

Box 444
Yellowknife NT
X1A 2N3

August 8, 2008

Tawanis Testart
Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
Box 938, 5102-50th Avenue
Yellowknife NT
X1A 2N7

Re: Follow-up to Giant Mine Remediation Plan Environmental Assessment Scoping Hearing

Dear Ms. Testart

I would like to thank the Mackenzie Valley Environmental Impact Review Board for the opportunity to participate in the Scoping Hearing held on July 22-23, 2008. The purpose of this letter is to provide the Board with some further thoughts and reflection on the scope of the development and the assessment of the Giant Mine Remediation Plan.

Scope of the Development—Ingraham Trail Re-alignment

During the hearing, I was asked by the MVEIRB legal counsel about whether, and to what extent, the Ingraham Trail realignment should be included in the scope of the development (see July 23, 2008 transcript, page 95). I replied that I thought at least the road realignment within the surface lease should be included and that I wished to see the additional information that the Government of the NWT has undertaken to provide to the Board.

During the hearing, the Yellowknives Dene First Nation recommended the entire road realignment should be part of the development under assessment as moving the road should be viewed as an appropriate and desirable form of mitigation in limiting access to the site. Later in the hearing, I stated that I had been persuaded by this argument. I have been advised that it was not appropriate to make these remarks as this really constitutes a change in position or a closing argument.

I wish to note that the revised presentation by the Yellowknives Dene First Nation was not filed prior to the hearing and that the point about the road realignment as a form of mitigation was only made by Mr. Azzolini during the presentation by the Yellowknives Dene First Nation (see July 23, 2008 transcript, page 124).

Moving the Ingraham Trail away from the Giant Mine site should be viewed as an appropriate and desirable mitigation measure, particularly if the frozen block option is selected. Public and uncontrolled access must not be permitted to the site to prevent vandalism, ‘harvesting’ of the thermosyphons as scrap metal and to reduce the likelihood of accidents or injury. It would also be in the best interests of the developer to limit access with a gated road to reduce exposure to liability.

Operating a public highway through one of Canada's most contaminated sites does not seem to be sound public policy so re-alignment completely away from the Giant Mine and controlled access to the site should be viewed as mitigation and part of this development.

Giant Mine and Social Remediation

Many of the presenters and members of the public that spoke at the scoping hearing raised issues that referred to the legacy of the Giant Mine and its impacts on people and their sense of well-being. Fred Sangris, Chief of the Yellowknives Dene First Nation made a passionate presentation on the effects of the Giant Mine on his people and communities. I raised the issue of the need for senior government officials to take responsibility for what happened at the Giant Mine and to make a public apology.

The legacy of the mine needs to be considered as part of this development. The Remediation Plan put forward by the Department of Indian Affairs and Northern Development and the Government of the Northwest Territories attempts to deal with the environmental remediation but there has been little, if any, effort to deal with the social effects. The developers need to find ways to address all of the effects of the Giant mine. The Remediation Plan needs to address the broader issues of social remediation. I hope that the Board will agree with this point and ensure that it becomes part of the scope of the assessment for this development.

Miramar Con Autoclave

I noted that Bruce MacLean raised the issue to the use of the autoclave at the Miramar Con mine as having the potential for reprocessing the arsenic trioxide at the Giant Mine (see July 23 Transcript, page 193). I agree and have consistently made this point with the developers over many years. I do not believe this option has received sufficient or adequate consideration.

However, I am concerned that this option is about to be foreclosed. In a letter dated June 30, 2008 to the Mackenzie Valley Land and Water Board, Miramar Northern Mining (the current owner of the Con Mine) states:

As of October 2007, all arsenic sludge remaining on the Con Mine site had been processed through the autoclave. At that time the autoclave was cleaned and allowed to cool down as per the manufacturer's specifications. In November the autoclave was placed on care and maintenance in heated storage. In March 2008 the heat was shut off and the autoclave has been allowed to cool down in preparation for decommissioning. It will be decommissioned in 2008.

I have attached this correspondence to this submission as I would prefer that no irrevocable actions be taken with regard to the autoclave in order to allow this option to remain open to facilitate improved remediation of the Giant Mine arsenic trioxide.

Closing Remarks by the Developer

I was pleased to hear that the developer now recognizes that there will be some value with this environmental assessment in broadening the coverage of the preferred uses of portions of the site, improved interpretation of the soil clean-up guidelines, and further details on monitoring and contingencies (see remarks by Bill Mitchell as page 204, July 23 Scoping Hearing Transcript).

However, I was disappointed to hear that the developer continues to defend the Remediation Plan as “good” and that the developers “believe that your review of that work will come to the same conclusion that the community came to five years ago; that the so-called frozen block option is a proactive method to minimize the risks that the arsenic trioxide poses to this and future generations” (see pages 203-4, July 23 Scoping Hearing Transcript). I do not accept this statement from the developers that the community ever accepted the frozen block option and must point out that if the Remediation Plan was accepted and represents a sound plan of action, why are we in an environmental assessment for this development?

Procedural Issues

I am concerned with the length of time it has taken to post various items to the electronic public registry. For example, my written submission for the Scoping Hearing is still not on the registry. The presentations for the Scoping Hearing were only posted a week after the hearing began. The written submission from Mr. Vaillancourt made at the Scoping Hearing is also not on the registry.

Although I was thankful to get the presentations for the Scoping Hearing by e-mail a few days before the hearing, this material should be available well before the hearing to allow for proper review and preparation. This may mean earlier submission deadlines.

A pre-hearing conference would also have been helpful in better scheduling and organizing the hearing. This would allow parties to indicate how much time may be required for questioning. It is quite intimidating to be constantly asked how much more time is needed or how many more questions are necessary. This does not promote public participation in Board hearings.

I am aware that responses to the undertakings made at the Scoping Hearing are due on August 15, 2008. I trust that these will be posted to the public registry in a timely manner, allowing parties an opportunity to comment before the Board makes any decisions with regard to the scope of this development or assessment.

Thank you again for the opportunity to participate in the Scoping Hearing.

Sincerely,

A handwritten signature in black ink that reads "Kevin O'Reilly". The signature is written in a cursive, flowing style.

Kevin O'Reilly