



# Encore Renaissance Resources Corp. EA 0506-005

## Community Hearing Presentation

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Akaitcho IMA Office - NWT Treaty #8 Tribal Corporation  
Sept. 12<sup>th</sup>, 2011

## - Purpose of Presentation -

To address the Minister's April 13, 2010 letter to the Review Board asking for reconsideration of the Measures outlined in the Report of Environmental Assessment for EA0506-005.

To provide rationales supporting the bulk of the substantive elements of the Measures as they currently read.



## Measure #1

- The Minister is requesting terminology clarifications for this Measure, not any substantive changes to intent.

For this Measure, the T8TC does not have any objection to the Minister's requested reconsideration, provided that it remains clear that YKDFN participation is mandatory.

## Measure #2

- The Minister finds this Measure acceptable.

The T8TC agrees.



## Measures #3 and #4

- Let's break down the Minister's comments into some "bite-size" chunks....
- The Minister says:  
  
"Plan of Action"...considered excessive for a proposed small-scale exploration project.

## Measures #3 and #4

- However, the Minister fails to consider the recent history of the Drybones Bay area:
  - It is an area under considerable pressure from mineral exploration interests. Four EAs have already been concluded in the area (Snowfield, North American General Resources, New Shoshoni Ventures, Consolidated Goldwin Ventures), one of which resulted in the Minister's rejection of the project .
  - Three other EAs are underway or pending (Encore Renaissance Resources, Sidon International Resources, and Alex Degoborski).



## Measures #3 and #4

- This is not about a “small-scale project” – it is about the cumulative impacts of a host of projects across a limited landscape, where mineral exploration activities have already directly resulted in real significant negative impacts (e.g. graveyard fire, sunken tanker, decreased traditional use).

## Measures #3 and #4

- The Minister says:

“The Responsible Ministers intend to proceed with a planning exercise for the Drybones Bay area...”



## Measures #3 and #4

- In the EAs from 2003, and in recognition of the cumulative effects of the mineral interests in the area, the Review Board contemplated the need for a “Plan of Action” in the Drybones Bay area by making the following Suggestions:
  - No new land use permits should be issued for proposed developments...within Drybones Bay and Wool Bay proper...until a plan has been developed to identify the vision, objectives, and management goals based on the resource and cultural values for the area.” (EA03-006, EA03-003, EA03-002)
- To date, these Suggestions have not elicited any action from any government agency, let alone a response of any kind from the Minister.



## Measures #3 and #4

- Perhaps as a result of federal government inaction, the Review Board in the REA for EA0506-005 took what was only a Suggestion in the previous Drybones Bay EAs and turned it into Measures. This is Measure #3 that we are now discussing, and to a lesser extent Measure #4.
- The federal government has long been aware of the pressures and sensitivities in Drybones Bay – at least since 2003. In the eight years since, government agency action to alleviate this pressure has amounted to exactly zero.
- Unless compelled to do so, the federal government will continue to do nothing about Drybones Bay.



## Measures #3 and #4

- The substantive elements of Measures #3 and #4 must remain, and it must remain in the form of Measures. Without binding direction from the Minister to the relevant government agencies, the Akaitcho Dene First Nations have no faith that any action will be taken. History is our witness.

## Measures #3 and #4

- The Minister says:

“This planning initiative will be conducted in a collaborative fashion with key parties, outside the specific context of the environmental assessment for the Consolidated Goldwin Ventures Inc. project. It is more appropriate for this work to be carried out under Indian and Northern Affairs Canada’s co-ordination given the Department’s involvement in land and self-government negotiations. “Furthermore, Canada has the recognized authority over this area until a land claim is settled and the acceptance of Measure 3 would indicate otherwise.”



## Measures #3 and #4

- The Measure as currently written generally does not conflict with these statements from the Minister.
  - The current measure calls for the planning process to be collaborative with key parties.
  - Clearly the planning process will not be part of EA0506-005. The current measure does not suggest that it should be.
  - Clearly AANDC should be responsible for leading and coordinating planning efforts. This federal department has the most capacity to deal with both land issues and aboriginal consultation and accommodation.

## Measures #3 and #4

- While the Akaitcho Dene First Nations certainly do not recognize Canada's authority over the area, we do acknowledge that Canada has responsibilities with regards to land stewardship and aboriginal interests.
- The Akaitcho Dene First Nations also have responsibilities with regards to land stewardship and insuring their own interests.
- We concur that the territorial government has no authority over or responsibility for lands, resources, and aboriginal interests in the Drybones Bay area.



## Measures #3 and #4

- The current Measures should be fine-tuned to:
  - clearly indicate AANDC as the lead federal department responsible for developing and implementing a “Plan of Action”.
  - Remove references specific to the territorial government.

## Measures #3 and #4

- The Minister says:

“While the Responsible Ministers appreciate the Review Board’s desire for certainty of a short time line, we cannot at this time commit to the time lines proposed by the Review Board. Such a collaborative stakeholder-driven planning process needs sufficient flexibility in order to be most effective.”



## Measures #3 and #4

- The Akaitcho Dene First Nations agree with the Minister's statements.
- However, unless there is strong incentive for AANDC to complete and implement a "Plan of Action", it is unlikely that any plan will ever come to fruition. Again, history is our witness.
- Incentive should be provided to AANDC by making the consideration of new projects in Drybones Bay contingent upon an implemented "Plan of Action".

## Measures #3 and #4

- The timelines in Measure #3 should be removed. They should be replaced with directives to AANDC, until such time as a “Plan of Action” is implemented:
  - To secure an order from the Governor-In-Council to set apart the Drybones Bay area, as per s. 4 or s. 23(d)(ii) of the *Territorial Lands Act*;
  - To offer relief from fulfilling representation work to mineral claim holders in the Drybones Bay area, as per the *NWT and Nunavut Mining Regulations*;
  - To offer relief from paying rent to mineral lease holders in the Drybones Bay area;



## Measures #3 and #4

- The Minister says:

“Finally, the Responsible Ministers consider the statement included in Measure 3, directing the Minister of Indian Affairs and Northern Development to provide a policy directive to the Mackenzie Valley Land and Water Board, to be inappropriate as a mitigation measure.”

## Measures #3 and #4

- The Minister provides no rationale for this statement.
- A “Plan of Action”, once completed, must be put into effect to be meaningful.
- In the absence of a land and resource arrangement between Akaitcho and Canada, there is no existing statutory mechanism with which to implement a completed Plan.
- It is therefore likely that the Plan must be implemented through a regulatory mechanism.



## Measures #3 and #4

- Without a Ministerial Policy Directive, it has not been the practice of the MVLWB to act outside of its specific statute and regulations.
- The Minister has therefore provided directives to the MVLWB to implement federal policies and arrangements (e.g. implementation of Akaitcho IMA).
- Implementation of a “Plan of Action” would require a Policy Directive if the MVLWB is going to be expected to consider it during the pre-screening of applications in the Drybones Bay area.

## Measures #3 and #4

- The requirement for a Policy Directive to the MVLWB in Measure #3 must remain, otherwise any completed “Plan of Action” will not be considered in the regulatory process.



## Measure #5

- The Minister says:

“The Responsible Ministers do not consider the proposed development to be of a scale that warrants a “thorough heritage resources assessment of the Shoreline Zone.” The Responsible Ministers agree that project-specific measures directed to the developer with respect to heritage resources are warranted in this case and ask the Review Board to reconsider Measure 5 in this context.”

## Measure #5

- The Review Board is required to consider cumulative effects.
- The combined industrial pressures in the Drybones Bay area do warrant a “thorough heritage resources assessment”.



## Measure #5

- The substance of Measure #5 should remain, perhaps as an element of the “Plan of Action” contemplated in previous Measures.

## Measure #6

- The Minister says:

“The Responsible Ministers recognize that Measure 6 is designed to limit public access to the Drybones Bay area resulting from project access and that it is also intended to limit the extent of the development footprint. However, camps are not permitted on ice and are kept a minimum of 30 metres from the water’s edge due to safety and waste disposal issues. Further, the measure as written appears to put limits on the regulatory review process that is the responsibility of the Mackenzie Valley Land and Water Board. It is requested that this measure be reconsidered.”



## Measure #6

- The *MVRMA* outlines an integrated resource management system.
- The MVLWB and Review Board are two aspects of this system, intended to work together in the review of projects that might have significant adverse environmental impacts or be a cause of public concern.
- For such projects, it is the job of the Review Board to delve into the causes of impacts and public concern, and to devise appropriate mitigation measures.

## Measure #6

- Mitigation measures relevant to potential terms and conditions are then communicated to the MVLWB for consideration and inclusion in permits and licenses.
- As contemplated in the MVRMA, the Review Board does the “thinking” on projects referred to environmental assessment, and then the MVLWB does the “doing”.
- The Measure as written does not fetter the MVLWB in any manner – rather, it recognizes the integrated nature of the *MVRMA* and the roles and responsibilities of its Boards.



## Measure #6

- The Measure as written is somewhat confusing, as it could be construed as meaning that camps should be located on the ice. This does not seem to be the intent of the Measure, as reflected in the discussion in the body of the REA.
- Rather, the Measure seems to intend that camps should be located on land as near as possible drill rigs, which are themselves located on the ice.

## Measure #6

- The substance of Measure #6 should remain. It should, however, be reworded to clarify that camps must be located on land as near as possible to ice-based drill rigs.



“...the Review Board is of the view that cultural impacts are being caused by incrementally increasing development in this important area, including the proposed development. The Review Board is of the opinion that these cumulative cultural impacts are at a critical threshold. Unless certain management actions are taken, this threshold will be surpassed.”

- REA, EA0506-005