



Mackenzie Valley Environmental Impact Review Board

Box 938 , 5102-50th Avenue, Yellowknife, NT X1A 2N7

From: Sherry Sian Fax: (867) 766-7074

Phone: (867) 766-7063

Date: July 17/03 Pages: 22 including this page

To: Distribution Fax:

CC: Bob Woolley

Re: EA-03-004 - Final forms of Reference & Workplan

NOTES:

Hello Everyone,
 Attached are:
 ① letter
 ② list of parties with standing
 ③ TCR & Workplan

Sherry

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 DIAND South Mack
 YK Dene FN Dilo
 MVLWB
 NW Metis Nation



Mackenzie Valley Environmental Impact Review Board

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From: Sherry Sian Fax: (867) 766-7074
 Phone: (867) 766-7063
 Date: July 17/03 Pages: 22 including this page
 To: Distribution Fax:
 CC: Bob Whaley
 Re: EA-03-004 - Final forms of Reference & Workplan

NOTES:

*Hello Everyone,
 Attached are:
 ① letter
 ② list of parties with standing
 ③ TOR & Inquiries*

Sherry Sian

From: Sherry Sian
Sent: Friday, July 18, 2003 9:07 AM
To: 'smontgomery@theedge.ca'; 'BlaisE@DFO-MPO.GC.CA'; 'bobz@nsma.net'; 'Eric Yaxley'; Fraser Fairman (fairmanf@inac.gc.ca); 'Gavin_More@gov.nt.ca'; 'glen_bernethy@hlthss.gov.nt.ca'; 'gvantighem@city.yellowknife.nt.ca'; 'kris@nsma.net'; Max Braden (mbraden@theedge.ca); Mike Vaydik (mvaydik@ssimicro.com); 'mike.fournier@ec.gc.ca'; Ralf Hillebrand (csecap@direct.ca)
Subject: EA-03-004 - Final TOR and Workplan
Importance: High



NSV cover for final NSV Party Standing NSV TOR and Work
TOR and WP... 4 July 2003... Plan 16 July ...

Hello everyone,

Attached are:

- Letter about the Final Terms of Reference and Workplan and standing of parties
- List of Parties
- Final Terms of Reference and Workplan

Please call if you have any questions.

Sherry

Sherry Sian, M.E.Des.
Environmental Assessment Officer
MVEIRB
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Our File: EA-03-004

July 17, 2003

To: Distribution

Re: New Shoshoni Ventures' Diamond Exploration at Drybones Bay

On July 16, 2003, the Review Board met to discuss the Requests for Standing and the comments on the Draft Terms of Reference for New Shoshoni Ventures' Diamond Exploration at Drybones Bay.

The Applications for Standing received by the Review Board have been placed on the Public Registry. Attached is a summary of the Parties that requested standing and the reasons for their request. The Review Board has accepted this list as presented. Please let me if you submitted an application, but do not appear on this list.

Following the review of the comments submitted by the Parties, the Review Board approved several changes to the Terms of Reference and Workplan. These changes balance various expectations of the scope and process in light of the nature and scale of this preliminary exploration program. Experience with past Environmental Assessment (EA) processes was also considered. The Review Board has decided to:

- Retain the Scope of the Assessment to focus on preliminary exploration since a mine is a different type of development contingent upon finding diamondiferous kimberlite and thus, would require a new Land Use permit, a Water License and an EA;
- Continue to use the accepted, broad definitions of "developer" and "development" as defined in the *Mackenzie Valley Resource Management Act*;
- Add a clause to clarify the preliminary nature of the proposed exploration;
- Clarify how fairness to the Developer will be observed through a joint Public Hearing on Cumulative Effects;
- Encourage the Developer and other Parties to prepare their own submissions on Cumulative Effects, following receipt of the findings of the Regional Study of Drybones/Wool Bay commissioned by the Review Board;
- Make several editorial changes to improve the focus and content of Developer's Assessment Report consistent with license agreements Developers may hold with Regulatory Authorities regarding the use of some types of sensitive information (i.e., archaeological information);



- Remove items from the Terms of Reference that went beyond the scope of the preliminary nature of the proposed development;
- Encourage the Developer and the Parties to talk to each other to gather information and discuss issues and concerns to ensure a quality EA; and
- Grant the request of several Parties to extend the timeline for this EA by providing more time to review and comment on submissions, as well as to prepare for the Public Hearing.

Should you have any questions, please call me at 867-766-7063.

Sincerely,

A handwritten signature in blue ink that reads "Sherry Sian".

Sherry Sian

Environmental Assessment Officer

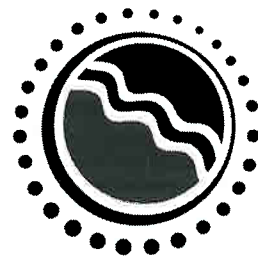
New Shoshoni Ventures Diamond Exploration at Drybones Bay

EA - 03 - 004

Party	Status	Reason for Request
New Shoshoni Ventures	Directly Affected Party	Proponent
Government of the NWT	Directly Affected Party	<ul style="list-style-type: none"> • Regulatory authority as designated agency for NWT Archaeological Site Regulations • Responsible Minister administering various Territorial Laws – NWT Environmental Protection Act, NWT Wildlife Act, NWT Forest Management Act, NWT Forest Protection Act, NWT Historical Resources Act, Environmental Protection, NWT Public Highways, NWT Transportation of Dangerous Goods
DFO	Directly Affected Party	Responsible Minister for Fisheries Act
Environment Canada	Directly Affected Party	Responsible Minister for Fisheries Act section 36(3), Migratory Birds Convention Act, Species at Risk Act
North Slave Metis Alliance	Directly Affected Party	Comments indicate the area is traditionally important
Yellowknives Dene First Nation	Directly Affected Party	Letters on file indicate the area coincides with known traditional land use area
NWT Metis Nation	Directly Affected Party	NWTMN Interim Measures Agreement, s. 3.1 (a) & (b) and schedule 4.1 (a)
NWT & NU Chamber of Mines	Intervenor	Spokesperson for affected industry

**TERMS OF REFERENCE
AND
WORK PLAN
FOR THE
ENVIRONMENTAL ASSESSMENT
OF THE
NEW SHOSHONI VENTURES LTD.
EARLY STAGE MINERAL EXPLORATION**

July 16, 2003



Mackenzie Valley Environmental Impact Review Board
5102-50th Avenue
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1 INTRODUCTION

Purpose of this Document

This document describes the Environmental Assessment (EA) process for the New Shoshoni Ventures Ltd. Diamond Exploration (the development) in the Drybones Bay Area of Great Slave Lake in the Northwest Territories. Section 2 defines the scope of the development that is being assessed. Section 3 describes the scope of the assessment (i.e., issues being assessed). Section 4 provides the developers with the terms of reference for the Developer's Assessment Report (DAR). Finally, Section 5 defines the responsibilities of those involved in the assessment and provides an overview of the process and a schedule.

It is important to note that the term "Development" is used throughout according to its broad definition within the Mackenzie Valley Resource Management Act (MVRMA). In this Terms of Reference and Workplan, the proposed Development is ***an early stage exploration intended to make a new discovery or to undertake a preliminary evaluation of the mineral commodity.***

Referral to Environmental Assessment

New Shoshoni Ventures Ltd. (NSV) applied for a Type "A" Land Use Permit (MV2003C0016) from the Mackenzie Valley Land and Water Board (MVLWB). The MVLWB initiated a Preliminary Screening pursuant to S. 124 of the *Mackenzie Valley Resource Management Act (MVRMA)* and Schedule 1, Part 1 of the *MVRMA* Preliminary Screening Requirements Regulations.

On May 16, 2003 the MVLWB referred the development to EA as per S. 125 of the *MVRMA*. The reason cited for the referral was public concern about the potential for cumulative effects given the cultural, spiritual and environmental importance of the Drybones Bay Area. The Mackenzie Valley Environmental Impact Review Board (Review Board) initiated the EA at this time.

Legal Context

This EA is subject to the requirements of Part 5 of the *MVRMA*. The process and submission is guided by the Review Board's Environmental Impact Assessment Guidelines (revised in April 2001) and the Review Board's Rules of Procedure. These documents can be accessed on the Review Board's web site (www.mveirb.nt.ca). Please contact the Review Board for further information or guidance.

2 SCOPE OF THE DEVELOPMENT

This section outlines the scope of the development. Additional information on components of the Development may be requested by the Review Board to complete the EA.

Principal Development

The Development is an early stage mineral exploration program in the Drybones Bay area of Great Slave Lake. The Development is planned for June 20 - September 30 and January 20 – March 31, 2004. Activities to be undertaken as part of the principal development include:

- Airborne and ground geophysical surveys, including line cutting for surveys where necessary;
- Rock and till sampling;
- Drilling mainly along lake shore at Drybones Bay with additional drilling inland, if required;
- Line clearing for geophysical surveys and to access inland drill sites; and
- Drill cuttings disposed of in natural depression.

Accessory Developments and Activities

The completion of the principal Development would require the following additional developments and activities to be constructed, operated and/or used:

- Previously permitted camp;
- Incineration of garbage or disposal to Yellowknife;
- Latrine pit and greywater sump; and
- Fuel supply and transfer.

3 SCOPE OF THE ASSESSMENT

The scope of the assessment is the determination of which issues and items will be examined in the EA. The Review Board recognizes that the MVLWB referred the proposed development to EA because of public concern about potential cumulative effects of several planned land uses (i.e., quarrying, mineral exploration and development). In determining the scope of the assessment, the Review Board is conscious of its obligation to consider the factors listed in ss. 117(2) of the *MVRMA*. The Public Record presents sufficient material for the Review Board's EA consideration in accordance with s. 117, with the exception of the items listed in section 4.

The MVEIRB requires more information on the spiritual and environmental significance, as well as the extent and manner of subsistence and traditional use in addition to the cumulative effects of the proposed Development relative to past, current and reasonably foreseeable Developments in the Drybones Bay Area. The priority information needs are reflected in Section 4 of this document. The Board retains the right to raise other issues in the course of this assessment if it deems appropriate.

The Review Board is undertaking a cumulative effects assessment of the entire Drybones Bay/Wool Bay Area. The results of this technical study will be made available to all parties to the Environmental Assessment in advance of the public hearing. The cumulative effects of this development will be addressed in a public hearing involving all developers referred to EA in this area as well as other parties with standing. This approach will prevent the developer from independently having to do a complex analysis of cumulative effects as part of their DAR although NSV will have the opportunity to respond to the study during the course of this EA.

In the interest of fairness, the public hearing will be organized to reflect the sequence of referrals to EA. All portions of the public hearing focused on NSV specifically and the region in general will be included for consideration on the Public Registry for NSV.

4 TERMS OF REFERENCE

Overview

The EA Terms of Reference are the Review Board's instructions to NSV. The Terms of Reference are designed to ensure the appropriate information is provided to understand the environmental consequences and the benefits of the proposed development. The Terms of Reference have been prepared from the development description provided by the developer and other relevant information. The Terms of Reference define the scope of the development and scope of assessment determination of the Review Board.

General Items

NSV shall provide the Review Board with a DAR that provides the information requested in s. 4.2. Where appropriate, NSV shall:

- Identify the development activity;
- Identify the changes this activity produces in the environment;
- Identify the potential impacts of these stresses (with supporting rationale and evidence, if possible);
- Propose mitigation measures including the rationale and evidence to show that the mitigation will work; and
- Predict the residual impacts that cannot be mitigated.

When describing impacts, NSV will be expected to define and explain each potential impact relative to:

- Direction (beneficial or adverse);
- Magnitude;
- Duration;
- Frequency;
- Probability;
- Reversibility;
- Temporal boundaries;
- Geographic extent (spatial boundaries); and
- Significance (with clear descriptions of criteria used)¹.

All predictions should be based on information specific to the proposed development, unless explicitly noted in any prediction.

¹ Although the Review Board will make a final determination of significance, the developer should submit its views on significance for each potential impact.

Specific Items

A Summary

- A-1 *Non-technical Executive Summary:* Provide a plain-language, non-technical summary of the DAR containing the most relevant points for decision-makers and the public.
- A-2 *Conformity Table:* The DAR should include a table cross-referencing the items in the Terms of Reference with relevant sections of the DAR.

If requested by the Review Board, the developer shall have the summaries translated into the appropriate Aboriginal language(s).

B Developer

- B-1 *Corporate History:* Provide a brief chronology of the company's experience operating in Canada and the north. Include the history of any project partners.
- B-2 *Proposed Development Ownership:* List all owners of proposed developments and the proportion each will own.
- B-3 *Organizational Structure:* Identify corporate and individual responsibilities for the proposed development and associated operations.
- B-4 *Environmental Performance Record:* Provide a record of environmental performance of the company and its contractors as well as project partners in the conduct of mineral exploration and/or development programs in Canada and the north.

C Development Description

- C-1 *Timing:* Provide a revised schedule given that some milestones in the proposed schedule have already passed, and identify any time constraints.
- C-2 *Access Road and Drill Sites:* Provide a locational map of the proposed development that includes place names (i.e., nearest communities, islands, lakes, bays, etc.) to assist with orientation. An operational map should include access route, drill locations, camp, storage, and sump. The operational map should include a north arrow, longitude, latitude, scale (at 1:50,000), claim delineations and a legend. Given that precise drilling location may not be known, clearly depict a local project area reflective of the likely drilling location(s).
- C-3 *Operations:* Describe the operations in terms of staff and equipment requirements. Provide the operational timeline and anticipated traffic volumes (i.e., number of trips to and from Yellowknife per day).
- C-4 *Waste Management:* Provide a detailed description of waste management plans, including the types and quantities of waste and drill cuttings resulting from the proposed development. The equipment and/or facility requirements for storage, transport, and disposal should also be discussed along with the locations of any such storage, transport and disposal.

C-5 *Water Use:* Identify water sources and the quantity anticipated to be drawn from each source. Describe the type, quantity and location for the disposal of any waste water generated during the program.

C-6 *Future Development:* Provide information about future development plans associated with this exploration program in the Drybones Bay area.

D Effects of the Environment on the Development

D-1 *Timing:* Please describe any environmental considerations that may affect the timing of operations (i.e., date of freeze up or break-up, inclement weather and low visibility, etc.).

D-2 *Operations:* Please describe any environmental considerations that may affect the manner of operations (i.e., date of freeze up or break-up, inclement weather and low visibility, etc.).

E Alternatives

E-1 *Waste Management:* Contrast the environmental impacts of different waste management alternatives and provide the rationale for the preferred method for the proposed undertaking.

F Regulatory Regime

F-1 *Licenses, Permits and Authorizations:* Provide a table of relevant licenses, permits and other authorizations that are required for the proposed development.

G Public Consultation

G-1 *Consultation:* Provide a table of all consultation undertaken with the public, Aboriginal organizations, land owners, federal, territorial and municipal governments, and others. The date, parties involved, manner of consultation (i.e., letter, public meetings, presentation, etc.), and outcomes should be clearly identified. Any consultation since preliminary screening should be included.

G-2 *Issues Resolution Table:* Provide a summary table of all issues raised, resolution (including cross-reference to the portion of the development description where it is explicitly addressed) and outstanding issues.

G-3 *Records:* Provide reports of all consultation in an appendix.

H Assessment Boundaries

H-1 *Spatial:* Provide a rationale for setting the spatial boundaries for the impacts described on page 7.

H-2 *Temporal:* Provide a rationale for setting the temporal boundaries of the impacts described on page 7.

I Subsistence and Traditional Land Use

Levels or limits of harvesters' compensation are not within the scope of the EA. The information requirements below are to determine if a significant adverse impact on subsistence and traditional land use is likely.

- I-1 *Compatibility:* Provide a map, if possible, and description of any subsistence or traditional land use areas (i.e., hunting, trapping, and/or fishing) within the vicinity of the proposed undertaking.
- I-2 *Timing:* Provide a table depicting the schedule of subsistence and traditional use within the vicinity of the proposed undertaking. Specifically, discuss any subsistence or traditional land uses that will occur at the same time as the proposed undertaking. Discuss potential land use conflicts that may arise and any actions taken to address these concerns.

J Fish and Wildlife Resources

The Review Board suggests that the developer consult with the Department of Renewable Resources, Wildlife and Economic Development to predict impacts on wildlife and determine appropriate mitigation measures. The Review Board also suggests that the developer consult with the Department of Fisheries and Oceans to predict impacts on fish and fish habitat, and to determine appropriate mitigation measures.

- J-1 *Local Resources:* Provide a table of all fish and wildlife that use the area and are a) important to supporting traditional harvesting, or b) species at risk.
- J-2 *Habitat Use:* Identify any important habitat for these species in the Drybones Bay area, and describe the timing and nature of habitat use by fish or wildlife.
- J-3 *Direct and Indirect Impacts:* Describe the potential direct and indirect effects of this undertaking on fish and wildlife, and the mitigation measures that will be taken to reduce or avoid these impacts

K Cultural and Heritage Resources

- K-1 *Local Resources:* Identify archaeological and heritage resources as well as sites or areas of cultural significance in or near the project area. Prepare a table of the minimum radius of the archaeological or heritage resources or culturally significant sites to the project area and access routes (direction of the archaeological resource from the project area should not be indicated). Variances reflective of uncertainties in the georeferencing of archaeological resources should be incorporated in the tables. (Note: For the protection of archaeological sites, these sites should not be included on the maps).
- K-2 *Direct and Indirect Impacts:* Describe potential direct and indirect impacts of this undertaking on sites or areas identified in K-1.

L Cumulative Effects

In lieu of conducting its own cumulative effects assessment, the developer is expected to participate in the cumulative effects assessment of the Drybones Bay area. Specifically, the developer will be asked to participate in an interview. This cumulative effects assessment will:

- identify Valued Components that will be affected by this development in combination with other past, present and reasonably foreseeable future developments, and provide the rationale for the choice of Valued Components;
- identify other human activities that can affect those same Valued Components;
- describe the potential combined impact of the proposed undertaking in conjunction with previous, present and reasonably foreseeable human activities; and
- describe ways to avoid, mitigate and manage those impacts.

The results will be made available in the form of a report that will be provided to the developer and all other parties to the EA on August 20th. A public hearing will be held to focus on cumulative effects. At this time, the developer will have the opportunity to give a presentation on their development's potential contribution to cumulative effects on traditional and subsistence land use, fish and wildlife resources as well as cultural and heritage resources. The developer would also be required to describe any proposed mitigation to ameliorate these potential effects, including evidence to indicate the likely effectiveness of the mitigation.

5 ROLES AND RESPONSIBILITIES

This section explains the roles and responsibilities of the Review Board and its staff, government bodies, the developer and other parties in the EA. Further information about the structure of the EA process is available in the Review Board's Environmental Impact Assessment Guidelines and the Rules of Procedure. Both documents are available from the Review Board or online at www.mveirb.nt.ca/MVGuides/MVdocs.html.

Submissions received from all sources will be considered during the Review Board's decision-making processes on the environmental assessment. Usually these submissions will be public documents and will be posted on the Public Registry. However, the Review Board can and will accept documents on a confidential basis, if required. The format of submissions should be in a format that is accessible to all stakeholders.

Attached in the Appendix are legal premises and definitions relevant to completing the EA.

Review Board and Review Board Staff

The Review Board and its staff are required to undertake the following in relation to this EA:

- conduct the EA in accordance with ss.126(1) of the *MVRMA*;
- take into account any previous screening or assessment report made in relation to the development, in accordance with s.127 of the *MVRMA*;
- determine the scope of the development, in accordance with ss.117(1) of the *MVRMA*;
- consider environmental assessment factors, in accordance with ss.117(2) of the *MVRMA*;
- make a determination regarding the environmental impacts and public concern of the development, in accordance with ss.128(1) of the *MVRMA*;
- identify areas and extent of impacts within or outside the Mackenzie Valley in which the development is likely to have a significant adverse impact or be a cause of significant public concern, in accordance with ss.128(4) of the *MVRMA*;
- report to the designated regulatory agency in accordance with ss.128(2) of the *MVRMA*; and
- report to the Federal Minister in accordance with ss.128(2) of the *MVRMA*.

The Review Board's Environmental Assessment Officer is the primary contact for the developer, government bodies (federal, territorial and municipal), non-government organizations (NGOs), Aboriginal organizations, expert advisors (expert consultants contracted directly by the Review Board), the public and other interested parties. This does not limit or preclude the developer's contact with other parties during the EA process.

For this EA will be coordinated and facilitated by Sherry Sian.

Government Bodies

Government bodies may be involved in the EA process as:

- a Regulatory Authority as defined in the *MVRMA*;
- a Responsible Minister as defined in the *MVRMA*;
- a Federal Minister as defined in the *MVRMA*;
- a Designated Regulatory Agency (DRA) as defined in the *MVRMA*;
- advisors to the Review Board; or

-
- multiple roles simultaneously.

Developer

The developer is expected to respond in a suitable and timely manner to directions and requests issued by the Review Board. The developer may present additional information at any time to the Review Board beyond what was requested during the EA process. The Review Board encourages the developer to continue consulting all potentially affected communities and organizations during the EA process.

Other Parties

In addition to the advisors available within government, the Review Board may choose to hire experts to provide technical expertise on specific aspects of the EA.

Aboriginal organizations, NGOs, the public and other interested parties may provide the Review Board with information relevant to the EA of their own volition, or they may be asked by the Review Board to provide any relevant information they may have.

6 EA PROCESS

This section summarizes the phases in the EA process to be used for this particular EA. The actual process may deviate from this intended process as there may need to be some allowance for process modifications based upon events that occur during the EA.

Given the public concern over cumulative effects from many proposed developments in the Drybones Bay/Wool Bay area, the Review Board will undertake a regional analysis of cumulative effects in the bay. This evaluation will coincide with the EA process.

Milestones and Responsibilities

Having considered the information available regarding this development, the Review Board has established milestones and responsibilities for this EA process. These milestones and responsibility assignments are outlined in Table 1.

Table 1 - Milestones and Responsibility Assignments for Phases in the EA Process

Milestone	Developer	Government Bodies	Other Parties	Review Board and Staff
Initiate the EA process				✓
Prepare draft Terms of Reference (ToR) and Work Plan (WP)				✓
Review and comment on draft ToR and WP	✓	✓	✓	
Revise and approve final ToR and WP				✓
Submit Developer's Assessment Report	✓			
Report of Cumulative Effects Assessment of Drybones Bay/Wool Bay Area	✓	✓	✓	✓
Participant Comments	✓	✓	✓	✓
Public Hearing on Cumulative Effects	✓	✓	✓	✓
Review Board Report of EA and Reasons for Decision				✓
Response from the Minister of Indian Affairs and Northern Development, if required		✓		
Consultation - throughout / as required	✓	✓	✓	✓

Initiate the EA

The Review Board has initiated the notification measures required by the *MVRMA*. The Review Board has opened the Public Registry on the EA. The Public Registry will be updated regularly.

Deliverable: Public Registry, public notification, government notification, developer notification, expert advisor identification, identification of EA roles.

Terms of Reference and Work Plan

This Draft Terms of Reference and Work Plan for the EA was completed by the Review Board based on development information received from the developer. This document contains the scope

of the Development, the scope of the assessment, directions to the developer, a description of the EA process and an EA schedule.

Deliverable: An approved Terms of Reference and Work Plan.

Developer's Assessment Report (DAR) and Cumulative Effects Assessment Report

The developer will use the final terms of reference to guide the preparation of its DAR. Although the format of the DAR is largely left to the discretion of the developer, the developer should consider the use of appendices for providing some information, the use of a glossary for technical or uncommon terms and the clarity and accuracy of the information presented in the DAR. Diagram charts and maps should be used to clarify information presented in text.

The Review Board will review the DAR to ensure it contains sufficient information for the assessment. If the submission is insufficient (i.e., fails to explicitly address the Terms of Reference sufficient for proper analysis), it will be returned to the developer to provide additional information for re-submission. Dialogue between the developer and all parties is encouraged while preparing the DAR to ensure key concerns are addressed. Discussions should be documented in the DAR as part of the consultation.

The final version of the cumulative effects assessment of the Drybones Bay/Wool Bay area will be made available August 20, 2003. This report will be distributed to all parties upon receipt.

Deliverable: Developer's Assessment Report and Cumulative Effects Assessment for the Drybones Bay area.

Participant Comments

The Review Board staff will analyze the DAR and Cumulative effects study with the assistance of federal and territorial governments, Aboriginal organizations, the public and other interested parties. The Review Board requires a thorough analysis to make the best EA decisions. This critical stage in the EA process is when the key issues and impacts are identified and evaluated. For this reason, two rounds of participant comments will be invited. The first round will focus on the DAR and the second round will focus on the Cumulative effects study.

The developer can provide and present its views on the information provided to the Review Board, including any proposed amendments, additions or refinements to the Development or the DAR.

Deliverable: **Comments** from EA parties that clearly state the reviewer's conclusions, recommendations and supporting rationales.

Hearings

The Review Board will hold a public hearing on the potential cumulative effects of this and other developments in the Drybones Bay/Wool Bay area. Presentations of the cumulative effects assessment commissioned by the Review Board will be made. All other parties to the EA will also have the opportunity to make presentations and to question other parties to the EA. The Review Board reserves the right to expand the scope of the hearing to address direct or indirect impacts highlighted by discussions of the parties.

Deliverable: Presentations from EA parties that clearly state the reviewer's conclusions, recommendations and supporting rationales regarding cumulative effects.

EA Decision

The Review Board will provide the Minister of Indian and Northern Affairs Canada (INAC) and the designated regulatory authority (the MVLWB) with its Report of Environmental Assessment as per Section 128(2) of the MVRMA. The Minister of INAC will distribute the report to every responsible minister as per 128(2)(a) of the MVRMA. The developer and the other EA parties will also receive copies of the Review Board's Report of EA.

Deliverable: The Review Board's Report of Environmental Assessment.

EA Work Plan Schedule

Table 2 provides an estimated timeline for completing each milestone in the EA process. The Review Board may amend the schedule at its discretion. The development was initially referred to the Review Board on April 12th, 2002. ("Days" below refer to **working** days.)

Some steps in the EA process require approval by the Review Board, such as the release of the Final Terms of Reference and Work Plan. The factors affecting the timeliness of decisions are the efficiency with which background documents are received from all parties as well as the meeting schedule of the Review Board. The Review Board requires sufficient lead time to review, analyze, and render decisions. The parts of the EA process that require Board decisions (noted in Table 2) may vary in response to the factors noted. The efficiency of decisions may also vary.

Table 2 - Milestone Completion Timetable

MILESTONE	DATE
EA initiated, Draft Terms of Reference and Work Plan issued two days after receipt of Review Board's Cumulative Effects Assessment for the Drybones Bay Area	June 20, 2003
Deadline for comments on draft Terms of Reference and Work Plan	5 days
Review and incorporate comments	3 days
Approval and release of Final Terms of Reference and Work Plan by the Review Board*	8 days
NSV submits Developer's Assessment Report (DAR)	10 days
Participant comments	10 days
Receipt of Cumulative Effects Assessment	August 20, 2003
Participant comments	10 days
Preparation and Conduct of Public Hearing	11 days
Closure of Public Registry	5 days
Review Board EA decision*	20 days
Review Board's Report of EA to the Minister of INAC and any designated regulatory agency	5 days
Federal Minister's response to Review Board's Report of EA (if required)	-
Consultation – throughout / as required	-

APPENDIX
Review Board Legal Context for Environmental Assessment

The Review Board, in exercising its authority is guided by the following legal principles and by definitions, purposes and factors found in the MVRMA. This context provides the developer, RA's, the DRA (NEB) as required, federal and territorial governments, First Nations, expert advisors, and other affected or interested parties the framework within which the EA will be conducted. (Note: The NEB will undertake its responsibilities for the environmental assessment as described in the Work Plan and in accordance with the CEEA.)

Legal Principles

The Review Board is governed by the rules of natural justice and procedural fairness. This essentially means that fair play is required when exercising decision making functions. Three of the basic elements are:

- (i) The right to be heard - means providing fair opportunity for parties to prepare and state their case, and to correct or contradict relevant statements prejudicial to their position;
- (ii) The rule against bias - is a rule against prejudging a case; addressing not only actual bias but also any reasonable apprehension of bias; and,
- (iii) Fettering of discretion - means the Review Board is governed by the common law principle which requires that she/he who hears must decide. This means that the Board members who hear or review the evidence in an EA must be the decision makers. Members who did not participate can play no role in the decision. The law also requires that the Board and its members must be free to exercise their full authorities under the statute. The Board must decide each case on its own merits.

Definitions

The context within which the Review Board conducts an EA is based on following definitions and indicated sections from the MVRMA.

Development - means any undertaking, or any part of an undertaking, that is carried out on land or water and, except where the context otherwise indicates, wholly within the Mackenzie Valley, and includes measures carried out by a department or agency of government leading to the establishment of a national park subject to the National Parks Act and an acquisition of lands pursuant to the Historic Sites and Monuments Act.

Environment - means the components of the Earth and includes

- a) Land, water and air, including all layers of the atmosphere;
- b) All organic and inorganic matter and living organisms; and
- c) The interacting natural systems that include components referred to in paragraphs (a) and (b).

Follow-up program - means a program for evaluating

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- the soundness of an environmental assessment or environmental impact review of a proposal for a development; and
 - the effectiveness of the mitigative or remedial measures imposed as conditions of approval of the proposal.

Harvesting - in relation to wildlife, means hunting, trapping or fishing activities carried on in conformity with a land claim agreement or, in respect of persons and places not subject to a land claim agreement, carried on pursuant to aboriginal or treaty rights.

Heritage resources - means archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records.

Impact on the environment - means any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.

Mitigative or remedial measure - means a measure for the control, reduction or elimination of an adverse impact of a development on the environment, including a restorative measure.

Scope of the assessment - the components of the environment that will be evaluated for impacts from the proposed development.

Scope of the development - a description of the development and associated parts as determined by the Review Board.

s.114 The purpose of this Part is to establish a process comprising a preliminary screening, an environmental assessment and an environmental impact review in relation to proposals for developments, and

- to establish the Review Board as the main instrument in the Mackenzie Valley for the environmental assessment and environmental impact review of developments;
- to ensure that the impact on the environment of proposed developments receives careful consideration before actions are taken in connection with them; and
- to ensure that the concerns of aboriginal people and the general public are taken into account in that process.

s.115 The process established by this Part shall be carried out in a timely and expeditious manner and shall have regard to

- the protection of the environment from the significant adverse impacts of proposed developments; and
- the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley.

ss.117(1) Every environmental assessment of a proposal for a development shall include a determination by the Review Board of the scope of the development, subject to any guidelines made under section 120.

ss.117(2) Every environmental assessment and environmental impact review of a proposal for a development shall include a consideration of:

- The impact of the development on the environment, including the impact of malfunctions or accidents that may occur in connection with the development and any cumulative impact that is likely to result from the development in combination with other developments;
- The significance of any such impact;
- Any comments submitted by members of the public in accordance with the regulations or the rules of practice and procedure of the Review Board;
- Where the development is likely to have a significant adverse impact on the environment, the imposition of mitigative or remedial measures; and
- Any other matter, such as the need for the development and any available alternatives to it, that the Review Board or any responsible minister, after consulting with the Review Board, determines to be relevant.