

Mackenzie Valley Review Board



Final Workplan
for the
Environmental Assessment
of
Tyhee NWT Corp.'s
Yellowknife Gold Project
EA0809-003

1. Introduction

In March 2005, Tyhee NWT Corp. (“Tyhee” or the “developer”) applied to the Mackenzie Valley Land and Water Board (MVLWB) for approval to develop an underground gold mine and milling operation adjacent to the historic Discovery Mine site. The MVLWB subsequently referred the Yellowknife Gold Project (“YGP”, “proposed project” or the “proposed development”) to environmental assessment by the Mackenzie Valley Environmental Impact Review Board, based on the possibility that the proposed project might have had significant adverse impacts on the environment. The Review Board scoped and produced a *Terms of Reference* for the 2005 Yellowknife Gold Project.

Following the release of the 2005 *Terms of Reference*, Tyhee opted to change the proposed project design from a primarily underground operation to a transitional open pit/underground mine plan. As a result of this change, Tyhee withdrew its original application in July 2008, which concluded the accompanying environmental assessment (EA0506-004). Tyhee then submitted a new application to the MVLWB that encompassed the proposed project design changes. As part of the new application, Tyhee submitted a 2008 *YGP Project Description Report* (PDR) that outlined some of Tyhee’s plans for the proposed development, and also presented the company’s initial interpretation of how the proposed project will impact the environment.

On August 27, 2008, Environment Canada referred the 2008 Yellowknife Gold Project to environmental assessment as per Section 126(2)(a) of the *MVRMA*, on the basis that the proposed development might adversely impact the environment. Environment Canada also stated that in its opinion the information from the 2008 *Project Description Report* was insufficient for the purposes of assessing the proposed project’s impacts to the environment.

This Environmental Assessment (EA) is subject to the requirements of Part 5 of the *MVRMA*. It is also subject to the MVEIRB’s *Environmental Impact Assessment Guidelines* and the *Rules of Procedure*. Both of these documents are available online at www.mveirb.nt.ca. The definitions of *MVRMA* Section 111 apply in this document and throughout the environmental assessment.

2. Scope Considerations

The scope of the development and the scope of assessment for this environmental assessment are defined in the *Terms of Reference* for the proposed Yellowknife Gold Project issued by the Review Board, available on the public registry for this file.

3. Roles and Responsibilities

The roles and responsibilities of the Review Board and its staff, government bodies, the developer and other parties involved in the environmental assessment are explained in this section. Further information regarding the roles and responsibilities of different groups and the structure of the environmental assessment process is available in the Review Board's *Environmental Impact Assessment Guidelines and Rules of Procedure*.

3.1 Review Board

The Review Board is required to undertake the following during this environmental assessment:

- Conduct the environmental assessment in accordance with Section 126 of the *MVRMA*;
- Take into account any previous screening or assessment report made in relation to the proposed development, in accordance with Section 127 of the *MVRMA*;
- Determine the scope of development, in accordance with Section 117(1) of the *MVRMA* (see the *Terms of Reference*);
- Consider a variety of required factors, in accordance with Section 117(2) of the *MVRMA*;
- Upon completing the environmental assessment:
 - Determine where the proposed development is not likely to have any significant adverse impact or be a cause of significant public concern, that an environmental impact review need not be conducted and the proposed project should proceed to the regulatory stage of approvals (Section 128(1)(a));
 - Recommend where the proposed development is likely to have a significant adverse impact on the environment, the approval of the proposal be made subject to the imposition of such measures as it considers necessary to prevent the significant adverse impact (Section 128(1)(b)(ii));
 - Order that an environmental impact review of the proposal be conducted, either on the basis that the proposed development is likely to have a significant adverse impact on the environment (Section 128(1)(b)(i)) or be a cause of significant public concern (Section 128(1)(c)); or
 - Recommend that the proposal be rejected without an environmental impact review, where the proposed development is in its opinion likely to cause an adverse impact on the environment so significant it cannot be justified (Section 128(1)(d));

- Provide a *Report of Environmental Assessment and Reasons for Decision* to the Federal Minister in accordance with Section 128(2) of the *MVRMA*.

The Review Board's designated Environmental Assessment Officer is the primary point of contact between the Review Board and the developer, government bodies, non-government organizations, aboriginal groups, the public and other interested parties. Alan Ehrlich, Senior Environmental Assessment Officer, will coordinate this environmental assessment. He can be reached at

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The Review Board's coordinating role does not limit or preclude the developer's contact with other parties during the environmental assessment process – the Review Board actively encourages dialogue between parties in parallel forums.

3.2 Developer

Tyhee NWT Corporation is expected to respond in a suitable and timely manner to directions and requests issued by the Review Board. Such requests include but are not limited to the *Terms of Reference* for the *Developer's Assessment Report*, information requests, requests for document translation, deficiency statements, and requests for public hearing and technical session presentations, among others.

The developer (and any other interested party) may present additional information at any time to the Review Board beyond what is requested during the environmental assessment process. The Review Board encourages the developer to continue consulting all potentially-impacted communities and organizations throughout the environmental assessment process. The Review Board may request that the developer provide written records of consultations and other meetings for the public registry in a format acceptable to the parties to the meeting, with a focus on reporting how the consultations have influenced the design of any part of the proposed development or any steps the developer plans to take to mitigate a concern or issue. The developer is also welcome to provide responses for the public record to submissions by other parties.

3.3 Government Bodies

Federal and territorial government bodies may be involved in the environmental assessment process as:

- A Regulatory Authority as defined in the *MVRMA*;
- A Responsible Minister as defined in the *MVRMA*;
- A Federal Minister as defined in the *MVRMA*; or
- A provider of technical expertise for the environmental assessment.

These roles are not mutually exclusive. The Review Board expects all government bodies with relevant expertise and information to fully participate as technical reviewers during the environmental assessment. Municipal governments and aboriginal governments are also often valuable contributors to the environmental assessment process.

3.4 Other Parties

First Nations, other aboriginal groups, non-governmental organizations, members of the public and other interested parties may request and be granted party standing by applying to the Review Board for party status, as per the Review Board *Rules of Procedure*. Parties may provide the Review Board with information relevant to the environmental assessment of their own volition, or they may be asked by the Review Board to provide any relevant information they may have. Parties are expected to participate and respond to directions and requests issued by the Review Board in a suitable and timely manner.

Parties may present information at any time during the environmental assessment and may be given an opportunity to submit information requests for Review Board approval during the analysis phase, and present and ask questions at hearings.

3.5 Expert Advisors to the Review Board

In addition to the expertise available from parties, the Review Board may also choose to hire expert advisors to provide technical expertise on specific aspects of the environmental assessment. The Review Board will place advance notice on the public registry for this environmental assessment of its intent to hire a specific expert along with their qualifications and a disclosure letter, and allow parties to comment before making a final decision on retaining the advisor.

4. WORK PLAN MILESTONES AND PHASES

4.1 Overview

Table 1 summarizes the milestones and responsibilities in the environmental assessment process.

Table 1 - Milestones + Responsibilities in the Environmental Assessment Process

Milestone	Developer	Government Bodies	Other Parties	Review Board and Staff
Environmental Assessment start-up				✓
Scoping Sessions	✓	✓	✓	✓
Draft Terms of Reference & Work Plan				✓
Review and comment on draft Terms of Reference and Work Plan	✓	✓	✓	
Final Terms of Reference				✓
Final Work Plan				✓
Developer's Assessment Report	✓			
Conformity Check and Deficiency Statement (if required)				✓
Deficiency Statement Response	✓			
Information Requests		✓	✓	✓
Information Request Responses	✓	✓	✓	
Technical Meeting(s) (if required)	✓	✓	✓	✓
Technical Analysis		✓	✓	✓
Public/Community Hearings	✓	✓	✓	✓
Review Board Report of EA and Reasons for Decision				✓
Response from the Minister of Indian Affairs and Northern Development		✓		
Consultation - throughout / as required	✓	✓	✓	✓

This environmental assessment will be divided into five parts: start-up, scoping, analytical, hearing and decision phases. The start up and scoping phases are complete as of the issuance of this Work Plan.

The Review Board may alter the work plan at any time during the environmental assessment in response to a Request for Ruling or by its own motion. The Review Board may close the public record and complete the environmental assessment at

any time if sufficient evidence has been gathered to make a decision pursuant to s.128 of the *MVRMA*.

4.2 Start-up Phase:

During this phase, the Review Board initiated the notification measures required by the *MVRMA*. The Review Board opened the paper and website public registries for the environmental assessment – all documents related to this environmental assessment are available at the Review Board offices or on the website public registry at www.reviewboard.ca. The public registry is updated regularly and interested parties notified when new documents are filed.

4.3 Scoping Phase:

The Review Board undertook an issues scoping phase, including holding scoping sessions in Yellowknife. These scoping sessions were designed to make sure potentially-affected groups and responsible government and other agencies were fully aware of the nature of the proposed development, and to allow interested parties to help the Review Board identify key concerns and potential issues. The Review Board also welcomed scoping submissions from the developer and all interested parties.

Subsequent to the Review Board's ruling on scope of development, draft and final *Terms of Reference* and *Work Plan* documents were developed. The final documents were refined by incorporating written comments on the drafts received from parties (subject to Review Board discretion), as well as comments and conclusions drawn from scoping sessions and previous documents on the public registry. The *Terms of Reference* contains the Review Board's determination on the scope of the development and the scope of the assessment, and directions to the developer on what it needs to provide in the *Developer's Assessment Report*.

4.4 Analytical Phase

The main purpose of the analytical phase is to collect the bulk of the information required for the Review Board to make its decision. The analytical phase for this environmental assessment contains five key elements:

1) Developer's Assessment Report: The developer is responsible for submitting to the Review Board a *Developer's Assessment Report* that complies with the Review Board's *Terms of Reference* requirements. The developer will provide the Review Board with 10 copies of the *Developer's Assessment Report* in hardcopy and digital format (CD or DVD).

2) Conformity Check, Review Board Deficiency Statement and Developer's Response (as necessary): Upon its receipt, the Review Board will conduct a conformity check of the *Developer's Assessment Report* to ensure that the developer has provided the information required. If needed, the Review Board will issue a deficiency statement identifying those areas in which the developer has not provided

sufficient information to address an item listed in the *Terms of Reference*. The developer will be asked to submit information to the Review Board to fill the information gaps identified by the deficiency statement. If the Review Board is not satisfied with the information received, it retains the right to halt the environmental assessment and not allow public distribution of the *Developer's Assessment Report* until it has received an adequate response. Once the document is found in conformity, Review Board staff will provide direction to the developer for distribution of the *Developer's Assessment Report* to interested parties.

Party Status: After the *Developer's Assessment Report* has been distributed, the Review Board will also issue a call for groups to self-identify their interest in being an official party to the environmental assessment and distribute *Request for Party Status* forms. Party status confers certain rights to groups, such as the ability to submit information requests, engage in technical meetings, issue technical reports and make presentations and ask questions of other parties at hearings. The developer is automatically a party to this environmental assessment and is not required to apply for party status. The Review Board issues party status on a case-by-case basis; in rare cases, an applicant for party status may not be accepted but will retain the ability as a member of the public to provide input to the process.

3) Information Requests and Responses to Information Requests: Information Requests are specific and focused requests for clarification or additional information. They may be required for the Review Board to complete its analysis and reach a conclusion about the information provided by the developer.

Proposed Information Requests can be submitted by any party to the environmental assessment and can be directed to any other party. All Information Requests must be submitted to the Review Board for approval and they must also be submitted in the form required by the Review Board. If approved, the Review Board will then issue the Information Request to the intended Information Request recipient. The Information Requests and the responses will be included in the public registry and be used as evidence for the consideration of the Review Board.

4) Technical Meeting(s): The Review Board may choose to hold a roundtable technical meeting (or meetings) to permit face-to-face question and answer sessions between parties and the developer in a facilitated setting. Technical meetings are typically held on crucial issues and allow more in-depth discussion of complex or controversial issues with expert involvement. In advance of a roundtable technical meeting, parties will submit their questions/comments to the developer, or to other parties, by way of the Review Board, to allow the developer or parties sufficient time to develop a response. The Review Board exercises discretionary control over what issues will be the focus of the meeting. Review Board staff will ensure that a record of the meeting is made. Following the meeting, the Review Board will issue a report that details the nature of the proceedings and any technical issues that were identified, discussed, resolved or left outstanding. The developer or any other party is

welcome to provide additional input via undertakings or response letters after the technical meeting(s).

5) Technical Reports from parties: The technical phase of the environmental assessment relies heavily on the expert assistance of parties – whether they are different levels of government, aboriginal groups, or other parties. All parties have the right to issue technical reports critiquing the *Developer's Assessment Report*, information request responses and other information brought forward during the technical phase. All parties can bring forward new evidence, estimations of impact significance, and suggestions for mitigation in their technical reports. Technical reports from parties are to clearly state the reviewer's conclusions, recommendations and supporting rationales. The developer is welcome to provide responses to technical reports, including any proposed amendments, additions or refinements to the proposed development description, its own prediction of impacts, or mitigation commitments. This is a critical stage in the environmental assessment process where the key issues and impacts are identified and evaluated in advance of the public hearing(s).

4.5 Hearing Phase

The Review Board may choose to hold a hearing or hearings to address outstanding issues that have been raised as part of the environmental assessment and remain outstanding. If it does, it will provide notice and details a minimum of 30 business days in advance of the hearing on the public registry. There are typically two types of hearings: a relatively informal community hearing or a more formal (often called “public”) hearing, as detailed in the *Rules of Procedure*. Hearings offer an opportunity for the developer, aboriginal groups, government departments, other parties and the public to directly address the Review Board with evidence regarding the potential impacts and public concerns related to the proposed project. Parties may provide formal presentations at hearings, provided they submit material ahead of time for Review Board and party consideration. All parties and Review Board members and support staff have the opportunity to question the developer and other parties at hearings through the Review Board Chair. At the hearing, the Review Board may identify undertakings committed to by parties or the developer and deadlines for this additional information to be provided for the public registry. Following the hearing, the Review Board also retains the right to issue additional Information Requests prior to closing the public record.

4.6 Decision Phase

Following the hearing phase, the public record for the environmental assessment will be closed and the Review Board will begin its final deliberations, culminating in a *Report of Environmental Assessment and Reasons for Decision (Report of Environmental Assessment)*. If, during its deliberations, the Review Board requires clarification of evidence on the public record, it may issue “requests for clarification” without reopening the public record. Unlike information requests, a request for clarification

does not seek new information or evidence but rather a clarification on evidence already on the public record.

The Review Board's decision will include a single recommendation from among the options available to it under s. 128(1) of the *MVRMA*, and may also require mitigation measures be put in place in order for the proposed development to proceed. The Review Board's decision document may also identify non-binding suggestions for the developer or other responsible groups to better protect the environment. The Review Board will provide the Minister of Indian and Northern Affairs Canada (the Federal Minister) with its *Report of Environmental Assessment* as per Section 128(2) of the *MVRMA*. The Federal Minister will distribute the report to every responsible minister as per Section 128(2)(a) of the *MVRMA*. The developer and the other parties will also receive copies of the Review Board's *Report of Environmental Assessment*. The Federal and responsible ministers will provide a response to the Review Board's report as defined in section 130 of the *MVRMA*. The environmental assessment is considered complete when the Review Board's s.128 recommendation is accepted by the Federal and responsible ministers.

5. Written Submissions

All parties, as well as members of the public, are invited to submit evidence any time up until the closing of the public record. All submissions received from all sources placed on the public record will be considered during the Review Board's decision-making. Usually such submissions will be public documents and will be posted on the public registry. However, under special circumstances the Review Board may accept documents on a confidential basis if requested to and given reasons. The Review Board will decide on confidentiality on a case-by-case basis on the merits of a request, as per its *Rules of Procedure*.

All submissions should be in a format that is easily available to all parties and should follow any templates provided by the Review Board. The Review Board prefers documents to be submitted digitally in either Word or PDF formats. Hardcopy, hand delivered, couriered or fax transmissions are acceptable as long as they can be reproduced in a legible format via photocopier/scanner. The Review Board reserves the right to require any party or the developer which has a large file to provide copies to all parties directly in a digital or hard copy format.

The Review Board will not consider any submission after the closing of the public record and reserves the right to not consider evidence in a public hearing that has not been provided ahead of time for the consideration of other parties.

6. Target Schedule

Table 2 provides an estimate of the timelines required for the major milestones in this environmental assessment. These are estimated times and this table will be updated throughout the environmental assessment process as necessary, starting with an updated set of estimated dates once the *Developer's Assessment Report* has been issued.

Table 2 – Estimated Schedule

MILESTONE	Target completion
Start up and scoping phase	
Referral environmental assessment and start-up	complete
Scoping Sessions	complete
Draft Terms of Reference and Work Plan	complete
Final Terms of Reference and Work Plan	complete
Analytical Phase	
Developer's Assessment Report	January 2010
Review Board Conformity Check and Deficiency Statement (if required)	February 2010
Developer's response to the Deficiency Statement (if required)	March 2010
First Round IRs	March 2010
Developer's response to First Round IRs	April 2010
Roundtable technical meetings	May 2010
Second Round of IRs (if required)	June 2010
Responses to Second Round of IR (if required)	July 2010
Parties' technical reports	September 2010
Pre-hearing conference	September 2010
Public Hearing (NB)	October 2010
Undertakings, 3 rd Round IRs (if required)	November 2010
Closure of Public Registry	November 2010
Review Board Report of Environmental Assessment	January 2011
Federal Minister's response to the Review Board's Report of EA	---