



Mackenzie Valley Environmental Impact Review Board

IN THE MATTER OF:

A proposed mineral exploration project by Hunter Bay Resources Inc. in the Sahtu Region of the Mackenzie Valley (described by Land Use Application S07C-004 to the Sahtu Land and Water Board);

AND IN THE MATTER OF:

A decision by the Mackenzie Valley Environmental Impact Review Board pursuant to subsection 126(3) of the *Mackenzie Valley Resource Management Act* (MVRMA) to conduct an Environmental Assessment of the proposed Hunter Bay Resources Inc. development

REASONS FOR DECISION

BACKGROUND:

On June 28th, 2007, the Mackenzie Valley Environmental Impact Review Board (Review Board) received a screening report dated June 26, 2007, from the Sahtu Land and Water Board, on a uranium exploration program proposed by Hunter Bay Resources Inc. The company proposed to conduct a diamond drilling operation involving about 30,000m of drilling in the Edaiila (Caribou Point) area near the McTavish Arm of Great Bear Lake. The drilling is to take place from May to October over a five year period.

Based on a review of the preliminary screening, the Review Board identified possible outstanding issues. The Review Board notified the SLWB that it required an opportunity to exercise its responsibilities per MVRMA s.126(3).

The Review Board focused its consideration on two issues, one regarding mitigation measures relating to caribou, and the other relating to outstanding community concerns regarding a potential protected area and conservation zone in which a drill target was proposed. The MVEIRB then issued Information Requests to several parties seeking additional information on these subjects.

During the consultation in advance of the preliminary screening the Government of the NWT identified the area affected by the proposed project as being particularly important to the Bluenose East caribou herd. It stated that in addition to the mitigation measures

proposed by the developer, three additional measures were necessary to prevent impacts on the herd.

The Sahtu Land Use Planning Board (SLUPB) advised that part of the proposed development is within an area identified in the Draft Sahtu Land Use Plan as a “conservation zone”. A May 18, 2007, letter from the SLUPB to the preliminary screener requested that although the Draft Sahtu Land Use Plan is not legally binding, the intent of the plan should be respected as it “is the result of many workshops, and diligent input from communities, industry, government officials and non-government organizations”.

In its preliminary screening report of June 26, 2007, the Sahtu Land and Water Board identified that the proposed project failed to meet the criteria of an acceptable land use within a Conservation Zone as proposed by the Draft Sahtu Land Use Plan.

The Sahtu Draft Land Use Plan states that “the primary goal of the Conservation Zone is to ensure that the traditional, cultural, heritage, and bio-physical values are maintained”, by prohibiting surface and subsurface development, allowing only low-impact recreation and tourism. It states that Edaiila was identified for protection in the draft Land Use Plan because the elders of Deline have identified it as a very important place for wildlife. It further specifies that Caribou Point is a very important area for the Bluenose East herd during the fall rut, from mid-July to mid October. In addition, there are heritage sites present in the area.

Correspondence from the Deline Renewable Resources Council (DRRC) and the Sahtu Renewable Resources Board submitted during the preliminary screening raised concerns regarding the adequacy of consultation. The DRRC’s correspondence of July 9, 2007, identifies that it is in the process of establishing a protected area in Edaiila, and expresses “significant concern”. In addition to being a proposed Conservation Zone, Edaiila is in step two of the NWT Protected Area Strategy establishment process.

In its July 13, 2007 correspondence to the Review Board, the DRRC states that it was not made aware that a proposed drill target was in the conservation zone during the developer’s consultation process or subsequent meetings. On August 8, 2007, the DRRC informed the Review Board that it has established a working group to address community concerns with exploration activity in the Edaiila proposed conservation zone, and that the working group would like any development activities proposed within Edaiila to undergo environmental assessment. Legal counsel for the DRRC stated, in a separate letter also dated August 8, 2007, that the “DRRC is very strongly concerned with any mineral exploration / drilling program within Edaiila, including that proposed by Hunter Bay Resources. It recommends a full environmental assessment, with public review, of all mineral exploration / drilling proposals within Edaiila, including that proposed by Hunter Bay Resources”.

In response to an Information Request from the Review Board, the NWT Protected Areas Secretariat described the values that led to the nomination of Edaiila as an area deserving protection under the Protected Area Strategy process. The response describes the area as providing critical habitat for the declining Bluenose East caribou herd. The response also describes other ecological values of the area, stating it is important to the life cycles of moose, woodland caribou, grizzly bear, black bear, musk ox, fox, beaver, marten,

muskrat, lynx, wolverine and others. The Board was also informed by the Protected Areas Secretariat that archaeologically, human use of the area dates back 7000 years, and the area provides the basis for hundreds of stories of spiritual significance within the Sahtu culture.

In the developer's Aug. 8, 2007 response to Information Requests (the Response) regarding the intent of the draft Sahtu Land Use Plan, it reiterates that the draft plan is not legally binding.

Regarding the caribou issue, the Sahtu Renewable Resources Board responded to Review Board Information Requests on Aug. 9, 2007. The response states that the Sahtu Renewable Resources Board agrees that the GNWT measures for caribou are necessary, but identifies additional measures that it also considers necessary. It specifies that the area should be particularly avoided during key seasonal migration activity (from mid-July to the end of October).

In the developer's response regarding caribou mitigation measures, it commits to "fully adopting the mitigating measures proposed by the GNWT... and the Sahtu Renewable Resource Board". However Hunter Bay Resources Inc. reiterated, in correspondence dated August 21st that it still proposes to pursue the drill target in the Edaiila area.

ANALYSIS:

The Review Board has a statutory discretion set out in subsection 126(3) of the MVRMA to "call up" a decision made on a preliminary screening. That discretion is set out as follows:

- 126. (3)** Notwithstanding any determination on a preliminary screening, the Review Board may conduct an environmental assessment of a proposal on its own motion.

The Review Board has reviewed the evidence before the preliminary screeners, has issued detailed Information Requests, and has analyzed the responses. In this information, it has seen evidence from the Deline Renewable Resource Council describing its concerns with the proposed development, and particularly with the drill target located within Edaiila, the potential protected area and proposed conservation zone.

The nature of this concern has been clearly described repeatedly by the DRRC in several items of correspondence:

- correspondence to the Sahtu Land and Water Board on May 8, 2007;
- correspondence to the Sahtu Deline Land Corp. on July 9, 2007;
- correspondence to the developers on July 9th, 2007;
- correspondence to the Review Board on July 13th, 2007; and,
- two items of correspondence to the Review Board on August 8th, 2007.

It has been brought to the Review Board's attention, in both the preliminary screening report and the developer's letter of August 8, 2007, that the Sahtu Draft Land Use Plan is not yet legally binding. In the Board's view this in no way diminishes the concerns of the DRRC nor does it detract from the values which have resulted in the proposals for the protection of this area.

These concerns were not addressed during the developer's consultations, and there is no evidence to indicate that they have been resolved since that time. It is therefore the Review Board's view that there is outstanding community concern regarding this proposed development, and in particular the proposed drill target in Edaiila.

DECISION:

Considering all of the information that is available to the Review Board there is evidence of public concern regarding this proposed development. The Review Board therefore has decided to exercise its discretion under subsection 126(3) of the MVRMA and order an environmental assessment of the proposed Hunter Bay Resources Inc. mineral exploration project.

DATED: September 4, 2007

For the Mackenzie Valley Environmental Impact Review Board:

Gabrielle Mackenzie-Scott

Ms. Gabrielle Mackenzie-Scott
Chairperson