



May 7, 2007

TO: DEBEERS GAHCHO KUE EIR DISTRIBUTION LIST:

Dear Sir/Madam;

RE: Comments on the Gahcho Kue Panel (the Panel) Terms of Reference

The Mackenzie Valley Environmental Impact Review Board (the Review Board) is in receipt of correspondence from the Akaitcho Interim Measures Agreement Implementation Office expressing concern about the Review Board's notification of appointments to the Panel. This correspondence suggests that consultation on the Panel Terms of Reference (ToR) should have been completed before Panel appointments took place.

Upon review of the ToR it seems to the Mackenzie Valley Environmental Impact Review Board (the Review Board) that some components of the ToR may have created confusion.

The Review Board has the authority to appoint members to a panel under s. 132 of the Mackenzie Valley Resource Management Act (MVRMA). This authority is not subject to the requirement for consultation set out in section 134 of the MVRMA. When making panel appointments, the Review Board is required to exercise its decision-making in accordance with subsection 132(3) of the Act. The Review Board took special care to ensure that its Panel appointments met this requirement.

Section 134(1) of the MVRMA requires consultation on the terms of reference for a review panel. The ToR speak to the establishment of the Panel as the institution which will be responsible for the Gahcho Kue Environmental Impact Review. Consequently, they address matters such as membership, conflicts, quorum and other matters related to Panel governance.

Upon review of the draft ToR it appears that they may unfortunately have given the impression that the Review Board was also consulting on appointments to

the Panel. The ToR do not deal with appointments because that authority is governed by s. 132 and because the Review Board exercised its authority to make appointments separately from the ToR consultation process, as is permitted by the MVRMA.

We trust that this clarification will assist all parties in reviewing and providing their comments on the ToR.

Sincerely,



Vern Christensen
Executive Director

