepts the evidence of Environment Canada, DFO and INAC that this development is not likely to cause project-specific biophysical impacts. (Cumulative impacts and socio-cultural impacts are addressed in section 6.2 of this document)

Regarding the impacts of the development on wildlife populations, there is an important distinction that must be made. The significance of wildlife changes, such as a change in local wildlife movements, in an area used for hunting may have a greater impact on hunters than on wildlife itself. (Section 6.2.4 of this document will further discuss impacts on traditional harvesting). Although several presenters described changes to wildlife as a result of disturbance from past development, and similar concerns related to this development, the Review Board has not heard evidence to suggest that these changes are biologically significant adverse impacts.

The GNWT has submitted that this project in isolation is not likely to affect the moose population or moose demographics. The evidence suggests that the project may affect the movements of moose for a period of time. In the opinion of the Review Board, on a project-specific basis this is not a major enough change to be considered a significant adverse biological impact.

## **6 Social and Cultural Issues**

Many of the issues brought to the attention of the Review Board dealt with social and cultural issues. These could largely be divided into two categories: those dealing with heritage resources and graves, and those dealing with cumulative impacts on traditional practices, along with the potential for cultural changes that may result. Both of these are interrelated and have a bearing on culture.

## **6.1 Heritage Resources and Graves**

In the previous environmental assessments within the subject area, the Review Board heard concerns regarding the protection of heritage resource sites and burial grounds. The parties of the current environmental assessment also described their concerns regarding this subject.

### **6.1.1 DEVELOPER'S SUBMISSIONS**

In the developer's Land Use Permit application (MV20040038, p6), the developer described its plan to allow Elders to inspect proposed access routes and drill sites.

*All potential drill site areas appear to be located in areas that the First Nations have identified as having no significance to their "trails" and other sites of interest... However as demonstrated in the GSL claim area we will enable First Nation elders to accompany us and inspect the proposed access and drill sites to ensure that no conflict is present.*

(The reference to GSL claim refers to activities required by a measure from the 2003 *Report of Environmental Assessment and Reasons for Decision on the Consolidated Goldwin Ventures Diamond Exploration Project* (p59) requiring the developer to be accompanied by an Aboriginal Elder, a translator, if required, and a qualified archaeologist to scout out archaeological, burial and cultural sites at the any access routes and drill locations before on-land operations).

In correspondence to the Review Board on Sept. 26, 2005 (PR#11), the developer stated:

*There are no indicated or known, or perceived, archaeological sites within 0.5 kilometres of the property boundaries of most of the areas (greater on the Cleft, JJ, ZZL and most of the FC and Moose Claims). Those around Jackfish Cove are noted and all are not around areas of interest.*

A similar view was repeated in response to information request 1.15, proposed by the GNWT Prince of Wales Northern Heritage Centre (PWNHC) and issued by the Review Board. (p7, Oct 31, 2005: PR#35)

The preamble to an information request proposed by the YKDFN and issued by the Review Board states that, in the opinion of the YKDFN (as expressed in its proposed information request 1.15 submission) (PR#30):

*Consolidated Goldwin Ventures... suggests there is no culturally important or heritage sites identified in the areas where (it) proposes work. That is not the case as noted by the Prince of Wales Heritage Centre. The developers are asked to respond to the following questions:*

*1....Respecting the cultural significance of the proposed areas and the associated cultural landscape, are the developers prepared to accommodate YKDFN needs regarding the full protection of the area?*

*2....Are the developers prepared to work with the YKDFN over an extended period of time in order to ensure the resulting cultural landscape continues to reflect the local identify of the place and the residents and represents the regional characteristics of the YKDFN?*

In a later response to information request 1.15, the developer appears to dismiss the potential for conflicts with heritage resource sites, stating (p8, PR#45):

*To our knowledge none of the confirmed sites are close to any of the immediate areas of interest... No major sites are present that cannot be mitigated... Only three old sites were identified in the vicinity of Jackfish Bay. None are noted in any of the other areas... Contrary to the conclusion of the MVEIRB in the FR and work completed to day by Snowfield Developments, Consolidated Goldwin Ventures and report (2005) completed by Callum Thompson (above) for New Shoshoni, no sites discovered affected or reported by the exploration work or any other work (sic).*

In another response to the same information request over one year later, the developer stated it was in the process of retaining an archaeologist to complete an archaeological survey to ensure the potential drill locations are of no archaeological or spiritual significance. The developer attempted to set up a Memorandum of Understanding with the YKDFN regarding the archaeologist and the participation of the YKDFN in the developer's archaeological studies. Agreement was not reached. (IR Responses, Nov. 2, 2006: PR#57).

In its information request responses of Nov. 2, 2006, the developer stated that it "is prepared to accommodate the YKDFN needs regarding full protection of culturally significant areas" and "is prepared to work with the YKDFN over an extended period of time to ensure the protection of heritage resources" (IR Responses, p4-4, Nov. 2, 2006: PR#57). The same response described the following (p4-1 – 4-2):

*CGV recognizes the cultural, spiritual and historical significance of the area proposed for exploration, and thus the importance of consultation with the First Nations. Therefore CGV has formally requested consultation with the YKDFN and is attempting to set up a Memorandum of Understanding to begin the consultation process. As well CGV has hired Rescan Environmental Services to ensure that the First Nations are properly consulted.*

*In discussions with Rachel Crapeau, Manager of Land and Environment for YKDFN, and YKDFN's consultant, Louis Azzolini, the YKDFN are willing*

*to be consulted if CGV will enter a Memorandum of Understanding with the YKDFN. To this end CGV is attempting to set up a Memorandum of Understanding with the YKDFN to begin consultation. CGV regards meaningful consultation to consist of:*

- *meetings with CGV's president of the company and the chiefs and council to discuss CGV's program, and discuss concerns that the YKDFN have regarding the program, as well as to seek and consider the advice that the YKDFN provide respecting the presence of heritage resources*
- *site visits with a YKDFN elder to determine adequate drill locations*
- *working with YKDFN's archaeologist to determine exact drill hole locations*
- *working with the YKDFN over the life of the Land Use Permit to ensure protection of heritage resources*

The same response from the developer (p2-2) indicates an issue of conflict concerning the choice of archaeologist for the above study:

*CGV was informed that the YKDFN want to attain their own archaeologist, as opposed to the company attaining an archaeologist. Therefore, CGV is attempting to set up a Memorandum of Understanding with the YKDFN to consult with them and work with their archaeologist... However, this process is proving lengthy and timelines are uncertain of when a Memorandum of Understanding will be formed, therefore CGV would like to attain their own archaeologist to complete a survey as soon as feasible.*

During the hearing, Greg McKillop stated on behalf of the developer, stated, concerning heritage resources and the Memorandum of Understanding:

*The companies are very keen to insure that potential drill locations are not in areas of archeological or spiritual significance, and they are proposing that there would be archeological surveys, once there's a better understanding of where the drilling will take place to focus the surveys....*

*So where do the companies go from here? The companies are committed to working cooperatively with First Nations. They've hired Rescan to assist with their consultation efforts. Last fall Rescan tried to engage the Yellowknives Dene in negotiation of a memorandum of understanding, we weren't successful in completing those negotiations, but there's still an interest in doing that.*

*The company has also indicated that they're willing to have regular meetings with affected First Nations, if the First Nations can nominate representatives that would have perhaps quarterly conference calls or something to that effect to ensure that everybody who is interested has an*

*opportunity to be kept up to date with changes in the program and what has been accomplished and what has proposed in the future.*

*In terms of recognizing cultural, spiritual and historical significance to the area, the company has proposed an archeological survey, again there were discussions with the Yellowknives Dene last year, they were not brought to successful conclusion, but there's still an intent to move forward with that. Also, the Company is aware of the archeological sites database and keen to take advantage of that and add to it. And, furthermore, the Company is proposing to use adaptive management if additional cultural sites are found through the course of their work.*

Yellowknife Hearing, day 1 p33-35

On August 3<sup>rd</sup>, 2007, the Review Board issued the following information request (IR#2.2) to parties to solicit views on possible mitigation measures pertaining heritage resource surveys. The information request preamble stated that since the developer has not conducted preliminary work to identify drill targets in an area which may have a high density of heritage resources or grave sites, the Review Board has reached the preliminary conclusion that the proposed development could disturb heritage resources, and is considering the following potential mitigation measures:

- *requiring that the developer conduct heritage surveys on whole claim blocks before any other work is conducted on the ground; or,*
- *requiring the developer to conduct some geophysical work on the ground to identify drill locations. Once locations have been identified, the measure would require heritage surveys only on areas surrounding the drill locations before conducting the remainder of the project.*

*The intent of the potential mitigation is to ensure that the proposed development does not disturb any heritage or burial sites, including those as yet undocumented.*

Parties were asked for their views on the feasibility of the potential measures, their capacity to prevent or reduce the impact described, and any other measures that would achieve the same mitigation.

In response, the developer stated that requiring heritage resource surveys on whole claim blocks would be expensive and time consuming, and is not warranted. In the developer's view, surveying drill sites only is a reasonable proposition. This survey should include water sources, helicopter landing areas, and camps. The developer stated that this was consistent with its commitments, while increasing knowledge of heritage resource sites in the area (PR#156).

## 6.1.2 PARTIES' SUBMISSIONS

### 6.1.2.1 Presence of Heritage Resources and Burial Grounds

The historical use and presence of corresponding heritage resource sites in the subject area was raised by numerous participants. The Review Board has heard that the subject area was the principal location of the YKDFN before moving to the current locations Dettah and Ndilo. As Elder Isidore Tsetta stated, “*a lot of people used to live in Drybones Bay. There used to be a lot of wildlife like beaver, muskrats, moose.*” (day 1 p125). The YKDFN Land Use Map submitted to the Review Board indicates many traditional trails, cabins, burial sites and other historical features throughout the subject area within the vicinity of the proposed development. The same map shows that each of the CGV mineral claim areas includes traditional trails, and all of the claims are in the vicinity of areas with traditional place names.

Participants placed particular emphasis on the presence of heritage resources, including grave sites, in the subject area. Many of the locations of grave sites are not recorded, and the grave markers are no longer visible. This was expressed in the 2003 CGV hearings (p25; 57-58; 85-86; 132), and reasserted for this proposed development by YKDFN Elders Alfred Baillargeon (day 1 p130), Judy Charlo (day 1 p135) and Isidore Tsetta (day 1, p124-125). The issue was also raised by Rachel Crapeau of the YKDFN (day 2 p51), Kathleen Dahl of the YKDFN (day 2, p315-316), and Sheryl Grieve of the NSMA (day 2, p136). On the written record, the importance of the area and the presence of undocumented gravesites was described by the YKDFN (PR#79), wilderness guide Scott Robertson (PR#154).

Isidore Tsetta stated the following:

*Our people used to harvest a lot of dry meat and at Drybone Bay a lot of people lived in that area. And there is a lot of historical sites all in that Drybone area and a lot of grave sites. And also Beniah -- all the way up to Beniah Lake there's a lot of our ancestral graveyards in those areas. And so how are you going to do all this exploration with all these -- our ancestors' graveyards?*

Yellowknife Hearing, day 1 p124, 125

Correspondence received from the YKDFN on December 18<sup>th</sup>, 2006 (p10: PR#79), summarizes the results of archaeological studies and emphasizes the high potential for undocumented heritage resource sites, saying:

*It seems evident that this entire coastline has been occupied by aboriginal peoples for several hundred and most likely several thousand years, and continues to be used by Yellowknives Dene and others for hunting, trapping, fishing, recreation and other pursuits...*

Although the PWNHC has conducted heritage assessments on only a small portion of the Shoreline Zone, archaeologist Glen McKay described the following results from the existing studies. McKay stated:

*In the area between Wool Bay and Matonabee Point approximately one hundred and forty heritage resources were recorded in the studies conducted in 2003, 2004, and 2005. These sites provide evidence of both pre and post contact use of the study area and include numerous burials and cemeteries, cabins and camps and boulder features such as tent rings, hide-drying weights and birch bark presses. And they also contain abundant evidence of pre-contact use of the areas in the form of scatters of stone tools, stone tool manufacturing debris, as well as quartz quarries where people obtain raw material for tool manufacture.*

*The density of archeological sites recorded to-date and the diversity of site types in the area indicates intense use of the shoreline area between Wool Bay and Matonabee Point in both the pre-contact and post contact time periods.*

Yellowknife Hearing, day 2 p161-165

Wilderness tourism guide Scott Robertson described his concerns regarding potential impact on undocumented heritage resource sites, including burial grounds, in a letter to the Review Board on May 3rd, 2007 (PR#154). Robertson wrote:

*In my years guiding on the lake I have come across many small finds in the area including graveyards, tent circles, and evidence of settlements, many of which I am sure are not documented anywhere... There are certainly more undiscovered areas nearby with important value that would be destroyed forever if trampled by a bulldozer or a drill rig.*

Greg Empson, counsel for YKDFN, described to the Review Board his conclusions from a recent trip along the Shoreline Zone with YKDFN members, saying (day 1 p109):

*What I really learned from it was that there was no possible way that I could convey to the Board, nor to anyone else, what the importance of the area was to the Yellowknives Dene First Nation... It was the most major area and the most important area to the Yellowknives Dene First Nation, from a spiritual standpoint, from a cultural standpoint and certainly from an archeological standpoint.*

Steve Ellis of Treat Eight Tribal Corporation reminded the Review Board of the many statements that have been submitted on the public record in past assessments where First Nations have described the importance of the subject area. Ellis said (day 2 p 13):

*I think this Board has heard a lot of testimony in the past during the EAs of Snowfield, North American General Resources, and CGV about the importance of this area to the Akaitcho Dene, specifically the Yellowknives.*

*... I think it's abundantly clear that that area is extremely important to their way of life.*

Kathleen Dahl of the YDFN expressed the degree of her concern regarding potential impacts to her family burial grounds as follows (day 2 p315-316):

*I'm trying to be very calm but emotionally it hurts... If any ways it effects you personally in your growth, in your home, someone comes into your house and destroy your personal spiritual (sites), it is unacceptable and hard to explain. I want to tell the Board consider the amount of Elders we have (here). They want to protect the land just like you want to protect your children and your grandchildren.*

*Our land will not be destroyed because we have uncles and aunts (whose) grave site is not claimed yet. We don't know most of them where they are How would you feel if you're... beside my grandfather or my aunties and uncles. Would you like to be disturbed? I don't think so.*

Elder Alfred Baillargeon raised similar concerns about burial sites to the Review Board and CGV in 2003, saying (p25):

*I've went into that area that you guys are blasting and drilling. I went there this summer (2003) to take a look at what you guys have been doing. You are drilling near grave sites.*

On this same subject, Rachel Crapeau of the YKDFN told the Review Board (day 1 p127):

*(There are) lots of places where there are burial sites, some of them are still not recorded to this day and if there's blasting going to be happening it will seriously affect our archeology and history of the area.*

#### **6.1.2.2 Sites with Undocumented Locations**

In the 2003 Consolidated Goldwin Ventures environmental assessment hearing the Review Board heard YKDFN community member Angie Lantz, who described the importance of burial grounds as an indicator, and raised concerns over undocumented grave sites (CGV Hearings 2003, p132):

*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.*

The PWNHC specifies estimates of the potential for heritage resource sites within each claim area. (PR#37, Nov 02, 2005). It identifies the shoreline between Moose and Drybones Bay, the northern end of Moose Bay, Moose lake and the Moose Claim as having “high potential for the presence of unidentified archaeological sites in the area”. It identified the JJ claim area, the cleft claim area and the northeast arm of Zigzag Lake as having moderate potential.

At the hearing, archaeologist Glen McKay of the PWNHC further discussed the gaps in record of heritage resource sites, relative to the densities of sites that can be reasonably predicted (day 2 p161-165):

*...There's a very high potential of finding heritage resources along the shoreline of Great Slave Lake between Wool Bay and Matonabbee Point, yet there are significant gaps in the survey coverage of the shoreline areas between Wool Bay and Matonabbee Point. Thus we expect the uninvestigated areas of the shoreline contain numerous undocumented heritage resources. Even greater gaps exist in the survey coverage of areas inland from the shore of Great Slave Lake. The heritage resource potential of the inland areas is less well defined as the archeological investigations to-date have focused primarily on the shoreline... Overlaying Consolidated Goldwin and Sidon's claim areas on this map, we see that very little archeological survey has taken place in their proposed exploration areas. Survey coverage is limited to several small areas in Jackfish Cove and Moose Bay... The archeologist that conducted this work, in his recommendations submitted to us in his permanent report, indicated that both areas should be examined in greater detail for heritage resources prior to development activities taking place there.*

Many of the sites the Review Board heard about were located within the shoreline zone extending from Wool Bay to Gros Cap adjacent to the shore of Great Slave Lake. However, the Board also heard evidence regarding the presence of undocumented heritage resource sites inland. Glen McKay also spoke to the presence of inland sites in the area, saying that PWNHC expects that the developer’s proposed exploration areas contain undocumented heritage resource sites, but have never been assessed in detail by an archaeologist (day 2 p161-165):

*All of the shoreline areas that have been surveyed contained numerous heritage resources... The shoreline and island zones of the exploration areas have very high potential for heritage resources, and thus, the shoreline zones of the exploration areas likely contain undocumented heritage resources. While the heritage resource potential of the inland areas is less well defined, we expect that it is moderate to high.*

Regarding lack of agreement on the proposed Memorandum of Understanding, Rachel Crapeau expressed that YKDFN was willing to try to reach agreement with the developer

that included use of an archaeologist acceptable to the YKDFN, but is no longer open to such meetings (day 2 p318-319).

The YKDFN have requested that detailed heritage resource studies be conducted prior to further development. In its letter of December 18th, 2006 the YKDFN told the Review Board (PR#79):

*Before any more intensive exploration activities are permitted, more extensive, research-oriented surveys with full participation in the planning and implementation by members of the YKDFN should be conducted, and all areas likely to be disturbed by exploration and development should be thoroughly assessed.*

The PWNHC recommended more detailed heritage resource studies, with the participation of potentially affected groups, prior to further exploration (day 2p161-165; 169).

### **6.1.2.3 Undefined Drill Targets**

Several parties identified that the developer's actual drill sites are not yet defined within its claim blocks, and this compounds concerns over the need to identify heritage resource sites by field work prior to drilling.

At the commencement of the environmental assessment, the Review Board requested more details regarding the locations of each potential drill target (Sept. 15<sup>th</sup>, 2005; PR#8). The developer's response did not provide the missing detail, but the developer argued that "there is sufficient detail provided previously and now for the YKDFN to identify any areas or near areas of potential conflict. (Sept. 26, 2005: PR#11).

On October 19<sup>th</sup>, 2005, the Review Board issued an information request requiring details about drill target numbers and locations (PR#30). The developer responded that it could only provide approximate drill locations because the geological and geophysical assessment of the area was not completed, and it did not want to proceed with this work until it was certain it could development approval. (PR#35, p2; PR#57, p1-2). The developer reiterated this at the hearings, stating "Nothing can be done until I know that I can drill at the end of the day" (p47 day 1).

The YKDFN noted during the hearing that no land use permits are required for magnetic surveying, physical inspection of sites, consultation on archaeological surveying, and so forth. This was confirmed by the developer (p47, day 1). YKDFN also noted that the developer chose not to do these activities for financial considerations alone (p47, day 1). Louie Azzolini, on behalf of the YKDFN, characterized this approach saying "...you have an unwillingness to participate or engage with the Yellowknives Dene unless you are first given permission to drill. In other words you want to have that permission before you're willing to engage in any consultation" (p48, day 1).

A similar point was raised by Steve Ellis of Treaty Eight Tribal Corp. (day 2 p10), and by Greg Empson behalf of the YKDFN. Empson emphasized the undefined details of the proposal, called into question the possibility of effective consultation while fundamental aspects of the development are unknown, and told the Review Board that “*(i)t would be extremely difficult for us to even suggest that (the development) should proceed in the absence of any information as to what they intend on doing, other than drilling some holes*” (day 2 p253).

In information request 2.2, the Review Board asked parties for views on potential mitigation measures. The information request included the following:

*The developer has not conducted preliminary work to identify drill targets in an area which may have a high density of heritage sites or grave sites. The Review Board has reached the preliminary conclusion that the proposed development could disturb heritage sites. The Review Board has not yet concluded that this impact can be mitigated, but is considering recommending the following potential mitigation measures:*

- *requiring that the developer conduct heritage surveys on whole claim blocks before any other work is conducted on the ground; or,*
- *requiring the developer to conduct some geophysical work on the ground to identify drill locations. Once locations have been identified, the measure would require heritage surveys only on areas surrounding the drill locations before conducting the remainder of the project.*

In response, the YKDFN stated that it would prefer the refusal of the proposed project. However, with respect to the potential mitigation put forth by the Review Board, the YKDFN stated that it preferred the requirement for an assessment of heritage resources throughout each whole claim block (PR#157).

The NSMA response to the same information request agreed that there is a significant risk to heritage resources if drilling were to occur in areas where heritage surveys have not been conducted, but did not indicate any preference for either of the potential measures (PR#159).

INAC’s response to supplementary information requests emphasized cost of surveying whole claim blocks, and described the minimal potential for impacts from non-intrusive geophysical work (PR#161).

The GNWT provided the following response to IR 2.2 (PR#158), with regard to the first potential measure proposed by the Review Board:. Although the first potential measure would generate significant baseline data for a larger area, it would be costly and lengthy, and would still likely result in some areas receiving more study than others based on archaeological potential.

Regarding the second potential measure proposed by the Review Board, the GNWT stated the following in the same response (PR#158):

*The benefit of the second measure - heritage surveys of defined drill sites - is that the archaeologist hired by the proponent can focus in detail on smaller areas, thus limiting the HRIA (Heritage Resource Impact Assessment) while providing a high degree of certainty that the exploration program will not result in adverse impacts to heritage resources.*

*The drawback is the risk – minimal if the geophysical work is limited to foot surveys, rock sampling, etc. – that heritage resources could be impacted during identification of the drill locations...(B)oth measures have benefits and drawbacks. The best approach for minimizing the risk of impacts to heritage resources is a detailed inspection of the exact footprints of the exploration project prior to the commencement of development activities.*

### **6.1.3 REVIEW BOARD ANALYSIS AND CONCLUSIONS**

The Review Board accepts that the area surrounding the proposed development is historically important to the Aboriginal peoples that have used it, and that this importance is demonstrated by the archaeological record. The evidence on the record from Traditional Knowledge holders makes this clear. It is further supported by the informed expert judgment of the PWNHC based on evidence from field studies. This was made clear by evidence on the public record including testimony at the environmental assessment hearings for this development, as well as by the evidence from the public record pertaining to the same area from the previous application by CGV. This includes archaeological sites spanning from pre-contact times to more recent heritage resource sites of historical relevance to Aboriginal peoples.

The archaeological assessments that have been conducted in the subject area were largely related to previous environmental assessments in the area. The Board notes with interest that prior to these studies very few heritage resource sites were documented in the area, and that the few studies that have occurred have revealed approximately one hundred and forty sites since the time of those previous assessments. This corresponds with the TK evidence presented. The suspected presence of many heritage resource sites in general, and burial grounds in particular, is considered by the Review Board to be culturally important. Most of the subject area has never undergone archaeological assessment.

Based on this evidence, the Review Board accepts that the density of heritage resource sites is “very high” along the shoreline zone between Wool Bay and Mattonabee Point, and is “moderate to high” (based on the characterization by archaeologists) for sites further inland in the area of the proposed development. There have never been heritage resource assessments for most of the areas of the claims where the drill targets are proposed. Based on the expected density of heritage resource sites, the Review Board concludes that the

likelihood of encountering heritage resource sites is very high in the shoreline zone, and moderate to high in areas further inland.

The Review Board notes that the archaeologist that completed the previous studies in the area recommended in his report to the PWNHC heritage study that the area “should be examined in greater detail for heritage resources prior to development activities taking place there” (p163, day 2). The PWNHC also recommended this to the Review Board, requesting that “ the developers undertake a detailed heritage resource impact assessment of their exploration areas, including drill sites, access routes, and any other area where ground disturbance will take place prior to exploration activities” (p165, day 2).

Of particular importance in the view of the Review Board is the suspected presence of numerous burial grounds at undocumented locations. The YKDFN have indicated that many of these are unmarked, their wooden crosses and cribbing destroyed by wildlife, the elements, and time. Although other heritage resources have cultural importance, the Review Board recognizes that burial grounds have a spiritual significance that is particularly important. In the *Report of Environmental Assessment and Reasons for Decision on the New Shoshoni Ventures Preliminary Diamond Exploration in Drybones Bay* the Review Board concluded (Report of EA03-004, p52):

*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.*

This conclusion remains the same. Burial grounds are viewed as sacred grounds, and any possible risk of their disturbance must be avoided. Because many graves are unmarked, there is a greater risk of disturbing such a site than there is for a heritage resource with markings on the surface, and the spiritual aspect of this disturbance would result in a cultural impact of the highest significance.

The Review Board accepts, based on the testimony of TK holders and supported by other experts, that just as the few areas already investigated proved to have numerous sites, there is reason to believe that there are heritage resource sites in all the CGV claim blocks. These sites are hard to recognize, because of the materials in question and the YKDFN’s practices of using all parts of animals, leaving few remains (p35, day 1). It is evident to the Review Board that haphazard drilling presents a real risk of disturbance of heritage resource sites. These sites could be damaged by this project from direct damage by drilling, from compaction due to access to the drill site, and from disturbance by poor disposal of drill cuttings.

The Review Board is of the opinion that the Traditional Knowledge brought to heritage studies by the participation of YKDFN Elders is an important part of heritage studies in the area. For this reason, past measures pertaining to the area specified that both Elders (with translators) and archaeologists must be involved.

In the Review Board's process, the onus is on the developer to convince the Review Board that it will not cause significant adverse impacts. The developer has stated that it will "work with the YKDFN over an extended period of time to ensure protection of heritage resources" (PR#57, p4-4), conduct archaeological studies to identify heritage resources near its drill targets (day 1 p27), and conduct site visits with Elders (day 1, p27; LUP Application MV20040038, p6). The developer plans to mitigate potential impacts to heritage resources using site-specific studies conducted on site with Elders with the cooperation of the YKDFN. These actions show movement in the direction required to help mitigate potential project-specific impacts on heritage resources. However, little further detail regarding these commitments appears on the public record.

Considering the high levels of historical use of the area and its known cultural importance, the Review Board is of the view that a higher level of rigour and caution is required here than the developer has undertaken. The developer has decided for financial reasons not to conduct the ground work that would enable the Board and parties to know the specific locations of drill targets within the claim blocks. The higher cost of planning work in a culturally sensitive area is no reason for inadequate preparation for the project. The Review Board notes that since the developer cannot identify where in its claim blocks it plans to drill, and the severity of disturbing a heritage resource such as an undocumented burial ground is high, a precautionary approach is warranted.

The Review Board has considered requiring heritage assessments of whole claim blocks to compensate for the lack of detail resulting from inadequate preliminary work by the developer. However, the expert views of the PWNHC indicate that there are serious drawbacks to requiring the developer to assess whole claim blocks. The PWNHC has stated that more focused studies in the vicinity of potential drill targets is the best approach for minimizing the risk of impacts on heritage resource sites. In terms of project-specific (non-cumulative) impacts, the Review Board accepts this view.

The GNWT has described the best approach for minimizing the risk of impacts to heritage resources as being "... *a detailed inspection of the exact footprints of the exploration project prior to the commencement of development activities*". This includes the access routes and drilling support facilities such as the camps. The Review Board notes this expanded consideration of potential impacts on heritage resources.

The YKDFN has described problems with archaeologists that have been appointed by developers failing to document heritage resource sites during heritage resource studies (p52, day2). No agreement was reached on the Memorandum of Understanding that was to provide details regarding the archaeologist and heritage study. The evidence on the record shows that the YKDFN does not accept the heritage studies proposed by the developer to be conducted by an archaeologist of the developer's choosing (PR#57, p2-2). At present, there is no assurance that the archaeologist involved in the heritage studies by the developer is acceptable to the YKDFN.

The Review Board notes the lack of agreement on the Memorandum of Understanding pertaining to the heritage study, and the shortcomings of the developer's community

engagement efforts (see section 4). In the opinion of the Review Board, in order for a heritage resource study to mitigate a portion of the cultural concerns, it must be credible in the eyes of YKDFN, because the YKDFN is a group most likely to be affected. It is therefore important that the archaeologist involved is acceptable to the YKDFN. Without this, the mitigation measure will not be effective in addressing the relevant concerns.

Even though the developer has not conducted appropriate preliminary studies to identify drill targets, the Review Board notes that the scale of the project is relevant when considering project-specific potential impacts on heritage resource sites. The direct physical footprint of the proposed project is small. Potential project-specific impacts on heritage resource sites posed by this project are much smaller than the potential cumulative impacts to which it may contribute (see section 6.2.11). These potential project-specific impacts can be adequately dealt with by site-specific heritage studies, provided that these studies involve the YKDFN Elders and are conducted with an archaeologist acceptable to the YKDFN. This is in general accordance with existing commitments by the developer. However, the measure below provides necessary clarity and detail to ensure that this mitigation is adequate to prevent significant adverse cultural impacts from disturbance of heritage resources:

**Measure #1: CGV must identify drill sites by conducting non-intrusive geophysical activities which do not require a land use permit. Once drill sites are identified, CGV must be accompanied by an Aboriginal Elder, translator and a qualified archaeologist to scout out archaeological, burial and cultural sites on any access routes and drill locations before on-land operations at any drill location proceeds. The archaeologist involved must be acceptable to the PWNHC following consultation with YKDFN.**

In the interest of following a cautious approach in an area that is likely to contain heritage resource sites, other developers working in the Shoreline Zone have been required to stay a minimum of 100 metres away from known or suspected heritage resources. The same approach is necessary in this case to prevent the otherwise likely significant adverse impacts on heritage resources.

**Measure #2: No part of the proposed development will occur within 100 metres from any known or suspected archaeological, burial or sacred site.**

Further findings regarding cumulative impacts on culture with respect to heritage resource sites are discussed in section 6.2.11. The Review Board has prescribed a measure in that section to address the larger issue of impacts on heritage resource sites pertaining to the cultural landscape.

## **6.2 Effects on Traditional Land Use and Culture**

Many of the issues identified on the public record and at the hearing dealt with the potential of this development to add to existing development pressures in an area important

to traditional land use, and the cultural impacts that result from the cumulative effect. This section outlines the Review Board's requirements regarding the assessment of cumulative impacts. It describes the evidence on record regarding the regional context and other activities in the subject area, and the combined impacts of the proposed development and these other activities on traditional activities. This section also examines related issues pertaining to access, conservation and land use planning issues.

### **6.2.1 BOARD EXPECTATIONS AND CONSIDERATIONS ON CUMULATIVE IMPACT ASSESSMENT**

The Review Board considers cumulative effects assessment to be an important aspect of Environmental Assessment. Section 117(2)(a) of the MVRMA specifies that every environmental assessment "shall include a consideration of... any cumulative impact that is likely to result from the development in combination with other developments". The Review Board explains the importance of conducting good cumulative effects in the Review Board's 2004 *Environmental Impact Assessment Guidelines*, (Appendix H) as follows:

*... (T)he Board will pay attention to the cumulative effects of a development and other human activities in deciding whether or under what conditions to approve the development. To evaluate the contribution of a development to a larger impact, it is necessary to take a big picture view. Cumulative effects assessment is the way that this is done in EIA.*

The Guidelines also state:

*The cumulative effects assessment should include all other human activities that may substantially affect the valued components... These should include past, present and reasonably foreseeable development, as long as they have the potential to affect the same components as the proposed development.*

The evidence on the public record, including testimony from the environmental assessment hearing, describes concerns related to the cumulative effects of the proposed development in combination with the effects of other past, present and reasonably foreseeable human activities.

### **6.2.2 DEVELOPMENT IN THE REGIONAL CONTEXT**

With respect to cumulative impacts from development in the surrounding area, the Review Board heard concerns that the YKDFN are affected by impacts of other developments which collectively impact the quality of the other areas surrounding Dettah and Ndilo. Hearing participants stated that these other areas are no longer of the same value to the YKDFN for traditional harvesting, resulting in the development area becoming more

important as the last remaining area that is good for traditional harvesting within accessible distance of YKDFN communities.

In the previous *Report of Environmental Assessment* on Consolidated Goldwin Ventures dealing with the same area, the Review Board noted concerns regarding the impacts of other developments that affect the YKDFN. The Review Board concluded that “the message was unequivocal, the YKDFN were bearing the burden of the environmental and therefore cultural costs of development in and around Yellowknife” (Report of Environmental Assessment on CGV 2004, p65). This continues to be an issue in the present environmental assessment, as summarized by the letter of April 18, 2007, in which the YKDFN describe the area as “one of the few remaining significant areas of land that has been traditionally used by the Weledeh people” (PR#146).

Many hearing participants emphasized to the Review Board that various developments and activities cumulatively diminish the value of areas that were traditionally important for subsistence harvesting in the past. YKDFN members described the diminished value of other areas due to Con and Giant mines and their past impacts, including health impacts from arsenic (p138 day1), impacts on fishing areas (p116, day 1; p123, day 1; p125, day 1), impacts on water quality (p125, day 1; p72, day2) . YKDFN members cited impacts from other developments including the Ekati and Diavik diamond mines (p117 day1), and reduced success in caribou harvesting in other areas (p116 day 1; p58, day2).

In response Dec. 18, 2006 to an information request issued by the Review Board, the YKDFN wrote that poor caribou hunts in other areas increase the importance of the development area as a source of traditional food (PR#79, p2):

*The subject area is a functioning ecosystem that the YKDFN have relied on for food for as long as people can remember. Now, with poor caribou hunts, dependence on the area for its bountiful harvest has increased in importance. Any impact on the area will affect its wildlife and very directly the well-being of the YKDFN.*

Traditional harvester Jimmy Beaulieu described to the Review Board how the cumulative degradation of YKDFN harvesting areas has increased the importance of the subject area as follows (day 1 p116, 117):

*The fishing, and the trout, there used to be a lot of people setting nets, and now ever since the Giant and Con have established, and those things have moved on to a different place. Now it takes longer for us to go hunting for - - for caribou. But the most important thing is -- to me is that -- that Drybones Bay area and also Moose Bay and Wolf Bay and also the background.*

Several other hearing participants described how great the cumulative impacts of other developments have been in other areas that were once of much greater value for traditional harvesting. These include Elder Isidore Tsetta, who described the diminished value of

harvesting areas around Con and Giant mines (day 1, p123 and 125) and Rachel Crapeau who described impacts on caribou hunting from the Contwoyto-Tibbett Winter Road (day 2, p58).

### **6.2.3 OTHER ACTIVITIES WITHIN THE SUBJECT AREA**

Three main types of human activities are specified by the evidence. These are 1) other mineral development activity, 2) recreational access, and 3) accidents and malfunctions. This section will briefly review the material on the public record on each of these.

The area of the proposed development has been subjected to both historic and contemporary mineral exploration. The most recent trends in mineral exploration have been spurred on by the discovery and development of diamond resources in the Northwest Territories. The Drybones Bay area has also been affected by this phenomenon and judging by the number of mineral claims staked and Land Use Permits applied for, it can be assumed that the area continues to be of interest to the mining and mineral exploration industries.

On April 13<sup>th</sup>, 2007, as an undertaking from the hearing, INAC submitted a map illustrating land use permits, water licenses, surface leases, mineral claims and mineral leases in the area. It illustrates the following<sup>5</sup>:

Snowfield Development Corp. has been conducting mineral exploration (diamond drilling) at a number of locations in the general vicinity of Drybones Bay including at the Mud Lake Claim Group (6 km southeast of Drybones Bay), Hurcomb Claim (12km south of Drybones Bay), the Red Claims Group (9 km east of Drybones Bay), the Fate Claim (16 km Northeast of Drybones Bay), the GTen 16 Claim Group (20 km east-northeast of Drybones Bay) and the Wire Claims. This development has involved construction of work camps (the Pebble Beach camp and the bulk sample camp) and the construction of an all weather tote road inland from the shore of Great Slave Lake (at the Pebble Beach Camp) to the bulk sampling site. The permitted equipment includes a John Deere 450D Dozer/Backhoe, Nodwell multi-purpose tracked vehicle, TD-20 Caterpillar, Caterpillar 33CC Excavator, Cessna 185/DHC3, Single Otter, snow machines, all terrain vehicles, electrical generators, water pumps and trucks. Four hectares of land have been cleared, and a trenching and bulk sampling program has been developed at the Mud Lake site (Fig. 4). This project also includes the establishment of an ice road from Yellowknife to facilitate access to the Mud Lake site, and the use of helicopter to facilitate drilling at remote sites. Snowfield's Land Use Permit expires on May 19, 2010.

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<sup>5</sup> Some details of the past programs by Consolidated Goldwin Ventures and North American General Resources Corp. were collected from material on the programs as proposed from the Review Board's public records. Actual activities on land may have slightly varied from the projects as proposed.



*Photo by Scott Stewart, INAC. Used w. permission*

Figure 4: Current activity at Snowfield Resources advanced bulk sample site near Drybones Bay. (Note dump truck at upper right for scale).

In the period between the hearings for the development CGV and the time of drafting this report, Snowfield has been required by a Land Use Inspector to apply to the MVLWB for a new Class B water license (MV2007L2-0027) to pump up to 300,000 litres of drainage and seepage water out of its site. An unexpected volume of water is currently entering the site, and the company's present land use permit does not allow it to legally pump it out.

North American General Resource Corp. was granted a Land Use Permit to conduct mineral exploration (diamond drilling) in the vicinity of Wool Bay. The program was supported from Yellowknife with crews commuting daily by 4x4 pick-up truck to the work area via an ice road to Wool Bay which has been constructed annually. A 300 to 400 metre long road spur was ploughed from the main ice road to access the Wool Bay work area. The Land Use Permit expired in May 19, 2007.

Consolidated Goldwin Ventures was granted a Land Use Permit to conduct mineral exploration (diamond drilling) in the vicinity of Drybones Bay and Matonabee Point. Two drilling areas were located on Great Slave Lake approximately 500–1,500 metres from the

main shoreline of the lake. The other area was on the land roughly 0.5 kilometres north of Hearne Channel and 2.0 kilometres west of Beaulieu River. Like the exploration program of North American General Resources, the proposed program was supported by daily access to the drill areas by ice road from Yellowknife. Shoreline access occurred at the Hearne Channel drill location. This program used a Longyear 38 portable drilling unit. The Land Use Permit expired in March 31, 2006.

Garnet Resources Ltd. was granted a Land Use Permit permit to conduct mineral exploration (diamond drilling) in the vicinity of Matonabee Point. The scope of work includes the construction of an 8-km ice road spur to permit access between Yellowknife and the work site. The Land Use Permit expires on March 22, 2008.

Diamonds North Resources was granted a Land Use Permit permit to conduct mineral exploration (diamond drilling) in the vicinity of Drybones Bay. Access to the drill sites was accomplished with helicopters. The Land Use Permit expired on March 17, 2005.

In addition to the above developments, the map (PR#145) shows 12 surface leases, five mineral leases, and 54 mineral claims in the general vicinity of the development.

Much of the activity in the area is not related to industrial development, but to access. Several parties voiced concern regarding recreational use of the area by non-Aboriginal residents of the nearby City of Yellowknife. This includes recreational snowmobiles, cabin construction, and recreation hunters (eg., p58, day 1; p80, day 1; p56-57 day 2; PR#79, p8).

Because recreational snowmobile use does not require any permit outside of municipal boundaries, it is not monitored or regulated. The public record indicates that many recreational snowmobile users use the trails in the area. (See below for related testimonials). Constable Daryl Foster of Yellowknife Municipal Enforcement Division confirms almost 1800 registered snowmobiles within the city of Yellowknife, and estimates an equal number of unlicensed snowmobiles used in the surrounding areas outside of city limits (PR#153).

With additional activity comes an increased likelihood of accidents and malfunctions, such as spills or fires, with impacts on the environment. Minor fuel spills have been noted in Land Use Inspection reports. A detailed example of a more serious accident was provided by INAC at the hearing in response to questions from YKDFN members (day 2, p222). Additional information was submitted in writing on April 5, 2007 (PR#133). A six-by-six plow truck excavator and a 16 wheel lowboy and pony being transported to area for the Snowfield development broke through the ice road. It was carrying approximately 900 litres of fuel and 160 litres of hydraulic fluid. It sunk into over 24m of depth, and the decision was made that it was environmentally better to not attempt recovery. Numerous concerns regarding this incident were raised by YKDFN members at the hearing (eg. day 1, p129).

#### 6.2.4 EFFECTS ON TRADITIONAL ACTIVITIES

Parties described several traditional harvesting activities that occur in the area. These include hunting (for moose, ducks, and in the upland areas, caribou), fishing, trapping, berry picking, and gathering of medicinal plants. The habitat of the area is excellent for wildlife, and a network of historical traditional trails interconnects the area (p7, PR#79). Inland areas are also used for several harvesting activities, including trapping wolves and lynx, moose and caribou hunting (p3).

Several participants spoke to the subject of the cumulative impacts of the proposed development in combination disturbances from numerous other sources and their potential to disrupt traditional harvesting.

The developer produced little material on the subject, and Mr. Greg Mckillop summarized the developer's position saying "*The program is short-term and very local. It's questionable whether there'd be any impacts on hunters and trappers causing them to move*" (p81 day 1).

Several parties to the environmental assessment did not agree with the developer, and raised issues regarding the potential for the proposed development to contribute to the growing level of disturbance in the area. Rachel Crapeau of YKDFN described the following concern about increasing levels of development and affects on hunters:

*(B)ecause of how things have been developing over the last ten years we've noticed that the migration of the moose, the migration of the caribou, the animals that use the lands have moved significantly away from our areas because of too much activity. And... in our caribou hunting, the wintering grounds is changing quite a bit.*

Yellowknife Hearing day 2 p 56

Other hearing participants told the Review Board of the changes to wildlife locations because of increasing human activity. Mr. Gary Bailey of NWT Metis Nation described a concern over the response of wildlife to sensory disturbance, saying "The animals change. They move because of the noises, noise pollution" (day 1 p83). In its response to Review Board Information requests, YKDFN noted in its Dec. 19, 2006 letter that moose are already being affected by disturbance from low flying air traffic related to mineral exploration (p7). The changes in activity levels in the area and resulting effects on traditional harvesters were raised by Tom Unka of DKFN (day 2 p 70).

A similar point was raised by Patrick Charlo, a traditional harvester and YKDFN member, who described a recent unsuccessful moose hunting experience on the land with his mother around Drybones Bay (day 1 p57):

*You can see the size of Snowfield now. They're benching, they're excavating. And this past fall, my mother's still with me, and when she wants to go on the land I take her on the land. And she wanted to see if we*

*can get a moose... (Fall is) always a promising time. When you're always there you would see a moose, but not this time.*

*And what I mean by being forced away is that we have to go further away in order to live the traditional life and to get your meat. And she wanted some moose meat... But she was quite disappointed... on the second day... that we heard a blast over the camp in the highland. Well, that just explains why we haven't seen a moose.*

YKDFN Elder Isidore Tsetta voiced a similar concern over impacts on traditional harvesting. He asked (as paraphrased by Rachel Crapeau) (day 1 p126):

*The wildlife area that Drybone Bay is really good for was to provide sustenance to families... (I)f our ability to hunt, fish, and trap in that area is impacted and seriously adversely affected, how are we going to live?*

Steve Ellis of Treaty Eight Tribal Corp. emphasized the cumulative issue, asking (day 2 . p14;11;21;38):

*It's how do all these exploration activities together impact upon a cultural and natural landscape; that's the question that needs to be asked and it's not being addressed here...(p14) How will the body of activity in the shoreline zone impact the ability of a people to practice a way of life?... (p11) (T)he shoreline zone is being compromised due to death by a thousand cuts. If it was just Sidon going in there it might not be a problem. If it was CGV going in there it might not be a problem. But it's the body of all this exploration that may be a problem and we need to look in that context at this. (p21) From my perspective the priority needs to be that lakeshore zone or the shoreline zone. I think if there was to be a cumulative effects assessment, the focus should be along the areas along the shores of Great Slave Lake and some number of kilometres inland (p38).*

Greg Empson, speaking on behalf of the YKDFN, also emphasized that the sum total of disturbance is a critical concept in this environmental assessment. Empson stated (day 1 p110):

*What you can't mitigate and what you can't do is you can't ensure that all of these small projects together -- not just one, but all of them together -- will not create a significant impact on the landscape that has a significant impact on the Yellowknives Dene First Nation. And that's important because of where the area is; not because of the nature of the development, but because it's development in an area that they treat with respect and an area that is part of their history.*

Sheryl Grieve of the NSMA voiced concerns regarding cumulative effects of the proposed development in combination with other activities as follows (day 2 p141;146):

*If you assume that there is some activity going on, on each of these claims, there isn't really anywhere left for us to go that there isn't mineral activity going on. There's not just mineral activity, but there's... a whole lot to mineral activity that's not just the drilling. There's the access to get there; airplanes flying over; there's other people out fishing. It can be dangerous to go hunting out there because there's too many people on the land. (p141)*

*Cumulative effects... the incremental effects of small projects, add up and may remain long after the project is over. Adding up, I was considering, you know, vegetation damage, soil damage, increased overhead flights, increased noise, increased traffic along the shorelines, traffic on portages, barrels of fuel, general garbage, drill cuttings, stream crossings, erosion, destabilization, spills, fuels, other toxic minerals, odours, smells, disturbance of the game, litter, noise, crowding. (p146)*

Wilderness tourism guide Scott Robertson and his father have operated a tourism business in the area for the past 29 years. Robertson wrote to the Review Board on March 20<sup>th</sup>, 2007 (PR#104), regarding the potential for the development to add to the impacts of past developments in the area. Robertson stated, regarding past and current development:

*I have seen the results of previous exploration in the area and their impact is not without significance. A small drill program in the early 1990s in Drybones Bay created significant disruption to the recreational use of the area for several years given noise, smell and industrial activity in the area. The residual effects of that drill program can still be seen as the path of drill rigs have left scars through the trees, core boxes and samples are still piled along the shore and remnants of the camp remain.*

*I think the impact of the current project underway on the east side of Drybones Bay (Snowfield) is of note, in particular the impact of deforestation involved in the cut lines I have observed from the air and the decreased ability of others to use the area for recreation given the noise resultant from the industrial activity in the area.*

On May 3<sup>rd</sup>, 2007 Robertson submitted another letter to Review Board further describing his concerns regarding increased disturbance in the area due to industrial development (PR#154). Robertson wrote:

*I remember the summer drilling was undertaken on the east shore of Drybones Bay. We could not use the area for camping or fishing for the entire summer. The noise, dust, and helicopters flying over made our cabin, the islands in the bay, and even islands further out from the bay unpleasant given the constant noise, traffic, and dust. Drill rigs are very loud pieces of machinery and their use disrupts the natural uses of the area.*

Chris Heron of the NWT Metis Nation responded to the point that this is a known technology with predictable project-specific impacts as follows (day 2 p210):

*We heard from the proponent as well as INAC that this is not an unusual project. We agree. But it's the number of these not-unusual-projects that are of concern.*

David Livingstone of INAC stated the following regarding concerns about impacts to traditional activities and the relevance of the cumulative issues (day 2 p219; p232):

*I heard very clearly the concerns, particularly the Yellowknives yesterday, about the sense that wildlife was moving out of the area, that people were being forced to travel further, that their heritage resources were at risk of - - or have-- been damaged irreparably. You know, that's serious, in my view (p219).*

*But it is a small proposal with a known environmental effects, and in isolation, it's not a big deal. But it's... not in isolation (p232).*

Several parties described the need for a comprehensive cumulative effects assessment to deal with all the effects of human activities in the area. Tom Unka of DKFN stated this as follows (day 2 p73-74):

*The Deninu Kue First Nation strongly feels that with the cumulative amount of mining and mineral exploration activity, there is a cumulative effect on the water, air, wildlife, fish, and land. A more comprehensive cumulative effects assessment must occur before allowing more mining or mineral explorations to be permitted.*

Gary Bailey of NWT Metis Nation expressed interest in a cumulative study of the area to the Review Board as well (day 2 p121):

*Some advice, I guess, would be that a cumulative study (should) take place along with the involvement of the Aboriginal people so that they understand what the effects are and so they can spread the word out to their people.*

On August 3<sup>rd</sup>, 2007, the Review Board issued the following information request (IR#2.4) to parties to solicit views on possible mitigation measures dealing with monitoring for enhanced management. It stated:

*There is little quantitative information available on the cumulative changes in the area. This information will be needed to make decisions to manage cumulative impacts of future developments in the area. The Review Board has reached the preliminary conclusion that there is public concern*

*regarding cumulative impacts of the proposed development in combination with past, present and reasonably foreseeable future developments. This concern might be partly mitigated by a focused monitoring program, to provide an improved basis for enhanced decision making in the future. The Review Board has not yet concluded that this impact can be mitigated, but is considering recommending the following potential mitigation measure:*

- *requiring a long-term monitoring program, focusing on cumulative effects in Shoreline Zone and resulting impacts on culture and well-being of the Aboriginal users of the land.*

*The intent of the potential mitigation is to ensure that the combined impacts of this and other developments can be managed through enhanced future decision making that includes a quantitative analysis of cumulative changes.*

Parties were asked for their views on the feasibility of the potential measure, its capacity to prevent or reduce the impact described, and any other measures that would achieve the same mitigation.

In response, the YKDFN stated that it would prefer the refusal of the proposed project. However, with respect to the potential mitigation put forth by the Review Board, the YKDFN stated the following (PR#157):

*It is feasible to monitor cumulative impacts; however, the YKDFN do not welcome parties arbitrarily deciding what to monitor and how the monitoring should occur. Preferably, the YKDFN would have the resources and capacity to lead a monitoring program in partnership with other parties... Monitoring in itself will not prevent impacts from occurring. It will however inform people about the direction, degree and severity of impacts. The YKDFN have been monitoring the Shoreline Zone and inland areas of the Drygeese Territory for time immemorial, and it is based on our monitoring that we raised concerns about how development is changing things for the worse.*

The NSMA response to the same information request stated that there is significant public concern about cumulative changes in the area, and particularly the Shoreline Zone, and that the proposed mitigation could reduce a portion of future cumulative impacts and “alleviate some fear and resentment” (PR#159).

In INAC’s response to supplementary information requests, it acknowledged that the potential mitigation may partially mitigate public concern regarding cumulative impacts, though monitoring itself is not physical mitigation (p9, PR#161).

Environment Canada responded to the information request saying it supports in principle long-term monitoring for the Shoreline Zone, but was unclear about the developer’s role in this and would prefer to see this as a suggestion, rather than a measure. It recognized that

“long-term monitoring can inform Cumulative Effect Monitoring and Management, especially from an ecological perspective” (PR#160).

## 6.2.5 TRADITIONAL ACTIVITIES AND CULTURE

When presenters described concerns about impacts on traditional harvesting, a related theme emerged. Aboriginal land users in the area are not only concerned that they are losing a valuable place for practicing the traditional lifestyle, they are also acutely aware that this place is important for passing cultural traditions to today’s youth and future generations. Many participants told the Review Board that they want this area to maintain its traditional values because they want their children to inherit their heritage the same way that past generations have. As Mary Rose Sundberg of the YKDFN told the Review Board (day 1 p120),

*We all had the same idea about taking our children back on the land and teaching them the skills our ancestors has taught us and to continue a lifestyle that is slowly dying away.*

Patrick Charlo of the YKDFN described his concerns regarding cultural issues (day 1 p56; 59).

*We are being forced away from our hunting grounds, the way we were taught to live, to raise our children, and how to live on the land. And I strongly believe that's quite an important thing for us, for us Dene. (p56)*

*So what's happening here is the people that live on the land are being forced away. When Snowfield came out to start this drilling, way back, we said no. It's like we were hanging on to the land but slowly it slipped through our hands.*

*So now I hear this talk about Moose Lake and all the way up that way. It's getting to a point where our kids will probably be growing up and everything and they're just going to refuse to even go out on the land. (p59)*

Tom Unka of DKFN described concerns regarding impacts on wildlife (day 2 p70), and described the connection between the wildlife that is harvested and Dene culture saying “(t)o see a decline in caribou and moose is to see a decline in the way of life for the Dene people”.

YKDFN Elder Alfred Baillargeon voiced a similar concern about the cumulative impact of development in the area on the land, and its effect on traditional livelihoods. He stated (day 2 p308; 311):

*So what I'm saying, I'm -- I'm really concerned about what I'm going to say. My heart just cries every time I think about how much the land is being contaminated and the amount of resources -- economic resources that are being taken from our land... but in the process it is ruining our land, our livelihood. What is going to happen to us in the future? Once all the land - - all our land is -- is ruined, what will happen? What are we going to live with, or by? (p308)*

*I don't want any development in that area because it's my land and I love that land...I want to keep that land for the next hundred years for our children to come... (W)e live with the land... (T)he land is what keeps us alive, us Dene people. (U)s Dene people don't have hundreds and thousands of money in the banks... This is like our bank and you have to listen to us why this is so important. (p311)*

The YKDFN Dec. 19, 2006, response to Review Board information requests raises the same issue (p2, PR#79):

*Current activities are disturbing animals and affecting YKDFN members from undertaking their traditional pursuits... For example, Jimmy Beaulieu and Leo Bettsina cannot trap and hunt around Drybones Bay because the wildlife has been scared off by all the noise. Put simply, land is being alienated from traditional use by development.*

During the hearing, YKDFN member and traditional harvester Jimmy Beaulieu contrasted the short-term interest of the developers against the long-term importance of the land as a means of survival (day 1 p116, 117):

*I think all you developers and also you exploration people, you guys have to understand how important these lands are to us...(Y)ou guys will be there for just a while and then when things are done, you guys leave... (T)he main people that will live on this land is us as a Dene people and the people that use the land, they will still be there... the most important (thing) for us is it's a land that we use as a survival.*

Parties told the Review Board that community perceptions regarding an area can have an influence on the willingness of youths to go out on the land there. Rachel Crapeau of the YKDFN gave the following example of this (day2 p322):

*(T)he last two years I heard a lot of young people, even teenagers, saying, 'I'm going to go muskrat hunting'... And I thought, 'Oh, good. This is great. We've got young people going out'. And they figured that they could do this around Duck Lake and the areas towards all this activity is happening, especially around Drybone area but if they find that too many people are on their trail they're not going to bother.*

Sheryl Grieve of the NSMA described similar views (day 1 p70; day 2 p 150-151):

*(NSMA members) don't really want to be hunting, or fishing... with their families while there's people flying over in helicopters, or Cat trains going by, or blasting, or, you know, smells and noise, and dirt that -- so they just don't-- and it just takes away their privacy. So they don't want to do their land use activities where exploration is going on. (p70)*

*So even though it's a low impact activity by industry standards, it still has a high probability that it will interfere with traditional land and water use, because of real or perceived conflicts, and detract from the quality of the environment... (P)ublic perceptions affect our use of the land. When people stop thinking of their land as pure and rejuvenating and start thinking of their land as an industrial site then their behaviour on the land will change. (p150-151)*

YKDFN Elder Judy Charlo told the Review Board her observations on the hardships of some YKDFN members in the City of Yellowknife, and relates it to the reduced role of traditional pursuits in a landscape affected by development (day 1 p141).

David Livingstone of INAC acknowledged the views of Aboriginal parties as follows (day 2 p 219):

*I heard very clearly the concerns, particularly the Yellowknives yesterday, about the sense that wildlife was moving out of the area, that people were being forced to travel further, that their heritage resources were at risk of -- of -- or have been damaged irreparably.*

Sheryl Grieve spoke on behalf of the NSMA regarding the proposed development's contribution to the cumulative problem of impacts on quality of life, and a loss of control (day 2 p 149):

*Public concern is an issue. Our members don't feel very well informed regarding this project. They feel that their rights are not being respected. They feel that their heritage resources, and natural resources are being appropriated, and that their quality of life is being changed without their consent.*

For several hearing participants, it was clear that this concern about the cultural inheritance of youth was causing a sense of loss. An example of this is the following statement by Dettah Counsellor Mary Rose Sundberg (day 1 p119-120):

*I was hoping and praying that they will not touch that area. A part of me automatically felt like I lost something so dear to me; that was my immediate thought. This area we're talking about... is an area my great*

*grandfather trapped and harvested for many years. Not only my family, but many others that still use this area for hunting, trapping and harvesting.*

*I feel like I've been closed in, pushed out of my traditional lands. Just the thought of someone out there digging into the land that you have respect for and take care of makes me really angry. What will our grand -- great grandchildren have to enjoy or to live on if developers keep tearing up the land that we survived on for many years?*

*As Dene people, this area, we have a treaty right to use this land. I have three daughters and a son who also has a treaty right to harvest the land. What will they have once (the developers) start developing the land?*

Other comments concerning the cumulative impact of development in the subject area and the resulting loss of opportunities to transmit cultural practices were submitted to the Review Board in the YKDFN information request response of Dec. 19, 2007. It quoted the community concerns from a community meeting in Dettah on April 4<sup>th</sup>, 2003, regarding developments in the subject area (p6, PR#79). In it, Lawrence Goulet asked:

*Where will we take our kids in spring, summer and fall to hunt moose? What about if the muskrat habitat is disturbed? What about ducks? It is close to our community. We do not want our kids to go too far to learn to hunt... The Wool and Drybones Bay areas are close to town and are good for teaching purposes for hunting and trapping.*

Rachel Crapeau is quoted in the same document as summarizing her concerns as follows:

*This is our backyard and it's only the beginning. We will be out of land and our traditional livelihood will be lost. What will our kids have? There will be nothing left.*

## **6.2.6 CULTURAL LANDSCAPE**

The YKDFN have repeatedly stated that its cultural concerns relate to more than just specific points, but rather to the overall landscape. This was recognized by the developer in its response to IR1.18 (PR#57), in which the developer stated "CGV accepts that the areas where drilling is proposed have cumulative cultural landscape value".

This issue was originally raised during the 2003 CGV hearing when Chief Darrell Beaulieu stated (November 26, 2003, PR #301, p12):

*(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.*

Steve Ellis of Treaty Eight Tribal Corp. raised the question of the cultural landscape in the hearings in this environmental assessment, saying (day 2 p14):

*It's how do all these exploration activities together impact upon a cultural and natural landscape; that's the question that needs to be asked and it's not being addressed here.*

In its Dec. 18, 2007 correspondence to the Review Board, the YKDFN describes how the area contains many specific grave sites including mass graves. YKDFN states (p3):

*These are just some examples of how the landscape plays such a vital role in the history of the YKDFN. There are many more gravesites and cemeteries, many associated with particular families, some with tragic events. Altogether they form a network of YKDFN history alongside the natural abundance that continues to sustain YKDFN members...*

The PWNHC submitted documentation dealing with cultural landscapes to the Review Board on April 23, 2007 (PR#155), including the following definition of an Aboriginal cultural landscape, as proposed by the Historic Sites and National Monument Board of Canada in its 2004 guidance document titled *An Approach to Aboriginal Cultural Landscapes*:

*An Aboriginal cultural landscape is a place valued by an Aboriginal group because of their long and complex relationship with that land. It expresses their unity with the natural and spiritual environment. It embodies their traditional knowledge of spirits, places, land uses, and ecology. Material remains of the association may be prominent, but will often be minimal or absent.*

Glen McKay, an archaeologist with the PWNHC, described its views regarding the appropriateness of treating the area as a cultural landscape (day 2 p168;181).

*The cultural landscape would just be an exemplary example of the cultural history of the area and would include such features as place names, archeological sites, trails and routes and demonstrated linkages between different heritage resources. Other elements would include stories related to places and other forms of historical knowledge (p168). I think we'd certainly suggest that it meets all of the requirements of that -- of a cultural landscape. (p181)*

Greg Empson of the YKDFN quoted a statement made by archaeologist Callum Thompson during the 2003 CGV hearing. The statement links archaeological sites to a cultural landscape, and emphasizes the vulnerability of such a landscape to incremental

disturbances. Empson indicated that this statement by Thompson summarizes the YKDFN view of the subject area (day 1 p111).

*He (Thompson) said: "But Drybones Bay, to my mind, seems to be a unique place. A large cultural heritage site, if you like, where there are so many known sites, possibly a lot more currently unknown sites, and then all the connections between those sites. Those sites are not just points on a map as I plot them with a GPS, they're places where people lived and then moved from each of those sites to other sites around the Bay to pursue their subsistence routines going from a good fishing place to a hunting place to a trapping place with the seasons".*

*"So it seems to me, from what we've learned from the Elders, that Drybones Bay was a unique area along that coast where people spent much of the year moving from one area to another; from one subsistence activity to another. So if you conduct a mitigation project on one particular site, if you do all the excavation and all the recording of that particular site, you might be taking out a particular, you know, one part of the cultural round or the seasonal round of the people who occupy it at that particular time."*

*Now, that perhaps is what our position is... By allowing one activity and another activity and another activity sooner or later you change the whole landscape.*

#### **6.2.7 CONSERVATION AND PLANNING ISSUES**

Several presenters raised the lack of a land use plan as an issue during the hearings. The area is within the Akaitcho region, which is currently in confidential land claim negotiations with the federal government. As David Livingstone of INAC told the Review Board, "*Land use planning is a component of the Akaitcho negotiations and thus far there has been no agreement to initiate land use planning in this area*" (p198 day 2).

Interim Land Withdrawals are one way of protecting land until negotiations are complete. Parties described why the area is not included in the land quantum selected for withdrawal by the Akaitcho government. Steve Ellis of Treaty Eight Tribal Corp. (the negotiation organization of the Akaitcho government) described this as follows (day 2 p19; 23):

*It's important to note that if the area between Wool Bay, Drybones Bay and Gros Cap had not been already alienated through the issuance of mineral claims and mineral leases that there be absolutely no question that the Yellowknives Dene would have insisted that those areas be contained within the interim land withdrawals. But as it stands... existing rights are not affected by interim land withdrawals. So those lands were alienated prior to the Yellowknives being able to identify them for protection. (p19)*

*One of the first areas that the Yellowknives identified to be protected... through the interim land withdrawals was the areas between Wool Bay and Gros Cap, specifically Drybones and Moose Bays. They were informed at that time that land withdrawals do not apply where... existing interests, in other words, existing mineral leases, existing mineral claims, will effectively be grandfathered in... So that information was in fact brought back to the Yellowknives Elders... (T)he Yellowknives Elders said that that area is so important we don't care if we waste our quantum there. We'd rather make a symbolic gesture... to show that "look, we really wanted these areas in here. We've been precluded from selecting them, but we're going to put them... in there anyways to indicate to whoever that the area is critically important". (p23)*

The YKDFN noted that the specific areas included in the withdrawal are confidential, but even if these areas are included it would not adequately satisfy the conservation needs of the Yellowknives. As Greg Empson of YKDFN told the Review Board (day 2 p52; 54):

*I don't think at this stage that -- that in the absence of any land use plan, I can suggest that we would be satisfied with any development occurring within those lands that have been referred to (p52). The position of the Yellowknives Dene is still that even if an area is not included in the interim land withdrawal because of existing leases they are prepared to take whatever steps they feel is necessary in order to protect those lands (p54).*

Steve Ellis of Treaty Eight Tribal Corp. described concerns over allowing development to proceed in an unplanned manner in the absence of a land use plan. He stated (day 2 p 21):

*(L)ong term planning (is required) for the shoreline zone in order to ensure that the hopes and aspirations of Aboriginal peoples and other northerners are being respected has not occurred. It's completely willy-nilly, unplanned development in the Akaitcho Territory as it stands.*

*We do not need another rushed and unplanned development regime that ignores the concerns of First nations and other Northerners, is uncertain for industry, and results in little benefit for present and future generations.*

Louie Azzolini raised a similar point on behalf of YKDFN regarding the need for land use planning prior to development. Azzolini said (day 2 p 45):

*It's not a question of what mitigation would be suitable to reduce the impact of these projects to something desirable or acceptable. From the get-go these projects are undesirable, unwanted, and are infringing on the peoples' right to go out and do what they do. And at this point the only desirable alternative is a refusal until there is completed land use planning in place.*

Tom Unka of Deninu Kue First Nation (DKFN) described similar views, saying that “Deninu Kue First Nation feels strongly that no further development along the lakeshores of Great Slave Lake until Akaitcho completes its conservation and land use planning” (day 2 p 78). Unka specified that a land use plan would allow DKFN to see how impacts related to water quality and cumulative effects would be addressed (day 2 p87).

Sheryl Grieve of NSMA raised a related concern regarding concerns about developing before proper planning. She said (day 2 p 148):

*This particular area from Yellowknife to Mattonabee Point is very heavily used and a high significance area to our members. It has very dense cultural and heritage value, and there is a good possibility that we'll want special rules for development here... The special rules have not been established.*

The pace of development relative to both planning and the capacity of Aboriginal groups to keep up was raised in the hearings. Sheryl Grieve of the NSMA told the Review Board that there are problems related to the pace of development, and that “*development is outpacing the community's ability to respond to it and manage it*” (day 2 p147). Rachel Crapeau raised a related point, saying that the pace of development was outstripping the ability of the YKDFN to meet demands (day 2 p319):

*It's just not this company, or the other companies, because in one year we have four hundred fifty people -- companies who asked for permission to use the land, and we answered all those applications. They all want meetings with us, too. But could we do four hundred fifty meetings? I'm sure that's possible, but give us a break here, we need money to do those meetings... We're willing to do all this work, but it's going to take tons and tons of money, which we don't have.*

Steve Ellis of Treaty Eight Tribal Corp. told the Review Board that the YKDFN have stated publicly that it wishes to have this area formally protected. He said (day 2 p18):

*The Yellowknives Dene have clearly and officially identified the Shoreline Zone (the area from Dettah to Gros Cap and beyond to Talthelei Narrows) as an area they are striving to conserve as a natural and cultural landscape (Band Council resolution, June 11, 2004). They have formally indicated this to the Federal Crown.*

Formal protection of the Shoreline Zone was a subject of discussion during the environmental assessment hearings. Mr. David Livingstone described the recent successes of the NWT Protected Area Strategy in the Sahtu, and identified it as one way that areas important to communities can be protected. Livingstone stated that “the protected area strategy secretariat is ready and willing to help out where it can.” (p205 day 2).

The YKDFN have been involved in early stages of the Protected Area Strategy regarding this area (p204, day2). An evaluation of the mineral resources potential underlying candidate areas for protection is an early step in the Protected Area Strategy process. Livingstone was asked if the identified presence of kimberlite pipes beneath the area would therefore be a consideration affecting the likelihood of the area receiving protection through the Protected Area Strategy. Livingstone responded (day 2 p213):

*The presence of the potential for diamondiferous kimberlite pipes complicates things from a Protected Area Strategy standpoint, but it – it certainly doesn't take the potential entirely off the table. And that renewable resource potential analysis normally comes in at about the third step of the process. We're, with the Yellowknives and this area, barely at step one.*

An April 18, 2007, letter from Dettah Chief Peter Liske and Ndilo Chief Fred Sangris (PR#146) directly addressed the formal position of the YKDFN regarding the development. The letter stated:

*...Chiefs and council unanimously approved forwarding of this correspondence to the Mackenzie Valley Environmental Impact Review Board for the purpose of placing on the public record the formal opposition of the Yellowknives Dene First Nation to the applications by both Sidon International Resources Corp. and Consolidated Goldwin Ventures in the Drybones Bay Area<sup>6</sup>... The whole of the Drybones Bay area is of significant spiritual, cultural and archaeological value to the Weledeh People and is one of few remaining significant areas of land that has been traditionally used by the Weledeh People, Indeed many of our members continue to use the lands in and around Drybones Bay on a regular basis for the purpose of pursuing their traditional lifestyles and using the land in ways that it has been traditionally used by the First Nations peoples.*

Several parties made it clear to the Review Board that the proposed development conflicts with their aspirations for this cultural landscape. These include YKDFN Elders Isidore Tsetta (day 1, p125), Alfred Baillargeon (day 2, p307), harvester Patrick Charlo (day 1, p60), Dettah Band Counsellor Mary-Rose Sundberg (day 1, p122; PR#79, p5), and Cathy Sangris (PR#79, p6) of YKDFN.

Greg Empson was unequivocal in his description of the position of the YKDFN. He stated "I don't think at this stage that in the absence of any land use plan, I can suggest that we would be satisfied with any development occurring within those lands that have been referred to" (day 2 p253).

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<sup>6</sup> A following letter on April 23, 2007 (PR#149), clarified that the "Drybones Bay Area" described in the previous YKDFN letter included the entire area which this report refers to as the "subject area".

The Dec. 19, 2007 response to Information requests by the YKDFN further described the Sundberg's views. She is quoted in the response as follows (p5:PR#79):

*We need to think ahead to our children's children... The land is more important than the money. The projects are just too close to the community to consider approving them. The Mackenzie Valley Board, the GNWT does not know our land and its importance to our people, yet they give permission to develop and change it. I absolutely do not agree with what's happening there...*

In the information request response, Rachel Crapeau cited the same concern regarding the proximity of the development area to YKDFN communities, saying "This is our backyard", and "We are going to get pushed out, and this is just the beginning" (p6:PR#79). Other YKDFN members described their views in this Information request response. Kathleen Dahl stated (p6):

*That was my area when I was young. I spent every summer there. That is our homeland... You (developers) push your way in, you get your permit. You take step after step and just bully your way around. We in the long run will be paying for your decisions...*

At the hearing, Dahl described frustration at the lack of YKDFN involvement in planning in an area of great importance to her people (day 2 p315, 316):

*I'm very sorry to hear that people just come to our land and (are) pushing us aside. It's like we don't exist, we don't have feelings. Our spiritual growth means nothing. We are addressing because we love our land and this is who we are. We are the land of our people.*

In the previous environmental assessment of CGV, the Review Board was sufficiently concerned with the lack of planning in a culturally important area under development pressure from the mineral industry that it made the following suggestion, which was repeated by the Review Board in the final reports of three different Environmental Assessments (CGV 2004 REA, p58):

*No new land use permits should be issued for new developments within 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. This plan should be drafted and implemented with substantive input from Aboriginal parties. The plan should specifically address future development direction and include provisions for protecting sensitive environmental, cultural, and spiritual sites.*

*This exercise should be completed within 5 years and provide clear management prescriptions for greater certainty of all parties in the future development of this region.*

In information request 1.8, directed to INAC, the Review Board asked what specific action INAC has taken to address the actions suggested, and what steps it is planning to take. The response from INAC (PR#39), received on Nov. 3, 2005, identified no specific steps related to the suggestions, speaking only of ongoing Akaitcho negotiations in general terms.

The public record for the current environmental assessment includes correspondence from INAC to the MVLWB regarding the above suggestion (PR#66). The letter, dated Jan. 19, 2005, contains a clarification of the federal direction on how to proceed with applications in the Shoreline Zones considering the suggestions. INAC wrote:

*Neither suggestion 5, not any other suggestion in the CGV Report, was "accepted" by the Minister of INAC. With the exception of our Minister's correspondence to you dates Sept. 13, 2004, the suggestions in the CGV Report have not been commented on to date, nor do they for part of the regulating guidance contained in the CGV Report.... The notion of a "Shoreline Zone" highlights sensitivities that should be considered, but it does not create a bar to development and it does not change the legal requirements that developers must fulfill.*

During the hearing, David Livingstone of INAC stated that the federal government had taken the above suggestion seriously. However, when asked for concrete results in policy or decision making that had resulted from the suggestion, none were identified. Livingstone stated that the suggestion had made them more alert to the issue, and that the mineral rights disposition system makes the suggestion complicated (p214, day2).

Referring to the above suggestion in the context of land use planning, Steve Ellis of Treaty Eight Tribal Corp. requested the Review Board that it should prescribe this as a measure instead of a non-binding suggestion, because the potential for cumulative impact has not changed and the suggestion was ineffective. Ellis said (day 2 p 20):

*This Board itself, in 2003-2004, when it came up with its reports of environmental assessment from the previous developments in that area- Snowfield, North American, and Consolidated Goldwin... recognized this very gap and they made (the) suggestion to the Minister that some action be taken here. Nothings been done. I'm just echoing, I guess, the Review Board's sentiments here and suggesting that... stronger words be used with the Minister, I suppose. So instead of a suggestion, make firm recommendations, take some action.*

*...(T)o conclude this section, the Review Board must make a measure requesting that Akaitcho planning initiatives vis-a-vis conservation and*

*land use in the shoreline zone be completed prior to further consideration of permits and licences in the region.*

Louie Azzolini spoke on behalf of the YKDFN on the subject of the previous review Board suggestions (day 2 p45):

*It's not a question of what mitigation would be suitable to reduce the impact of these projects to something desirable or acceptable. From the get-go these projects are undesirable, unwanted, and are infringing on the peoples' right to go out and do what they do. And at this point the only desirable alternative is a refusal until there is completed land use planning in place. Until the -- essentially, the suggestions that were brought forward by the Review Board are implemented. The suggestions brought forward in three previous environmental assessments spoke to the broader policy issues that needed to be addressed and those remain unaddressed.*

On August 3<sup>rd</sup>, 2007, the Review Board issued the following information request (IR#2.4) to parties to solicit views on possible mitigation measures pertaining to cumulative impacts and planning. The information request included the following:

*The Review Board is concerned that this development is contributing to a larger problem in the Shoreline Zone, where a cultural landscape that is very important to Aboriginal parties is progressively changing without any deliberate plan. With uncoordinated mineral development, any future land use planning will be less useful for protecting the cultural landscape. The Review Board has reached the preliminary conclusion that this is a potentially significant impact. The Review Board has not yet concluded that this impact can be mitigated, but is considering recommending the following potential mitigation measure:*

- *requiring that no new land use permits be issued for developments within the Shoreline Zone until an interim plan is created that duly considers the values of Aboriginal land users (as per the suggestion in the previous Report of Environmental Assessment for Consolidated Goldwin Ventures (p58, EA0304-02)).*

*The intent of this potential mitigation is to prevent this development from contributing to uncoordinated development within a sensitive cultural landscape, by ensuring that development within the Shoreline Zone reflects interim land use planning that incorporates the values of Aboriginal land users.*

Parties were asked for their views on the feasibility of the potential measure, its capacity to prevent or reduce the impact described, and any other measures that would achieve the same mitigation.

In response, the YKDFN stated that it would prefer the refusal of the proposed project. However, with respect to the potential mitigation put forth by the Review Board, the YKDFN stated the following (PR#157):

*The YKDFN supports not having any new land use permits issued for development within the Shoreline Zone until an interim plan is created and duly considers Yellowknives Dene First Nation land users. The YKDFN are in the process of preparing a 'high-level' planning document for the Drygeese Territory and envisage the development of more focused planning documents such as that suggested by MVEIRB as time and resources permit. Therefore, the idea of planning before doing is reasonable... In the YKDFN's opinion it is a good idea to hold off on developing the Shoreline lands in the Drygeese Territory until there is a land use plan in place. It is what the YKDFN have been asking for because we think it is the right way to do things, and has the most chance of producing results that are satisfactory.*

The NSMA response to the same information request saying that unplanned development in the Shoreline Zone “poses a significant risk to NSMA's important, and sensitive, cultural landscape” and agrees with issuing no new land use permits until an interim land use plan is completed. NSMA also recommend a restriction on issuance of new mineral rights. (PR#159):

In INAC's response to supplementary information requests (p9,PR#161), it said:

*INAC has not identified any mechanism currently available to the department for preventing the issuance of new land use permits in the “Shoreline Zone” in the short term... The initiation of an interim land use planning process for the Akaitcho region is a matter to be discussed and decided by the three parties to the Akaitcho process, namely Canada, the Akaitcho Dene First nations and the GNWT.*

## **6.2.8 REVIEW BOARD FINDINGS AND CONCLUSIONS**

The Review Board accepts that the area surrounding the proposed development is culturally significant to the Aboriginal peoples that have historically used, and continue to use the land. The importance of this area is demonstrated in part by the archaeological, historical, and current use of the area. The record indicates that it has been an important area to the people of YKDFN and their ancestors since historic times, and that it continues to be important to the people of YKDFN, DKFN, NSMA, and NWT Metis Nation. This evidence was not contested by the developer.

In the past, this developer has heard directly from YKDFN of its capacity issues dealing with the large number of land use applications it receives. This was made sufficiently clear

during the previous CGV hearings that the Review Board explicitly addressed it in the *Report of Environmental Assessment* for that development. The developer has also heard directly from many community members, including Elders, of the high cultural importance of this area, and of the degree of concern. Even so, there is little evidence to indicate that the developer gave due consideration to socio-cultural issues.

The Review Board considers the assessment of social and cultural impacts to be an important aspect of environmental assessment. In s.111 of the MVRMA, “impact on the environment” is specified to include “any effect on the social and cultural environment or on heritage resources”. Section 115(b) of the MVRMA states that the Review Board is required to have regard for the social and cultural well-being of the residents and communities of the Mackenzie Valley. This must be considered in both project-specific and larger cumulative contexts. Section 117(2)(a) of the MVRMA specifies that every environmental assessment “shall include a consideration of... any cumulative impact that is likely to result from the development in combination with other developments”. Section 115(c) of the MVRMA states that one of the guiding principles of the environmental assessment process is to have regard to “the importance of conservation to the well-being and way of life of the Aboriginal peoples”. The Review Board considers these requirements when reviewing the evidence before it and forming determinations about this proposed development and its impacts.

#### **6.2.8.1 Value of the Area to Aboriginal Parties**

The Review Board has heard ample evidence from many parties, including Elders, Aboriginal organizations and the developer, that the culture of Aboriginal peoples is linked to traditional practices. The Review Board has also heard that the area around the development, and particularly the shoreline zone, is of considerable importance in terms of historic and current traditional land use.

In the view of the Review Board, the testimony presented by Elders on cultural impacts was not based only on their personal views as individuals, but rather was spoken as holders of Traditional Knowledge- the collected knowledge, values and beliefs that have been passed across generations. The Elders were speaking as holders of Traditional Knowledge. The Review Board takes such evidence very seriously. Section 115.1 of the *MVRMA* explicitly instructs the Review Board to consider Traditional Knowledge made available to it alongside scientific information. When identifying cultural impacts, the Review Board relies heavily on the testimony of the people who hold that culture.

The evidence presented by the Elders was further supported by the testimony of other potentially affected Aboriginal participants. YKDFN has consistently maintained that the area is “the most major area and the most important area to the Yellowknives Dene First Nation (YKDFN), from a spiritual standpoint, from a cultural standpoint and certainly from an archeological standpoint” (p109, day 1). Many members of the YKDFN provided testimony regarding the high importance of this area.

The YKDFN and other Aboriginal users of the land have demonstrated the social and cultural importance of this area to them. They have told this to the Board in past hearings, and have repeated their views and concerns in the hearings for this environmental assessment. The YKDFN have made it clear that the cumulative effect of other developments in other areas that were once valued areas for hunting, fishing and other harvesting have diminished the value of these places. This includes the areas of Con and Giant mines, the location of the City of Yellowknife and the surrounding areas used recreationally by its residents. In the words of YKDFN Chiefs Peter Liske and Fred Sangris, this has resulted in the area becoming “one of the few remaining areas that has been used traditionally by the Weledeh people” (PR#146).

The diminished value of the areas of these other developments has increased the importance of the area of this proposed development. With fewer alternatives, this area is accessible to the community and continues to be ecologically rich in species important to traditional harvesters. It is apparent to the Review Board that the YKDFN is concerned about the increasing levels of activity within the area, both from the mineral industry and from recreational access by snowmobilers and hunters from nearby Yellowknife.

#### **6.2.8.2 Impacts in a Cultural Landscape Context**

The Review Board notes that the people who presented at the hearing in Yellowknife spoke of their concerns with cumulative impacts to the landscape as a whole system. The meaning of the YKDFN is clear to the Review Board when they say “We don't want our cultural identity treated like points on a map”. Only rarely did they specify particular points of potential disturbance within it. Concerns have been directed at the entire landscape in the area, and are not limited to a collection of individual points on a map. The Review Board notes that the PWNHC supports the view that this area should be considered as an interconnected heritage system that forms a cultural landscape.

The history of the area, its heritage resources and grave sites (discussed in section 6.1) only further the importance of the area to the YKDFN. This is an area with numerous heritage resource sites. The Traditional Knowledge map provided to the Review Board by the YKDFN shows numerous traditional trails throughout the area, many place names (often indicative of high intensity of past use), cabins, fishing sites, and a holy site.

The Review Board also must assess the incremental contribution of this development on the broader impact of disturbance on heritage resources throughout the subject area<sup>7</sup>. Any cumulative evaluation of overall cultural impacts must consider potential effects on the larger interconnected system of heritage sites and burial grounds that forms the cultural landscape.

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<sup>7</sup> Evidence pertaining to impacts on specific heritage resource sites and burial grounds near drill sites has been presented in a separate section of this document (Section 6.1.2).

### 6.2.8.3 Impacts on Current Traditional Activities

The Review Board heard about other cultural impacts that do not relate strictly to heritage resource sites. These deal with disturbance to traditional activities. These impacts are cumulative because they relate to the combined effect of the proposed development in combination with all other human activities, including reasonably foreseeable future developments, to cause a potential impact on the cultural value of the landscape throughout the area.

In the past environmental assessment on CGV (REA EA0304-02), the Review Board considered the evidence on the record and concluded that this vicinity was important, not only as a location of heritage resource sites and burial grounds, and as a place to practice traditional harvesting, but also as an area where people seek refuge and healing, where beliefs, values and customs are taught, and where stories of survival are shared (pp51-56).

The Review Board has been reminded in the current environmental assessment that the subject area is important in terms of YKDFN history, its current practices, and the preservation of the living linkages between the two. Elders and traditional harvesters who currently use the land have described how the historical cultural importance of the subject area is grounded in the fact that it was the historical home of the YKDFN, who have never stopped using it for traditional purposes. They have told the Review Board that the traditional trails dating back hundreds of years are still followed today by Aboriginal users of the land; that the many documented and undocumented burial sites of the ancestors of the YKDFN are spiritually significant places; that the fish and animals of the area continue to feed the Yellowknives today; and that this area helps form the cultural identity of the youth of the YKDFN, because it is where they learn the traditional stories, practices, and lifestyle of their culture.

The Review Board accepts the evidence of the GNWT that the activities in this area will not cause an impact on wildlife population numbers (see Section 5.3). The Board notes that disturbance can affect wildlife behaviour, location and movements without necessarily reducing the population. A change resulting from such disturbance may not constitute a significant impact on wildlife, but the resulting changes in wildlife distribution may cause a significant effect on people if it reduces harvesting success in areas that are used for traditional harvesting.

The YKDFN and other Aboriginal land users have clearly asserted that the cumulative disturbance from activity has caused some changes in the wildlife in the subject area. This was stated by Elders as holders of TK and by other current Aboriginal users of the land. This is partially from industrial disturbances and partially from disturbances related to access (discussed in section 6.3). The GNWT has stated that changes in access have the potential to affect populations of moose, an important traditionally harvested species in the area (p273 day 2). The Yellowknives state that this has diminished the hunting success on land formerly known to be reliable, requiring hunters to travel further for the same hunting success (e.g. p56, day2). Although it is possible for Aboriginal land users to practice traditional harvesting elsewhere, the Review Board is of the view that they should not be

driven to do so because their ability to continue to hunt and trap in an area where they have traditionally harvested is diminished.

Based on the evidence, it is apparent to the Review Board that despite current activity, the area still is highly valued for hunting, trapping and fishing. The YKDFN have clearly described to the Review Board their concerns that as development incrementally increases, the value of the area for wildlife will decrease, and so will the value of the area for the traditional practices that depend on wildlife. The YKDFN have stated that this will result in less practice of traditional ways of life, and reduced opportunities for transmission of YKDFN culture to future generations (see section 6.2.8.5).

Aboriginal parties have stated their concerns over the changing experience of traditional activities as increases in development and access occur. The Review Board accepts that Aboriginal land users are less likely to practice traditional activities as the experience of doing so is diminished by disturbances from various other sources, as asserted by the YKDFN and the NSMA (e.g. p70, day 1; pp150-151, day 2; p332, day2). An Aboriginal person hunting moose is participating in an activity that lets them experience their own personal connection with the land. This is a cultural experience. When this is disturbed by drilling, blasting, or by heavy recreational snowmobile traffic, the quality of this experience is diminished, and so is its cultural value, even if the hunting was successful. YKDFN and NSMA have told the Review Board that fewer Aboriginal land users, and youths in particular, will embrace traditional practices when the quality of the experiences are diminished by the increasing cumulative disturbance.

The YKDFN stated to the Review Board that they now have to move further for the same hunting success. This is a socio-economic impact because of the increased cost and difficulty of going to more distant areas. It is also, in the view of the Review Board, a cultural impact because the interplay of the historical use of the area and its use in current traditional harvesting is important. When hunting or fishing in the area, members of YKDFN are aware that they are using the same area their ancestors did, that they are literally following the trails of their forbearers. It is reasonable to conclude that this is a more culturally significant experience than hunting in another setting without the rich history of land use. This area offers the combination of the ecological values that enables successful harvesting along with the rich heritage. This makes it particularly significant to the Yellowknives culture.

#### **6.2.8.4 Cumulative Context**

The people of YKDFN have made it clear to the Review Board that their concerns do not deal with the proposed development in isolation, but with the development in the greater context of the Drybones Bay area. The evidence before the Review Board indicates that this landscape is being cumulatively affected by many different human activities, the impacts of which will be added to by the proposed development.

The Review Board has seen evidence of five mineral developments in the same vicinity. One of these is the Snowfield bulk sample, which has cleared several hectares, put an all-weather tote road into an area previously without all weather roads, built camps, cut lines in the bush, cleared helicopter landing sites, and run a heli-portable drill to inaccessible sites. Several thousand tons of overburden have been removed. Diamond drilling has occurred at several sites. Several kilometres of geophysical cut lines have been made. An accident related to the Snowfield development resulted in the sinking of heavy machinery, fuel and industrial lubricants into Great Slave Lake. There are a total of 54 different mineral claims in the area, and the Canada Mining Regulations legally require certain activities at every claim. All of this requires considerable air traffic, both by fixed-wing aircraft and helicopters. Large numbers of snowmachines from Yellowknife use the access created into the area for recreational snowmobiling, and Great Slave Snowmobile Association has marked routes along trails for its members (see section 6.3). The new access has led to unauthorized cabins and increased pressures from recreational hunters. In the opinion of the Review Board, when viewed collectively, this is a lot of activity for a culturally important area.

The Review Board has considered relevant trends in the area. Levels of industrial activity in the area are increasing. It is reasonable to assume, considering the growth of the population of the City Yellowknife<sup>8</sup> and the observed increases in new access described on the public record, that pressures in the area from recreational use are also increasing. This is supported by the testimony of Aboriginal land users based on their first-hand experience (eg. p57 day 2).

The Review Board has heard from INAC that the current levels of industrial activity are still not high. However, the context must be duly considered:

- 1) Access issues in the area are increasing;
- 2) The area is home to many unidentified heritage resource sites including grave sites;
- 3) It is one of the few remaining easily accessible areas where the YKDFN practice traditional pursuits; and,
- 4) The area is without the protection of a land use plan.

Consideration of all these relevant facts reveals that the increasing levels of activity compound to form part of a potentially harmful cumulative trend in a cultural landscape that is very important to the YKDFN.

It is clear to the Review Board, based on the testimony of Aboriginal parties, that many of the social and cultural concerns that were expressed relate to the future. For this reason, the Review Board finds it necessary to consider the cultural impacts described above in the cumulative context of the proposed development in combination with all other present and reasonably foreseeable developments on the same cultural landscape.

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<sup>8</sup> The population of Yellowknife is steadily growing; its population increased 11.5% between 2001 and 2006 (from 16,541 to 18,700 persons)<sup>8</sup> (Statistics Canada, 2006). As the population increases, it can be assumed that the lands surrounding Yellowknife will face more recreational users.

Parties have talked about incremental changes, and have looked ahead to a future they do not accept. This was best exemplified by the testimony of Elder Isidore Tsetta, who asked, “(I)f our ability to hunt, fish, and trap in that area is impacted and seriously adversely affected, how are we going to live?” (p126 day1). Or, as Dettah counselor Mary Rose Sundberg asked “What will our great grandchildren have to enjoy or to live on if developers keep tearing up the land that we survived on for many years?” (p120, day1).

More development is reasonably foreseeable. Increased recreational access by Yellowknife residents can be reasonably inferred from the growth of the city. Certain activities on the ground are required at the many mineral claims in the area. Air traffic will likely be involved in this. Snowfield Development Corp. has recently applied for a new water license for activities within the area. Based on these points, it is the opinion of the Review Board that additional human activities and developments are reasonably foreseeable in the future.

In the four previous environmental assessments in this area, the Review Board rejected one proposed development due to cumulative cultural impacts. For the remaining three, it prescribed measures pertaining primarily to heritage resource sites. Since that time, the Review Board notes that the situation on the land today has changed. None of the developments by Snowfield, North American General Resources, Consolidated Goldwin Ventures, or Garnet Resources Ltd, had Land Use Permits to do any work at that time. These developments had therefore not contributed to cumulative impacts in the area at that time. No industrial accidents related to these developments had occurred yet. The evidence before the Review Board concerning the combined impacts of existing developments on traditional harvesting is greater in this current environmental assessment than it was during the previous ones. The Review Board weighs the evidence accordingly.

#### **6.2.8.5 Impacts on Cultural Identity**

The Review Board considers the relationship of Aboriginal people to the land to require special consideration. The evidence provided to the Review Board in this case demonstrates that the YKDFN assert their relationship to the land. The Review Board heard “this is our homeland” (PR#79); “...I want to keep that land for the next hundred years for our children to come... (W)e live with the land... the land is what keeps us alive, us Dene people” (p311, day2); and “We love our land and this is who we are. *We are* the land of our people”. (p316, day2). The Review Board takes this very seriously when considering the cultural impacts of cumulative changes to a cultural landscape.

The people of the YKDFN in particular have recognized the Drybones Bay area as a vital part of their traditional identity and heritage which they wish to pass it on to their descendants. They, and other Aboriginal groups, have described their views that the potential for increased industrial development of this area is in conflict with the values of the area as a cultural landscape. YKDFN and other land users fear that if the landscape of the area is further subjected to increased disturbance from both industrial development and increased recreational access, it will significantly reduce their ability to transmit their

heritage and traditional practices across generations as has been done for centuries. The YKDFN has described how cumulative incremental changes on the land are resulting in less practice of traditional ways of life, and reduced opportunities for transmission of YKDFN culture to future generations.

This is a serious problem for members of YKDFN, who described to the Review Board their need for “taking children back on the land and teaching them the skills our ancestors have taught us and to continue a lifestyle that is slowly dying away” (p120 day 1). Parties are worried about “a decline in a way of life for the Dene” (p70 day 2). In the view of the Review Board, this speaks to the heart of cultural identity, and would represent a serious cultural impact.

The Review Board is of the view that the degree of biophysical impact on the area does not always define the magnitude of the cultural impact experienced by the people who value it. The scale of the project is not the main consideration in this case. The project is small, but the issues are much bigger because the proposed development is located in a landscape of such vital cultural importance.

In this case, the Review Board heard that this development as proposed, regardless of its size, poses potential conflicts with the values primary land users place on the area where it is proposed. This is particularly true for the Shoreline Zone. The Review Board recognizes that spiritually significant sites such as burial grounds, and traditionally important practices, are important parts of culture.

The evidence presented to the Review Board indicates that members of YKDFN are recognizing trends-- the land is changing in a manner they cannot control and they see the cultural cost. In the words of traditional harvester Patrick Charlo, “what's happening here is the people that live on the land are being forced away. When Snowfield came out to start this drilling, way back, we said no. It's like we were hanging on to the land but slowly it slipped through our hands”. The YKDFN are describing how, in their view, cumulative changes in this important area are causing them to experience a sense of loss of control over a part of their future as a distinct people.

#### **6.2.8.6 Development Without Planning**

The YKDFN, Treaty Eight Tribal Corp. and NSMA have all testified to the Review Board about their concerns regarding the pace of development compared to the pace of land use planning<sup>9</sup>. The mineral regime of the Canada Mining Regulations creates an environment that promotes a rapid pace of mineral development. In the view of the Review Board, such a pace is inappropriate for unsettled land claim areas in the Mackenzie Valley. The appropriate pace of development must match the pace of planning, and must match the

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<sup>9</sup> This issue was recognized by the Review Board with respect to planning in a previous environmental assessment in the same area (Snowfield Report of Environmental Assessment, EA03-006, p61).

pace of surrounding communities' capacities to cope with development pressures. At present, the pace of development occurring in subject area does neither.

The Review Board recognizes that the long-term solution for issues dealing with competing landscape uses is Land Use Planning. It does not appear to the Board that formal land use plans will be implemented in the near future, nor that there exists any effective instrument to achieve similar goals until land use plans are implemented.

The more development occurs in the area prior to the implementation of planning, the less effective the plan will be as a means of mitigating cultural impacts, because the cultural values of the area will be increasingly lost. In the opinion of the Review Board, land use planning may mitigate the cumulative impacts of future developments. The Review Board accepts the evidence of YKDFN, Treaty Eight Tribal Corp., NSMA and DKFN that landscape-level planning should precede further development in the Shoreline Zone, instead of occurring after the fact.

Considering these facts, together with the requirement of the MVRMA that the Review Board's EIAs deal with cumulative matters, the Review Board is of the opinion that some form of deliberate planning should be considered as soon as possible. The Review Board sees an immediate need to manage the cumulative effects of all current and future human activities in the area. This is necessary to ensure that effective management options still exist when land use plans are designed. In the view of the Review Board, if there is no mitigation for cumulative impacts to the landscape soon, land use plans will be unable to effectively deal with cumulative cultural impacts from other developments in the area later.

The Review Board notes that although land use plans require a completed land claim, there are other planning examples of ways to proactively deal with cumulative effects through managing development. The regional Plan of Action for the Slave Geological Province was cited by INAC during the public hearing as one such planning example (day 2 p218). On a more focused scale, this would provide opportunities in the short-term to deal with many of the cumulative issues described above, without waiting for the outcome of land claim negotiations.

## **6.2.9 GENERAL CONCLUSIONS ON CULTURAL IMPACTS**

To summarize the above findings, the Review Board finds the following based on the evidence on the record:

1. The subject area, and Shoreline Zone in particular, is of high importance to Aboriginal land users. It contains many heritage resource sites, with a likelihood of many undocumented heritage resource sites. These form an interconnected system that meets the criteria of a cultural landscape. (See sections 6.2.8.1 and 6.2.8.2)
2. Location of traditional activities is of great importance to Aboriginal land users. This area matters more than other locations where harvesting could be pursued. (See section 6.2.8.3)

3. Changes on the land, from a combination of increasing recreational access and increasing development, including the proposed development, are adversely affecting traditional activities. (See section 6.2.8.3)
4. This is causing cumulative impacts on cultural practices of Aboriginal groups that use the land. It raises concerns about their ability to transmit cultural identity to their descendants. (See section 6.2.8.3 and 6.2.8.4)
5. All of these cumulative impacts are exacerbated by unplanned nature of development in the Shoreline Zone. (See section 6.2.8.5)

Based on the evidence on the record, the testimony of parties and the above considerations, the Review Board is of the view that cultural impacts are being caused by incrementally increasing development in this important area, including the proposed development. The Review Board is of the opinion that these cumulative cultural impacts are at a critical threshold. Unless certain management actions are taken, this threshold will be surpassed.

If this threshold were surpassed, it would result in a significantly diminished cultural value of this particular area to Aboriginal peoples. This would be an unacceptable cultural cumulative impact on Aboriginal land users. The Review Board views the cumulative cultural impacts described by the parties, and particularly the YKDFN, as likely, significant, and adverse. Most of these are caused by disturbance from human activities from development and recreational access. These are most acute in the Shoreline Zone.

However, with proper land management of this area, primarily by government with the participation of Aboriginal land users, activities in the area can be managed to prevent this cultural threshold from being exceeded by this development in combination with other past, present and reasonably foreseeable future activities. This will require local planning in combination with a landscape level heritage resource assessment. The combination of these management activities, described in the measures below, would prevent the significant adverse cumulative impact that is otherwise likely.

#### **6.2.10 CONCLUSIONS ON CULTURAL IMPACTS AND PLANNING**

The following measures describe the actions required to prevent this threshold from being exceeded, and therefore prevent the associated cultural impact on Aboriginal land users.

**Measure #3: The federal and territorial governments will work with the YKDFN and other Aboriginal land users of the subject area to produce a local Plan of Action for the Shoreline Zone. This will be similar in nature to a regional Plan of Action, but focused on a smaller area. This Plan of Action, at a minimum, will:**

- 1. be drafted and implemented with substantive input from Aboriginal parties;**
- 2. identify the vision, objectives, and management goals based on the resource and cultural values for the area;**

3. **specifically address future development in the Shoreline Zone and include provisions for protecting sensitive environmental, cultural, and spiritual sites; and**
4. **provide clear recommendations for managing development and recreational activity in the Shoreline Zone.**

**The Plan will be produced within one year from the date of Ministerial acceptance of this report, and will be implemented within two years of Ministerial acceptance of this report.**

**The Minister of INAC will provide a policy directive to the Mackenzie Valley Land and Water Board requiring it to consider the results of this Plan of Action and its implementation before reaching any determinations regarding preliminary screenings of all new applications for developments in the Shoreline Zone.**

For clarity, the above measure is intended to ensure that planning occurs prior to further developments in the Shoreline Zone. No authorizations can be issued without the MVLWB reaching determinations. By requiring the MVLWB to consider the results of the Plan of Action before reaching any determinations, this ensures that the Plan of Action is implemented prior to the issuance of new authorizations. It also ensures that the results, and corresponding changes in the cumulative context, are considered in future authorizations in the area.

At present, there is no mechanism for monitoring, at the landscape level, the incremental effects of numerous human activities including impacts from recreational access and incremental industrial development. This is an essential element of the Plan of Action described above in Measure #4. It is necessary to enable good decision making in the future in order to prevent or reduce significant adverse cumulative impacts on the culture of Aboriginal land users. The Review Board does not consider this the responsibility of the developer, but of the federal and territorial governments. An incidental benefit of a landscape-level monitoring program is an information base that will likely be valuable when Land Use Planning is eventually conducted for the area.

The Review Board agrees with Environment Canada (PR#160) that such a monitoring program is not justified by project specific impact, and that such monitoring is valuable in informing cumulative effects management. It is precisely for these reasons that the monitoring is not intended to address project-specific biophysical impacts. Rather, it is required to enhance the management cumulative effects, for the purpose of reducing the significant likely adverse combined impacts to the combination of all past, present and reasonably foreseeable developments *including* the proposed project and other human activities<sup>10</sup>. The Review Board also agrees with Environment Canada that the responsibility for such a program should not rest with the developer.

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<sup>10</sup> Assessing cumulative likely significant adverse effects of proposed developments is within the mandate of the Review Board as per MVRMA s. 117 (2) (a). It is within the Review Board's mandate to prescribe measures for mitigating those effects as per MVRMA s. 128(1)(b)(ii).

The Review Board is of the view that this monitoring program should focus on the Shoreline Zone, which is the area with the highest density of heritage resource sites, is subject to the highest concentration of development activity, and is most accessible for recreational use by residents of Yellowknife. Parties emphasized that this area requires particular attention.

**Measure #4: A long-term monitoring program will be developed as part of the Plan of Action described in Measure #3 to track and evaluate the effects of cumulative changes in the Shoreline Zone, on the culture and well-being of the YKDFN. This program will:**

- 1. Identify the priority biophysical and cultural valued components;**
- 2. Determine the full range of human activities in the shoreline zone that potentially affect those components;**
- 3. Evaluate the cumulative effects of those human activities on the identified components; and,**
- 4. Provide recommendations for management of those impacts in the Plan of Action.**

**Design and implementation of this program shall take place in cooperation with relevant federal and territorial government departments, the YKDFN and other Aboriginal land users.**

#### **6.2.11 CONCLUSIONS ON CUMULATIVE CULTURAL IMPACTS AND HERITAGE RESOURCES**

One factor causing the cumulative cultural impacts to approach the threshold described above is the combined impacts of having numerous undocumented heritage resource sites across a cultural landscape with increasing industrial and recreational activity. Without certainty of the locations of heritage resource sites that form the interconnected web of the cultural landscape, all activities in the area, including the proposed development, will cause greater cultural concern, because they risk fragmenting this system of heritage resource sites. In combination with the cultural impacts described above from the proposed development, this is a likely significant adverse impact.

Concern regarding any actual or perceived impacts on heritage resources and burial grounds is relevant in evaluating overall cultural impacts. In the *2003 Report of Environmental Assessment and Reasons for Decision on the Consolidated Goldwin Ventures Diamond Exploration Project* (p59), the Review Board concluded as follows on this subject:

*The need for more detailed and comprehensive cultural information for the Wool and Drybones Bay area has been clearly established. The Review Board therefore suggests:*

*S.6 The federal and territorial governments should organize and conduct a thorough archaeological, burial and cultural site survey of*

*the area extending from the western headland of Wool Bay to the southern tip of Gros Cap. This survey should be designed in collaboration with the YKDFN, NSMA, and other Akaitcho First Nations with an interest in the shoreline zone. The survey will be jointly funded by the federal and territorial governments. Should CGV wish to conduct further work in this area, they are strongly encouraged to participate in this initiative.*

There is no evidence on the record that indicates this suggestion has been followed.

There is broad agreement from Aboriginal land users, the PWNHC, and the developer that the Shoreline Zone meets the criteria of a cultural landscape. It is clear to the Review Board that, in the view of Aboriginal land users, the whole of this landscape is more than the sum of its parts. The Review Board accepts the evidence of the YKDFN (day 1, p111), supported by the report of archaeologist Callum Thompson, that the heritage resource sites throughout the area form an interconnected heritage network, and that excavating or recording only certain particular sites risks fragmenting this heritage. In the opinion of the Review Board, this would cause a significant adverse cultural impact of a cumulative nature. The heritage mitigation measures described in section 6.1 will ensure that individual heritage sites near potential drill areas are not disturbed, but this alone is not enough to protect the overall network of sites that form the cultural landscape. The measure described below is intended to prevent this fragmentation of heritage sites.

The Review Board is of the opinion that it is government's responsibility to manage this cumulative problem by identifying heritage resources at the landscape level. This will make it possible to adequately protect the interconnecting network of sites, reducing the risk of disturbance by increasing activity. This requires a heritage resource study that encompasses the Shoreline Zone. Parties have made it clear that the Shoreline Zone is the part of the Subject Area that is of paramount importance (e.g. day 2, p18; day 2 p38; day 2, p161-165).

At present, the PWNHC only conducts heritage assessments funded by developers where specific developments are proposed. Although this may address project-specific potential impacts, it does little to deal with cumulative impacts on culture at a landscape level.

A heritage resource study that encompasses the Shoreline Zone would reduce the likelihood of any development disturbing heritage resource sites. This is necessary to manage the cumulative cultural impact of activities in the area.

**Measure #5: The PWNHC, with funding from the federal and territorial governments, will conduct a thorough heritage resources assessment encompassing the Shoreline Zone. The YKDFN and other land users shall have substantial input on the design of this assessment, and shall participate in the assessment. This shall be completed within two years of ministerial acceptance of this report.**

The Review Board is aware that the measures prescribed in this document are not the same as those in previous *Reports of Environmental Assessments* for developments in the Shoreline Zone. In the Review Board's opinion, the cumulative effects on culture are causing, in the view of the YKDFN, a critical situation which has grown worse since the time of the previous environmental assessments in this area.

### **6.3 Access Issues**

The subject of access is raised several times throughout the public record. It pertains to the winter road the developer proposes to construct from Great Slave Lake inland to Defeat Lake, the developer's proposed use of existing trails for snowmobile travel and for using a tractor to haul drill rigs, and the potential for increasing recreational access from the nearby City of Yellowknife.

#### **6.3.1 DEVELOPER'S SUBMISSIONS**

In the developer's land use application (p7, MV2004C0038), it described the possibility of using a tractor to haul the drill rig between drill sites on the FC and Moose claims. In the hearing (day 1 p52) the developer raised the possibility of creating a new trail to haul the drill to Cleft and JJ claims.

In addition to using a tractor to haul the drill, Laurence Stephenson, on behalf of the developer, told the Review Board that the developer would likely use snowmobiles on existing trails or helicopter for the claims closer to Moose Bay, and helicopter for the claims further inland (day 1 p50; 52).

*The idea would be to probably set up a camp down on Moose Lake or -- or around the Moose Claims area... From that point there, basically you could service all of these claims by Skidoo or helicopter. (p50)*

*We could put a small trail or -- or haul the drill along with a road access; that -- that's the type of access that we're looking at. When you start getting back up into here there is a defined trail, I think along this river here. There might be -- we might use that to pull the drill in to get close enough to the Cleft Claims and even maybe to the JJ Claims. (p52)*

The possibility of using a helicopter was raised by Laurence Stephenson on behalf of the developer (p50-52, day 1; p71, day 1; p105, day 1; p303, day 2). In the developer's correspondence of Sept. 26, 2005, it stated that "helicopter would be the most reasonable and likely means of ingress and egress". This was restated in the hearing (day 1 p52)

*What we would try to do is probably use a helicopter to move our drill in to each of these (inland) sites depending on where we find -- I think that would be probably the easiest.*

In response to questions regarding the feasibility of helicopter operations at sites with challenging topography inland, Greg McKillop told the Review Board (day 1, p125-126):

*I've worked with helicopters and drills in very rugged terrain, and we've slung drill equipment in with hundred foot cables and you can get in some very tight terrain moving equipment in by helicopter.*

### **6.3.2 PARTIES' SUBMISSIONS**

Rachel Crapeau described YKDFN concerns regarding the effects of access, including recreational snowmobile riders from the City of Yellowknife and the further development in the area that access facilitates. Crapeau said (day 2 p57):

*All this activity has a huge effect on our ability to travel in the backyard through -- just behind Dettah and you follow the trails, you can't even really go that way any more because of all the Yellowknife snowmobilers heading that way.*

*If you sit outside my sister Julia's house on her balcony on Thursday, you'll see them heading out that way. It's not just one snowmobiler, it's four at a time. And there's probably about fifty to a hundred snowmobilers heading out on Thursdays. They all plan long weekends and they spend quite a time out on our land and they head way out...*

*And the trails, opening it up to other people from other companies going in and using the land and accessing the land and it's one company after the next. They're all making noise in the Dettah area. The cumulative effect is going to be pretty huge.*

In its response to information requests from the Review Board, YKDFN response on Dec. 18, 2006 describing concerns regarding the cumulative impacts of improved access (p2 and 8, PR#79). It wrote:

*...there is even increasing pressure by non-Dene Yellowknife residents for the use of the area because of its vicinity, attractiveness, and abundance of wildlife (p2)... Improved winter road access to the area will open up new lands, and this is an added impact. Then there are associated impacts. Outfitters will add small camps because there is a winter road. "The open door effect" that will result in increased traffic that results in increased garbage, noise and general nuisances. Impacts that were not there before the ice winter road.*

*If the road cannot be controlled there will be an impact including additional cabin construction. Cabin construction that is unmanaged and uncontrolled. The Snowmobile association is marking trails and opening the land up to more and more people and this is also causing an impact. Trails are being overtaken by other users. (p8)*

Following a description of concerns regarding changed access and impacts to harvesting, Gary Bailey of the NWT Metis Nation described the significance of traditional trails (day 1 p79):

*Our trap lines and stuff have been developed over time; three hundred, four hundred years. Took a long time for our Elders to find these routes and you guys (CGV) are using them as public roads and ruining our -- what we've invested in our land.*

Elder Isidore Tsetta described his concern regarding the use of traditional dog team trails by exploration companies. He said (as translated by Rachel Crapeau) (p127, day 1):

*All the traditional dog team trails, the trails to all the harvesting areas, they're all being taken over by anyone who wants to go drilling and -- and using the land, and they're using our trails and messing up our trails that we use.*

Patrick Charlo, a traditional harvester and member of YKDFN, described concerns about the creation of new access, the impacts of access created recently in the area, the impacts on traditional harvesting (including direct interference with traps), and the safety of his children on traditional trails (day 1 p58).

*I'm teaching my grandkids how to live on the land and when you guys say you are going to put in winter roads, its almost like splashing water on my back. The same thing happened in Drybones Bay. CAT (bulldozer) trails all over the place. What does that create? That creates open roads for recreational riders. Those trails which have been opened up to everybody, that's our traditional trails which has been taught to the younger generation, to generations, where we are here today.*

*And we travel (those trails), we set traps and they are being snapped or either trap taken, fur and the whole works. Who's going to replace those traps? Who's going to cover the costs for the fuel that you spend going out there and also to replace the traps.*

*I had a close incident. I was up ahead. My son was behind me. He was only eight years old. And we get these recreational riders, like I said, it just opens up trails for everybody. Regardless of who is on a trail with them or not, they'll -- snowmobiles were coming, six of them. Before I even got to stop the first one, I couldn't, it just flew right by me. And I was just worried*

*about my son, he's a little ways behind me. So since then, I started traveling further south along the Great Slave.*

YKDFN Elder Isidore Tsetta stated his views regarding increased access into the area and the development it could facilitate, saying “(W)e absolutely don't want any roads made into those areas. That road is going to contaminate the land and then establish different base camps” (day 1 p124).

Gary Bailey identified the ice road to the area as a source of increased recreational access. Bailey said: “The ice roads as well, it causes all recreational hunters coming out” (day 1 p80).

Wilderness guide Scott Robertson voiced a similar concern regarding increased access in his letter to the Review Board on May 3rd, 2007 (PR#154). Robertson wrote:

*Roads... bring more traffic. Areas that were previously inaccessible will now be easy routes for snowmobiles and add to the impact in these areas... Even though the proposal only calls for one access road experience has shown me this is not the extent of the impact. There will be numerous cut lines, areas bulldozed over, and the shoreline will be scarred. The development in the Drybones Bay area has shown me this all too well.*

Dean Cluff, North Slave Regional Biologist for the GNWT, raised the subject of access and recreational activity in describing potential impacts on moose. Cluff said (day 2 p273):

*There was mention before of recreational activity and there... would be a concern from a population point of view for moose... (A)ny increase in access could affect that so that would be a concern. So if there's more winter roads in an area... or the landscape is opening up more then that can have an effect on moose populations.*

Patrick Charlo suggested that helicopter operations could mitigate the problem of increased access (day 1 p59).

*It wouldn't be too bad if they were to fly in drillings and so on where they can make a pad here and there, but if you start opening up ice roads, that creates a big impact on everybody that -- that works on the land.*

During the previous environmental assessment on CGV in the same area, the YKDFN voiced concerns regarding increased access via the ice road and on trails, the potential of this to facilitate the building of unauthorized cabins, and the potential for access to open the area to further development in the area, and for increased recreational hunting (EA 0304-02- PR#6, PR#300; CGV Report of Environmental Assessment, p55).

On August 3rd, 2007, the Review Board issued the following information request (IR#2.1) to parties to solicit views on a possible mitigation measures allowing access by helicopter only, to ensure that the developer does not create new ground access which would contribute to the existing impacts caused by increasing access in the Shoreline Zone. Parties were asked for their views on the feasibility of the potential measure, its capacity to prevent or reduce the impact described, and any other measures that would achieve the same mitigation.

In response, the developer stated that this would severely constrain the program due to the short flying hours during winter. This would prevent crew changes every 12 hours, requiring crews to stay on site 24 hours between transfers. This raises safety issues due to lack of sleep. The developer suggested that a camp on site would eliminate this problem, making helicopter access only a possibility (PR#156).

The YKDFN stated, in response to the same information request, that it would prefer the refusal of the proposed project. However, with respect to the potential mitigation put forth by the Review Board, the YKDFN stated the following (PR#157):

*The YKDFN concurs with the Review Board that increased access for recreational travelers, and the cumulative effects associated with increased access are a significant and growing concern. Historically, exploration projects have increased non-Dene access to areas of significance for YKDFN and there has been little or no acknowledgement of this fact. Therefore, the Review Board's recommendation that exploration drilling site access be limited to helicopter usage only is viewed favourably....*

The YKDFN continue in the same response to state:

*Allowing the use of helicopters only to access exploration sites will, in the YKDFN opinion, only marginally reduce accessibility associated impacts. The issue is now so prevalent and wide spread that critical disturbance thresholds may have been reached.*

The NSMA response to the same information request agreed that this measure would prevent increased access, but noted that helicopter overflights are also disruptive, and that monitoring and enforcement of overflights is difficult (PR#159).

In INAC's response to supplementary information requests (PR#162), it said:

*INAC would like to inform the MVEIRB, the developer and all reviewers that the winter road proposed by the developer will be on public land, and that the general public has a right of access to all public roads and lands, unless restricted by law. Therefore, in INAC's view, the developer does not have the legal authority to restrict public access to the winter road it is proposing to build on public lands.*

The GNWT Department of Environment and Natural resources provided the following response to IR 2.1 (PR#158):

*Given that there are other proposed heliportable mineral exploration projects in the NWT; it is conceivable that a heliportable program would be feasible. By restricting Sidon and Goldwyn to heliportable drilling only, this would help in maintaining the current recreational use of the area. However, a winter heliportable drilling program for the operations would likely cause temporary disturbance to terrestrial wildlife species such as barren ground caribou, moose and furbearers that might utilize the region... Both a new winter road, as proposed by the proponent, and helicopter access only, will negatively impact wildlife and therefore disturb traditional harvesting activities. The difference is, by only allowing access by helicopter impacts would be reduced to short-term impacts as opposed to a new road that could provide increased access indefinitely.*

### **6.3.3 CONCLUSIONS ON IMPACTS RELATED TO INCREASED ACCESS**

Recreational access to this area is one of the activities partially responsible for the cumulative impacts described above in section 6.2.8. The Review Board has heard from Elders and other current Aboriginal users of the land that wildlife in the subject area has changed because of the cumulative disturbance from increasing human activities. Although increasing industrial disturbances is part of the cause, disturbances related to access are also part of this problem. As described above, the GNWT has stated that changes in access have the potential to affect populations of moose, an important traditionally harvested species in the area (p273 day 2). The Yellowknives state that hunters have to travel further for the same hunting success because increased activity has diminished the hunting success on land formerly known to be reliable (e.g. p56, day2).

The proposed development includes the construction of a new winter road inland, and other inland access from Great Slave Lake. It includes hauling a drill rig by tractor on existing and new trails. Building a new winter road and cutting new trails creates access that will likely be used by others. Hauling a drill rig by tractor down an existing trail likely expands the trail, making it possible for others to use in ways that were not possible before. In the opinion of the Review Board, this development as proposed will incrementally add to the cumulative impacts on culture resulting from both increasing industrial activity and recreational access in the area. This impact is likely, significant and adverse. As stated in section 6.2.9, the Review Board is of the view that this cumulative cultural impact is currently at the threshold of acceptability.

If the developer does not create ground access from Great Slave Lake to drill sites, several potential cultural impacts that relate to this cumulative problem will be reduced. Traditional trails will be less likely to be used to haul drilling equipment, land users are less likely to encounter linear industrial disturbance, and most importantly, no new access

will be created by the developer that could facilitate access by recreational snowmobile enthusiasts and hunters.

The Review Board recognizes that increased helicopter use does increase the level of disturbance in the area somewhat. However, it accepts the views of YKDFN harvester Patrick Charlo and of the GNWT that this temporary disturbance is preferable to the longer-term potential impact of increased access produced by the winter road and other means of ingress proposed by the developer. As INAC stated, use of a winter road by others could not be legally controlled by the developer once it was built. Based on a review of the evidence pertaining to concerns arising from increased access, the Review Board is of the opinion that temporary disturbance from helicopter overflights are preferable to increased access to the area over the longer term.

The developer has indicated the feasibility of using helicopter-based operations for inland drill sites, provided that camps could be located nearby to facilitate crew changes during winter months, when flying time is limited by short daylight hours. To prevent these camps from causing additional cultural impacts, it is necessary for the YKDFN to work with the developer to select preferred locations.

**Measure #6: To prevent impacts on traditional harvesting resulting from increased access to the area, the developer shall access any proposed drill areas by helicopter only, so that no new access from Great Slave Lake is created. Small camps near drill sites may be created to facilitate access by helicopter. Travel by snowmobile from the camps to the nearby drill sites will be the only exception to the requirement for helicopter access. These camps will be located inland of the Shoreline Zone in the vicinity of drill sites on frozen water bodies selected by the YKDFN in consultation with the developer.**

**If no agreement between the YKDFN and the developer can be reached regarding the locations of these camps within one year of Ministerial acceptance of this report, the decision on camp locations will be made by the Mackenzie Valley Land and Water Board, following its consideration of the views of the developer, the YKDFN and the Land Use Inspector.**

## **6.4 Eco-Tourism**

### **6.4.1 PARTIES' SUBMISSIONS**

The Review Board heard that this area is used for eco-tourism by day trips from Yellowknife that focus on fishing, nature and birdwatching. Wilderness tourism guide Scott Robertson described his concerns regarding potential impacts on eco-tourism in a letter to the Review Board on May 3rd, 2007 (PR#154). Robertson wrote:

*My father and I have run a tourism business on Great Slave Lake since 1983. The proposed area is the heart of where we take our day trips. Our*

*clients come out on the lake to experience the pristine wilderness we have to offer.*

*Drill rigs, cut-lines, access roads, and the irreversible scars left on the land from exploration will destroy this and certainly impact our business. Tourism is growing significantly in the Northwest Territories as travelers seek out the unique, the pristine, and the out-of-the-way locations. We have more advance bookings for this summer for day trips than we have probably ever had. On an average year we take between 300 and 400 people on the lake for fishing, naturalist, and bird watching tours.*

*I remember the summer drilling was undertaken on the east shore of Drybones Bay. We could not use the area for camping or fishing for the entire summer. The noise, dust, and helicopters flying over made our cabin, the islands in the bay, and even islands further out from the bay unpleasant given the constant noise, traffic, and dust. Drill rigs are very loud pieces of machinery and their use disrupts the natural uses of the area...*

*Great Slave Lake is a very important ecological, cultural, and recreational area for thousands of people and countless tourists... I urge the board to seriously consider the significant long-term impact this exploration will have on locals, aboriginals, tourists, and the environment itself. Please help protect an important and priceless part of the North.*

#### **6.4.2 REVIEW BOARD ANALYSIS AND CONCLUSIONS**

The Review Board accepts that disturbance from industrial sources reduces the wilderness and natural values that are important aspects of wilderness eco-tourism experiences. Based on the correspondence on the public record, it appears to the Review Board that the area of concern regarding impacts to eco-tourism is exclusively within the Shoreline Zone. The Review Board is of the view that the development as proposed would contribute to the total industrial disturbance in the Shoreline Zone.

The Review Board notes that the restrictions on access from Great Slave Lake will reduce the developer's activities in the Shoreline Zone. The Shoreline Zone is the area primarily used for ecotourism purposes. This measure therefore partially reduces potential conflicts with ecotourism activities. The Review Board further notes that the submissions by Robertson focus primarily on summer ecotourism activities, and that the majority of activities proposed will occur in the winter. In the opinion of the Review Board, this further reduces the potential for conflict.

The Review Board concludes that project timing in combination with the prevention of new access required by Measure #6 will reduce the likelihood of a significant adverse impact on eco-tourism. For this reason, no further measures are offered here.

## 7 The Mineral Tenure Regime and Consultation

The evidence presented to the Review Board by Treaty Eight Tribal Corp. emphasized that YKDFN wanted to propose undisclosed areas within the Shoreline Zone for protection by interim land withdrawal under the current Akaitcho land claim negotiation process. In the view of Treaty Eight Tribal Corp., the presence of existing mineral rights reduced the utility of such a withdrawal because it would not affect existing rights. As Steve Ellis of Treaty Eight Tribal Corp. stated,

*It's important to note that if the area between Wool Bay, Drybones Bay and Gros Cap had not been already alienated through the issuance of mineral claims and mineral leases there would be absolutely no question that the Yellowknives Dene would have insisted that those areas be contained within the interim land withdrawals.... Those lands were alienated prior to the Yellowknives being able to identify them for protection.*

Yellowknife Hearing, day 2 p19

During the hearing, David Livingstone of DIAND described the approach to consultation that the Crown follows (day 2 pp196-197). In describing the challenges to providing formal protection for the area, Livingstone stated:

*The complication is not just the cultural concerns in a specific project. The complication also arises from the legislative base under which or on which we operate and particularly the mineral rights disposition system.*

Yellowknife Hearing, day 2 p214

The Review Board notes that the allocation of mineral interests in this area is based on the Canada Mining Regulations which provide two means for mineral interest allocation, both based on the “free entry” system. They include the staking of claims by a licensed prospector or the issuance of prospecting permits which then provide exclusive access to an area for purposes of staking claims.

The only mechanism for protecting sensitive or special lands from activities such as prospecting, exploration or mining is withdrawal of those areas from disposition under section 11 of the Canada Mining Regulations. If an area is open for prospecting it is not, for the reasons set out below, possible to prevent the allocation of mineral interests. Once claims are staked or leases granted, the Crown faces the possibility of demands for compensation if development is foreclosed.

One of the characteristics of the “free entry” system is the lack of discretion it provides to the representatives of the Crown. Assuming the basic requirements of the Canada Mining Regulations are met, a properly staked claim must be registered by DIAND. Once a claim is registered, representation work must be conducted and again, assuming the holder of a

claim meets the minimum requirements set out in the regulations, the Crown must grant the claim holder a lease.

Prospecting permits are issued annually in January. Because the applications for these permits are received in a priority sequence, and held until issuance, this approach to mineral interest allocation can provide an opportunity for Crown officials to consider other interests in the areas which may be released for staking under such a permit.

The Canada Mining Regulations framework combined with the provisions of the Mackenzie Valley Land Use Regulations, which exempt prospecting activities from the requirement of a land use permit, means that prospecting is almost always a legally authorized use of Crown lands which have not otherwise been withdrawn. Because the staking of a claim requires no land use permit, communities like Ndilo and Dettah have no way of knowing what staking is occurring.

Once a claim is properly staked it must be registered and there is no opportunity in the Canada Mining Regulations system for consideration of the environmental or social effects of development in the areas claimed before allocation of the mineral rights takes place. Likewise, it appears that consideration of the effects of any activity associated with the mineral claim or lease on the exercise of aboriginal or treaty rights is postponed by DIAND until later in the development process.

At the hearing in Yellowknife, DIAND staff advised the Board that they do not consult aboriginal rights holders until after the Review Board environmental assessment process is completed (day 2 pp196-197). This approach to consultation under section 35 of the *Constitution Act, 1982* allows DIAND to conduct a “gap analysis” to determine whether the environmental assessment process has resulted in accommodation of concerns related to infringement of aboriginal rights. If in the opinion of DIAND the mitigation resulting from the environmental assessment process satisfactorily addresses any infringements, no further consultation may be necessary.

The Review Board notes that there are strong expectations among aboriginal rights holders that they will be consulted directly by government early in the development process when regulated activities may threaten the exercise of their rights. Section 125 and 126 of the MVRMA provide for preliminary screeners, and a variety of other authorities, to refer developments to environmental assessment simply on the basis of public concern. The MVRMA provides little direction on the interpretation of public concern. In these circumstances, it is possible that developments may be referred to environmental assessment because the Crown is choosing not to consult until later in the regulatory process and because unaddressed concerns about infringement of aboriginal rights generates public concern among aboriginal rights holders.

The Review Board does not have the jurisdiction to address the effects of development on aboriginal rights under section 35 of the Constitution. That is the Crown’s responsibility. In the end, when consultation issues arise, Review Board proceedings may be the only venue for a public examination of these concerns. As a result they are more complicated

and much information of questionable relevance related to Crown consultation can be presented as evidence before the Board at hearings. This situation affects the Review Board's ability to meet the requirements of section 115 of the MVRMA and to carry out its proceedings in a timely and expeditious manner. It appears to the Review Board that if consultation issues could be addressed earlier in the process, all parties might benefit.

Returning to the question of mineral interest allocations, the Review Board notes that the use of prospecting permits has, in other parts of the NWT, enabled DIAND and aboriginal organizations to plan for mineral exploration activity on traditional lands and to avoid consultation issues by ensuring in advance that activity in areas of interest to the mining industry is discussed with aboriginal organizations in affected communities. Such an approach should be considered for the traditional lands of Treaty Eight communities as well even if amendments to the Canada Mining Regulations (which are under review) are required.

**Suggestion 1:**

**To reduce the potential for conflict between the duty to consult when Aboriginal rights are infringed by mineral exploration and development and the free-entry system set out in the *Canada Mining Regulations*, the Government of Canada should adapt and apply the prospecting permit process to areas in the Akaitcho Territory, in order to provide notice and ensure opportunities for consultation with Aboriginal users of that area, before mineral interests are granted.**

## **8 Conclusions**

Throughout this environmental assessment, the Review Board collected and evaluated evidence from the developer, Aboriginal land users, Traditional Knowledge holders, and technical experts from government and communities. The evidence led the Review Board to the conclusion that the development, as proposed, would be likely to cause significant adverse impacts. These are primarily cultural impacts, and include but are not limited to impacts on heritage resource sites. This proposed development in combination with all other past, present and reasonably foreseeable future activities in the Shoreline Zone would also cause cumulative impacts on the culture of Aboriginal land users. These potential impacts are caused mainly due to the location of the development in a culturally important setting, not due to the scale of activity proposed.

The Review Board has prescribed several measures, directed at both the developer and to government. These measures are intended to be taken as a suite. Collectively, these measures will avoid or reduce the otherwise significant impacts that would have occurred.

## **9 Summary of Measures and Suggestions**

### **Measure #1: (section 6.1.3)**

**CGV must identify drill sites by conducting non-intrusive geophysical activities which do not require a land use permit. Once drill sites are identified, CGV must be accompanied by an Aboriginal Elder, translator and a qualified archaeologist to scout out archaeological, burial and cultural sites on any access routes and drill locations before on-land operations at any drill location proceeds. The archaeologist involved must be acceptable to the PWNHC following consultation with YKDFN.**

### **Measure #2: (section 6.1.3)**

**No part of the proposed development will occur within 100 metres from any known or suspected archaeological, burial or sacred site.**

### **Measure #3: (section 6.2.10)**

**The federal and territorial governments will work with the YKDFN and other Aboriginal land users of the subject area to produce a local Plan of Action for the Shoreline Zone. This will be similar in nature to a regional Plan of Action, but focused on a smaller area. This Plan of Action, at a minimum, will:**

- 1. be drafted and implemented with substantive input from Aboriginal parties;**
- 2. identify the vision, objectives, and management goals based on the resource and cultural values for the area;**
- 3. specifically address future development in the Shoreline Zone and include provisions for protecting sensitive environmental, cultural, and spiritual sites; and**
- 4. provide clear recommendations for managing development and recreational activity in the Shoreline Zone.**

**The Plan will be produced within one year from the date of Ministerial acceptance of this report, and will be implemented within two years of Ministerial acceptance of this report.**

**The Minister of INAC will provide a policy directive to the Mackenzie Valley Land and Water Board requiring it to consider the results of this Plan of Action and its implementation before reaching any determinations regarding preliminary screenings of all new applications for developments in the Shoreline Zone.**

**Measure #4: (section 6.2.10)**

**A long-term monitoring program will be developed as part of the Plan of Action described in Measure #3 to track and evaluate the effects of cumulative changes in the Shoreline Zone, on the culture and well-being of the YKDFN. This program will:**

- 1. Identify the priority biophysical and cultural valued components;**
- 2. Determine the full range of human activities in the shoreline zone that potentially affect those components;**
- 3. Evaluate the cumulative effects of those human activities on the identified components; and,**
- 4. Provide recommendations for management of those impacts in the Plan of Action.**

**Design and implementation of this program shall take place in cooperation with relevant federal and territorial government departments, the YKDFN and other Aboriginal land users.**

**Measure #5: (section 6.2.11)**

**The PWNHC, with funding from the federal and territorial governments, will conduct a thorough heritage resources assessment encompassing the Shoreline Zone. The YKDFN and other land users shall have substantial input on the design of this assessment, and shall participate in the assessment. This shall be completed within two years of ministerial acceptance of this report.**

**Measure #6: (section 6.3.3)**

**To prevent impacts on traditional harvesting resulting from increased access to the area, the developer shall access any proposed drill areas by helicopter only, so that no new access from Great Slave Lake is created. Small camps near drill sites may be created to facilitate access by helicopter. Travel by snowmobile from the camps to the nearby drill sites will be the only exception to the requirement for helicopter access. These camps will be located inland of the Shoreline Zone in the vicinity of drill sites on frozen water bodies selected by the YKDFN in consultation with the developer.**

**If no agreement between the YKDFN and the developer can be reached regarding the locations of these camps within one year of Ministerial acceptance of this report, the decision on camp locations will be made by the Mackenzie Valley Land and Water Board, following its consideration of the views of the developer, the YKDFN and the Land Use Inspector.**

**Suggestion #1: (section 7)**

**To reduce the potential for conflict between the duty to consult when aboriginal rights are infringed by mineral exploration and development and the free-entry system set out in the *Canada Mining Regulations*, the Government of Canada should adapt and apply the prospecting permit process to areas in the Akaitcho Territory, in order to provide notice and ensure opportunities for consultation with aboriginal users of that area, before mineral interests are granted.**

## Appendix: Public Record Index

Registry Item No.	Document Name	Originator
1	Notification, distribution list, other start-up materials	MVEIRB
2	CGV Reason for Decision s126	MVEIRB
3	Response to Notification	CGV
4	Distribution list return form	MVEIRB
5	Letter from MVLWB re. land use permit applications in Drybones Bay area	MVLWB
6	CGV 05 Distribution Fax List Sept 14 05	MVEIRB
6	Distribution list confirmation return fax	MVEIRB
7	Newspaper Notice of EA for CGV 05	MVEIRB
8	Letter to CGV requesting development details	MVEIRB
9	Note to file - Conversation with Laurence Stephenson	MVEIRB
10	Note to file - Conversation with Laurence Stephenson	MVEIRB
11	CGV response Sept 26 05, Maps	CGV
12	Project description questions sent to CGV	MVEIRB
13	CGV EA Workplan	MVEIRB
14	Form for Self-Identification of EA Roles	MVEIRB
15	Email with CGV EA workplan sent to parties	MVEIRB
16	Letter to distribution list soliciting Information Requests	MVEIRB
17	Email to Rae Edzo Metis Nation re: party standing	MVEIRB
18	Note to file - L. Napier - Rae Edzo Metis Nation	MVEIRB
19	Email to Rachel Crapeau re. response to call for IRs	MVEIRB
20	CGV 05 Party identification	MVEIRB
20	CGV 05 Party identification	MVEIRB
21	Email with maps of proposed CGV project resent to S. Ellis	MVEIRB
22	Information Request from DFO re CGV 05	DFO
22	DFO Proposed IR CGV05	DFO
23	RE: Call for IRs EA0506-005	DFO
24	DIAND proposed IRs CGV 05	INAC
25	GNWT proposed IRs CGV05	GNWT
26	Email re. plotting of proposed drill sites on Google Earth file	MVEIRB
27	YKDFN IR request letter	YKDFN
28	YKDFN Proposed IRs	YKDFN
29	Covering Letter- CGV IRs and hearing date	MVEIRB
30	CGV Information requests	MVEIRB
31	CGV Hearing Announcement- CBC Radio	MVEIRB
32	Party Standing Letter	MVEIRB
33	Request for Assistance for the YKDFN	YKDFN
34	Information request response of CGV	CGV
35	Responses to Both Sidon and CGW IRs	CGV
36	Covering Note to GNWT IR response. RTF	GNWT
37	GNWT IR response CGV05	GNWT
38	YKDFN IR letter Nov 3	YKDFN
39	INAC Response to CGV IR	INAC
40	CGV Adjournment Announcement	MVEIRB
41	Re: Adjournment of Consolidated Goldwin Hearing	CGV
42	CGV Hearing Adjournment RFD Nov 9	MVEIRB

43	GNWT Response to YKDFN Reg	GNWT
44	SIRC: GNWT Response to IR 1.2	Sidon
45	CGV IR Response Feb 1 2006	CGV
46	Sept 2004 CGV MVLWB Application	CGV
47	Letter to CGV re. Feb 1, 2006 resubmission of IR responses	MVEIRB
48	Letter from MVEIRB to CGV regarding EA status	MVEIRB
49	Response from MVEIRB to CGV investor's emails	MVEIRB
50	Response by CGV re. EA status	L. Stephenson
51	Notification of continued EA participation for CGV	MVEIRB
52	Note to File - August 11, 2006 CGV and Sidon	MVEIRB
53	Letter to YKDFN about outstanding IRs	MVEIRB
54	EA0506-005 Letter to YKDFN about Information responses	MVEIRB
55	Note to File on Sidon and CGV - Meeting with YKDFN	MVEIRB
56	Email regarding Sidon and Consolidated Goldwin IRs	Rescan
57	IR response from CGV	Rescan
58	EA0506-005 Notice of Distribution for email and fax about IRs	MVEIRB
59	EA0506-005 and 006 -Letter to YKDFN concerning IR responses	MVEIRB
60	Note to File - Conversation with Abby Farrange	MVEIRB
61	Note to File - L.Azzolini regarding CGV and Sidon	MVEIRB
62	MV2004C0038 Staff Report August 2005.doc	MVLWB
63	MV04C38 Draft Land Use Permit Conditions Aug 2005.doc	MVLWB
64	MV2004C0038 Comment Summary Table August 2005.doc	MVLWB
65	MV2004C0038 Preliminary Screening August 2005.doc	MVLWB
66	MV04C38 INAC Shoreline zone clarification.pdf	MVLWB
67	Email from Mike Palmer, INAC regarding Sidon and CGV IRs	INAC
68	Article in News North concerning CGV EA	NNSL
69	November 28, 2006 Note to File - Joe Acorn	MVEIRB
70	Revised CGV Workplan - November 30, 2006	MVEIRB
71	Cover letter to Draft Revised CGV Work Plan	MVEIRB
72	Letter to Joe Acorn regarding CGV and Sidon IRs	MVEIRB
73	Letter to Gavin More - update on IRs	MVEIRB
74	Letter to INAC requesting update on CGV and Sidon EAs	MVEIRB
75	Addendum to correspondence on revised work plans for EA0506-005 (CGV) and EA0506-006 (Sidon)	MVEIRB
76	EA0506-005 Notice from GNWT regarding IR update	GNWT
77	RE: Addendum to correspondence on revised work plans for EA0506-005 (CGV) and EA0506-006 (Sidon)	GNWT
78	Letter from YKDFN comments on work plan	YKDFN
79	IR response by YKDFN	YKDFN
80	Letter from MVEIRB concerning request for ruling	MVEIRB
81	INAC to MVERIB regarding CGV and Sidon request for ruling	INAC
82	Email from YKDFN regarding its request for ruling	YKDFN
83	Letter to Rescan regarding IR response clarifications	MVEIRB
84	Letter from MVEIRB to J. Acorn regarding potential workshop	MVEIRB
85	Letter announcing Deninu Kue is a party to EAs	MVEIRB
86	DKFN Request for Party Status	DKFN
87	Letter notifying change of dates for CGV hearings	MVEIRB
88	Letter to Rachel Crapeau regarding Workshop	MVEIRB
89	EA0506-005 MVEIRB Ruling on YKDFN RFR	MVEIRB
90	EA0506-005 YKDFN to MVEIR including past EA records	YKDFN

91	EA0506-005 and EA0506-006 Pre-hearing confirmation.pdf	MVEIRB
92	EA0506-005 MVEIRB to YKDFN regarding IR Workshop	MVEIRB
93	Note to File: Rachel Crapeau re: IR Workshop	MVEIRB
94	Pre-hearing agenda for Sidon and CGV	MVEIRB
95	Prehearing Conference Guide for CGV and Sidon	MVEIRB
96	EA0506-005 Letter from CGV Chairman	CGV
97	CGV - History of Amendments	MVLWB
98	EA0506-005 Consultation log from CGV	CGV
99	Note to File - Conversation with Brian Sundberg	MVEIRB
100	Pre-Hearing Conference Notes	MVEIRB
101	Email from INAC regarding Sundberg Lease	INAC
102	Email from Scott Robertson	Scott Robertson
103	Note of correction regarding Pre-Hearing Conference Notes	G. Bailey
104	March 19, 2007 email from Scott Robertson	Scott Robertson
105	Request for Ruling Package	MVEIRB
106	RE: DFO participation at hearings	DFO
107	Invitation letter for Pre-Hearing Conference	MVEIRB
108	Letter from MVEIRB to Rescan re. presentation by interpreter	MVEIRB
109	EC confirms presentation at hearing	Env. Canada
110	Notification about combined hearing and agenda	MVEIRB
111	Presentation by PWNHC for Public Hearings	PWNHC
112	Hearing presentation summary - Treaty 8 Tribal Corp	Treaty 8 Tribal Corp.
113	1-page summary by PWNHC	PWNHC
114	1-page summary sheet from EC	Env. Canada
115	EC Public Hearing Presentation	Env. Canada
116	INAC hearing presentation and summary	INAC
117	INAC update on Information Request 1.8	INAC
118	One page summary by NSMA	NSMA
119	Sidon and CGV hearing presentation summary	Sidon and CGV
120	CGV and Sidon Hearing Presentation	CGV & Sidon
121	CVs of Sidon and CGV representatives	CGV and Sidon
122	DFO hearing presentation on Sidon and CGV	DFO
123	DFO presentation summary	DFO
124	Treaty 8 Tribal Corp. Hearing Presentation	Treaty 8 Tribal Corp.
125	Presentation Summary by Northwest Territory Metis Nation	NTWMN
126	DKFN Hearing Presentation	DKFN
127	Summary of Yellowknives Dene Hearing Presentation	YKDFN
128	Letter from Mary Rose Sundberg	Mary Rose Sundberg
129	Moose Survey Study by ENR	GNWT-ENR
130	Note from GNWT-ENR regarding	GNWT-ENR
131	DFO Presentation - Sidon and CGV EA0506-005 and 006 (2007-04-04).pdf	DFO
132	EA0506-005 DFO post-hearing submissions	DFO
133	EA0506-005 INAC post-hearing submissions	INAC
134	CGV Presentation April 3 07	CGV
135	EA0506-005 NSMA hearing presentation	NSMA
136	EA0506-005 ENR hearing presentation	GNWT-ENR
137	Opening remarks by Chair	MVEIRB
138	Closing comments by Chair	MVEIRB

139	EA0506-005 Hearing Sign-up lists	MVEIRB
140	INAC public hearing presentation	INAC
141	Audio recording of public hearings	MVEIRB
142	Notification of incorporation of YKDFN requested material to public record	MVEIRB
143	YKDFN requested files for public registry	MVEIRB
144	Speaking points from NTMN public hearing presentation	NWTMN
145	Undertaking by INAC - map and land tenure information	INAC
146	Letter from YKDFN Chiefs	YKDFN
147	MVEIRB letter regarding YKDFN TK Map	MVEIRB
148	Notification of public record closing	MVEIRB
149	April 23 letter from YKDFN to MVEIRB	YKDFN
150	April 23, 2006 Note to File - Conversation with Glen MacKay	MVEIRB
151	CGV Sidon closing comments	CGV
152	INAC- No Objections to TK Conf	INAC
153	Note to file- Re: Snowmobiles in YK	MVEIRB
154	Robertson Letter- CGV May 3 05	Scott Robertson
155a	Cultural Landscape Guidelines	PWNHC
155b	CGV Supplementary IRs	MVEIRB
156	Developers Response to Supplementary IRs	CGV
157	YKDFN response to Supplementary IRs	YKDFN
158	GNWT response to Supplementary Information Request	ENR, GNWT
159	North Slave Metis Alliance response to Supplementary IRs	NSMA
160	Environment Canada response to Supplementary IRs	Env. Canada,
161	INAC response to Supplementary Information Requests	INAC
162	INAC Comments on IR Responses	INAC