

## **Mackenzie Valley** Environmental Impact Review Board

**IN THE MATTER OF:** An Environmental Assessment undertaken of a proposed Diamond Exploration Project (EA 0506-005) by Consolidated Goldwin Ventures Ltd. pursuant to the Mackenzie Valley Resource Management Act

**AND IN THE MATTER OF:** Responses to Information Requests issued in the Consolidated Goldwin Ventures Ltd. Proceeding

### **REASONS FOR DECISION**

#### **BACKGROUND:**

On September 8<sup>th</sup>, 2005, the Mackenzie Valley Environmental Impact Review Board (Review Board) began an environmental assessment of a proposed diamond exploration project by Consolidated Goldwin Ventures Ltd. (CGV). On September 28<sup>th</sup>, 2005, the Review Board issued a Workplan for the environmental assessment. The Board took steps to tailor the environmental assessment process to ensure that it was appropriate to the scale of the proposed development. Rather than issuing draft and final Terms of Reference, and requiring the developer to produce a detailed Developer's Assessment Report, followed by Information Requests (IRs) by all parties, the Review Board decided instead to authorize a single round of IRs followed by a hearing. A hearing date of December 6<sup>th</sup>, 2005 was set and advertised.

On October 19<sup>th</sup>, 2005, IRs were issued to CGV. Some of these requests were proposed by registered parties to the environmental assessment, and some originated from the Review Board itself. Because the Review Board chose not to require the developer to produce a Developer's Assessment Report, the IRs were to play a particularly important role in the environmental assessment process.

On October 31, 2005, the Review Board received the developer's responses to the IRs.

## ANALYSIS:

The Review Board has discretion over its own processes, as per the *Rules of Procedure for Environmental Assessment and Environmental Impact Review Proceedings*:

*(9) The Review Board may issue a direction on procedure at any time during an environmental assessment or environmental impact review proceeding.*

*(11) The Review Board may, on its own motion... lengthen or shorten the time for any action to be taken in an environmental assessment or environmental impact review proceeding subject to any conditions the Review Board may impose.*

*(86) The Review Board may adjourn or reschedule a hearing at any time.*

In an Environmental Assessment the onus is on the developer to convince the Review Board that a proposed development is not likely to have significant adverse environmental impacts and should proceed to the regulatory process. The Review Board has carefully reviewed the developer's responses. In the Review Board's view, the IR responses do not adequately answer most of the questions posed by the Board and parties. The IR responses are disappointing in terms of both content and tone.

In order to fulfill its responsibilities regarding the identification and evaluation of potential impacts from the proposed development, the Review Board requires a clear understanding of the proposed development and its effects. The IRs issued to CGV were intended to provide the Review Board with a clear description of the development, and to help Parties understand the potential impacts of the development so that they could properly prepare themselves to participate in the hearing. Unfortunately, the responses submitted by the developer are inadequate for these purposes.

After receiving IR responses, parties must analyze the responses, prepare their hearing presentations, and participate in a pre-hearing conference; all before the hearing agenda can be finalized. Without adequate responses to the information requests, the parties are unable to complete the necessary steps prior to the hearing date of December 6<sup>th</sup>, 2005. Further, rules of fairness require that parties have reasonable time to prepare for a hearing.

Given the legal requirement to make determinations on the factors set out in subsection 117(2) of the MVRMA, the Review Board is of the opinion that the information made available by the developer to date does not provide a sufficient foundation for the conduct of a hearing. In the opinion of the Review Board, in light of the quality of the responses to the IRs, proceeding with a hearing on December 6<sup>th</sup>, 2005, is not warranted. In our view the information currently available is not sufficient to enable the parties to prepare


for the hearing and there is not time to allow the developer to submit improved responses to the IRs.

**DECISION:**

It is the view of the Review Board that adequate responses to the October 19<sup>th</sup> IRs are necessary before progress on this environmental assessment can continue. To date the developer has failed to produce such responses. Considering the circumstances, the Review Board has decided to adjourn the December hearing for this environmental assessment until such time as adequate answers to each IR have been provided by the developer. The Review Board will not reschedule a hearing in this environmental assessment until that time.

**DATED: November 9<sup>th</sup>, 2005**

**For the Mackenzie Valley Environmental Impact Review Board:**

  
Ms. Gabrielle Mackenzie-Scott  
Chairperson