



Yellowknives Dene First Nation

P.O. Box 2514, Yellowknife, NT X1A 2P8

September 17th, 2010

Don Aubrey
Indian and Northern Affairs Canada
Box 1500
Yellowknife, NT
X1A 2R3
Fax: (867) 669-2540
Don.Aubrey@inac-ainc.gc.ca

Dear Mr. Aubrey:

Re: TNR Gold Environmental Assessment – EA1011-002

We are writing to remind the Crown that the obligation to consult with the Yellowknife Dene First Nation has not been dispensed with for this development proposal. YKDFN have asserted that there will be clear and undeniable impacts to the culture and rights of the First Nation. The Mackenzie Valley Land and Water Board agreed that there was the possibility of significant effects and referred this file on July 23rd, 2010. As in previous cases, this company has not engaged with the First Nation, despite clear instructions on how to achieve this.

In Federal Court Case T-1349-09 (Volume II, p29-30) the Crown advanced the following position:

“And, in a sense, in terms of the Crown consultation piece, if you will, the process allows to a certain extent, the First Nations to determine how much consultation they want in this sense. The preliminary screening decision is a very low threshold decision it does not take very much in terms of identifying a risk of a significant adverse impact to the environment to have this matter referred to environmental assessment, which is a much more elaborate process one which there’s a lot more processes in there for Crown consultation to occur...”

“If more consultation is wanted because there are concerns of aboriginal people that in their view need to be looked at seriously, the process [Environmental Assessment] is at hand to do that.”

The YKDFN do not believe that this is the proper venue for consultation, but even if it was, the ‘fast-track’ approach adopted by the Mackenzie Valley Environmental Impact Review Board directly limits our ability to participate. Not only is the process significantly abridged (skipping the steps associated with the Developer’s Assessment Report, no Technical Review Period, no Information Request process), there is no information exchange or additional information to review, nor is it clear how Traditional Knowledge on *Section 35* rights can be collected and

submitted. The critical issues in this EA, as in the Drybones Bay and Thelon assessments, will be heritage resources and traditional use. Without resources, time, and a process in place to gather this information the EA will not be able to begin to assess whether there will be significant impacts, let alone design mitigations.

The point here is that even by the Crown's definition, this process will not adequately allow the First Nation to raise their concerns, consequently limiting the accommodation measures that can be developed to address these concerns. As such, the YKDFN are providing advance notice that it seems likely that this process will meet the duty to consult.

If you have any questions or concerns, please contact YKDFN Lands and Environment at 766-3496.

Sincerely,

Chief Edward Sangris
Yellowknives Dene First Nation (Dettah)

Copy: Chief Ted Tsetta, YKDFN Sub Chief, Ndilo, NT, (867) 873-8545
Steve Ellis, Akaitcho IMA Implementation Office, Lutsel K'e NT 1-888-714-3209
Todd Slack, YKDFN – Land and Environment, Yellowknife, NT (867) 766-3497
Ray Griffiths, LKDFN – Land and Environment, Lutsel K'e, NT (867) 370-3143
Rosie Bjornson, DKFN – Land and Environment, Fort Resolution, NT (867) 394-5122
Don Aubrey, Crown Consultation Support Unit – INAC, Yellowknife, NT (867) 669-2540