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REASONS FOR DECISION

Preliminary Screener:	MVLWB
Reference/File Number:	MV2007L8-0031
Applicant:	INAC - Contaminants and Remediation Directorate
Project:	Remediation, Giant Mine, NT

DECISION from Mackenzie Valley Land and Water Board (the Board) Panel Meeting of

"February 21, 2008"

REASONS FOR DECISION

Issued pursuant to the *Mackenzie Valley Resource Management Act (MVRMA)* and Section 26 of the *Northwest Territories Waters Act (NWTWA)*

The Mackenzie Valley Land and Water Board (MVLWB or the Board) is required to issue reasons for all water licensing decisions made under the *NWTWA*.

SITE HISTORY AND MINE OWNERSHIP

Giant Yellowknife Gold Mines Ltd. (GYML) was incorporated in 1937, as a joint subsidiary of Bear Exploration and Radium Ltd. and Yellowknife Gold Mines Ltd. Frobisher, which was owned by a company called Ventures Ltd., optioned the remaining treasury shares of GYML in July 1943, and took over management control. Ventures Ltd. remained the property owner until 1962, when it merged with Falconbridge Nickel Mines Ltd.¹

Ownership changed again in 1986 when Pamour Inc., controlled by Giant Resources Ltd. of Sydney, Australia, bought Giant Yellowknife Gold Mines. Pamour was subsequently bought out by Royal Oaks Resources in 1990. In the following year, Royal Oak Mines Inc. was formed to consolidate the assets of Pamour and Royal Oak Resources. Royal Oak Mines Inc. continued operation at Giant Mine until 1999 when it went into receivership. A court-appointed receiver transferred control of the property to the Department of Indian Affairs and Northern Development (DIAND) in December 1999. Immediately, Miramar Giant Mine Ltd. (a subsidiary of Miramar Mining

¹ Giant Mine Remediation Plan, June 2007, page 8.

Corporation) purchased the Giant Mine from DIAND. Under the terms of the purchase agreement, DIAND indemnified Miramar Giant Mine Ltd. for existing environmental liabilities at the site. Concurrently, the Government of the Northwest Territories (GNWT) indemnified DIAND for certain liabilities associated with the surface of the mine. Additionally, under the terms of reclamation security agreement with DIAND, Miramar Giant Mine Ltd. continued to ensure that the mine remained in environmental compliance.²

In July 2004, Miramar Giant Mine Ltd. gave DIAND notice that it would terminate its obligations under the reclamation security agreement on January 7, 2005. An extension of time was negotiated to allow DIAND, together with Public Works and Government Services Canada to enter into a contract arrangement for care and maintenance of the site. Following a competitive bidding process, Deton'Cho-Nuna joint venture was awarded the care and maintenance contract and commenced work on July 1, 2005. The Giant Mine became "orphaned and abandoned" when Miramar Giant Mine Ltd. was assigned into bankruptcy. The trustee managing the bankruptcy surrendered the mineral rights to DIAND and, because the mine is on Commissioner's land, the surface land lease was returned to the GNWT. Mineral rights have been withdrawn.³

Regulatory History

On October 19, 2007 Contaminants and Remediation Directorate, INAC (CARD) submitted to the MVLWB their Type "A" Water License Application with accompanying Giant Mine Remediation Plan and supporting documents for the Remediation of Giant Mine, NT.

Application:

The Water License application was submitted to the Board pursuant to Section 6 of the *NWTWA* and the Board accepted the application as complete on October 26, 2007. Notice was given in accordance with Section 23 of the *NWTWA* on October 26, 2007.

Background on Application:

CARD has applied for a Type "A" Water License (WL) to perform full-scale environmental reclamation of the former Giant Mine Site for a period of up to 10 years.

Giant mine is located about 5 km north from the Yellowknife City Centre. The Mine is located on the North Yellowknife Bay of Great Slave Lake, within former lease L-3668T (now designated as Reserve R662T), exceptions include: the areas of the former Giant Mine "Townsite", and an area of historic tailings deposition along the north shore of Yellowknife Bay.⁴

The mine is on Commissioners land, administered by the Government of the Northwest Territories Department of Municipal and Community Affairs (MACA) and includes everything within the boundaries of former Lease L3668T that was surrendered in 2005: subsurface mineral rights are under federal jurisdiction and have been withdrawn by Order in Council SI/2005-55 June 15, 2005.

² Giant Mine Remediation Plan, June 2007, page 8.

³ Giant Mine Remediation Plan, June 2007, page 8.

⁴ Giant Mine Remediation Plan, July 2007, page 1.

The specific objectives of the remediation activities as stated in the Giant Mine Remediation Plan are:

1. To manage the 237,000 tonnes of underground arsenic trioxide dust in a manner that will prevent the release of arsenic to the surrounding environment, minimize public and worker health and safety risks during implementation, and be cost effective and robust over the long term;
2. To remediate the surface of the site to the industrial guidelines under the *NWT Environmental Protection Act*, recognizing that portions of the site will be suitable for other land uses with appropriate restrictions;
3. To minimize public and worker health and safety risks associated with buildings, mine openings and other physical hazards at the site;
4. To minimize the release of contaminants from the site to the surrounding environment; and
5. To restore Baker Creek to a condition that is as productive as possible, given the constraints of hydrology and climate.⁵

DISCUSSION OF ISSUES RAISED BY REVIEWERS

The Board received comments from Environment Canada, The City of Yellowknife, Prince of Wales Northern Heritage Center, and the Yellowknives Dene First Nation.

- The Department of Transportation did not provide comments, but they indicated they are closely working with this undertaking.
- Environment Canada provided comments of a technical nature.
- The Prince of Wales Northern Heritage Centre (POW) stated that there are some known archaeological sites documented at the site, however, CARD has committed to work with PWNHC to ensure the integrity of the sites.
- The City of Yellowknife stated in their letter dated, January 21, 2008, that “due to the abundance and technical nature of the material submitted with the A & R Plan, the City would like to formally request the formation of a Working Group so that each phase of the A & R Plan can be reviewed and thoroughly discussed by interested parties as the various steps of the Giant Mine Remediation Project are implemented.”
- In their letter received January 18, 2008, the YKDFN state: “We believe that there are a large number of unresolved issues and indeed some of the impacts of the remediation are not well known...While extensive studies have been conducted we believe that the technology which is being proposed is relatively new, is untried and must be examined in depth...We believe that it is essential that there be a full impact review and Public Hearing of this Application so that there be a complete and open discussion that all interested parties may attend and provide their input...We nonetheless feel that full Environmental Assessment be conducted of the proposed project before it is allowed to proceed.”

⁵ Giant Mine Remediation Plan, June 2007, Page 2.

PRELIMINARY SCREENING DECISION:

On February 20th, 2008 the Board met to consider the Preliminary Screening of Water License, MV2007L8-0031.

The Board reviewed the evidence submitted by the YKDFN requesting an Environmental Assessment, and have decided that it is unconvinced that further study of this project within an Environmental Assessment can substantiate any new information into the regulatory process. Therefore, the Board has considered the current state of the environment at the Giant Mine site in its decision and has found that it is essential that Remediation of this site is done in a relatively prompt period of time.

The Board has considered: all the evidence submitted during the public review period; the information within the Giant Mine Remediation Plan pertaining to the long history of communications and consultation activities undertaken by the Giant Mine Remediation Project Team; and the support of this project by the Independent Peer Review Panel. The Board has concluded that it agrees with the City of Yellowknife's recommendation in that the formation of a Working Group would be adequate to address any remaining potential issues as well as to progressively discuss the implementation phases associated with the Giant Mine Remediation Plan.

The Board is satisfied that the preliminary screening of application MV2007L8-0031, Contaminants and Remediation Directorate - INAC, Remediation has been completed in accordance with Section 125 of the *MVRMA*.

The Board is satisfied that a reasonable period of notice was given to Communities and First Nations affected by the application as required by Subsection 63(2) of the *MVRMA* so that they could provide comments to the Board.

Having reviewed all relevant evidence on the Public Registry, including the submissions of the Applicant, the written comments received by the Board and any staff reports prepared for the Board, the Board has decided that in its opinion that:

- there is not a likelihood that the proposed development might have a significant adverse impact on the environment; and
- there is not a likelihood that the proposed development might be a cause of public concern.

The Board is also of the opinion that the application can proceed through the regulatory process and that any impacts of the development on the environment can be mitigated through the imposition of the terms and conditions in a Water License.

As a result, the Board, having due regard to the facts and circumstances, the merits of the submissions made to it, and to the purpose, scope and intent of the *MVRMA* and the *NWTWA* has decided that it is prepared to proceed with the regulatory process for Water License (MV2007L8-0031).

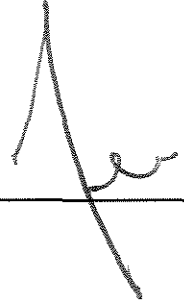
DECISION

The board will proceed with the regulatory process.

SIGNATURE

Mackenzie Valley Land and Water Board
Preliminary Screening Organization

Chair

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a cursive 'V' and a horizontal line.

February 21, 2008
Date