



Akaitcho Interim Measures Agreement Implementation Office

NWT Treaty #8 Tribal Corporation

March 19, 2013

Mackenzie Environmental Impact Review Board
c/o Simon Toogood
via email stoogood@reviewboard.ca

RE: EA1011-001 Written Closing Arguments/Statements.

Dear Mr. Toogood,

Please accept this correspondence as our written closing arguments/statements for MVEIRB EA1011-001 Avalon Rare Metals Inc. – Thor Lake Rare Earth Element Project.

Regarding our technical report and public hearing presentation, I would like to take this opportunity to reiterate these recommended measures:

1. Caribou Impacts – Direct and Cumulative

The proponent must contribute towards any regional cumulative effects framework that may become operational during the lifespan of the mine. The Government of Canada and the Government of the Northwest Territories must be required to develop and implement a meaningful strategy for the management of cumulative effects as they relate to caribou. This strategy should include clear data management mechanisms, thresholds, and adaptive response mechanisms.

2. Monitoring – Wildlife Effects and Air Quality

The proponent must be required to develop the Wildlife Effects Monitoring Program collaboratively with the Aboriginal Parties. Initial work on the development of the WEMP should commence in advance of any regulatory authorization, and be completed in partnership with the Aboriginal Parties. Such a measure is required as the Land and Water Board has been explicit in stating that requiring a WEMP is outside of the scope of the current permits and licenses it is authorized to issue. A WEMP without an enabling measure is therefore unenforceable.

The proponent must be required to collaboratively design an Air Quality Management Plan, including regular post-commissioning stack testing, with the Aboriginal Parties. Part of this plan should be a local sediment sampling program to establish current levels of persistent pollutants.

3. Traditional Knowledge

The proponent must be required to demonstrate in a detailed, structured manner how it will secure relevant traditional knowledge and use it to adapt the design and management of the project.

4. Aboriginal Party Participation in Environmental Monitoring and Management

The proponent must be required to work collaboratively with the Akaitcho Dene First Nations to develop and implement a robust approach to meaningfully involving the First Nations in the environmental stewardship of the project. Such an approach must include provisions for data gathering and reporting, feedback and communications, securing expertise and fostering capacity, and informing adaptive management. This approach should be based upon best practices at other mine projects in the Akaitcho Territory and also upon best practices internationally. In this specific instance, given the radioactive nature of the tailings, strict independent auditing must be imposed in order to prevent environmental damage.

5. Closure

The proponent must be required to develop a closure and reclamation plan collaboratively with the Aboriginal Parties for the project. This plan should include immediate development of component based closure objectives, delineated within a specific timeframe.

Regarding the Mackenzie Valley Environment Impact Review Board process for this environmental assessment I would like to note the following for the record: The MVEIRB denied the community of Lutsel K'e the opportunity to participate in a community hearing. The Lutsel K'e Dene First Nation, along with the other Akaitcho Dene First Nations and their communities will be directly adversely affected and impacted regarding this proposed project. In this case the community members of Lutsel K'e who have requested in writing of the MVEIRB for a community hearing, as the MVEIRB process is part of the Crown Consultation process, and have been denied, therefore the duty for Crown Consultation and Accommodation to occur prior to allowing any significant negative impacts to Treaty and/or Aboriginal rights has not been met.

To be clear and for the record, the Akaitcho Dene First Nations and their community members have not been Consulted by the Crown regarding the potential for significant negative impacts to their Treaty and/or Aboriginal rights. For example, the Akaitcho Dene First Nations have all expressed concerns in regards to Caribou during the EA process, the GNWT has neither engaged nor intervened on behalf of the Akaitcho Dene First Nations or the Caribou, therefore there are outstanding Caribou concerns that must be addressed outside of the EA process and the GNWT must be required to accommodate the Akaitcho Dene First Nations. In order for the Crown to understand further the nature of the rights to be impacted I seriously recommend that the Crown Consult the Akaitcho Dene First Nations and their communities, outside of the MVRMA process' already in place, immediately regarding this proposed development within Akaitcho Territory.

Respectfully,

signed electronically by

Stephanie Poole
Akaitcho IMA Implementation Office
NWT Treaty #8 Tribal Corporation

cc. Mr. Bernard LaRoche, Project Coordinator (Yukon), NPMO, CanNor