

# ***NORTH SLAVE MÉTIS ALLIANCE***

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*PO Box 2301 Yellowknife, NT X1A 2P7*

**CLOSING STATEMENT:  
GIANT MINE REMEDIATION PROJECT  
(EA0809-001)**



**Submitted by the North Slave Métis Alliance  
To the Mackenzie Valley Environmental Impact Review Board**

**Yellowknife, NT**

**Submitted Friday, October 5, 2012**

## **INTRODUCTION**

The North Slave Métis Alliance (NSMA) wishes to thank the Mackenzie Valley Environmental Impact Review Board (MVEIRB) for the opportunity to participate in the public hearing on the Giant Mine Remediation Project (the Project). Considering the volume of material on the public record and the length of time that the Project has been under discussion, the hearings proceeded in an impressively efficient and well organised manner.

The Mackenzie Valley Land and Water Board completed the preliminary screening of the proposed Project on February 21, 2008. It determined that the Project was not likely to be the cause of adverse environmental impact or public concern. However, the City of Yellowknife recognised the potential for adverse environmental impact and referred the proposal to the MVEIRB for environmental assessment on March 31, 2008. During the June 17, 2008 scoping workshop and the July 22-23, 2008 scoping hearing, the existence of significant public concern became apparent. In its *Reasons for Decision*, the Board noted that the public concern was centered on potential environmental impacts, depositing of arsenic trioxide in Back Bay, project management, and inadequacy of future monitoring programs. Unfortunately, the ultimate deposit of the arsenic trioxide, the means to mitigate public concern with respect to project monitoring, and the management in perpetuity were not scoped in to this environmental assessment. In addition, the *Reasons for Decision* and the resulting *Determination of Scope* of the assessment failed to address all of the concerns raised by the North Slave Métis Alliance during scoping.

The NSMA is concerned about the proposed Giant Mine Remediation Project as it is centred in the traditional territory of the North Slave Métis. It fails to address historic, current, and future interference with North Slave Métis Aboriginal Rights. Yellowknife River and Yellowknife Bay have been occupied by the North Slave Métis for more than 200 years – long before Canada implemented effective control over the area. The area has great historical, cultural, ecological, and economic value to the North Slave Métis. It was an excellent fishery, hunting area, trapping and gathering area, as well as a meeting place, transportation hub, and commercial center, long before gold was discovered. The NSMA highlighted its uniquely vulnerable and disadvantaged situation during the scoping sessions, and even pointed out how the original development of the Giant Mine Project contributed to Métis displacement from their home sites and harvesting areas, as well as political suppression as a result of the rapid and uncontrolled influx of people.

The Giant Mine Remediation Project will permanently prevent current and future generations of North Slave Métis from using, occupying, or otherwise enjoying a significant and historic portion of their traditional territory. The Project will subject North Slave Métis to unacceptable ecological, health, social, and cultural risks, and is a cause of significant fear and mistrust in the community. While remediation of the site adheres to industrial guidelines, it does not meet traditional land use visions.

The North Slave Métis Alliance has objected, and continues to object, to the restricted scope of this environmental review because it fails to consider past environmental damage, human and ecological, as part of the ongoing and cumulative effects of the project. There has been no socioeconomic impact assessment or health baseline study of the Project with the NSMA. Additionally, the Project fails to contemplate alternatives and address the ongoing and future costs of water supply and treatment for the City of Yellowknife. These impacts are significant and cumulative.

### **SUMMARY OF CONCERNS**

- ∞ Inadequate Crown Consultation:
  - There has been no attempt by the government to consult with the NSMA to obtain its free, prior, and fully informed consent for the remediation project.
  - Lack of trust, lack of reconciliation, and significant community concern.
- ∞ Impacts on traditional use of water and air:
  - Contaminated tailings off-site not addressed.
  - Continued interference with Aboriginal Water Rights directly and indirectly, past, present, future and cumulative impacts, without Consultation or Accommodation.
  - Ongoing threat to drinking water and air quality for Yellowknife residents, real and perceived, causes significant community concern.
- ∞ Impacts to traditional use and ownership of land:
  - Remediation of site to industrial guidelines does not meet Traditional Use standards.
  - Interference with Aboriginal Use and Occupancy Rights, current and future, is cumulative to the past, and significant.
  - Lack of community involvement in environmental management decision making, monitoring and enforcement, causes significant community concern, and infringes Aboriginal Rights.
  - Failure to address off-lease soil and vegetation impacts.

- ∞ Impacts on traditional use of wildlife:
  - Failure to address fish and wildlife impacts off-lease.
  - Temporary and potentially permanent changes to wildlife habitat, productivity, quality, and resulting impacts to Aboriginal Rights, past, present, and into the foreseeable future.
  - Inadequate consideration of cumulative impacts.
- ∞ Impacts on traditional culture and traditional economy:
  - Failure to compensate water supply costs to City of Yellowknife.
  - Failure to remediate damage to human environment, lack of reconciliation.
  - Failure to provide community specific impact predictions and mitigations, and failure to address disadvantaged and vulnerable populations.
  - Impacts to community cohesiveness, cultural pride, and governance.
  - Heritage resource impacts.

## **RECOMMENDATIONS**

The NSMA has reviewed our recommendations from the scoping and presentation phase. We hope that our input will be a valuable contribution to the process of the Project.

### **1. Accommodation**

Given the adverse impact on NSMA members' Aboriginal rights in the affected area, the Developer must engage with NSMA regarding proper accommodation for our members. This could and should include a formal apology for the destructive legacy of Giant Mine and a form of compensation for NSMA members such as a compensation package (IBA) with the NSMA for the impacts upon its citizens and traditional territory – past, present, and future.

### **2. Perpetual monitoring**

The Developer must accept financial responsibility for ensuring that the drinking water supply for the City of Yellowknife is not affected by mine waste of any type, be it discharged effluent, dust, disturbed sediments, or any other cause. These costs will include community monitoring, public reporting, and treatment whenever necessary. The Developer must be aware that water quality criteria may change over time to be more restrictive. The NSMA looks forward to being an active participant in the monitoring process.

### **3. Creation of an independent monitoring agency**

The Mackenzie Valley Environmental Impact Review Board should recommend the creation of an independent monitoring agency. We believe it is fair to say that virtually all of the interveners at the public hearings have expressed concerns with the conflict of interests within the project and how government will manage the development and perpetual care of the mine site. We highlighted the importance of having an independent agency that would establish consultation and participation procedures between stakeholders, facilitate the creation of a perpetual care trust fund, supervise the management of public records, and oversee the application of administrative laws and legal binding measures.

The independent monitoring agency for the Giant Mine would be directed by a Board of appointees representing each of the Metis and First Nations whose territory includes Great Slave Lake, with one appointee for the City of Yellowknife. The Agency would have a mandate, with an adequate and secure budget, to commission its own research, including traditional knowledge research. To address conflict of interest concerns at the community, regional, and even national level, the Minister should be bound to respond to the Agency's recommendations within a set, reasonable time limit, and the reasons for the Minister's response should be publicly available and subject to judicial review.

### **4. Research and development**

As part of its ongoing activities the independent monitoring agency should conduct a regular review, on a 5-7 year schedule, of new technologies and options for management of the site; in particular, the possibility of biological treatment of surface and subsurface contamination, as well as opportunities to remove, and even potentially use, the arsenic trioxide dust. Once it is solidly frozen, the transportation risks may be significantly reduced.

### **5. Public health monitoring**

The Mackenzie Valley Environmental Impact Review Board should recommend that the Developer consult with Health Canada/GNWT in order to undertake two studies: 1.) a prospective cohort study of arsenic exposure in remediation site workers; and 2.) A retrospective cohort mortality study of individuals (former Giant Mine site workers and residents of Yellowknife) who were exposed to arsenic.

Based on the Developer's knowledge and given the public concern expressed by other parties, technical staff, and local medical professionals, we conclude that there is a high level of uncertainty regarding the current known levels of arsenic trioxide in humans. We feel that in the face of uncertainty, it would be prudent to undertake a proper prospective study in order to accurately define baseline indicators. Such measures are imperative in designing and developing proper prevention, intervention, or mitigation strategies. Under the current practice, the Developer is required to describe the existing health conditions. The Developer should provide ongoing health impact and health education program in the City of Yellowknife where any resident may receive upon request an unbiased and free of cost chemical analysis of their hair or fingernails or any water sample, to screen and monitor for arsenic contamination. They should also be provided with unbiased, high quality advice on the health impacts of arsenic and management options.

## **6. Environmental monitoring**

As expressed in our presentations, we are concerned with the water treatment and soil remediation. There is an ongoing threat to drinking water for Yellowknife residents, which is both real and perceived. We are concerned about the adverse environmental health impacts associated with a water treatment or diffuser malfunction. We have issues with the lack of baseline data and modeling regarding ice thinning and winter travel. We are skeptical of the developer's commitment to provide proper communication for long term safety and awareness regarding the site. Simple fencing and signage surrounding the site is inadequate. The NSMA recommends that treated effluent from the project should not be discharged into Back Bay due to the risk of disturbing contaminated sediments and creating thin spots in the ice.

## **7. Determination under s.128(1)(c) of the MVRMA**

*128. (1) On completing an environmental assessment of a proposal for a development, the Review Board shall, (c) Where the development is likely in its opinion to be a cause of significant public concern, order that an environmental impact review of the proposal be conducted.*

The Mackenzie Valley Environmental Impact Review Board should order an environmental impact review of the Giant Mine Remediation Project based on a finding of significant public concern, the unknown cumulative impacts, the potential for adverse malfunctions, the likelihood of adverse impacts on the environment and human health, and the fact that the life of the project length is in perpetuity.

Given the public's concern regarding the Giant Mine Remediation Project, particularly stemming from the fact that the project is perpetual in nature, it would be difficult to conclude that this issue and concern is not significant. Furthermore, Alternatives North, Yellowknives Dene First Nation, the Board's technical staff, and concerned members of the public have raised issues around the inadequacy of essential information regarding the development of the project and absence of satisfactory research. We are concerned about the perpetual basis of the project and the lack of dialogue regarding long-term cumulative effects. Based on this, we conclude that there is a high level of uncertainty regarding the impacts from the project. We feel there is substantial evidence to support such a finding simply on the basis of some of the uncertainties identified by most of the parties. In the face of doubt, we think it prudent that the Board exercise the precautionary principle and determine that a significant adverse impact is likely from this project.

## **CONCLUSION**

In summary, the NSMA has submitted to the Board our concerns that the Project: poses an unknown risk to the environment; is too limited in scope; is a threat to public health; has unidentified future hazards; is of significant public concern; and lacks the consultation from the NSMA regarding our traditional land and water use. Given the issues, we submit that The Mackenzie Valley Environmental Impact Review Board should order an environmental impact review of the Project.

We believe our recommendations are supported and reinforced by the submissions and questions by other parties at the hearings. We look forward to the Board's decisions and recommendations.