



# Giant Mine Environmental Assessment

## IR Response

Round One: Information Request - City of Yellowknife #09

May 31, 2011

### INFORMATION REQUEST RESPONSE

**EA No: 0809-001**

**Information Request No: CityYK #09**

**Date Received:**

February 28, 2011

**Linkage to Other IRs:**

Review Board IR #11

Alternatives North IR #07, 10, 12, 15, 22

Also linked to the INAC response to the Review Board fourth deficiency statement regarding funding certainty

**Date of this Response:**

May 31, 2011

**Request:**

Please provide legislation, decrees or parliamentary motions that guarantee the “walking away” scenario will not be allowed to occur.

**Reference to DAR (relevant DAR Sections):**

The DAR recognizes that elements of the project are to be managed in perpetuity.

- Temporal Boundaries, Section 3.4.2 – “It is recognized that the developer’s activities on site will continue in some form in perpetuity” (p. 3-6).
- Summary of Post-Remediation Conditions, Section 6.1.2 – “A new Water Treatment Plant will be constructed and will be operated year-round, potentially in perpetuity” (p. 6-4).
- Section 14 – “Some forms of monitoring are expected in perpetuity, particularly around the function of the thermosyphons and the treatment of water. Consequently, a system to establish standards, deliver programs and receive and evaluate monitoring results will also exist in perpetuity” (p. 14-1).
- Technical Advisor Studies, Section 6.2.2.1 – “It was concluded that the best in situ alternative was Alternative B3, isolating the arsenic trioxide dust in its current location by creating a block of frozen dust and rock, monitoring in perpetuity and, if necessary, maintaining isolation by periodic refreezing” (p. 6-7).





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- Hazardous Waste, Section 6.12.2 – “The new underground or new pit or quarry options would all require additional disturbance and would create a new source that would need to be managed in perpetuity” (p. 6-97).

Table 6.13.4 of the DAR presents a summary of estimated costs for the implementation phase of the Giant Mine Remediation Project, and Table 6.13.5 presents a summary of estimated annual costs over the long-term. This latter Table identifies the estimated cost for long term operations and maintenance as \$1.91 million per year. The DAR also states that INAC will seek the necessary Treasury Board approvals in order to obtain this long term funding.

### Reference to the EA Terms of Reference:

Section 2.3 of the Terms of Reference (Temporal Scope) – “As the contaminant will continue to exist on the site, the risk of potential contamination may exist in perpetuity. To predict impacts in the future, assumptions must be made about future events and conditions” (p. 7).

Section 3.2.2 of the Terms of Reference requires the Developer to provide: “A description of project feasibility including financial feasibility. Include discussion of funding certainty for the development and related monitoring” (p.10).

### Summary:

- The Governments of Canada and the Northwest Territories (NWT), in selecting the preferred remediation option, have recognized and accepted that the Giant Mine Remediation Project includes long-term care, maintenance and monitoring. There is no option to “walk away.”
- Long-term care, maintenance and monitoring are essential components of the remediation approach that will protect human and environmental health and safety and ensure the integrity of Canada’s investment.
- This long-term commitment will be reinforced through applicable permits, licences, and regulatory law.
- The Government is aware of the Giant Mine and is committed to meeting its obligations.
- However, the nature of the Canadian Federal Government governance process does not allow INAC, or any existing Parliament, to bind future Parliaments to specific priorities or “guarantees”.

### Response:

The Giant Mine Remediation Project will not “walk away” from the site. The Governments of Canada and the Northwest Territories, in selecting the preferred remediation option for the site, have recognized and accepted that the Giant Mine Remediation Project includes long-term care, maintenance and monitoring. The DAR also states clearly that several elements of the project will be required to be addressed in perpetuity. Long-term care, maintenance and monitoring are essential components of the remediation approach at the Giant Mine site that will protect human and environmental health and safety and ensure the integrity of Canada’s investment. This long-term commitment will be reinforced through adherence to the Developer’s obligations under applicable licences, permits and regulatory law.





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With respect to a “guarantee” as requested in the question, under Canadian parliamentary democracy, Parliament cannot bind the actions of a future Parliament. As long as a Parliament or a Legislature is acting within its sphere of competence, it may promulgate any new law or amend or repeal any old law. The power to alter old laws remains constant even in the face of an old law declared to be unamendable. This power is codified in s. 42(1) of the federal *Interpretation Act*. Likewise, the *Financial Administration Act* provides that no expenditures may be made by government without a Parliamentary appropriation. It is therefore not possible to bind a future government or provide "legislation, decrees or parliamentary motions" to "guarantee" the actions of a future government.

It is also important to underscore the difference between the Government of Canada and a non-government proponent. The government of Canada is a democratic constitutional entity and is not at risk of disappearing, going bankrupt, or de-listing in the same manner as a private-sector corporation or other commercial actor.

The Giant Mine site is well known throughout Canada as one of the most contaminated sites under the responsibility of the Federal Government. There are aspects of the site that pose potentially significant risks to both human health and the environment. Given this high and public risk profile, the mine site has remained a government priority since the late 1990s when the Crown became involved. Since that time INAC, as the federal department responsible for the site on behalf of the Government of Canada, has allocated resources to effectively manage risks at the site while developing a remediation plan. Based on the significant investment to date, and the consistent priority given to the management of the risks at the Giant mine site, it is expected that this Project will remain a priority. The Government is aware of the Giant Mine and is committed to meeting its obligations.

