



July 29, 2005

By e-mail only to: [pduxbury@mveirb.nt.ca](mailto:pduxbury@mveirb.nt.ca)

Mackenzie Valley Environmental Impact Review Board  
Box 938  
2<sup>nd</sup> Floor – 5102 - 50th Avenue  
Yellowknife, NT  
X1A 2N7

Attention: Mr. Patrick Duxbury, Environmental Assessment Officer;

**Re: DRAFT Terms of Reference and Work Plan for the Environmental Assessment of Tyhee NWT Corp's Yellowknife Gold Project July 19<sup>th</sup>, 2005**

This further acknowledges receipt of the above captioned document and Tyhee NWT Corp is pleased to provide our comments to the Mackenzie Valley Environmental Impact Review Board (MVEIRB) as requested in your letter dated July 19, 2005.

Our comments are covered under two sections, General Comments and Specific Comments. To assist the MVEIRB in its review of comments, we attach a copy of the Draft Terms of Reference using 'Track Changes', which supports the cover letter and includes suggested wording and grammatical changes.

**General Comments:**

1. Reference within the Draft Terms of Reference (ToR) is made several time to the involvement of the Dogrib communities in the consultation. During Tyhee's consultation with the Dogrib Treaty 11 they have indicated that they want to be kept informed but because the development is not in their traditional area they do not wish to be directly consulted during the process This information was provided to Elizabeth Lee, EBA working on behalf of Tyhee, by Joline Husky, in a telephone conversation on November 2, 2004. Based on these discussions, we suggest the scope of assessment be revised accordingly, and we have indicated this in the attached "Draft Terms of Reference".
2. Tyhee appreciates the Boards' inclusion of an "EA Schedule" as we feel this will focus all participants in the review, however; Tyhee would hope that should the DAR be submitted prior to the Boards' January 3, 2006 date, that the sequence of following milestones would take into consideration the earlier

- submission date of the DAR and be adjusted accordingly. Are the days allocated in the Duration column calendar days or work days?
3. To expedite the overall efficiency of the review of the Yellowknife Gold Project, Tyhee NWT Corp would solicit the Boards' support in officially requesting that the Mackenzie Valley Land and Water Board (MVLWB) hold their technical hearings (for the water license and land use permit) concurrent with the Environmental assessment public hearings. This will streamline the overall permitting process. The precedent for this has already been set for the Mackenzie Valley Gas Project and we recommend it be followed for the Yellowknife Gold Project as well.
  4. Throughout the Draft Terms of Reference document the word 'impact' is confused with the word 'effect'. Tyhee NWT Corp uses the word 'impact' to refer to a 'negative effect' and 'effect' to refer to a change that could be 'positive or negative'. Tyhee NWT Corp would suggest that the document should use the word 'effect' rather than 'impact' until the actual change has been quantified in the DAR. The attached track changed version reflects this.

### **Specific Comments:**

The following are specific comments on the Draft Terms of Reference.

1. **Page 11 Section E – Alternatives, Preamble**  
The sentence “ *Where uncertainty exists about the merits of competing alternatives, a full assessment of the potential impacts on the environment of each alternative will be included in this section.*” should be deleted. The analysis of alternatives will be done so there is no uncertainty.
2. **Page 11 Section F – Public Consultation, Item II**  
Tyhee NWT Corp will not be using ad hoc 'Advisory Committees' as a form of public consultation and reference to these should be removed from the Terms of Reference document.
3. **Page 14 Direct Employment, Item II**  
This item should be deleted from the Terms of Reference. Tyhee NWT Corp will be using all available government and private institutions to recruit labour and the assessment is not necessary.
4. **Page 15 Direct Employment, Item III**  
Delete the last sentence. Tyhee NWT Corp has always stated that their first choice is to hire 'Locally' it is not appropriate at this time to consider 'percentage goals' as this will detract from the premise that hiring priority will be locally.
5. **Page 15 Business Development, Item I**  
This item should be deleted as it does not relate to Business Development. Tyhee NWT Corp can not list all contract and subcontracting labour requirements for the development at this time. Also, the wording here is confusing as it refers to labour not Business Development.

6. **Page 15 Business Development, Item III**  
This item should be removed from Business Development, as it is covered in the section on ‘Direct Employment’.
7. **Page 15 Distribution of Positive and Negative Impacts**  
Although Tyhee NWT Corp will attempt to comply with this section, it appears extremely detailed for a project the size of the Yellowknife Gold Project and we suggest the scale of analysis reflect the scope of the Yellowknife Gold Project.
8. **Page 18 H-4 Traditional and Contemporary Land Use and Wildlife Harvesting**  
Tyhee NWT Corp suggests that Item I and IV be deleted in this section as we feel these will be covered in Section C-IX. It is suggested that this section focus on discussing wildlife harvesting.
9. **Page 19 H-7 - Human Environment Monitoring**  
Tyhee NWT Corp recommends that this section be deleted from the Terms of Reference as it is the responsibility of the GNWT not the proponent. As clarification, Tyhee NWT Corp expects to meet with affected communities related to the operation of the YGP, to discuss how adverse impacts may be minimized and how positive benefits may flow to such communities, it is not presently contemplated that formal agreements will necessarily be concluded because of the small size of the project. Tyhee feels that through a good working relationship with all stakeholders that the benefits of the development can be reasonably enjoyed by all.
10. **Page 20 I-1 Water Resources, Preamble**  
The sentence “*However, it is the Review Board’s task to assess the YGP’s potential impact to water quality, regardless of any applicable regulatory legislation, as significant adverse impacts to water may still occur despite the observance of the MMER or other relevant legislation.*” should be deleted from the Terms of Reference. This appears to be a directive to the Board, not the proponent. Also, Tyhee NWT Corp feels it is not the function of the proponent to identify things that are not regulated or covered in legislation. If there were specific items identified in the scoping session that were in this category they would be identified here. If they were not identified at the scoping sessions then Tyhee assumes that they are not a concern.
11. **Page 21 I-1 Water Resources, Item II**  
This item should be deleted, refer to # 10 above.
12. **Page 21 I-1 Water Resources, Item IV f.**  
This item should be deleted, refer to #10 above.
13. **Page 22 I-1 Water resources, Item V, Vi and VII**  
This items should be deleted as it is covered in Item II b.
14. **Page 25 I-2 Aquatic Resources, Item VIII**  
This item should be deleted as it is not relevant to this development and not a valid pathway.
15. **Page 25 I-2 Aquatic Resources, Item XI**  
This item should be deleted as it is covered in I-1 Water Resources under the EEM Plan.

16. **Page 26 I-5 Terrain, Item VI**  
All reference to 'Monitoring Plans' in this item should be changed to 'Management Plans'
17. **Page 27 I-6 Air Quality and Climate, Item III c.**  
The reference to the 'smelter' should be changed to 'Gold Refinery'.
18. **Page 27 I-6 Air Quality and Climate, Item VI**  
This item should be deleted as Tyhee NWT has made the commitment that they will comply with all regulations.
19. **Page 26 I-7 Environmental Agreements**  
The requirement to enter into an Environmental Agreement first appeared as a result of the EARP Panel's EA of the BHP Billiton Diamond Project, which resulted in recommendations to the Minister that were so extensive that they exceeded what could properly be included in the usual suite of regulatory instruments. As a result, in accepting the whole of the recommendations made by the Panel, the Minister provided interim approval in principle, pending the completion of an Environmental Agreement with the federal government (which grew to include the GNWT) in consultation with first nations, the completion of a Socio-Economic Agreement with the GNWT and significant progress in respect of Impact Benefit Agreements with first nations, all within a prescribed period of time. That model has been subsequently followed with other large diamond projects.

The center piece of all of the Environmental Agreements, is the requirement that there be established at the cost of the mining company, in each case, a body to independently monitor the environmental performance of the mining company as well as government's regulation and enforcement. The cost of such a body runs some where near \$500,000 a year for each monitoring agency, a cost that will adversely affect project economics.

To the best of our knowledge, the above model of regulation has been limited to significant diamond projects and has never been applied to gold projects, let alone small gold projects like ours. Because of the size of Tyhee's YGP and because gold projects fall within the ambit of the Metal Mining Effluent Regulations (which do not apply to diamond mines), it is Tyhee's position that the requirement of an Environmental Agreement, with the attendant monitoring agency, and as mentioned above, a cost that will adversely affect project economics. As well, an Environmental Agreement would, in the absence of a monitoring agency, amount to a duplication of the regulatory scheme already inherent in the Metal Mining Effluent Regulations, with its' monitoring requirements. Nor is there any logic to an Environmental Agreement that would conflict with those Regulations, as any conflict between the requirements of an Agreement and Regulations must be resolved in favor of the Regulations.

Tyhee NWT Corp appreciated the opportunity to provide comments on the Draft Terms of Reference and respectfully solicit the Board's support in incorporating our comments into the Final Terms of Reference.

If you have any questions in this matter, please contact me on cell (780) 975-2550.

Yours truly,

*Original signed by H.R. Wilson*

Hugh R. Wilson  
Vice President–Environment and Community Affairs

Attach: Draft Terms of Reference with Tyhee NWT Corp comments.