Our File: EA0809-004

Aug 27, 2010

To: Distribution List
EA0809-004
Fortune Minerals NICO Project

Re: Tlicho Government Request for Ruling:
Review Board Ruling with Reasons for Decision

Please find attached the Review Board's Ruling with Reasons for Decision on the Request for Ruling submitted by the Tlicho Government on May 28, 2010 regarding environmental assessment EA0809-004, Fortune Minerals Limited, NICO Project.

Sincerely,

Chuck Hubert
Environmental Assessment Officer

Attachment

Mackenzie Valley
Review Board

REASONS FOR DECISION

IN THE MATTER OF:	**Environmental Assessment EA0809-004, NICO Project, Fortune Minerals Limited;**
AND INTHE MATTER OF:	**A Request for Ruling by the Tlicho Government dated 28 May 2010**

INTRODUCTION:

On May 28, 2010 the Tlicho Government (TCG) filed a Request for Ruling (Request) with the Mackenzie Valley Environmental Impact Review Board (the Review Board) in relation to the scope of development determined by the Board and set out in the Terms of Reference[1] (ToR) for the Environmental Assessment of the Fortune Minerals Limited's (Fortune) NICO project EA0809-004 (the "EA"). The Request asks the Board to rule: "that the Environmental Assessment is premature, and it will therefore be postponed and placed in abeyance until all essential components of the Proposal are included in applications accepted as complete by the Wek'eezhii Land and Water Board (WLWB)[2] in order that Part 5 of the *Mackenzie Valley Resource Management Act*[3] (MVRMA) can be properly applied to the Proposal."[4] The Request also asked that an oral hearing be scheduled to hear argument in relation to this matter.

The Review Board gave notice of the Request to the parties to the EA and indicated that any party wishing to respond should notify the Review Board accordingly. The parties were also asked to indicate whether they considered an oral hearing into the Request to be necessary. Fortune, the Department of Indian and Northern Affairs Canada (INAC) and the North Slave Metis Alliance (NSMA) advised the Review Board of their intention to participate and indicated that they did not consider an oral hearing necessary.

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[1] Issued November 30th, 2009.
[2] The "current applications" for a Type A water licence W2008L2-004 and a Type A land use permit W2008D0016 do not include all of the components necessary for a complete project.
[3] S.C. 1998, c.25 as amended.
[4] May 28, 2010 TCG Request, p. 2

Fortune filed its written response June 10th, 2010 and INAC and NSMA were allowed to respond in writing by July 8th, 2010. A reply argument was received from counsel for TCG on July 15th, 2010. This matter then proceeded by consent of the TCG and parties without an oral hearing.

THE FACTS:

The facts set out by the TCG in its Request were not contested by the other parties. They are included among the relevant facts that follow:

The Request relates to two roads that are not part of the current applications which have been referred to the Review Board.

After careful consultation with interested parties and Tlicho communities, the Review Board made a decision on the scope of development, and set that out in a Terms of Reference (ToR) document issued November 30th, 2009. The ToR state that the scope of development for the EA includes the use by Fortune of the "all-land winter road" from Highway 3 to Whati and Gameti. Fortune has stated that this road will be built by the GNWT in the near future. The scope of development in the ToR does not include the construction of this road as it will not be constructed or operated by Fortune and serves a larger purpose than just the proposed mine.

Fortune also proposes to build a 27 km (approximate length) all season road from the mine site to the all-land winter road. This "anticipated" access road would be constructed and maintained by Fortune and therefore the Review Board included its construction and use by Fortune within the scope of development. There is as yet no application for construction of this road before the WLWB.

Fortune's initial applications to the WLWB respecting its project were made in 2007. Separate applications were filed for land use permits and water licenses for each of the three components that Fortune said would be required for its project to be feasible — the mine proper (W2007L2-0004), all-weather industrial access roads between the mine site and Highway 3, as well an airstrip (W2007F0006), and construction and maintenance of a hydro transmission line (W200710007).

Fortune's Proposal is based on a mining lease for its claims block, which is on, and completely surrounded by, Tlicho Lands. Under that lease, which came into force before the effective date of the Tlicho Agreement, Fortune has an interest provided for in 18.1.1 of the Tlicho Agreement and listed in part 2B of the appendix to Chapter 18.

Fortune acknowledges that its project would not be viable without the construction and operation of all-land and anticipated all-weather access roads outside the area of its lease and across Tlicho Lands. The construction of such roads would require the consent of the Tlicho Government, pursuant to 19.3 of the Tlicho Agreement, and Fortune has received no such consent.

In response to its 2007 applications, the Chair of the WLWB informed Fortune, by a letter of April 24, 2008, that it was not eligible to apply for land use permits for activities that are to take place wholly or partially on Tlicho owned lands, without providing proof of an access agreement to excersize their right to cross those lands.

Fortune had no such access agreement, and did not dispute the WLWB's decision. Fortune then withdrew its applications. It subsequently re-configured them and submitted new applications to the WLWB on November 5, 2008. In those replacement applications[5] Fortune applied only for authorizations for components of its project that it could conduct within its claim block.

Instead of the original proposal for hydro-electric power, it now proposed using a diesel power plant to be located within the claim block. The proposed air strip was also moved to a new location within its claim block. And the all-weather industrial access roads and bridges that had been proposed for construction - outside the claim block and across Tlicho Lands - were excluded from the current applications.

The WLWB determined that Fortune was eligible to make the current applications and accepted them as complete, since no components of the reconfigured project required an access agreement respecting Tlicho Lands. The project was then referred to the Review Board by INAC and forms the basis for the EA.

The industrial access roads that are essential for a viable project were thus effectively removed from the project which was referred to the Review Board. The 2008 applications and project contain no substitute plan for transporting industrial materials, including machinery, fuel and ore, to or from Fortune's claim block.

It is now almost 18 months since Fortune re-configured its application. In that time, no proposal for industrial access roads across Tlicho Land has been put forward by Fortune or any other party. The Request states that neither the Proponent nor any other party has commenced discussions with the Tlicho Government respecting possible access agreements for industrial access roads.[6] In their June 10, 2010 response to the Request, Fortune states that they have made attempts to engage the Tlicho Government in discussions concerning an access agreement, but without success[7].

During the entire period since 2007, a development moratorium has been in place on Tlicho Lands, pursuant to the *Tlicho Lands Protection Law*, enacted August 4, 2005, pending the conclusion of the Tlicho Land Use Plan and the development of resulting protective mechanisms and development standards. That land use planning process is currently underway, but not complete.

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[5] *Supra*, note 2.
[6] May 28, 2010 TCG Request, p. 3
[7] June 10, 2010 Fortune Response, p. 3

THE ISSUES AND PARTIES' POSITIONS:

The TCG submits that the EA is premature and that it should be postponed and placed in abeyance until Fortune can amend its project description to include all necessary components, in other words, until access arrangements are negotiated and the applications include the necessary access roads.

The problem in the TCG's view is that Fortune excluded two essential components of the project in its 2008 applications and the result is that the EA and the ToR set out for the development of a Developer's Assessment Report (DAR) are inconsistent with both the Tlicho Agreement and the MVRMA.

The TCG also argues that the scope of development set out in the ToR is inconsistent with Part 5 of the MVRMA and that the ToR represent a jurisdictional error.

The TCG suggests a postponement of the EA which, in the Review Board's view, would be tantamount to an indefinite adjournment. Otherwise it submits that the Review Board must address the jurisdictional problems created by the ToR.

Fortune argues that no postponement is required and suggests that the Review Board properly interpreted its jurisdiction. INAC also argues that the Review Board properly scoped the use of the potential realignment of the winter road, as well as the physical works and activities required to construct an access road to the mine site, into the EA. The NSMA submits that the EA should include assessment of access to the Fortune mine site.

MATTERS TO BE DECIDED:

In the Review Board's view, the TCG suggestion for a postponement cannot and should not be approved without also addressing the jurisdictional issues raised in its argument. To simply delay the proceeding as a means of avoiding a jurisdictional problem is not an acceptable outcome for any of the parties. Moreover, it is clear to the Review Board that an indefinite adjournment would be highly prejudicial to Fortune.

The company is in the process of preparing a DAR. It has already expended significant resources in this effort. The project was referred to EA in February 2009. The MVEIRB notes from the TCG's argument[8] that it too has expended significant resources considering Fortune's project. It is only fair to note, however, that the TCG has had more than ample opportunity to raise any concerns it might have had about this project earlier in the course of the EA.

The Review Board notes the following history of Tlicho community and Government involvement in the scoping of the development and preparation of the ToR and work plan for the EA:

[8] See page 2 TCG Request May 28, 2010.

- April 2, 2009: the Review Board requested that the parties provide written scoping comments. The TCG scoping comments were received June 1, 2009 with the TCG scoping comments further clarifying road issue received July 23, 2009.

- April 27, 2009: the Review Board holds a scoping session in the community of Whati.

- May 4, 2009: the Review Board holds a scoping session in the community of Behchoko.

- May 7, 2009: the Review Board holds a scoping session in the community of Gameti.

- Sept 15, 2009: the Review Board releases draft ToR and Work Plan and requests comments from parties. TCG provides comments on draft ToR Oct 22, 2009 and TCG provides comments on draft Work Plan Nov 6, 2009.

- November 2-3, 2009: the Review Board holds a scoping session in the community of Wekweeti.

On none of these occasions did the TCG raise the kinds of jurisdictional issues outlined in the Request.

- November 30, 2009: the Review Board issues its final Fortune ToR and Work Plan to the parties.

Now, six months after Fortune began work on the DAR in response to the ToR and Work Plan, the TCG has filed its Request (May 28th, 2010).

Considering this procedural history, the Review Board is of the view that an indefinite postponement of the EA would be unfair to Fortune. The Review Board is of the view that the TCG had over a year to raise the concerns set out in the Request. In fact, the TCG previously commented on the draft ToR and Work Plan without raising these concerns. It is the Review Board's opinion that an adjournment is not an appropriate remedy in these circumstances. Consequently, the Review Board has decided that it must also review the jurisdictional issues raised by the TCG and make a ruling on those issues.

THE JURISDICTIONAL ISSUES:

The TCG expresses its jurisdictional arguments as follows:[9]

[9] See page 5 of the Request.

First, proceeding with the EA as proposed in the ToR would be inconsistent with the Tlicho Agreement and provisions of the MVRMA, and therefore outside the jurisdiction of the Review Board, for two reasons:

> Because of the exclusion of the essential access roads from Fortune's applications, the Proposal as a whole is speculative or hypothetical. It is therefore not a "proposed development" within the contemplation of Part 5 of the MVRMA.
>
> The ToR and the proposed EA ignore the fact that Fortune's Proposal could not be viable without industrial highway access across Tlicho Lands, and that authorizations to construct those could not even be applied for without an access agreement from the Tlicho Government, Instead the ToR characterizes those roads as "anticipated" components of the Proposal, and "assumes" that they will be constructed and therefore can be considered in the EA. These assumptions are inconsistent with the Tlicho Agreement, because they ignore the Tlicho Government's authority under that Agreement, to decide what happens on Tlicho Lands.

Second, the scope of the development, as defined in the ToR, is inconsistent with part 5 of the MVRMA, and therefore the proposed EA would be outside the mandate and jurisdiction of the Review Board, for two reasons:

> Because the industrial access roads required by Fortune are not existing projects, or authorized for future development, or the subject of applications to the WLWB, they are speculative and hypothetical. Therefore the Review Board has no jurisdiction to "scope" into the development either the construction or the operation of the "spur road," or Fortune's "use" of an industrial highway to be connected to Highway 3.
>
> Furthermore, because neither of those access roads has been already constructed, authorized or planned and included in an application, their location and related physical characteristics are unknown, with the result that their environmental and socio-economic impacts cannot be known or effectively assessed, as required by Part 5 of the MVRMA.

THE REVIEW BOARD'S ANALYSIS OF THE JURISDICTIONAL ISSUES:

The First Jurisdictional Ground-

The TCG argues that the Fortune project is not feasible as a result of the lack of an access agreement to the claim block and submits that this fact makes the NICO project as a whole "hypothetical or speculative". The TCG says that the Tlicho Agreement and the MVRMA do not authorize the Review Board to engage in EAs of such hypothetical projects.

The Review Board notes, however, that the definition of "development" in section 111 of the MVRMA reads as follows:

> "development" means any undertaking, or any part or extension of an undertaking, that is carried out on land or water and includes an acquisition of lands pursuant to the *Historic Sites and Monuments Act* and measures carried out by a department or agency of government leading to the establishment of a park subject to the Canada National Parks Act or the establishment of a park under a territorial law. (emphasis added)

It would seem from this definition that a part of an undertaking, such as the elements of the NICO project included in the current applications, is indeed a development within the contemplation of the MVRMA.

Moreover, the WLWB reviewed Fortune's eligibility for a licence and permit at the time it received the current applications and decided that the applicant was eligible. Thereafter, INAC referred these applications to the Review Board for an EA. Section 126 of the Act is clear. It is mandatory for the Review Board to conduct an EA of a development referred to it by a regulatory authority. There was no issue raised by the TCG about the actions of INAC, which is clearly a regulatory authority under the MVRMA, and its decision to refer the development.

In the Review Board's view, proceeding to conduct an EA on an eligible project for which a valid referral has been received should not be perceived to be "disrespectful of the jurisdiction of the Tlicho Government under the Tlicho Agreement". The Review Board is required by law to proceed with this EA.

Further, it is the Review Board's opinion that the EA in no way affects or limits the TCG's jurisdiction or authorities.

As for the issue of access to Tlicho Lands, the Review Board is of the view that the INAC argument is more compelling. Section 19.3.1 of the Tlicho Agreement grants Fortune, as the holder of an existing right in an excluded parcel, a right of access to Tlicho Lands in order to exercise that right. Section 19.3.3 limits that right in certain circumstances, subject to the provisions of chapter 6 of the Tlicho Agreement. That chapter does not, however, provide the arbitrator or surface rights tribunal with the authority to deny access, rather it provides for an order setting the terms of access in the case of a dispute.

The Review Board agrees with INAC that section 7.5.10(c) of the Tlicho Agreement limits the authority of the *Tlicho Lands Protection Law* so that it cannot prevent a person with a chapter 19 access right from exercising that right. Likewise, while the Board accepts and understands the importance of the TCG land use planning process, it is clear that the plan cannot limit the decisions of the WLWB until such time as it is approved.[10]

[10] See section 22.5.4 Tlicho Agreement which makes it clear that the plan only has effect upon approval.

Thus, on the first ground of the TCG argument the Review Board holds that proceeding with the EA is neither inconsistent with nor disrespectful of the Tlicho Agreement. The Review Board also finds that proceeding with the EA is both consistent with and mandatory under the MVRMA. In the Review Board's opinion the *Tlicho Land Protection Law* and land use planning process do not affect these conclusions.

The Second Jurisdictional Ground-

The second basis for the TCG challenge of the ToR and the EA is that the Review Board does not have the jurisdiction to include hypothetical projects in the scope of a development under section 117(1) of the MVRMA.

Section 117(1) of the MVRMA makes it mandatory for the Review Board to determine the scope of the development in an EA, subject to guidelines made under s. 120 of the MVRMA. After making considerable effort to consult the TCG and the communities, the Review Board made the scoping decision set out in the ToR. The Review Board's *Environmental Impact Assessment Guidelines,* March 2004 (Guidelines) set out on page 28 the criteria which will be used to decide whether physical works or activities are accessory developments and should be included in an EA.

First, the construction of the access road, a road which is essential to the operation of the NICO development, can be characterized as a "part or extension" of the NICO undertaking. This is based on the definition of "development". Therefore, the access road construction falls under the definition of "development" for the NICO project. The "use" of the roads could also fall under the "development" definition as an undertaking or extension of an undertaking.

The Review Board's Guidelines also show how it determines what to include in the scope of a development:

> In scoping the development, the Review Board will consider what is the principal development, and what other physical works or activities are accessory to the principal development.
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> Three criteria will be used to determine whether or not a physical work or activity is an accessory development, and therefore should be included in the development.
>
> The first test is dependence: that is, if the principal development could not proceed without the undertaking of another physical work or activity, then that work or activity is considered part of the scoped development.
> The second test is linkage: if a decision to undertake the principal development makes the decision to undertake another physical work inevitable, then the linked or interconnected physical work or activity will be considered part of the scoped development.

> The third test is proximity: if the same developer is undertaking two physical works or activities in the same area, then the two may be considered to form one development. (p. 27-28) [underlining added]

The Board applied the Guidelines to help it determine the scope of development for the NICO development. The Review Board found that since the NICO development cannot function without the access road for transportation in and out of the site, that the access road should be part of the scope of development. The NICO development "depends" on the access road. Further, the access road is "linked" to the NICO development because the road has no purpose if it cannot connect to and allow Fortune to use the winter road. The road and the NICO development are also "proximate' because they are to be constructed in the same area. Therefore, the access road construction should be included in the scope of development

The Board also has the authority to include the "use" of both roads in the scope of development for the NICO project. First, the "use" of the two roads can each be characterized as an "activity" that is "accessory" to the principal NICO development, as described in the Guidelines.

Thus the winter road's use should be part of the NICO scope of development based on the application of the same three criteria.

Finally, both roads were included in the scope of development because they are linked, both to each other, and to the NICO development. There is no reason to construct and use the access road if there is no winter road to connect to. The access road has no purpose for existence if it cannot link to the winter road. The winter road will likely have other purposes on its own, including providing transportation to Gameti and Whati.

Therefore in this case the Review Board decided to include both the construction and use of Fortune's anticipated all weather access road and the use by Fortune of the all land winter road from Highway 3 in the scope of the NICO development.

The TCG says that these roads are both hypothetical. That characterization is, however, mainly based on the fact that the TCG's agreement to permit access across Tlicho Lands has not yet been granted. As was indicated in relation to the analysis of the TCG's first line of jurisdictional argument above, the TCG cannot refuse that approval.

As far as the anticipated access road goes, Fortune can and must provide all the necessary information about the location, design, construction, use and eventual abandonment of this road in its DAR. This analysis will provide a firm foundation for prediction of the impacts of that road as required by part 5 of the MVRMA.

The TCG argues that because neither of the access roads are built that their locations and related physical characteristics are unknown and their environmental and socio-economic impacts cannot be assessed. With respect, if this argument were accepted as presented, many

environmental impact assessments could never be conducted. It is not at all uncommon for EAs to include and assess activities which will not be specifically located and built until later. For example, in EA003-05 the Review Board assessed future oil and gas developments in the Cameron Hills without knowing the specific location of each well, pipeline or access road. Likewise with the Mackenzie Gas Project, an environmental impact review was conducted of a large proposed development for which hundreds of regulatory applications will follow if the review is favourable and approvals are given.

When the time comes for Fortune to make applications for the anticipated access road it will be constrained by the scope of the EA. If the road applications expand the scope of the development or significantly modify the development, those applications will be subject to screening and a second possible EA. This arrangement is set out in the *Exemption List Regulations*[11] (see Schedule 1 Part 1 s.2.1).

CEAA Case Law on the Scoping of Developments-

There is no MVRMA case law addressing the authority and discretion of the Review Board during the scoping process. The case law on the issue of scope of development and project splitting has largely arisen under the *Canadian Environmental Assessment Act* [12] (*CEAA*). It is important to consider s. 15(1) of the *CEAA*:

> 15. (1) The scope of the project in relation to which an environmental assessment is to be conducted shall be determined by
>
> (a) the responsible authority; or
> (b) where the project is referred to a mediator or a review panel, the Minister, after consulting with the responsible authority.

The section gives the RA and/or the Minister the discretion to determine the scope of the project. This is similar to the Review Board's discretion under s. 117(1) of the MVRMA. However, the CEAA case law is relevant to the interpretation of the Review Board's scoping discretion in the MVRMA context. The two most helpful cases are briefly reviewed below.

A) *Bow Valley Naturalists Society* v. *Canada (Minister of Heritage)*

In the case of *Bow Valley Naturalists Society* v. *Canada (Minister of Heritage)*[13] the Federal Court of Appeal followed its decision in the Sunpine case. In relation to scoping under the *CEAA*, the Court referred to the Responsible Authority's Guide (now no longer used).

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[11] SOR/99-13 as amended.
[12] S.C. 1992, c. 32
[13] [2001] F.C.J. No. 18, 2 F.C. 461 (2001) 266 N.R. 169, 27 Admin. L.R. (3d) 229, 37 C.E.L.R. (N.S.) 1 (FCA)[hereinafter *Bow Valley*]

The Court stated that the scope of a project under s. 15 of the *CEAA* "is normally limited to undertakings directly related to the proposed physical work, such as its construction and operation, and ancillary or subsidiary undertakings".[14] However, in relation to the judicial review of a decision taken on receipt of an EA, Justice Linden stated:

> The Court must ensure that the steps in the Act are followed, but it must defer to the responsible authorities in their substantive determinations as to scope of the project, the extent of the screening and the assessment of the cumulative effects in the light of the mitigating factors proposed. It is not for the Judges to decide what projects are to be authorized, but, as long as they follow the statutory process, it is for the responsible authorities.[15] [underlining added]

This case stresses the importance of courts deferring to the RAs in their determination of the scope of a project.

B) *Prairie Acid Rain Coalition v. Canada (Minister of Fisheries and Oceans)*[16]

The applicants in this case, including the Coalition, applied for judicial review of DFO's decision on the scope of the EA of TrueNorth Energy's oil sands extraction mine. The project required a DFO authorization to destroy a fish-bearing creek in the area of the proposed mine. DFO determined that the scope of the project was the destruction of the bed and channel and the construction of diversions.

The applicants argued that DFO's scoping decision was too narrow because it "only covered the destruction of a fish habitat, and not the entire oil sands undertaking..." The Federal Court dismissed the application and found that DFO's decision to limit the scope of the EA to the destruction of the creek was reasonable and was legally appropriate. The Court stated that the destruction of the creek was a project in its own right.

On appeal, the Federal Court of Appeal affirmed the Trial Court's decision. The Court of Appeal stated at para 34:

> If, as the appellants seem to argue, the subsection 35(2) trigger requires that the project's scope be the entire oil sands undertaking, a responsible authority would have no discretion under subsection 15(1) of the CEAA as to the scoping of a project for

[14] *Ibid.*, para 34 Q.L.
[15] *Ibid.*,para 78 QL.
[16] [2004] F.C.J. No. 1518; 2004 FC 1265;; 257 F.T.R. 212; 10 C.E.L.R. (3d) 55; 133 A.C.W.S. (3d) 1000. Affirmed [2006] F.C.J. No. 129; [2006]; 2006 FCA 31; [2006] 3 F.C.R. 610; [2006] 3 R.C.F. 610; 265 D.L.R. (4th) 154; 345 N.R. 374; 55 Admin. L.R. (4th) 191; 21 C.E.L.R. (3d) 175; 145 A.C.W.S. (3d) 844; 2006 CarswellNat 170; Leave to Appeal Refused [2006] S.C.C.A. No. 197 (also called the *TrueNorth* case)

> federal environmental assessment purposes. Any trigger would automatically require an overall federal environmental assessment of the entire proposed physical work. Nothing in the CEAA supports the view that project scoping under subsection 15(1) must always include the entire proposed physical work. [underlining added]

This suggests that when scoping a project that an RA could scope part of the physical work or indeed scope the project in phases and conduct the EA in phases too. However, it is also equally possible that the RA could decide to enlarge the scope of a project.

The Court discussed the discretion conferred on DFO by s. 15 of the *CEAA* as follows in paragraph 18:

> The appellants' argument that the DFO was obliged to scope the project for environmental assessment purposes as the entire oil sands undertaking ignores the words of subsection 15(1), which empower the responsible authority, the DFO in this case, to determine the scope of the project. In *Friends of the West Country* at paragraph 12, this Court described the powers of a responsible authority under subsection 15(1) in the following words:
>
> > Subsection 15(1) is straightforward. It confers on the responsible authority ... the power to determine the scope of the project in relation to which an environmental assessment is to be conducted.
> >
> > The appellants' approach would deprive the DFO of any discretion in respect of the scoping of a project contrary to the words of subsection 15(1). (underlining added)

The Review Board has a similar authority under s. 117(1) and its Guidelines to exercise its discretion when deciding what to include in the scope of development.

Conclusion

Thus on review of the MVRMA, the Review Board's Guidelines and the CEAA case law on scoping it appears to the Review Board that the anticipated access road and the all land winter road were properly scoped into the NICO development and that the Review Board did so in a proper exercise of its s. 117(1) discretion under the MVRMA.

The Review Board therefore concludes that it had the jurisdiction to scope the roads into the NICO development pursuant to the MVRMA.

DECISION:

For the reasons set out herein, the Review Board finds that it would be unfair to Fortune Minerals Limited to postpone the completion of the NICO Environmental Assessment. The Review Board also finds that its scoping decision in this EA is not inconsistent with the Tlicho Agreement or the MVRMA and that it had the requisite jurisdiction to make its scoping decision.

The Tlicho Government's Request is therefore denied.

MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD:

Richard Edjericon
Chairperson

August 25, 2010