

Mackenzie Valley
Environmental Impact
Review Board

In the Matter of: **A Land Use Permit Application
MV2004C0038 made by Consolidated
Goldwin Ventures Incorporated**

And in the Matter of: **A decision by the Mackenzie Valley
Environmental Impact Review Board
pursuant to subsection 126(3) of the
*Mackenzie Valley Resource Management
Act.***

REASONS FOR DECISION

BACKGROUND:

On September 13th, 2004, the Mackenzie Valley Land and Water Board (MVLWB) received a land use application from the Consolidated Goldwin Ventures Incorporated (CGV) for a small winter mineral exploration program on the east side of Yellowknife Bay. The application was deemed complete on December 7th, 2004, and was sent out to reviewers for comment. On January 13th, 2005, the MVLWB requested further study from the developer to ensure appropriate community involvement had taken place. CGV submitted additional information to the MVLWB on July 25th, 2005.

The MVLWB made additional efforts to ensure that the concerns of the Yellowknives Dene First Nation (YKDFN) were available before making a decision by attempting to contact the YKDFN directly. The MVLWB considered the information before it regarding the application at an August 24th, 2005 meeting, conducted a preliminary screening and decided to approve a land use permit subject to a number of conditions.

The MVLWB was aware that, throughout the comment period and the preliminary screening process, the YKDFN had expressed concern over the lack of consultation by the developer. The MVLWB itself made repeated requests of the developer to ensure

that consultation was completed. The MVLWB's record contains no evidence that this consultation was conducted. Correspondence from the developer repeatedly asserts that further consultation was unnecessary, despite the ongoing requests from the YKDFN and instructions from the MVLWB.

On August 10th, 2005, the Mackenzie Valley Environmental Impact Review Board (MVEIRB or Review Board) was copied with a 6 page letter from the Manager of Land and Environment of the YKDFN addressed to the MVLWB Executive Director and Resource Officer responsible for the CGV application. The letter described, in considerable detail, the concerns of the YKDFN regarding the CGV application.¹ A review of the public registry maintained by the MVLWB's indicates that MVLWB did not have a copy of the YKDFN letter when it made its August 24th decision on the CGV application.

ANALYSIS:

The Review Board has a statutory discretion set out in subsection 126(3) of the MVRMA to "call up" a decision made on a preliminary screening. That discretion is set out as follows:

126. (3) Notwithstanding any determination on a preliminary screening, the Review Board may conduct an environmental assessment of a proposal for a development on its own motion.

The Review Board emphasizes the importance of recent changes to the MVRMA arising from the coming in to force of the Tli Cho Agreement and their effect on decisions made under part 5 of the MVRMA, which include preliminary screening decisions. Specifically, changes to section 115 and the inclusion of a new section 115.1 reinforce the importance of considering traditional knowledge during screening decisions and the importance of conservation to the well being and way of life of the aboriginal peoples of the Mackenzie Valley.

The Review Board has reviewed the evidence filed by CGV with the MVLWB. The Review Board has noted that the MVLWB determined in its preliminary screening, conducted pursuant to section 125(1)(a) of the MVRMA, that "there is no likelihood that the proposed development might be a cause of public concern".

The August 10th YKDFN letter reiterates concerns about cultural heritage and archaeological sites. It refutes the suggestion that any consultation had occurred. It recommends that the CGV development be referred to Environmental Assessment.

It is clear to the MVEIRB that the YKDFN has articulated its concerns about this proposed development since January of this year and it is also clear that these

¹ A copy of this letter is available on the Review Board's public registry.

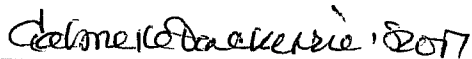
concerns remain unresolved. It is the Review Board's opinion that there is public concern about this proposed development.

DECISION:

Considering all of the information available to the Review Board there is evidence of public concern about this development. In these circumstances, the MVEIRB has decided to exercise its discretion under subsection 126(3) of the MVRMA and order an Environmental Assessment of the CGV land use permit application.

DATED: September 12, 2005

For the Mackenzie Valley Environmental Impact Review Board:



Ms. Gabrielle Mackenzie-Scott
Chairperson