Mackenzie Valley Environmental Impact Review Board

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From:	Sherry Sian	Fax:	867-766-7074
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Date:	November 17, 2003	Pages:	12 including this page
To:	Consolidated Goldwin Ventures North American General Resources Corp. New Shoshoni Ventures Snowfield Development Corporation	Fax:	
		CC:	MVLWB
Subject:	Information Regarding Heritage Protection (EA-03-002, EA-03-003, EA-03-004, EA-03-006)		

NOTES:

Please see attachment for a written submission from the Prince of Wales Northern Heritage Centre regarding available mechanisms for heritage resource protection.

Sherry

Sherry Sian

From: Tom Andrews [tandrews@ece.learnnet.nt.ca]
Sent: Friday, November 14, 2003 4:29 PM
To: Sherry Sian
Subject: PDF version

Sian.14.11.03.pdf (20 KB) Draft Drybones Response.pdf (4...

Sherry:

In case it saves you some work, I've attached a PDF version of the letter and submission forwarded earlier today by Chuck Arnold.

All the best
Tom

Tom Andrews
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Northwest Territories Education, Culture and Employment

November 14th, 2003

Ms. Sherry Sian
Environmental Assessment Officer
MVEIRB
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By Email: ssian@mveirb.nt.ca

Re: Response to the MVEIRB regarding questions arising from the management of archaeological resources in the Drybones and Wool Bay areas.

Please find attached our response to the Review Board's three questions with respect to archaeological resources in the Drybones and Wool Bay region.

We trust that this document will clarify all concerns raised by the Review Board. Though we will not be making a formal presentation during the forthcoming hearings (November 25th and 26th) we will be on hand to answer any further questions the Review Board may have.

Regards,

Charles Arnold, PhD.
Director,
Culture, Heritage and Languages

Prince of Wales Northern Heritage Centre

c. Gavin More, RWED
Tom Andrews, PWNHC

Prince of Wales Northern Heritage Centre
Culture, Heritage and Languages Division

November 14th, 2003

Response to the Mackenzie Valley Environmental Impact Review Board regarding questions arising from the management of Archaeological Resources in the Drybones Bay and Wool Bay areas with respect to Environmental Assessment of Consolidated Goldwin Ventures, New Shoshoni Ventures, and North American Resources Corporation.

Background:

The Prince of Wales Northern Heritage Centre, a Division of the Department of Education, Culture and Employment, GNWT, is responsible for managing the public's interest in the protection of archaeological resources in the NWT.

Archaeological sites in the NWT represent a continuous human occupation stretching back over 7000 years. Archaeological sites are fragile and non-renewable and are protected from disturbance by legislation, regulation, and policy. Although archaeological sites are of cultural origin they are regarded as a valued environmental component in environmental assessment.

The region surrounding Yellowknife, part of the Canadian Shield and covered by Boreal forest, is characterized by acidic and poorly developed soils, which provides for poor preservation of organic remains in archaeological sites. Cultural objects made from bone, wood, hide, or other organics rarely last longer than a century, leaving often just the remains of stone tools, or a ring of stones used to surround a hearth or dwelling to characterize the archaeology of the region. More recent remains, especially those dating from the last century, are often better preserved and help us interpret the more distant past. Similarly, knowledge of traditional land use held by Aboriginal elders can be an invaluable source of information about archaeological site location and interpretation.

Due to similarities in mobility, land use patterns, and subsistence techniques among the various Aboriginal cultures using the region, broad overlap in tools and raw materials, and poor artifact preservation conditions, it is rarely possible to assign ethnic identity to archaeological sites or their contents. Consequently, archaeologists use survey methods that are designed to ensure that all ages and types of archaeological sites are recorded.

The Prince of Wales Northern Heritage Centre maintains a database of known archaeological sites in the NWT. We currently estimate that less than 1 % of extant archaeological sites have been recorded and consequently we rely heavily on local knowledge of land use in areas where archaeological research is lacking. Where suspected archaeological resources may be threatened by development, the GNWT has

operated under a long-standing policy that it is the proponents' responsibility to fund and undertake any required archaeological assessment. We are confident that all permitted archaeological research in the NWT conforms to the highest standard. Whether undertaken as a result of a development project, led by a local Aboriginal group, or undertaken by a university team, such research is guided by the terms and conditions of the NWT Archaeological Sites Regulations, which requires conformity with stringent research and reporting standards. Given the current situation, the Yellowknives Dene First Nation (YKDFN) are to be commended for taking a leading role with respect to archaeological research in the area.

In preparing this document we have reviewed the available information on archaeological sites and research relevant to the area. This included a draft report of archaeological research undertaken this past summer under NWT Archaeologists Permit 2003-927 held by Mr. Callum Thomson (Thomson Heritage Consultants). Mr. Thomson, under contract to the Yellowknives Dene First Nation, undertook the first systematic archaeological survey of the area. The YKDFN has requested that we maintain confidentiality of the report, a request we will respect, and our comments below have therefore been constructed to protect the location of the new archaeological sites identified in Mr. Thomson's report. Mr. Thomson's permit was issued under the authority of the NWT Archaeological Site Regulations which requires him to submit, without restrictions, a full and detailed report of his research findings by March 31st, 2004. This final report will become part of the public record and will be archived at the Prince of Wales Northern Heritage Centre. However, by authority of s.19 of the *Access to Information and Protection of Privacy Act* (1994) we routinely restrict widespread public access to detailed archaeological information in order to protect the sites. Typically we release selected site information only to valid archaeological researchers or to land management authorities or developers in the interest of protecting sites from land use impacts.

Questions Posed by the Mackenzie Valley Environmental Impact Review Board:

The Mackenzie Valley Environmental Impact Review Board (hereinafter, the "Review Board") has posed three questions with respect to archaeological site protection. In answering these questions we will focus specifically on the Drybones/Wool Bay region. From time to time we may refer to this area simply as the 'region'.

<u>Question One</u>: What are the legal requisites for the protection/conservation of archaeological/heritage sites?

With respect to the Drybones/Wool Bay region, four legislative instruments apply in the protection of archaeological sites:

i) Under the federal NWT Archaeological Sites Regulations (*NWT Act*):

- "Archaeological site" means a site where an archaeological artifact is found.

- "Archaeological artifact" means any tangible evidence of human activity that is more than 50 years old, in respect of which an unbroken chain of possession cannot be demonstrated.

- Sections 4 and 5 of the regulations protect archaeological sites by making it illegal to search for, excavate, or otherwise disturb archaeological artifacts or sites without holding a valid NWT Archaeologists Permit.

- Responsibility for the issuance of permits is assigned to the Territorial minister responsible for heritage by virtue of s.6 of the regulations.

- Section 13 makes the Prince of Wales Northern Heritage Centre the sole legal repository for NWT archeological artifacts.

ii) The federal *Mackenzie Valley Resource Management Act* defines "heritage resources" as "archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records." Under Part 5 of the Act, an "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.

iii) Under the Mackenzie Valley Land Use Regulations (*Mackenzie Valley Resource Management Act*) two sections address archaeological site protection:

- Section 6 (a). Unless expressly authorized by a permit or in writing by an inspector, no permittee shall conduct a land use operation within 30 m of a known monument or a known or suspected historical, archaeological site or burial ground.

- Section 12. Where, in the course of a land-use operation, a suspected historical or archaeological site or burial ground is discovered,
  (a) the permittee shall immediately suspend operations on the site or burial ground and notify the Board or an inspector; and
  (b) the Board or inspector shall notify any affected First Nation and the department of the Government of the Northwest Territories responsible therefore of the location of the site or burial ground and consult them regarding the nature of the materials, structures or artifacts and any further actions to be taken.

iv) Under authority of s.19 of the *Access to Information and Protection of Privacy Act* (Territorial 1994) information about the location of archaeological sites may be restricted:

- The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to result in damage to or interfere with the conservation of
  (b) sites having an anthropological or heritage value or aboriginal cultural

significance.

In other parts of the NWT other legislative instruments, in addition to those listed above, serve to protect archaeological sites. For information purposes, the salient points of all legislation or regulation related to archaeological site protection are summarized in the attached document entitled "Summary of Legislation Protecting Archaeological Resources in the Northwest Territories."

Question Two: What is the perceived completeness of the archaeological surveys to date?

There have been only three recorded archaeological investigations in the region. In 1969 archaeologist Dale Perry undertook test excavations at Old Fort Providence, a North West Company post located near Wool Bay (Perry and Clark 1971). Those excavations were restricted to a single site. In 1992, Prince of Wales Northern Heritage Centre archaeologist Tom Andrews visited Drybones Bay in the company of Mr. Joe Tobie from Dettah, and an INAC land inspector, to inspect a proposed gravel quarry. During the two-hour helicopter overflight, Mr. Tobie pointed out three archaeological sites on Drybones Bay (KaPf-1, 2, 3), another at Jackfish Cove (KbPf-1), and a fifth near Devil's Channel (KaPe-1) (Andrews 1992). No other locations were visited or inspected during this trip. In 2003, under contract to the Yellowknives Dene First Nation, Callum Thomson completed a more extensive archaeological survey of the area, recording another 64 sites, for a total of 70 recorded sites in the region. According to Mr. Thomson's report, the archaeological survey of 2003 was restricted to areas reachable by boat, as directed by the elders of the Yellowknife Dene First Nation. Therefore, significant segments of the development area were not inspected for the presence of archaeological resources.

Based on the distribution of known archaeological sites and the extent of traditional land use in the region the potential for encountering additional archaeological sites is high.

Question Three: What is the effectiveness of the proposed mitigation?

In standard cultural resource management practices a variety of techniques are used to eliminate or minimize impact to archaeological sites. These range in scale from avoidance of the site entirely to complete and systematic excavation and recovery of all materials. Depending on the significance of the site, which is based on scientific and cultural evaluations, appropriate mitigative techniques are recommended. Mr. Thomson's report provides a mitigative recommendation for 69 of the 70 archaeological sites recorded to date in the area. After careful examination of Mr. Thomson's report we concur with his recommendations.

However, we cannot guarantee that other archaeological sites, as yet unrecorded, will not be impacted because archaeological research is incomplete for the Drybones/Wool Bay region. Furthermore, some of Mr. Thomson's recommendations require further

archaeological research and documentation of existing sites. As this will be largely impossible during the coming winter, additional mitigative steps are necessary.

If the Review Board recommends that the proposed developments be permitted to proceed we recommend that the following steps be taken to ensure that impacts to archaeological and other cultural sites be minimized. Please note that we have no concern with development activities that occur exclusively on lake ice, as long as the 30 metre protection buffer is maintained. Therefore, the recommendations outlined below apply only to the land-based portions of the projects under review.

General Recommendations:

1) Developers be provided with precise locations and extent of recorded archaeological sites within their development area and directed to remain a minimum of 30 metres from the borders of the recorded sites.
2) The Review Board impose a buffer zone of 100 metres around cultural and sacred sites not regarded as archaeological sites but which are identified by Aboriginal groups.
3) All proponents be required to submit for approval, detailed project maps (minimum 1:50,000 scale) showing the location of all drill sites, access routes, and support areas, and clearly indicate avoidance of all known archaeological sites.
4) Developers retain the services of local environmental monitors representing the Aboriginal groups to be on-site during all development activities to ensure that archaeological, cultural, and sacred sites are avoided and that buffers are observed.
5) The proponents be restricted to operating on snow pack or lake ice to ensure that direct impact to sites is minimized or eliminated.
6) The Review Board direct the proponents to conduct a follow-up effects monitoring program to ensure effectiveness of all mitigative measures required by the Review Board to protect archaeological sites.
7) Before future exploration or development is contemplated in the region a detailed archaeological impact assessment must be undertaken. Typically impact assessments of this type are conducted at the expense of the proponent, under appropriate authorization. We recommend that the affected Aboriginal organizations be invited to participate in this work as well. Depending on development plans it would be feasible for developers to incorporate this work with the follow-up effects monitoring program.

Specific Recommendations:

Consolidated GoldWin Ventures:

No further recommendations beyond the general recommendations stated above.

North American General Resources:

From available project maps we note that three drill sites have been identified on lake ice surrounding a small island near Wool Bay. In addition to the general recommendations we further recommend that no use of the small island be permitted.

New Shoshoni Ventures:

From available project maps we note ten drill sites. The general recommendations apply to all ten sites. However, three of these (located along the east shore of Drybones Bay) have tremendous potential for impacting nearby archaeological sites, and must be carefully placed to observe the required 30 metre buffer. We recommend that the location of these drill sites be moved out onto the lake ice. If this is impossible then we recommend that the drill locations be checked in the field by the recording archaeologist (Mr. Callum Thomson) to ensure that they are not impacting known archaeological sites, before drilling actually proceeds.

References:

Andrews, Thomas D.
1992 Archaeological Assessments 1992. NWT Permit 92-726. Report on file, Prince of Wales Northern Heritage Centre, Yellowknife.

Perry, B. Dale and W. Dean Clark
1971 Fort Providence, NWT: A Preliminary Report of Excavations carried out July 1969. The Musk-Ox 8:1-13.

Thomson, Callum
In prep Draft Archaeological Assessment of Mineral Exploration and Aggregate Extraction in the Vicinity of Drybones Bay and Wool Bay, Great Slave Lake, NT. (Access to this document provided in confidence by the Yellowknives Dene First Nation.)

SUMMARY OF LEGISLATION PROTECTING ARCHAEOLOGICAL RESOURCES IN THE NORTHWEST TERRITORIES

The **Northwest Territories Archaeological Sites Regulations,** pursuant to the *Northwest Territories Act* apply throughout the Territories and state:

4. No person shall search for archaeological sites or archaeological artifacts, or survey an archaeological site, without a Class 1 or Class 2 permit.
5. No person shall excavate, alter or otherwise disturb an archaeological site, or remove an archaeological artifact from an archaeological site without a Class 2 permit.

Under the *Mackenzie Valley Resource Management Act* "heritage resources" are defined as archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records. Furthermore under Part 5 of the Act, an "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.

The **Mackenzie Valley Land Use Regulations** (MVLUR) stem from the *Mackenzie Valley Resource Management Act*, and apply throughout the NWT, except in the Inuvialuit Settlement Region. Two sections of the MVLUR are relevant to archaeological sites:

6 (a). Unless expressly authorized by a permit or in writing by an inspector, no permittee shall conduct a land use operation within 30 m of a known monument or a known or suspected historical, archaeological site or burial ground; and

12. Where, in the course of a land-use operation, a suspected historical or archaeological site or burial ground is discovered,
(a) the permittee shall immediately suspend operations on the site or burial ground and notify the Board or an inspector; and
(b) the Board or inspector shall notify any affected First Nation and the department of the Government of the Northwest Territories responsible therefor of the location of the site or burial ground and consult them regarding the nature of the materials, structures or artifacts and any further actions to be taken.

Within the Inuvialuit Settlement Region the **Territorial Land Use Regulations**, pursuant to the *Territorial Lands Act* apply to federal crown land. Again, two sections are relevant to archaeological sites:

10 (a). No permittee shall, unless expressly authorized in his permit or expressly authorized in writing by an inspector conduct a land use operation within 30 metres of a known monument or a known or suspected archaeological site or burial ground; and

16. Where, in the course of a land use operation, a suspected archaeological site or burial ground is unearthed or otherwise discovered, the permittee shall immediately
(a) suspend the land use operation on the site; and
(b) notify the engineer or an inspector of the location of the site and the nature of any unearthed materials, structures or artifacts.

On Inuvialuit private lands the **Inuvialuit Lands Administration Rules and Procedures** apply. One section is relevant to the protection of archaeological sites:
19(9) Where in the course of an operation, a suspected archaeological site or burial ground is unearthed or otherwise discovered, the Holder shall immediately:
(a) suspend the operation on the site; and
(b) notify the Administrator or an Inspector of the location of the site and the nature of any unearthed materials, structures or artifacts.

Development activities near archaeological sites are also regulated by the **Canada Oil and Gas Geophysical Operations Regulations** of the *Canada Oil and Gas Operations Act*. These apply on Crown and private land, including those in settled claim areas, in the NWT and Nunavut:

27. (1) Where an archaeological site or a burial ground is discovered during an onshore geophysical operation, the operator shall so inform a conservation officer and suspend the operation in the immediate area of the discovery until permitted by the conservation officer to resume the operation in that area.

(2) A conservation officer shall permit the resumption of a geophysical operation that was suspended under subsection (1) if the conservation officer, after consultation with the Minister of Communications, is satisfied that the operation will not disturb the archaeological site or the burial ground and will not affect the archaeological or other special characteristics or the nature of the site or ground.

The ***Historical Resources Act*** (Territorial) pertains to Commissioner's Land. Protection of sites in these areas is afforded by:

9(1). Whenever, in the opinion of the Commissioner, any prehistoric or historic remains, whether or not designated as an historic place under this ordinance or under the Historic Sites and Monuments Act of Canada is threatened with destruction by reason of commercial, industrial, mining, mineral exploration or other activity, the Commissioner may order the persons undertaking the activity to provide for adequate investigation, recording and salvage of prehistoric or historic objects threatened with destruction.

Through the ***Access to Information and Protection of Privacy Act*** (Territorial 1994) the location of archaeological and cultural sites can be protected by not permitting their locations to be made public. Section 19 of the Act states:

19. The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to result in damage to or interfere with the conservation of

(a) fossil sites or natural sites;

(b) sites having an anthropological or heritage value or aboriginal cultural significance; or

(c) any rare, endangered, threatened or vulnerable form of life.