



Akaitcho Interim Measures Agreement Implementation Office

NWT Treaty #8 Tribal Corporation

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May 4, 2007

Vern Christensen – Executive Director
Mackenzie Valley Environmental Impact Review Board
200 Scotia Centre
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Yellowknife, NT X1A 2N7
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RE: Comments on the Gahcho Kue EIR Terms of Reference and the appointment of the Review Panel members

Mr. Christensen:

In your letters of April 25th, 2007, addressed to the Akaitcho Chiefs, you indicate that the MVEIRB wishes to consult with the Akaitcho Dene First Nations (AKFNs) on the draft Gahcho Kue EIR Terms of Reference (pursuant to section 134(1)(a) of the MVRMA). In the same letters, you indicate that the deadline for comment submission by the First Nations is May 18th, 2007.

On May 2nd, 2007, the MVEIRB issued a news release indicating that panel members for the Gahcho Kue EIR had been appointed. These appointments were made well in advance of the May 18th deadline for comment, thereby rendering irrelevant any comments received pertaining to that portion of the Terms of Reference dealing with review panel membership. This EIR seems to have already stumbled before even getting started.

Section 134(1)(a) of the MVRMA reads as follows:

134. (1) An environmental impact review of a proposal for a development includes:

(a) *the preparation by the Review Board of terms of reference for the review panel, after consultation with responsible Ministers and any First Nations affected by the proposal;*

Clearly this EIR requirement has not been met in this instance. Meaningful consultation with the affected First Nations on the terms of reference for the review panel has not occurred, and indeed has been pre-empted and rendered moot by MVEIRB actions. The MVEIRB is in serious breach of the *MVRMA* through its failure to fulfill its consultative obligations.

The AKFNs must be provided with an opportunity to comment on the expertise and regional representation that should be demonstrated by the review panel members. As it stands, the current review panel lacks any traditional knowledge or scientific expertise pertaining to the Gahcho Kue region, demonstrates a definitive bias towards Yellowknife residents with business or government backgrounds, and is clearly in contravention of section 132(3) of the *MVRMA*.

In order to rectify this situation, the MVEIRB must dissolve the review panel as currently constituted and proceed with due process as outlined in the *MVRMA*. The review panel must only be appointed after meaningful consultation on the draft Terms of Reference has occurred (including on those provisions whereby the review panel will be constituted).

The AKFNs expect immediate MVEIRB action on this matter, and will not hesitate to explore legal options if no action is taken. The AKFNs will refrain from providing substantive comment on the draft Terms of Reference until such a time as this matter is dealt with.

Sincerely,



Stephen Ellis – Akaitcho IMA Implementation Coordinator
NWT Treaty #8 Tribal Corporation

- c. Akaitcho Dene First Nation Chiefs
Monica Krieger – Manager, LKDFN Wildlife, Lands and Environment Department
Rosie Bjornson – IMA Coordinator, DKFN
Phil Moonson – Lands Department Director, YKDFN
Rachel Crapeau – Lands and Environment Manager, YKDFN
Jim Jodouin – Akaitcho Legal Counsel
Robert Overvold – Regional Director General, INAC
Gabrielle Mackenzie-Scott – Chair, MVEIRB