

Direction on Procedure

Date: March 16, 2016

Subject: Review Board's Information Request Process and Rule 40 of the Rules of Procedure

Reference: Environmental Assessment Proceeding EA1516-01 - Selwyn Chihong Mining Ltd., Howard's Pass Access Road Upgrade

Introduction

This Direction on Procedure (Direction) is issued by the Review Board and modifies Rule 40 of the *Rules of Procedure for Environmental Assessment and Environmental Impact Review Proceedings*, 2005 (the Rules). Most parties with experience in recent environmental assessments are familiar with the process set out in this Direction.

Review Board Approval of Information Requests

The Rules (37-41) describe the procedure for Information Requests¹ (IRs) during a Review Board proceeding. Under Rule 38, parties may seek information within the scope of the terms of reference for the proceeding from any other party, using written IRs.

With this Direction, the Review Board is modifying the IR approval process set out under Rule 40. As a result, the IR process for this environmental assessment proceeding will be as follows:

1. Information Requests must be submitted to the Review Board using the Online Review System, or other means set out by the Review Board, and will thus be accessible to all parties and the public. If a party experiences technical or other difficulty, they can contact Board staff for assistance.
2. Approval of IRs is subject to the discretion of the Review Board, as noted under Rule 39. The Review Board has the authority to reject any IR, for reasons including but not limited to: an IR is offensive or is outside the scope of the terms of reference. If the Review Board rejects an IR, the Board would notify parties and no IR response would be required.
3. Unless the Review Board gives such notice, parties from whom information is requested are responsible for providing a response within the time set out by the Review Board.

¹ Further explanation of Information Requests and the Review Board's subpoena powers is provided in the Review Board's *Environmental Impact Assessment Guidelines*. The Rules of Procedure and the Guidelines are available at www.reviewboard.ca.



4. If the party from whom information is requested objects to providing the information, that party may request a ruling from the Review Board in accordance with Rules 46-50. The IR does not need to be answered until the Review Board's ruling is released.
5. If the party requesting information believes the IR response does not provide the requested information, and does not provide adequate and acceptable rationale to explain why the information is not provided, then that party may request a ruling from the Review Board, in accordance with Rules 46-50.

As part of the process set out above, Review Board staff reviews all new IRs whenever they are posted to the Online Review System and advises the Board if any IRs appear to be offensive or outside the scope of the terms of reference. In such a case, the Board may seek clarification from parties before ultimately deciding whether to reject the IR in question. IRs that are clearly offensive may be removed immediately by staff, pending the Board's review and decision.

Please contact Board staff if you have any questions.

Signed:

JoAnne Deneron
Chairperson