

FAXE  
MAY 14/03 KB.

## Mackenzie Valley Environmental Impact Review Board

Box 938 , 5102-50th Avenue, Yellowknife, NT X1A 2N7

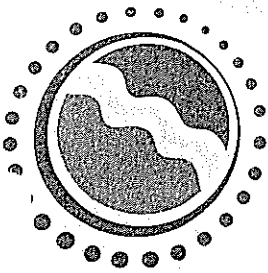
From: Todd Burlingame Fax: 867-766-7074  
Phone: 867-766-7059  
Date: May 14, 2003 Pages: 3 \* including this page  
To: Chief Richard Edjericon & Fax: 867-873-5969  
Chief Darrell Beaulieu  
CC: John Donihee (Board Counsel)  
Re: Diamonds North Resources Ltd. Referral to Environmental Assessment

### NOTES:

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May 15<sup>th</sup>, 2003

Chief Richard Edjericon  
and  
Chief Darrell Beaulieu  
Yellowknives Dene First Nation  
Box 2514  
Yellowknife, NT  
X1A 2P8

Dear Chiefs Edjericon and Beaulieu

**RE: Diamonds North Resources Ltd. Referral to Environmental Assessment**

Thank you for your letter of May 6<sup>th</sup>, 2003 in which you request clarification of the Mackenzie Valley Environmental Impact Review Board's (Review Board) decision on the Yellowknives Dene First Nation's (YKDFN) referral of the above captioned development to Environmental Assessment (EA) under subsection 126(2) of the *Mackenzie Valley Resource Management Act* (MVRMA). I will respond in order to the questions listed in your letter.

First, I wish to assure you that the evidence filed in support of the YKDFN referral was reviewed and considered in the course of the Review Board's deliberations. The information included in your letter was sufficient to provide a foundation for a Review Board decision on a referral to EA.

The Review Board's decision did not result from any inadequacies in the information provided by the YKDFN. Rather, the Board's decision was based on its interpretation of the MVRMA, specifically the definition of "local government" and of the application of that interpretation to subsection 126(2) in light of the nature of the community government in Dettah.

The Review Board had recourse to the *Settlements Act* and we contacted officials at the Department of Municipal and Community Affairs (MACA) of the Government of the Northwest Territories to determine whether any orders had been made establishing a local government for Dettah under that statute. In the circumstances, this approach seemed likely to result in a more expeditious response to your referral

than a search of the Territorial Gazette which would have yielded the same information.

We were informed that Dettah was an unincorporated community, a fact corroborated by your letter of referral. MACA officials confirmed that no order establishing a Settlement had been made. The Review Board does not dispute your assertion that the YKDFN play a role in Dettah's community government. We concluded since there is no formal government structure established for Dettah by territorial statute that the YKDFN role was based on MACA policy. We were directed to and reviewed the Settlement Capital Assistance and the Settlement Operating Assistance Policies in this regard.

Subsection 126(2) of the MVRMA requires that a "local government" make the referral. The MVRMA specifies that the local government must be established under the laws of the Northwest Territories, not policy. Consequently, when the Review Board considered the YKDFN's status in Dettah in relation to the definition of "local government" we concluded that your First Nation did not meet the definition. As a result, the Review Board concluded that the YKDFN could not make a referral under subsection 126(2) of the MVRMA. This is a legal conclusion based on statutory review.

You asked as well about the Review Board's communication with the Mackenzie Valley Land and Water Board during the course of our decision making. We did not receive any information from the Land and Water Board during the course of making the decision described above and we did not receive any information from them that is not already on both their public registry and ours.

Finally, the Review Board notes your concerns about the conduct of the North American General Resources Corporation EA. As a directly affected party the YKDFN will be informed and have the opportunity to participate in all steps in that process.

I trust that I have clarified both the nature and rationale for the Review Board's decision. If you have further questions please feel free to contact me.

Yours truly,



Todd Burlingame  
Chairman

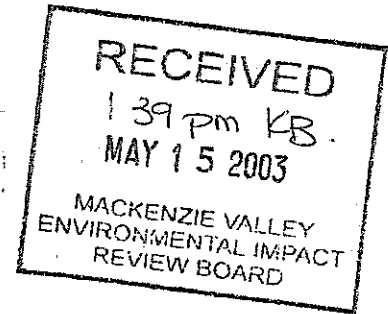
cc. John Donihee  
Board Counsel





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May 6, 2003

Todd Burlingame  
Chair: Mackenzie Valley Environmental Impact Review Board (MVEIRB)  
Box 938, 200 Scotia Centre, (5102-50<sup>th</sup> Avenue)  
Yellowknife, NT, X1A 2N7  
Fax: 766-7074

Dear Mr. Burlingame,

**RE: Diamonds North Resources Ltd. Referral to Environmental Assessment**

The Yellowknives Dene First Nation (YKDFN) acknowledges receipt of your letter dated April 24, 2003 and will require clarification of several items before responding to your letter.

For the record, the YKDFN want to confirm the acceptance of its evidence provided in the referral to environmental assessment as acceptable and valid for the purpose set out in the letter. The YKDFN also wants to make clear that the referral to environmental assessment of the North American Resources Corporation by the MVLWB corroborates the YKDFNs assertion of the need for an environmental assessment of the Diamonds North Resources Ltd.

In your letter you refer to the recently referred Consolidated Goldwin Ventures Ltd., development and indicate that the MVEIRB will be communicating with the Mackenzie Valley Land and Water Board (MVLWB) in the near future to establish the scope of potential cumulative activities. The MVLWB referred North American Resources Corporation, MV2003C0008 to environmental assessment in a letter dated April 28, 2003. Irrespective, this is an important step in the environmental assessment, and central to determining the scope of the environmental assessment. Therefore, YKDFN requests that communication regarding this environmental assessment with third parties, including the MVLWB, be placed on the public registry. The YKDFN also requests that the MVEIRB provide adequate notice and the opportunity of attending all meetings between MVEIRB management, staff and third parties pertaining to North American Resources Corporation environmental assessment.


Mr. Burlingame, you noted that Dettah does not have the legal authority to refer a development to environmental assessment. The conclusion provided is not supported by

evidence that the YKDFN can examine. The YKDFN will need the relevant Government of the Northwest Territories (GNWT) Territorial legislation that was used to arrive at that decision, and all records of communication with the Department of Municipal and Community Affairs, and any other federal or GNWT department contacted in order to obtain the evidence necessary for your decision.

In your letter dated April 24, 2003 the MVEIRB states it was *informed* the YKDFN "play a role in the government of Dettah on the basis of GNWT policy, not law." The YKDFN would be greatly assisted if you could please provide the source of this information, relevant contact information for the person that provided it, and where it is located on the MVEIRBs public record.

The YKDFN submit these questions without prejudice. The intent of this letter is to obtain relevant evidence considered by the MVEIRB in its decisions before taking any further action. Please contact Rachel Ann Crapeau at (867) 669-9002 if any clarification is required.

Sincerely,



Chief Richard Edjericon  
Dettah, NT



Chief Darrell Beaulieu  
Ndilo, NT.

cc. YKDFN Legal Counsel, 1750 Sun Life Place, 100123-99 St  
Edmonton, Alberta, T5J 3H1

Mrs. Melody J. McLeod, MVLWB, Yellowknife, NT