

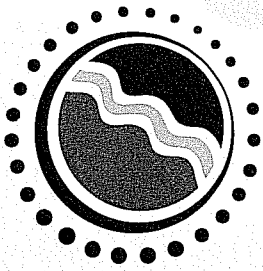
Mackenzie Valley Environmental Impact Review Board

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From:	Sherry Sian	Fax:	867-766-7074
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Date:	Oct. 21 st , 2003.	Pages:	4 including this page
To:	Snowfield Development Corp.	Fax:	
		CC:	
Subject:	Snowfield EA – YKDFN Request for Rulings (EA-03-006)		

NOTES:

The following letter describes the Review Board's decision in response to the YKDFN's Request for Rulings.



Our File: EA-03-006

October 21, 2003

Chief Peter Liske - Dettah
Chief Darrell Beaulieu - Ndilo
Yellowknives Dene First Nation
Box 2514
Yellowknife NT X1A 2P8

Dear Chief Liske and Chief Beaulieu;

RE: Request for Additional Time to Review the Snowfield Development Corporation DAR and Prepare Information Requests for the Proponent

On October 20, 2003, the Mackenzie Valley Environmental Impact Review Board (Review Board) considered the Yellowknives Dene First Nation's (YKDFN) September 12th, 2003 letter which requested several rulings from the Board. The YKDFN requests were based on your understanding that "the DAR is not officially recognized by the Review Board as received, therefore the DAR comment period has not officially triggered" and "there is a 10-day period after getting the cumulative effects report in order to provide comments on that document".

The YKDFN requested rulings from the Review Board on the following:

1. A request to amend the Snowfield Development Corporation EA Work Plan based on the preceding rationale and to initiate the comment period for the EA when and if the developer amends its Cumulative Effects submission based on the results of the Review Board sponsored Cumulative Effects Study.
2. A request to have the Board's environmental assessment officers/practitioners place on the record, their certification of EA practice adequacy regarding the DAR before starting the IR or comment period.
3. A request to initiate the formal IR period upon the Review Board's formal adoptions of the DAR as suitably complete for its purposes.

In the period since the YKDFN requests were received, Snowfield Development Corporation has submitted an amendment to their DAR that addresses the deficiencies cited by the Review Board, and a response to the Cumulative Effects Study. The Review Board's decision on the YKDFN requests took these new documents into consideration.

This letter will report on the Review Board's decisions on your request for rulings and will outline the reasons for these decisions.

1. Request to Amend the EA Work Plan Based on the Rationale Provided by the YKDFN and Initiate the Comment Period for the EA When Snowfield Development Corporation Amends its Cumulative Effects Submission Based on the Results of the Gartner Lee Ltd. Study:

The Review Board is of the view that this request would require a change to the Terms of Reference and specifically that the information requirements to be provided by the Developer would have to be expanded. The Terms of Reference never required that Snowfield Development Corporation use the Gartner Lee's Cumulative Effects Study. It would be unfair to change the Terms of Reference at this late stage. That said, Snowfield Development Corporation has voluntarily completed and filed a document that appears to fulfill the intent of this YKDFN's request. This document is available on the MVEIRB web site (www.mveirb.nt.ca). Consequently the Review Board is of the view that the YKDFN request has been satisfied and that no ruling is necessary on this request.

2. Request to have the Board's environmental assessment officers/practitioners place on the record, their certification of EA practice adequacy regarding the DAR before starting the IR or comment period:

The Review Board's environmental assessment officers/practitioners do not make decisions about the adequacy of environmental assessment practice in submissions made by the developers. The environmental assessment officers/practitioners merely provide advice to the Review Board. The determination of the technical adequacy of the environmental assessment will ultimately be reflected in the Review Board's Report of Environmental Assessment. The Review Board has ruled this request to be inappropriate given the decision-making responsibilities set out in the MVRMA.

3. To initiate the formal IR period upon the Review Board's formal adoptions of the DAR as suitably complete for its purposes:

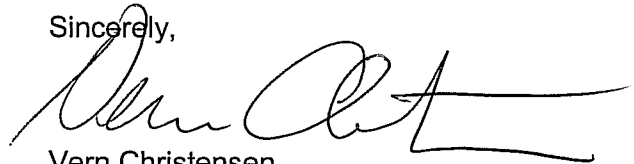
The Review Board has reviewed Snowfield Development Corporation's amendment to its DAR. The question at this stage is one of conformity. The Review Board makes a conformity determination in the context of its overall EA process. The threshold for conformity is low.

The EA process includes a series of other stages during which the sufficiency or quality of the evidence may be tested and through which additional information may be secured, for example, during the information request phase and the public hearing process. Both stages are planned for this EA. The Review Board is convinced that the developer has set its mind to each element of the EA terms of reference. The DAR and amendment has brought the Snowfield submissions into conformity with the EA Terms of Reference.

This test for conformity is not a simple "presence or absence of information" analysis. There may be times, for example when a project concept has changed since a referral to EA and when no evidence is necessary for conformity on one or more items in a set of terms of reference. The key is that the Review Board must be able to determine that a developer has addressed all of the elements of the terms of reference set out by the Board and that some evidence necessary to address all relevant issues in an EA has been filed.

Based upon the Review Board's finding that the Snowfield DAR is now in conformity, the IR period will begin shortly. Ms. Sherry Sian, Environmental Assessment Officer will notify the parties to the Snowfield EA of the initiation of the IR period within the week.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vern Christensen', with a long horizontal stroke extending to the right.

Vern Christensen
Executive Director