



Aboriginal Affairs and  
Northern Development Canada  
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Affaires autochtones et  
Développement du Nord Canada

File: EA 0809-004

August 16, 2012

Chuck Hubert  
Senior EA Officer  
Mackenzie Valley Review Board  
Box 938, #200 Scotia Centre  
5102- 50th Avenue  
Yellowknife, NT X1A 2N7

**Re: EA 0809-004, NICO Project, Perpetual Treatment Post-Closure**

Dear Mr. Hubert,

Thank you for your letter dated July 25, 2012, in which you pose three questions to Aboriginal Affairs and Northern Development Canada (AANDC) regarding EA 0809-004 – Fortune Minerals - NICO Project.

I will address each of your questions individually:

- 1. Would AANDC recommend approval of the NICO Project if active perpetual treatment of water were required?*

AANDC as Federal Minister, along with the Responsible Ministers, will consider the report of environmental assessment, including any measures that the board considers necessary to prevent significant adverse impacts on the environment. Based upon their review, the Ministers will make a determination in regard to the report of environmental assessment within the limits set out in s.130. (1) of the *Mackenzie Valley Resource Management Act*. Until such time as the Federal and Responsible Ministers have the opportunity to consider the board's report of environmental assessment, including any mitigation measures, it would be premature for AANDC to state whether or not the Federal and Responsible Ministers would or would not recommend approval of the NICO Project based on either active or perpetual treatment of water.

2. *Please provide an indication of AANDC's view of the likelihood of perpetual active or passive water treatment for the NICO project. What further information or data would be necessary to determine this likelihood?*

AANDC's view of the likelihood of perpetual active or passive water treatment for the NICO Project is based upon information provided to date by Fortune Minerals. The Department cannot provide additional definition as to the likelihood of these measures being required (i.e. a quantitative percentage of likelihood), above and beyond simply stating that from a review of the information provided by the Developer, both measures are "possible."

The Department understands that the Review Board has requested a quantitative estimate of likelihood from Fortune Minerals by August 20, 2012. AANDC looks forward to reviewing this information. Questions that the Developer must address in making this determination include:

- a. As it is likely that the pit will fill over time, is it also likely that it will overflow during the post-closure period? (i.e. What is the likelihood that the pit will overflow?)  
An expected water balance, with due consideration of appropriate flood event scenarios should be provided. This is required to conduct an evaluation of the pit filling/overflowing scenario.
- b. What is the likelihood that water from the CDF, and from the open pit, will require treatment (important to consider also that water may be directed to the open pit at closure as a contingency if the wetland treatment does not meet objectives for CDF seepage/runoff)? What is the quality and volumes of post-closure water and will this maintain downstream use of the aquatic ecosystem (i.e. SSWQOs)? What if the post-closure water quality is worse than current predictions (i.e. the CDF does not perform to expectations)?
- c. If post-closure water treatment is required, will the passive treatment option be able to treat the predicted worst case post-closure water quality and associated volumes? Is this required perpetually or only for a specified period? For passive treatment, is any sort of intervention required through time or will this option be capable of treating water perpetually without human assistance?
- d. If perpetual water treatment is required (passive and/or active), have thorough evaluations of all walk-away closure options been conducted. In other words, does a "walk-away" solution exist (assuming passive solution requires some intervention over time), which would negate the need for perpetual passive and/or active water treatment and bring down the likelihood of these options being realized (e.g. in situ treatment(s), source control options, etc)?



Note, AANDC provided the above questions to Fortune by email August 8<sup>th</sup>, 2012 for their consideration when responding to the MVEIRB.

3. *Please describe what long-term security deposit options would be acceptable to the Minister of AANDC if perpetual water treatment is acceptable?*

The Land and Water Boards may require as a condition of a licence or permit the posting of security with AANDC pursuant to s. 17(1) of the *Northwest Territories Waters Act* and s. 71(1) of the *Mackenzie Valley Resource Management Act* respectively. The amount of security is determined by the Land and Water Board in accordance with the respective regulations and must be submitted in a form acceptable to the Minister of AANDC.

The Department's "Mine Site Reclamation Policy for the Northwest Territories (2002)" provides some definition in regards to acceptable forms of security. Specifically, the Policy states:

*"Financial security for mine site reclamation for new mines must be readily convertible to cash. Such security must have the following basic criteria:*

- Subject to applicable legislation and due process, it must provide the Crown with immediate, unconditional, unencumbered access to the full amount of the security.*
- It must retain its full value throughout the life of the mine and, if applicable, beyond.*
- It must remain beyond the control of the mining company, or its creditors in the event of insolvency.*

*The Minister may consider new or innovative forms of security, such as reclamation trusts, provided they meet the above criteria."*

I trust that the above responses will be helpful to the Review Board and Parties to EA 0809-004 – Fortune Minerals – NICO Project. If you have any additional questions or concerns, please feel free to contact Mr. Nathen Richea at 867-669-2657 or [Nathen.Richea@aandc-aadnc.gc.ca](mailto:Nathen.Richea@aandc-aadnc.gc.ca) or Mr. Robert Jenkins at 867-669-2574 or [Robert.Jenkins@aandc-aadnc.gc.ca](mailto:Robert.Jenkins@aandc-aadnc.gc.ca).

Sincerely,



Teresa Joudrie  
Director, Renewable Resources and Environment  
Aboriginal Affairs and Northern Development Canada – NT Region