

January 22, 2016

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Mackenzie Valley Environmental Impact Review Board
Yellowknife, Northwest Territories

Hello Simon,

Thank you for contacting us and discussing the proposed Terms of Reference (TOR) for the Howard's Pass Access Road (HPAR). This letter provides further clarity to our comments delivered in December.

Section 9.1 (p.43) of the TOR is entitled 'Alternatives to the Project'. It states:

"SCML [Selwyn Chihong Mining Ltd] will describe and evaluate technically and economically feasible alternatives to the project that would **allow SCML to achieve the same objective as the proposed development (e.g., using a railroad or a pipeline to transfer zinc and lead concentrates and/or other materials** rather than the proposed road. A no-project scenario shall be described as an alternative to the project." [our emphasis added in bold]

This statement implies that the only alternatives considered will be those that enable the transfer of products from the presumed operation of the Selwyn mine. Moreover, the statement reveals the inseparable connection between the presumed mine and whatever means of transporting the products and materials. Thus, the 'no-project' alternative is not a 'no-mine' alternative but rather a 'no-road' alternative that still presumes the operation of a mine.

We wish to make two comments:

(1) The effects of the mine and the road should be addressed in a single Environmental Assessment process.

The mine and the means of transport are clearly inseparable. Obviously, the only reason the road is being upgraded is to service a mine that will produce ore products that require transport. Accordingly, how does a responsible authority address *cumulative effects* at a regional scale without including both the mine and the transport of ore which are integral to the common purpose of the proposed development? To carry out a separate environmental assessment for the proposed upgrade of the road (or other means) and then do a different environmental assessment for the mine could result in the "tyranny of small decisions" -- whereby several small but separate decisions will ultimately fail to address any larger cumulative effects.

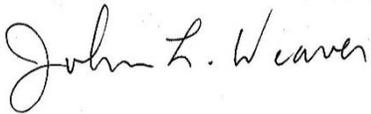
(2) The single Environmental Assessment must evaluate an alternative (“No Project”) in which neither the mine nor the accompanying transport system would be permitted.

Under the Mackenzie Valley Resource Management Act (1998), the scope of development for every environmental assessment must consider “any cumulative impact that is likely to result from the development in combination with other developments” as well as “the need for the development and any available alternatives to it...” (MVRMA c. 25, s. 117(2a and e) – p.89).

Such alternatives analyses, which would have to include the 'no-project' alternative as an “available alternative”, are a central component to the exercise of understanding the consequences for development decisions. This is standard practice in many jurisdictions, including providing clear reasons for why alternatives are eliminated from consideration. This practice also provides better assurance that the public (and the responsible agency) have a *real* choice in the discussion and the decision concerning actions on public lands. Otherwise, the so-called environmental assessment is simply a rubber stamp permitting a proposed action by a special interest. By limiting the scope of the decision space, it risks making a mockery out of the public process.

Thank you for considering these additional comments and clarification.

Best Regards,



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Senior Conservation Scientist



Justina Ray, Ph.D.
President and Senior Scientist