



DEHCHO FIRST NATIONS

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October 14, 2008

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Scoping Submission for CZN

MV2008T0012: Staging Area, Liard River Transfer Facility

MV2008T0013: Staging Area, Tetcela Transfer Facility

MV2008D0014: Mine

MV2008L2-0002: Mining and Milling

Introduction:

The Dehcho First Nations are submitting these comments due to direction from the Dehcho Assembly and Leadership to protect the South Nahanni Watershed. In our view, this proposed project may result in significant environmental damage to our lands and waters. The potential environmental impacts are so significant, and the ecological and cultural values are so great, that we expect that following an Environmental Assessment, an Environmental Impact Review will be conducted of the mine proposal as a whole.

There is also potential for cumulative effects from this and other mining projects in the South Nahanni watershed, notably on wildlife, fish, and water quality. The geographic scope should include all land and waters, including karst, which the project has the potential to affect. In turn, environmental impacts have the potential to affect our traditional land use and occupancy in the watershed. We are also concerned with the environmental legacy that may be left behind should this project proceed, and request that mine closure and reclamation plans form part of the environmental assessment. In our view, CZN should be held responsible for fully restoring these lands to their former pristine state, and monitoring should be enforced on a permanent basis.

Grandfathering under s. 157 of MVRMA:

Government of Denendeh

The Dehcho First Nations submit that there are significant alterations from the original 1982 mine project and request that the entire project be assessed as a whole, including all works proposed under the 3 land use permits and water license applications; and all mine components related to these applications, regardless of whether they were part of previous environmental assessments for other land and water uses.

The mining and milling activities proposed are significantly altered from previous authorizations and environmental assessments, notably from the original mine permit and CZN's pilot plant and decline project. We find significant alterations in the quantity of water to be used and processed; waste water runoff and discharge system; the waste water treatment, retention, storage, and disposal methods; the waste rock storage and ore pile; quantity of fuel, chemicals and explosives; and proposed paste backfill methods for final tailings storage. We do not find that any of CZN's previous management plans and reports, for example the Minewater Contingency Plan for the pilot plant and decline project, should reduce the scope of this environmental assessment, as these plans were for a very specific smaller-scale project, most of which is now significantly altered in scope and operation.

The Dehcho First Nations submit that all project components should be scoped into the current environmental assessment. The new mine proposal is of a greater magnitude in volume of water and waste, and significant alterations are proposed in water and waste treatment. The existing infrastructure is untested, unassessed, and previously not permitted for the quantity of materials and specific uses and methods proposed in the applications.

There was contentious debate and a subsequent judicial review during the environmental assessment of the pilot plant and decline project over the integrity, capacity, use and operation of the tailings pond and polishing pond, as well as significant concern over the catchment pond, fuel storage and tank farm facility, runoff, waste rock and ore pile, flood protection dykes, and mine workings. In our view, the integrity and capacity of the water treatment system is still outstanding and remains unassessed for CZN's proposed new uses. While the polishing pond, catchment pond and tailings pond components formed part of the environmental assessment conducted by the Review Board, they were not assessed in the context of a producing mine with the quantity and methods for mining and milling now proposed by CZN.

The new proposal for paste backfilling also constitutes a significant alteration to the entire mine and milling proposal. Given the letter and intent of the MVRMA, if the project has significant alterations, then the entire project is ineligible for exemption status under the MVRMA.

157.1 Part 5 does not apply in respect of any licence, permit or other authorization related to an undertaking that is the subject of a licence or permit issued before June 22, 1984, except a licence, permit or other authorization for an abandonment, decommissioning or other significant alteration of the project.

This clause includes the entire "license, permit or other authorization", and not parts of a particular license, permit or other authorization. CZN's applications are for a significant alteration of the project. We therefore submit that no components relating to the applications can and should be exempt from environmental assessment.

While studies have been conducted related to past mine activities, there has never been a thorough and complete environmental assessment conducted on mining operations for the Prairie Creek project. The previous environmental baseline studies conducted by CZN consultants are not equivalent to an Environmental Assessment conducted by a quasi-judicial body under applicable environmental assessment legislation. A significant alteration to the project should result in a Review Board decision that the entire project as a whole is subject to environmental assessment, and not bits and pieces of the project. The DFN submit that it is impossible to adequately assess the CZN project unless all components of the project are assessed together.

Road and Transfer Facilities:

DFN also submits that the transfer facilities constitute a significant alteration to the previously grandfathered road application, such that the road should no longer be grandfathered under s. 157 of the MVRMA. These proposed facilities are inextricably linked to the road as the use and operation of the transfer facilities cannot be separated from the use and operation of the winter road itself, nor of the mine operation. In fact, in their submissions to the MVLWB and Supreme Court of the NWT, CZN specifically stated that "**areas proposed for use in association with the Road were all previously developed back in 1980-1982 in conjunction with mine construction... activity will be restricted to the existing road corridor** as originally permitted in 1980 with **no significant alteration.**"¹ The MVLWB and other parties also accepted that significant alteration was not part of the exemption issue. Had CZN declared the need for these transfer facilities during the application for the winter road, we submit that the winter road application would not have been found exempt from environmental assessment and Part 5 of the MVRMA would have applied based on significant alteration.

The environmental assessment should also consider alternative locations to the transfer facilities in order to minimize social, cultural and environmental impacts to both the Lindberg Landing community and the traditional land use and occupancy of the Dehcho First Nations communities.

Leases:

To our knowledge, CZN only has a care and maintenance lease for the site and airstrip that do not allow for the operation and production of a mine. Prior to receiving any authorizations for operation and production of the mine, CZN will be required to apply

¹ Alan Taylor, CZN. Affidavit. Court document. S-0001-CV2004000236, July 22, 2004.

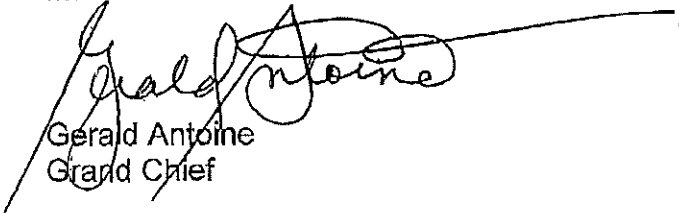
for new leases for operation and production of the mine site. These leases are subject to consultation and accommodation of the Dehcho First Nations' Aboriginal and Treaty rights, as well as provisions of the *Interim Measures Agreement* and the *Interim Resource Development Agreement*.

Wildlife:

While CZN asserts that sufficient wildlife management measures are in place from the Phase III Drilling project, this project only focused on the specific activities and locations for the drilling project, and did not focus on the operation and production of a major mining project and accompanying increase in people, noise, vehicle traffic, air traffic, vibration and pollution. The drilling project assessment was also specific to drilling sites. An operating mine with continuous on-site activity, along with road traffic and the establishment and operation of transfer facilities along the winter road, has the potential to negatively affect fish and wildlife, including SARA listed species.

In summary, we submit these comments on the scoping for the CZN mine in order to ensure that the Review Board conducts a comprehensive environmental assessment of the entire Prairie Creek mine proposal as a whole. This project is the most significant ecological threat to the integrity of the South Nahanni Watershed, a watershed of utmost importance to our people. We request that the Review Board give careful consideration into scoping the entire project into the environmental assessment so that the potential impacts of this project on our lands and waters can be properly assessed and decisions made accordingly.

Mahsi Cho



Gerald Antoine
Grand Chief

Government of Denendeh



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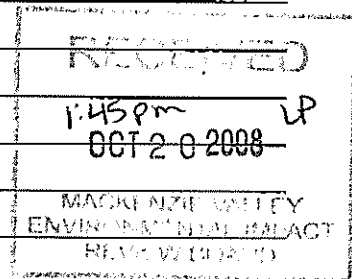
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URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Please see attached letter



THE ORIGINALS WILL BE: MAILED ON FILE