

# Mackenzie Valley Review Board



*Work Plan  
for the  
Environmental Assessment  
of the  
Fortune Minerals Ltd.  
NICO Cobalt-Gold-Bismuth-Copper-Project  
EA 0809-004*

November 30, 2009

**Mackenzie Valley Review Board**

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## **1 INTRODUCTION**

This document is the work plan for the environmental assessment of Fortune Minerals Limited (Fortune or the developer) proposed NICO Cobalt-Gold-Bismuth-Copper mine. Fortune proposes an initial two year underground, but thereafter open pit mining and milling operation for a 15 year mine life. Crushing and initial floatation of the ore into a concentrate would occur at the mill on-site. Concentrate would then be shipped to southern Canada for further processing at a hydrometallurgical facility.

The following applications to the Wek'eezhii Land and Water Board in January 2009 triggered a preliminary screening of this proposed development:

- a. W2008D0016: Type A Land Use Permit, NICO Project
- b. W2008L2-0004: Type A Water Licence, NICO Project

Supporting appendices and a record of community consultation were filed as part of the permit/licence applications. The Wek'eezhii Land and Water Board initiated a preliminary screening of the NICO Project according to Section 124 of the *Mackenzie Valley Resource Management Act (MVRMA)*.

On February 27, 2009, Indian and Northern Affairs Canada notified the Mackenzie Valley Review Board (Review Board) it had referred the NICO Project to environmental assessment pursuant to paragraph 126(2)(a) of the MVRMA. Indian and Northern Affairs Canada stated that the project may result in significant adverse environmental effects.

The Review Board notified Fortune on March 2, 2009, that the development had been referred to environmental assessment.

This environmental assessment is subject to the requirements of Part 5 of the *MVRMA*. Section 3 of the Review Board's *Environmental Impact Assessment Guidelines* describes the environmental assessment process in detail. That document, as well as the Review Board's *Rules of Procedure*, other guidelines, reference bulletins and other relevant policies applicable to this assessment and are available online at [www.reviewboard.ca](http://www.reviewboard.ca).

This work plan describes roles and responsibilities, work plan phases and milestones, requirements for written submissions and estimated timelines for the environmental assessment of the Fortune Minerals Limited NICO Project.

## **2 SCOPE OF DEVELOPMENT/SCOPE OF ASSESSMENT CONSIDERATIONS**

The scope of the development and the scope of assessment for this environmental assessment are defined in the *Terms of Reference* for the NICO Project issued by the Review Board, available on the public registry for this file.

## **3 ROLES AND RESPONSIBILITIES**

The roles and responsibilities of the Review Board and its staff, government bodies, the

developer and other parties involved in the environmental assessment are explained in this section. Further information regarding the roles and responsibilities of different groups and the structure of the environmental assessment process is available in the Review Board's *Environmental Impact Assessment Guidelines and Rules of Procedure*.

### 3.1 Review Board

The Review Board is required to undertake the following during this environmental assessment:

- Conduct the environmental assessment in accordance with Section 126 of the *MVRMA*;
- Take into account any previous screening or assessment report made in relation to the development, in accordance with Section 127 of the *MVRMA*;
- Determine the scope of development, in accordance with Section 117(1) of the *MVRMA* (see the *Terms of Reference*);
- Consider a variety of required factors, in accordance with Section 117(2) of the *MVRMA*;
- Upon completing the environmental assessment:
  - Determine where the development is not likely to have any significant adverse impact or be a cause of significant public concern, that an environmental impact review need not be conducted and the project should proceed to the regulatory stage of approvals (Section 128(1)(a));
  - Recommend where the development is likely to have a significant adverse impact on the environment, the approval of the proposal be made subject to the imposition of such measures as it considers necessary to prevent the significant adverse impact (Section 128(1)(b)(ii));
  - Order that an environmental impact review of the proposal be conducted, either on the basis that the development is likely to have a significant adverse impact on the environment (Section 128(1)(b)(i)) or be a cause of significant public concern (Section 128(1)(c)); or
  - Recommend that the proposal be rejected without an environmental impact review, where the development is in its opinion likely to cause an adverse impact on the environment so significant it cannot be justified (Section 128(1)(d));
- Provide a *Report of Environmental Assessment and Reasons for Decision* to the Federal Minister in accordance with Section 128(2) of the *MVRMA*.

The Review Board's designated Environmental Assessment Officer is the primary point of contact between the Review Board and the developer, government bodies, non-government organizations, aboriginal groups, the public and other interested parties. Chuck Hubert, Environmental Assessment Officer, will coordinate this environmental assessment. He can be reached at:

Mackenzie Valley Environmental Impact Review Board

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The Review Board's coordinating role does not limit or preclude the developer's contact with other parties during the environmental assessment process. The Review Board actively encourages dialogue between parties outside of the formal Review Board process.

### **3.2 Developer**

Fortune is expected to respond in a suitable and timely manner to directions and requests issued by the Review Board. Such requests include but are not limited to the *Terms of Reference* for the *Developer's Assessment Report*, information requests, requests for document translation, deficiency statements, and requests for public hearing and technical session presentations, among others.

The developer (and any other interested party) may present additional information at any time to the Review Board beyond what is requested during the environmental assessment process. The Review Board encourages the developer to continue consulting all potentially-impacted communities and organizations throughout the environmental assessment process. The Review Board may request that the developer provide written records of consultations and other meetings for the public registry in a format acceptable to the parties to the meeting, with a focus on reporting how the consultations have influenced the design of any part of the development or any steps the developer plans to take to mitigate a concern or issue. The developer is also welcome to provide responses for the public record to submissions by other parties.

### **3.3 Government Bodies**

Federal and territorial government bodies may be involved in the environmental assessment process as:

- A Regulatory Authority as defined in the *MVRMA*;
- A Responsible Minister as defined in the *MVRMA*;
- A Federal Minister as defined in the *MVRMA*; or
- A provider of technical expertise for the environmental assessment.

These roles may overlap. The Review Board expects all government bodies with relevant expertise and information to fully participate as technical reviewers during the environmental assessment. Municipal governments and aboriginal governments are also often valuable contributors to the environmental assessment process.

### 3.4 Other Parties

First Nations, other aboriginal groups, non-governmental organizations, members of the public and other interested parties may request and be granted party standing by applying to the Review Board for party status, as per the Review Board *Rules of Procedure*. Parties may provide the Review Board with information relevant to the environmental assessment of their own volition, or they may be asked by the Review Board to provide any relevant information they may have. Parties are expected to participate and respond to directions and requests issued by the Review Board in a suitable and timely manner.

Parties may present information at any time during the environmental assessment and may be given an opportunity to submit information requests for Review Board approval during the analysis phase, and present and ask questions at hearings.

### 3.5 Expert Advisors to the Review Board

In addition to the expertise available from parties, the Review Board may also choose to hire an expert advisor to provide technical expertise on specific aspects of the environmental assessment. In the event that an expert advisor is hired, the Review Board will place notice on the public registry of the qualifications of the expert advisor along with a disclosure letter.

## 4 WORK PLAN MILESTONES AND PHASES

Table 1 (below) summarizes the milestones and responsibilities in the environmental assessment process.

**Table 1 - Milestones + Responsibilities in the Environmental Assessment Process**

Milestone	Developer	Government Bodies	Other Parties	Review Board and Staff
Environmental Assessment start-up				✓
Scoping Sessions	✓	✓	✓	✓
Draft Terms of Reference & Work Plan				✓
Review and comment on draft Terms of Reference and Work Plan	✓	✓	✓	
Final Terms of Reference & Work Plan				✓
Developer's Assessment Report	✓			
Conformity Check and Deficiency Statement				✓
Deficiency Statement Response	✓			
Information Requests		✓	✓	✓
Information Request Responses	✓	✓	✓	
Technical Meeting(s)	✓	✓	✓	✓

Milestone	Developer	Government Bodies	Other Parties	Review Board and Staff
Technical Analysis		✓	✓	✓
Public/Community Hearings	✓	✓	✓	✓
Review Board Report of EA and Reasons for Decision				✓
Response from the Minister of Indian Affairs and Northern Development		✓		
Consultation - throughout / as required	✓	✓	✓	✓

This environmental assessment will be divided into five parts: start-up, scoping, analytical, hearing and decision phases. The start up and scoping phases are complete as of the issuance of a *Final Work Plan*.

The Review Board may alter the work plan at any time during the environmental assessment in response to a Request for Ruling or by its own motion. The Review Board may close the public record and complete the environmental assessment at any time if sufficient evidence has been gathered to make a decision pursuant to s.128 of the *MVRMA*.

**4.1 Start-up Phase:** During this phase, the Review Board initiated the notification measures required by the *MVRMA*. The Review Board opened the paper and website public registries for the environmental assessment – all documents related to this environmental assessment are available at the Review Board offices or on the website public registry at [www.reviewboard.ca](http://www.reviewboard.ca). The public registry is updated regularly and interested parties notified when new documents are filed.

**4.2 Scoping Phase:** The Review Board undertook an extensive issues scoping phase, including holding four Review Board staff-led scoping sessions in the communities of Whati, Gameti, Behchoko, Wekweti as well as in Yellowknife. These scoping sessions were designed to provide an opportunity to potentially-affected groups and responsible government and other agencies to become fully aware of the nature of the proposed development and to allow interested parties to help the Review Board identify key concerns and potential issues. The Review Board also welcomed scoping submissions from the developer and all interested parties.

Draft *Terms of Reference* and *Work Plan* documents for the NICO Project were developed. The final documents will be refined by incorporating written comments on the drafts received from parties (subject to Review Board discretion), as well as comments and conclusions drawn from scoping sessions and previous documents on the public registry. The *Terms of Reference* contains the Review Board’s determination on the scope of the development and the scope of the assessment, and directions to the developer on what it needs to provide in the *Developer’s Assessment Report*.

**4.3 Analytical Phase:** The main purpose of the analytical phase is to collect the bulk of the information required for the Review Board to make its decision. The analytical phase for this environmental assessment contains five key elements:

**1) Developer's Assessment Report:** The developer is responsible for submitting to the Review Board a *Developer's Assessment Report* that complies with the Review Board's *Terms of Reference* requirements. **The developer will provide the Review Board with 10 copies of the *Developer's Assessment Report* in hardcopy and digital format (CD or DVD).**

**2) Conformity Check:** Upon its receipt, the Review Board will conduct a conformity check of the *Developer's Assessment Report* to ensure that the developer has provided the information required. If needed, the Review Board will issue a deficiency statement identifying those areas in which the developer has not provided sufficient information to address an item listed in the *Terms of Reference*. The developer will be asked to submit information to the Review Board to fill the information gaps identified by the deficiency statement. If the Review Board is not satisfied with the information received, it retains the right to halt the environmental assessment and not allow public distribution of the *Developer's Assessment Report* until it has received an adequate response. Once the document is found in conformity, Review Board staff will provide direction to the developer for distribution of the *Developer's Assessment Report* to interested parties.

**Party Status:** After the *Developer's Assessment Report* has been distributed, the Review Board will also issue a call for groups to self-identify their interest in being an official party to the environmental assessment and distribute *Request for Party Status* forms. Party status confers certain rights to groups, such as the ability to submit information requests, engage in technical meetings, issue technical reports and make presentations and ask questions of other parties at hearings. The developer is automatically a party to this environmental assessment and is not required to apply for party status. The Review Board issues party status on a case-by-case basis; in rare cases, an applicant for party status may not be accepted but will retain the ability as a member of the public to provide input to the process.

**3) Information Requests and Responses to Information Requests:** Information Requests are specific and focused requests for clarification or additional information. They may be required for the Review Board to complete its analysis and reach a conclusion about the information provided by the developer.

Proposed Information Requests can be submitted by any party to the environmental assessment and can be directed to any other party. All Information Requests must be submitted to the Review Board for approval and they must also be submitted in the form required by the Review Board. If approved, the Review Board will then issue the Information Request to the intended Information Request recipient. The Information Requests and the responses will be included in the public registry and be used as evidence for the consideration of the Review Board.

**4) Technical Meeting and Responses:** The Review Board may choose to hold a roundtable technical meeting (or meetings) to permit face-to-face question and answer sessions between parties and the developer in a facilitated setting. Technical meetings are typically held on crucial issues and allow more in-depth discussion of complex or controversial issues with expert involvement. In advance of a roundtable technical meeting, parties will submit their questions/comments to the developer, or to other parties, by way of the Review Board, to allow the developer or parties sufficient time to develop a response. The Review Board exercises discretionary control over what issues will be the focus of the meeting. Review Board staff will ensure that a record of the meeting is made. Following the meeting, the Review Board will issue a report that details the nature of the proceedings and any technical issues that were identified, discussed, resolved or left outstanding. The developer or any other party is welcome to provide additional input via response letters after the technical meeting.

**5) Technical Reports from parties:** The technical phase of the environmental assessment relies heavily on the expert assistance of parties – whether they are different levels of government, aboriginal groups, or other parties. All parties have the right to issue technical reports critiquing the *Developer's Assessment Report*, information request responses and other information brought forward during the technical phase. All parties can bring forward new evidence, estimations of impact significance, and suggestions for mitigation in their technical reports. Technical reports from parties are to clearly state the reviewer's conclusions, recommendations and supporting rationales. The developer is welcome to provide responses to technical reports, including any proposed amendments, additions or refinements to the development description, its own prediction of impacts, or mitigation commitments. This is a critical stage in the environmental assessment process where the key issues and impacts are identified and evaluated in advance of the public hearing(s).

**4.4 Hearing Phase:** The Review Board may choose to hold a hearing or hearings to address outstanding issues that have been raised as part of the environmental assessment and remain outstanding. If it does, it will provide notice and details a minimum of 30 business days in advance of the hearing on the public registry. There are typically two types of hearings: a relatively informal community hearing or a more formal (often called "public") hearing, as detailed in the *Rules of Procedure*. Hearings offer an opportunity for the developer, aboriginal groups, government departments, other parties and the public to directly address the Review Board with evidence regarding the potential impacts and public concerns related to the proposed project. Parties may provide formal presentations at hearings, provided they submit material ahead of time for Review Board and party consideration. All parties and Review Board members and support staff have the opportunity to question the developer and other parties at hearings through the Review Board Chair. At the hearing, the Review Board may identify undertakings committed to by parties or the developer and deadlines for this additional information to be provided for the public registry. Following the hearing, the Review Board also retains the right to issue additional Information Requests prior to closing the public record.

**4.5 Decision Phase:** Following the hearing phase, the public record for the environmental assessment will be closed and the Review Board will begin its final deliberations,



culminating in a *Report of Environmental Assessment and Reasons for Decision (Report of Environmental Assessment)*. If, during its deliberations, the Review Board requires clarification of evidence on the public record, it may issue “requests for clarification” without reopening the public record. Unlike information requests, a request for clarification does not seek new information or evidence but rather a clarification on evidence already on the public record.

The Review Board’s decision will include a single recommendation from among the options available to it under s. 128(1) of the *MVRMA*, and may also require mitigation measures be put in place in order for the development to proceed. The Review Board’s decision document may also identify non-binding suggestions for the developer or other responsible groups to better protect the environment.

The Review Board will provide the Minister of Indian and Northern Affairs Canada (the Federal Minister) with its *Report of Environmental Assessment* as per Section 128(2) of the *MVRMA*. The Federal Minister will distribute the report to every responsible minister as per Section 128(2)(a) of the *MVRMA*. The developer and the other parties will also receive copies of the Review Board’s *Report of Environmental Assessment*. The Federal and responsible ministers will provide a response to the Review Board’s report as defined in section 130 of the *MVRMA*. The environmental assessment is considered complete when the Review Board’s s.128 recommendation is accepted by the Federal and responsible ministers.

## **5 WRITTEN SUBMISSIONS**

All parties, as well as members of the public, are invited to submit evidence any time up until the closing of the public record. All submissions received from all sources placed on the public record will be considered during the Review Board’s decision-making. Usually such submissions will be public documents and will be posted on the public registry. However, under special circumstances the Review Board may accept documents on a confidential basis if requested. The Review Board will determine confidentiality on a case-by-case basis as described in its *Rules of Procedure*.

All submissions should be in a format that is easily available to all parties and should follow any templates provided by the Review Board. The Review Board prefers documents to be submitted digitally in either Word or PDF formats. Hardcopy, hand delivered, couriered or fax transmissions are acceptable as long as they can be reproduced in a legible format via photocopier/scanner. The Review Board reserves the right to require any party or the developer which has a large file to provide copies to all parties directly in a digital or hard copy format.

The Review Board will not consider any submission after the closing of the public record and reserves the right to not consider evidence in a public hearing that has not been provided ahead of time for the consideration of other parties.

## 6 ESTIMATED SCHEDULE

Table 2 (below) provides estimated timelines for the completion of each milestone in this environmental assessment. The Board may amend the schedule at its discretion.

**Table 2 – Estimated Schedule for EA0809-004: NICO Project**

<b>MILESTONE</b>	<b>Estimated completion</b>
<b>Start-up Phase</b>	
EA Referral	February 27, 2009
Notification and start-up of the EA	March 2, 2009
<b>Issue Scoping and ToR Preparation Phase</b>	
Scoping Sessions Preparation	March 2009
Scoping Sessions (Whati, Gameti, Bechoko, Wekweti, YK)	April/May/Nov 2009
Scoping Submissions by Interested Parties	May/June 2009
Developer Submissions on Scope of Development	July-Sept 2009
Preparing draft Terms of Reference and Work Plan	October 2009
Final Terms of Reference and Work Plan	November 30, 2009
<b>Analytical Phase</b>	
Developer's Assessment Report	June 2010
Review Board Conformity Check	July 2010
DAR Distribution and Review	August 2010
Information Requests	October 2010
Developer's Responses to Information Requests	November 2010
Technical Meetings and Responses	December 2010
Parties' Technical Reports	January 2011
<b>Hearing Phase</b>	
Pre-hearing conference	January 2011
Conduct of Public and/or Community Hearing	February 2011
Undertakings	March 2011
Closure of Public Registry	April 2011
<b>Decision Phase</b>	
Review Board Report of Environmental Assessment	July 2011
Federal Minister's response to the Review Board's Report of EA	---