



Box 1500
YELLOWKNIFE NT X1A 2R3

December 10, 2010

File: EA1011-001

Paul Mercredi
Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
P.O. Box 938
YELLOWKNIFE NT X1A 2P1
VIA EMAIL: pmercredi@reviewboard.ca

Dear Mr. Mercredi:

**Re: Draft Terms of Reference for the environmental assessment of
Avalon Rare Metals Inc.'s Nechalacho Rare Earth Element Project**

Thank you for your request for input on the Draft Terms of Reference for the Environmental Assessment of Avalon Rare Metals Inc.'s (Avalon's) Nechalacho Rare Earth Element Project (EA1011-001). Indian and Northern Affairs Canada (INAC) is pleased to provide the following comments on the Draft Terms of Reference, which build upon our September 27, 2010, scoping submission:

Section 2

- Subsection 2.1 – INAC recommends adding the phrase “in the Mackenzie Valley” to the end of the first sentence of the second paragraph.
- Subsection 2.2.2, Point 1 – INAC recommends that the Review Board explain why the portion of the Avalon claim block that includes beryllium deposits is excluded from this environmental assessment.
- Subsection 2.2.2, Point 3 – INAC suggests that the developer provide a map depicting the watershed boundaries of the proposed development, including details on groundwater and surface water drainage patterns.
- Figure 1 – For greater clarity, INAC suggests that the Review Board add geographic coordinates to the map.
- Subsection 2.2.3 – In the last paragraph of page 5, the Review Board requires the developer to “accurately portray a realistic mine life in the Developer’s Assessment Report.” Is the Review Board referring to the potential life of Avalon’s proposed mine or the actual life-of-mine that Avalon has indicated in their water licence and land use permit applications? Please clarify. Both scenarios were discussed at the Technical Scoping Sessions.

Section 3

- Subsection 3.2.4 – In the first paragraph, the developer is tasked with describing the environmental conditions that existed “prior to any industrial activity occurring.” However, the following sentence states that this “must consider the current state of the baseline conditions and the natural range of background conditions.” Consequently, it is not clear if the developer is asked to describe the conditions that existed prior to industrial activity, the current conditions, or both. INAC requests that the Board provide a clear definition of “baseline” in the context of this development.
- Subsection 3.2.5 – As stated in our scoping submission dated September 27, 2010, INAC requires further information regarding Avalon’s revised tailings management option and strategy for the proposed hydrometallurgical plant. INAC again requests that the developer provide either a detailed description of the project in its final configuration or a detailed description of all project alternatives under consideration.
- Subsection 3.2.6 – For the information of all parties to this environmental assessment, section 35 Crown consultation is an obligation of the Crown to reconcile potential or established Aboriginal or treaty rights with the exercise of Crown sovereignty. It should be noted that ultimately, the adequacy of Crown consultation will be assessed by the Responsible Ministers taking into account:
 - the consultative process that is the environmental assessment process. The environmental assessment process provides the opportunity for Aboriginal groups to raise their concerns and also for the Crown and all parties to get a clearer idea of what potential adverse impacts a project may have on which potential or established Aboriginal or treaty rights and propose suggestions as to how such effects may be mitigated.
 - any engagement activities undertaken by Avalon and any modifications that Avalon may have made to its project proposal as a result of its engagement with all potentially affected Aboriginal groups.
- Subsection 3.3.2 – In the second bullet under “Thor Lake” on page 13, the Review Board uses the phrase “downstream of the project’s last point of discharge control”. INAC suggests that the Review Board use the terms “last point of control” or “end of pipe” to be consistent with terminology used throughout the document and other phases of the project review.
- Subsection 3.3.2 – In the first bullet under “Great Slave Lake” at the bottom of page 14, the “overturning of all barges” is referred to. The same terminology is again used in subsection 3.3.5, in the second bullet under “Great Slave Lake” at the bottom of page 17. Both of these sections cross-reference section 3.5. However, in the first bullet under section 3.5, on page 24, the developer is required to discuss the risk of barging accidents “due to any cause” but not specifically the overturning of all barges. Furthermore, the terminology used in this section, “barge train fully

loaded” is not consistent with that used in the previous two sections mentioned. The terminology ought to be consistent and presumably require a consideration of the apparent worst-case scenario of a barge train or all barges (INAC is not sure which is intended) overturning.

- Subsection 3.3.3 – This section requires the developer to consider cumulative effects at the Pine Point site area. In INAC’s view, the developer must consider the entire Nechalacho Project area, which includes the Pine Point site, in its cumulative effects assessment. INAC is aware that Appendix D discusses the requirements for a broader cumulative effects assessment, however, in light of our comments under “Appendices” below, INAC recommends that the Review Board change the title of subsection 3.3.3 from, “Cumulative Effects at the Pine Point Site Area” to “Cumulative Effects” and include the requirement for a cumulative effects assessment for the entire project area.
- Subsection 3.3.10 – This section identifies INAC’s 2009 *Guidelines for Designing and Implementing Aquatic Effects Monitoring Program for Development Projects in the Northwest Territories* (Guidelines). However, the first paragraph, as written, implies that general site monitoring should not be used to guide the development of Avalon’s environmental monitoring program. INAC would like to clarify that its Guidelines provide guidance on general site monitoring, the assessment of local conditions, comparisons from near-field and far-field or reference areas, trend analyses and also help determine if significant adverse effects are occurring. INAC suggests that this paragraph be reworded so that the intent of INAC’s Guidelines is clear.

Appendices

- The first paragraph states, “The developer’s assessment report must address the items from the main body of this terms of reference in a comprehensive manner but does not necessarily need to address each specific item from the appendices.” INAC cautions that making this section of the Terms of Reference discretionary could result in data or information gaps. In fact, the majority of INAC’s comments submitted as part of the scoping process best align with the specific line items and content of the appendices. INAC recommends that the Review Board remove the non-compulsory wording from this sentence or remove the sections of the appendices that may be non-compulsory.

Appendix A: Existing Environment

- Biophysical Environment, Number 5 – INAC requests a clarification on the difference between “groundwater” and “shallow subsurface water”.
- Biophysical Environment, Number 13 – INAC requests that the developer provide more information on the impacts from fugitive dust, wind

generated dust from tailings, stockpiles and waste-rock piles, and fly ash from coal combustion.

- Human Environment, Numbers 16 and 18 – INAC suggests that the Review Board include references to where Avalon may find baseline information for the requested subjects.

Appendix B: Development Description

- Closure and Reclamation – INAC would like to see specific mention of the airstrip as another facility requiring reclamation.

Appendix D: Cumulative Effects

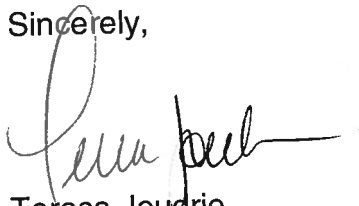
- Number 1 – INAC recommends that the potential impacts to vegetation, terrain, air quality, and water quality be predicted, in addition to the potential impacts on fish and wildlife.
- Numbers 2.b. and 2.c. – In INAC's view, these sections are quite broad and poorly defined. INAC suggests that the Review Board could give more specific instructions.
- Number 8 – INAC commends the Review Board for including a reference to the NWT Cumulative Impact Monitoring Program as well as the requirement to make project-specific monitoring compatible with this program.

Appendix J: Biophysical Environmental Monitoring and Management Plans

- Number 4.b. – Please add INAC to the list of federal departments that should be consulted in developing a conceptual framework for an integrated Aquatic Effects Monitoring Plan.

If you have any questions regarding the above comments, please contact Charlotte Henry at (867) 669-2616 or Nathen Richea at (867) 669-2657.

Sincerely,



Teresa Joudrie
Director, Renewable Resources and Environment