

Alan Ehrlich

From: Kevin O'Reilly [kor@theedge.ca]
Sent: Tuesday, November 24, 2009 8:31 AM
To: Alan Ehrlich
Cc: 'Todd Slack'; 'Gordon Van Tighem'; Trish.Merrithew-Mercredi@inac-ainc.gc.ca
Subject: re: Giant Mine EA Public Registry Filing--INAC Denial of Participant Funding
Attachments: INAC Participant Funding Refusal Letter.pdf; YKDFN Letter of Support.pdf; Proposal and Letter of Support from the City of Yellowknife.pdf

Importance: High

Alan

Please accept the attached items for filing on the Giant Mine Remediation Plan Environmental Assessment public registry. The first two items are the joint proposal for participant funding from the Yellowknives Dene First Nation, City of Yellowknife and Kevin O'Reilly for a study on independent oversight submitted to the INAC Giant Mine Remediation Office on January 10, 2009. There are also letters of support from the City of Yellowknife and the Yellowknives Dene First Nation. These items were meant to be filed as attachments to the joint letter from these parties to follow-up on the original participant funding request as filed on the public registry November 9, 2009.

The last item for filing on the public registry, is the letter dated November 12, 2009 from the INAC Regional Director General stating that the participant funding request is denied due to possible overlap.

For the record, it took INAC more than 10 months to respond to the joint participant funding request. INAC had the participant funding request for more than four months before the Terms of Reference were issued for this environmental assessment on May 12, 2009 wherein it is asserted that the developer has been directed to investigate the concept of independent oversight. It remains to be seen whether the work undertaken by the developer under the Terms of Reference would overlap in any substantive way with the joint proposal for participant funding on independent oversight.

I would like a copy of this e-mail also filed on the public registry. Thank you.

Kevin O'Reilly



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Box 1500
Yellowknife, NT X1A 2R3

November 12, 2009

RRE/12NOV09/159
CIDM339744

Chief Edward Sangris
Yellowknives Dene First Nation
P.O. Box 2514
Yellowknife NT X1A 2P8

Chief Ted T'Setta
Yellowknives Dene First Nation
P.O. Box 2514
Yellowknife NT X1A 2P8

Mayor Gordon Van Tighem
City of Yellowknife
P.O. Box 580
Yellowknife NT X1A 2N4

Kevin O'Reilly
Box 444
Yellowknife, NT X1A 2N3

Dear Chief Sangris, Chief T'Setta, Mayor Van Tighem, and Mr. O'Reilly:

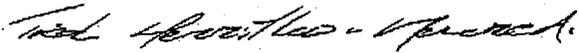
Re: Proposal for the Review of Independent Oversight Bodies

Thank you for your proposal for the study of independent oversight bodies for the Giant Mine Remediation Project.

The Giant Mine Remediation Project Team is currently working with the project's advisors to develop a monitoring framework for the Giant Mine Remediation Project. This framework will be consistent with the scope and complexity of other large government funded remediation projects such as the Sydney Tar Ponds and Faro Mine Remediation Project. Regulatory, technical, independent oversight, stakeholder, aboriginal and community involvement will be included in the framework. All of the independent oversight options that were mentioned during INAC's presentation at the environmental assessment scoping hearing held in Yellowknife in July 2008 will be evaluated to determine the model most suited to the Giant Mine Remediation Project. The proposed independent monitoring will be incorporated into the overall monitoring framework for the project and will be fully described in the Developer's Assessment Report that will be submitted to the Mackenzie Valley Environmental Impact Review Board.

There is an explicit requirement in the Terms of Reference for the Environmental Assessment of the Giant Mine Remediation Plan that INAC must address monitoring, evaluation and management of the environment at and around the Giant Mine site. Consequently, INAC is already well advanced on describing the proposed monitoring framework as outlined in the Terms of Reference for the Developers Assessment Report. The proposal as presented would be an unwarranted duplication of this effort, and INAC is therefore choosing not to fund your proposal at this time.

Sincerely,



Trish Merrithew-Mercredi
Regional Director General – NT Region



Yellowknives Dene First Nation

P.O. Box 2514
Yellowknife, NT X1A 2P8

January 5, 2009

To Whom It May Concern:

Re: Study of Independent Oversight Bodies with regard to GIANT mine

As mentioned at the environmental assessment hearing, the Yellowknives Dene First Nation (YKDFN) strongly believes that an independent oversight body should be formed for the GIANT Mine Reclamation Project. There seemed to be general consensus on this point amongst the various parties, and we would like to support the attached proposal examining the environmental oversight options that are employed throughout North America. Given that all of the parties desired such an oversight body, and INAC did not disagree, there seems to be no reason that this study cannot be undertaken concurrent to the deliberations of the Mackenzie Valley Environmental Impact Board.

The mine site is adjacent to the communities of Ndilo and Dettah, who rely heavily on the waters of Great Slave Lake for their continued subsistence harvesting. Any failures of the reclamation project, whether by accident or by design limitations, will be directly felt by the YKDFN for generations. Our people have borne the brunt of the environmental damage over the mines operational life, and we now want a direct role in the process that cleans up the environmental disaster that remains. It is the members of the YKDFN who will have to live long into the future with this project, and have the most interest in ensuring that it is undertaken properly. We feel that this is only possible with a transparent and independent oversight body. By researching other independent oversight boards and recommending structures that may be appropriate for the GIANT situation, we can create the tools and mandate to allow local residents direct involvement in protecting their health and environment.

It is our understanding that the other interveners are also supporting the proposal, and we look forward to working with our neighbours at the City of Yellowknife and any other parties. If you have any questions, please do not hesitate to contact our office.

Sincerely,

Chief Edward Sangris

Chief Fred Sangris

Copy: Chief Edward Sangris, YKDFN – Dettah Fax: (867) 873-5969
Chief Fred Sangris, YKDFN – Ndilo Fax: (867) 873-8545
Steve Ellis, Akaitcho Treaty & Tribal Corporation Fax: (867) 370-3209



OFFICE OF THE
MAYOR

P.O. BOX 580, YELLOWKNIFE, NT X1A 2N4
TELEPHONE: (867) 920-5693 • FAX: (867) 920-5649
WEBSITE: city.yellowknife.nt.ca



October 10, 2008

To whom it may concern,

RE: Study of Independent Oversight Bodies and Experience – Giant Mine Remediation

The City of Yellowknife conveys the attached proposal recommending a study on independent oversight bodies and experiences that will support the environmental assessment of the Giant Mine Remediation Project. The City is prepared to work cooperatively with other interveners, the Yellowknives Dene First Nation and Kevin O'Reilly (a private citizen), who have ongoing concern regarding the Project.

There is increasing public concern about the potentially negative impacts the proposed remediation work at Giant Mine may have on the environment and community as a whole. As such, the City of Yellowknife and others have recommended that key issues and potential impacts of the proposed remediation should be addressed and monitored independently.

In line with our request to develop a system of transparency and accountability that will allay public concerns as clean-up of the Giant Mine site progresses, we wish to undertake a study of independent oversight bodies and their experiences in North America as they relate to remediation and mining work.

Considering Giant Mine's proximity to the City and its legacy of 237,000 tonnes of arsenic trioxide, it is critical that we ensure the essential tools, resources and information to protect our human and physical assets today and in the future.

It is anticipated the study will require financial support in the \$35,000-\$45,000 range to complete. The City of Yellowknife is prepared to act as accountability agent for the study, presuming a contribution agreement from Indian and Northern Affairs Canada and/or others is forthcoming.

Please contact me if you require additional information.

Sincerely,

Gordon Van Tighem
Mayor

THE CITY OF YELLOWKNIFE

Draft—For Discussion Only

PROPOSAL FOR A

STUDY OF INDEPENDENT OVERSIGHT BODIES AND EXPERIENCE

Background

The Giant Mine operated in Yellowknife, Northwest Territories as a gold mining and roasting operation from 1948 to 2005 when it closed. There are a series of underground mined out and specially constructed storage areas where arsenic trioxide dust from the roasting operation was deposited. The federal Department of Indian Affairs and Northern Development and the Government of the NWT have jointly developed a Remediation Plan for the property that includes the preferred option of freezing the underground arsenic trioxide in place. This option would require monitoring and perpetual care. The Plan does not contain any provision for independent oversight.

The Remediation Plan is now the subject of an environmental assessment under the Mackenzie Valley Environmental Impact Review Board. During the Scoping Hearing on this development, held in Yellowknife on July 24 and 25, 2008, most of the parties raised the need for strong and independent oversight of the Giant Mine remediation process.

Purpose of the Proposal

Three parties to the Giant Mine Remediation Plan environmental assessment, the Yellowknives Dene First Nation, City of Yellowknife and private citizen Kevin O'Reilly would like to work together to fill the gap in our knowledge and understanding of independent oversight bodies and experiences (these partners will be referred to as 'Parties' in this proposal). We would like to hire a consultant to undertake a study of independent oversight bodies and experiences, particularly those in Canada and the United States related to mining or remediation projects. The consultant would carry out a comparative review of independent oversight bodies and their various features, while offering advice on the pros and cons of each and their applicability to the Giant Mine situation.

This proposal is submitted on a "without prejudice" basis and is not be construed as taking away from other submissions for participant funding or access to funding under the Interim Resource Management Assistance program. All of the parties to the Giant Mine Remediation Plan environmental assessment would be free to draw their own conclusions from the study when it is completed.

Outline of Work

1. Work with the Parties to further refine the work to be done.

2. The consultant will identify examples of independent oversight bodies and mechanisms in Canada, the United States and elsewhere as appropriate, that are primarily related to mining projects and/or environmental remediation. Some examples include the following:

- Independent Environmental Monitoring Agency for the BHP Ekati Billiton diamond mine;
- Environmental Monitoring Advisory Board for the Diavik diamond mine;
- Snap Lake Environmental Monitoring Agency for the De Beers Snap Lake diamond mine;
- Prince William Sound Regional Citizen's Advisory Committee for oversight of shipments of oil from Alaska after the *Exxon Valdez* spill;
- Cook Inlet Regional Citizens Advisory Committee for oversight of shipments of oil from Alaska after the *Exxon Valdez* spill;
- Stillwater and East Boulder Oversight Committees under the "Good Neighbour Agreement" for the Stillwater Mining palladium/gold/platinum mine;
- Institute for Environmental Monitoring and Research for the low-level military flying operations in Labrador; and
- Remediation Monitoring Oversight Board for the Sydney Tar Ponds and Coke Ovens Remediation Project.

The consultant will work with the Parties to select a reasonable number of the most appropriate examples of independent oversight bodies for further analysis.

3. Develop a comparative framework for the identified independent oversight bodies that is sensitive to and reflects the needs of the Parties and others involved in or that may be affected by the Giant Mine Remediation Project. Examples of some factors to consider might include the following:

- Source of authority for the independent oversight body (e.g. legislation, contract, agreement, memorandum of understanding);
- Purpose, organization, mandate and powers including ability to intervene in regulatory proceedings;
- Membership with special attention to Aboriginal peoples, local citizens and municipal governments, qualifications of members, term of appointment;
- Funding and staffing including opportunities for additional funds, including funding for involvement or implementation by interested parties;
- Review and amendment provisions including outside evaluations of the organization and any conclusions;
- Timing of establishment and duration;
- Frequency of meetings, rules of procedure;
- Community-based monitoring, review of monitoring and management plans and results;
- Accountability and reporting including public information;
- Access to information and information sharing with regulators and others;

- Duties of developer(s) and regulators, including responses to information requests, responses to recommendations, timelines; and
 - Default, remedies and dispute resolution.
4. Carry out the background research to complete the comparative analysis of the selected oversight bodies through web searches, telephone interviews, e-mail requests and similar techniques. The views of variety of stakeholders for each of the selected oversight bodies should be solicited to ensure a balanced review and to assess the public confidence and credibility of the independent oversight bodies.
 5. Assess the pros and cons of the various independent oversight bodies in light of the special circumstances and features of the Giant Mine remediation and the Parties.
 6. Complete a written report for the Parties for submission to the Mackenzie Valley Environmental Impact Review Board and appear as an independent witness at an appropriate public hearing of the Board.

Estimated Cost of Study

1. Liaison with clients to refine work and report results, including one face-to-face meeting

5 days @ \$1,000/day + disbursements for travel \$4,000

2. Identify and select appropriate examples for further study

3 days @ \$1,000/day

3. Develop a comparative framework

2 days @ \$1,000/day

4. Background research to complete comparative analysis

10 days @ \$1,000/day

5. Assess pros and cons of selected examples

2 days @ \$1,000/day

6. Prepare draft and revise a written report for submission to the Board and appear at a public hearing

10 days @ \$1,000/day + disbursements for travel \$4,000

Total 32 days @ \$1,000/day + \$8,000 for disbursements = \$40,000

In-Kind Contributions from the Parties

Participation in the Management Committee for the Study

- Liaison with consultant to refine scope of work
- Selection of oversight bodies to be studied
- Feedback on comparative framework
- Reviewing progress reports and drafts

Estimated at 5 days X 3 Parties X \$1,000/day = \$15,000

Administration of Funds and Management

The City of Yellowknife will serve as the fiscal agent for the study. A management committee with one representative from the Yellowknives Dene First Nation, the City of Yellowknife and Kevin O'Reilly will work by consensus wherever possible in selecting the consultant, reviewing progress and any draft materials, and decide when the contract has been fulfilled. In the event of any disagreement, a majority of the three parties shall decide the matter. The members of the committee will not receive any reimbursement for their participation in managing the study.

The Parties shall be free to draw their own conclusions from the study and to present them to the Mackenzie Valley Environmental Impact Review Board.

Any unused funds from the study will be returned to DIAND and all terms and conditions of any contribution agreement will be honoured.