

Alan Ehrlich

From: kor@theedge.ca
Sent: Monday, November 09, 2009 3:19 PM
To: Alan Ehrlich
Subject: re: Request for a Posting to the Giant Mine Remediation Plan EA Public Registry
Attachments: MVLWB Letter to DIAND on Freeze Optimization Study July 10, 2009.pdf

Importance: High

<http://www.mvlwb.ca/mv/Registry/2007/MV2007L8-0031/MV2007L8-0031%20-%20Letter%20to%20INAC%20on%20Freeze%20Optimization%20Study%20-%20Jul%2010-09%20-%20Jul13-09.pdf>

Alan

I have pasted a link above to a letter I would like to have filed on the Giant Mine Remediation Plan Environmental Assessment public registry. I have also attached pdf version of the letter as taken from the link above. It is a letter that disputes DIAND's May 25, 2009 letter to the MVEIRB concerning the Freeze Optimization Study.

I believe this is relevant to this environmental assessment as it goes directly to the credibility and track record of the proponent. The letter is also relevant to the management of the overall Remediation Plan and the need for independent oversight.

I will likely have other material in his regard for future posting to the public registry. Thanks.

Kevin O'Reilly



Mackenzie Valley Land and Water Board

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July 10, 2009

File: MV2007L8-0031

Mr. Martin Gavin
Manager, Giant Mine Remediation Project
Indian and Northern Affairs Canada
YELLOWKNIFE NT X1A 3T1

Fax: (867) 669-2439

Dear Mr. Gavin:

On June 17, 2009, the Mackenzie Valley Land and Water Board (MVLWB) received your May 29, 2009 letter addressed to Mr. Richard Edjericon, Chairperson, Mackenzie Valley Environmental Impact Review Board (MVEIRB) and copied to Willard Hagen, Chairperson MVLWB. The subject of this letter was to keep MVEIRB apprised of the progress of Indian and Northern Affairs Canada's (INAC) Freeze Optimization Study (the Study) for the Giant Mine Remediation Project. On page 3 of this letter you state:

"INAC in consultation with technical advisors including PWGSC, as well as Mackenzie Valley Land and Water Board staff, determined that the Study will not require a water licence."

The MVLWB would like to reply to INAC and the Giant Remediation Project team regarding this statement. The MVLWB staff did not indicate to INAC that the Study will not require a water licence. INAC, PWGSC and MVLWB staff met in April of 2009 to discuss the Study. Several options regarding the regulation of the Study were discussed – they were:

1. INAC to apply for both a water licence and land use permit;
2. INAC to apply for just a land use permit;
3. INAC to conduct the Study under subsection 39(1) of the *Northwest Territories Waters Act*, and
4. INAC to work with the City of Yellowknife (the City) under its bylaws if the MVLWB and Minister of Municipal and Community Affairs can agree under subsection 98(2) of the *Mackenzie Valley Resource Management Act* that the City can regulate the use of lands within its boundaries.

At the time of the meeting, no definitive decisions were made. INAC and PWGSC staff were informed that the MVLWB senior staff and legal counsel would need to discuss the Study further before providing INAC with a definitive answer regarding at the time of the meeting, no definitive decisions were made. INAC and PWGSC staff were informed that the MVLWB senior staff and legal counsel would need to discuss the Study further before providing INAC with a definitive answer regarding the need for

a water licence and/or land use permit. MVLWB staff also informed INAC at this time that they should immediately commence public engagement regarding the Study. MVLWB staff also stated that if either a water licence or land use permit was deemed to be necessary, it would be subject to a preliminary screening as a separate project from the Giant Remediation Project currently in environmental assessment with MVEIRB.

If the Study does not involve the disposal of waste, as per the *Northwest Territories Waters Act*, then the project can proceed without the issuance of a licence. However, if waste is to be deposited, a water licence will be required prior commencing any work.

The following statement was also written on page 3 of this letter:

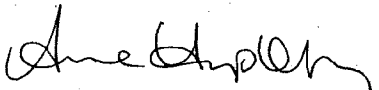
As for land use permits, INAC will not be making application for any land use permitting for the Study or otherwise on the site, unless and until the joint determination is made between the MVLWB and the territorial Minister (GNWT) under s.98(2) of the *Mackenzie Valley Resource Management Act* (MVRMA). INAC understands initial meeting has been held between the MVLWB and GNWT on this issue. Until such time as the s.98(2) determination is actually made however, the extent of the applicability of land use regulation, including specifically the application of S.s.4(b) and 5(b) of the *Mackenzie Valley Land Use Regulations* to the Giant Mine site remains undetermined, and therefore presently do not apply.

As indicated previously, the MVLWB is currently assessing section 98 of the *Mackenzie Valley Resource Management Act* and will be meeting with the Department of Municipal and Community Affairs and the City of Yellowknife in the near future to discuss moving forward towards a determination. The MVLWB would like to remind INAC that no matter what a Proponent or potential Proponent may think their project needs in the way of regulation, it is the MVLWB that makes the final determination.

The MVLWB understands the importance of the Study and requests that the Giant Remediation Team keep the MVLWB directly informed about activities on site.

If you have any further questions, please feel free to contact me at (867)-669-0506 or by email at anne@mvlwb.com.

Sincerely,



Anne Umpleby
Senior Regulatory Officer

Copied to: Richard Edjericon, Chairperson, Mackenzie Valley Environmental Impact Review Board