

EA1415-02

June 4, 2015

Terry Hall
Director, Land Use and Sustainability
P.O. Box 1320, Yellowknife NT X1A 2L9
Via email

Rachel Crapeau
Yellowknives Dene First Nation
P.O. Box 2514, Yellowknife, NT X1A 2P8
Via email

Dear Mr. Hall and Ms. Crapeau,

**Re: Chedabucto Project Environmental Assessment
Direction regarding scope of the development**

In correspondence dated April 24th and May 25th, 2015 from the Government of the Northwest territories Department of Lands (GNWT), the GNWT requested direction from the Mackenzie Valley Environmental Impact Review Board (the Review Board) about information requests (IRs) issued by the Yellowknives Dene First Nation (YKDFN). The Review Board acknowledges and appreciates the efforts of the GNWT and YKDFN to resolve concerns about the IRs by working together before asking the Review Board to intervene. However, given the pending hearing dates for this EA the Review Board is not able to wait for further dialogue between parties, which may have otherwise resolved any remaining differences.

The Review Board met on June 2nd, 2015 to consider the GNWT's and YKDFN's positions with respect to the IRs. This letter provides direction to both parties regarding the scope of the EA, the IRs and the remainder of the EA process.

With respect to the GNWT's position (expressed in its April 24 and May 25 letters regarding the YKDFN's IRs) the Review Board understands that the GNWT is willing to provide information on IR#1, 3 (part 6), 4, 6, 7, and 13. However, the GNWT is of the view that IR#3 parts 1-5, which ask for specific details of Drybones Bay and the Tibbitt to Contwoyto winter road, are not within the scope of the EA.

With respect to the YKDFN's position (expressed in its May 28 submission regarding the GNWT's responses) the Review Board's understanding is that the YKDFN finds that many of the GNWT's responses are a good start but would appreciate more information. Further, the



YKDFN states that “so long as learning from the past is a critical part of the scope, then the YKDFN can live with this, picking up on anything not answered at the hearing”.

The Review Board is of the view that the intent of the YKDFN’s IR#3 parts 1-5 pertain to “learning from the past”. The GNWT, in its May 25 submission, stated, in relation to parts 1-5, that “GNWT acknowledges the validity of understanding how mitigations will be implemented”. Based on the position of both parties, there appears to be agreement that learning from the past is important and is within the scope of this EA.

Given this agreement, and the nature of IR#3 parts 1-5, the Review Board provides direction to both parties that:

1. *Specific* details pertaining to Drybones bay and the Tibbitt to Contwoyto winter road are not directly relevant to the Review Board’s decision in this EA and are not within the scope of EA.
2. The general topic of confidence in environmental management and enforcement, and how this relates to the likelihood or mitigation of potential impacts from the Chedabucto project, is within the scope of the EA.

The Review Board considered all the relevant correspondence related to the IRs in developing this direction, including:

- March 16, 2015 – Review Board note to file regarding 1st round of IRs ([PR#19](#))
- April 10 2015 - YKDFN 1st round of IRs ([PR#62](#))
- April 20, 2015 - Review Board note to file regarding IRs ([PR#28](#))
- April 24, 2015 - GNWT letter regarding IRs ([PR#30](#))
- May 12, 2015 – GNWT and YKDFN meeting minutes regarding IRs ([PR#46](#))
- May 25, 2015 - GNWT Response to YKDFN IRs ([PR#50](#))
- May 27, 2015 – Review Board letter to GNWT and YKDFN ([PR#52](#))
- May 28, 2015 – YKDFN response to GNWT’s May 25 submission ([PR#56](#))

For your reference, a chronology of the events related to the issues surrounding the YKDFN IRs is attached.

The Review Board directs intervenors to ensure that their questions at the hearing are within the scope of this assessment. The scope of the EA is clearly stated in the *Scope of the Environmental Assessment* document ([PR#36](#)) and this letter provides additional direction. The Review Board acknowledges and appreciates the efforts of the GNWT and YKDFN to work together outside of the EA process to resolve their differences. The Review Board encourages all participants in this EA to do likewise where possible.



Sincerely,

JoAnne Deneron
Chairperson
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Yellowknife, NWT
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c. Todd Slack, YKDFN

Lorraine Seale, A/Director Land Use and Sustainability

Attachment:

Chronology of Events

Attachment: Chronology of Events

- On March 16, 2015 the Review Board asked reviewers to submit IRs by April 10 and the responses by April 24, 2015. On April 20, 2015 the Review Board issued a note to file providing direction to reviewers on IR deadlines and outlining a process for reviewers to question the relevance and applicability of IRs. In this note to file the Review Board encouraged parties to work together outside the EA process to address any issues or concerns they may have.
- On April 24, 2015 the GNWT sent a letter to the Review Board requesting an extension to respond to the YKDFN IRs. The letter provided the GNWT's view that YKDFN IR#1, 3, 4, 6, 7, and 13 are either not relevant or are not within the scope of the EA. The GNWT asked the Review Board to direct the YKDFN to reframe these IRs. The letter also stated that the GNWT was endeavouring to meet with the YKDFN to discuss and clarify the YKDFN's IRs.

At that point the Review Board was aware that YKDFN and GNWT were in the process of meeting to discuss the IRs with the aim of clarifying the questions and providing answers. The Review Board refrained from deliberating on this matter until the results of their meetings were provided by the parties.

- On May 12, 2015 the GNWT and YKDFN met to discuss the IRs. During the meeting the GNWT and YKDFN clarified the intent and meaning of the IRs.
- May 25, 2015 - With the clarification obtained during the May 12 meeting the GNWT was able to provide responses to YKDFN IR# 1, 3 (part 6), 4, 6, 7, and 13. The GNWT maintains that IR#3 parts 1-5 are not within the scope of this EA and that a response to these questions is not appropriate in the context of this EA. However, the GNWT proposes to provide responses to the YKDFN outside of this EA process.
- May 28, 2015 – The YKDFN provided its views on the GNWT's responses. The YKDFN is of the view that the GNWT's responses are a good start but would like to see additional information. The YKDFN stated that it "can live with" the response provided it can follow-up on these IRs at the public hearing in Yellowknife.
- June 2, 2015 – Review Board met to discuss this issue.