

**Report of Environmental Assessment and  
Reasons for Decision on the  
Snowfield Development Corporation's  
Diamond Exploration Program**

**February 25, 2004**



**Mackenzie Valley**  
Environmental Impact Review Board

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## Review Board Environmental Assessment Decision

The Mackenzie Valley Environmental Impact Review Board (Review Board) has relied upon all information in the public record to make its decision in the environmental assessment (EA) of Snowfield Development Corporation's Diamond Exploration. Having considered this evidence, the Review Board has made its decision in accordance with Section 128 of the *Mackenzie Valley Resource Management Act (MVRMA)*.

The Review Board finds that the implementation of the commitments made by the developer in the course of this EA (see Appendix A) alone will not fully mitigate all of the significant adverse environmental impacts of the proposed development. The Review Board also finds that the public concern about the development is linked to these residual adverse environmental impacts. The Review Board, however, is of the view that effective mitigation of these adverse environmental impacts, based on the recommendations made in this *Report of Environmental Assessment*, can alleviate public concern.

Therefore, the Review Board has decided, pursuant to subsection 128(1)(b)(ii) of the *MVRMA*, to:

- Recommend that the approval of the proposal be made subject to the imposition of such measures as it considers necessary to prevent significant adverse impacts.

Unless the measures recommended in this *Report of Environmental Assessment* are implemented, the Review Board does not believe the significant adverse environmental impacts can be mitigated or that the associated public concern can be addressed.

  
\_\_\_\_\_  
TODD BURLINGAME

Chair  
Mackenzie Valley Environmental  
Impact Review Board

  
\_\_\_\_\_  
DATE

## Summary Report of Environmental Assessment

The developer, Snowfield Development Corporation (SDC), proposes to conduct diamond exploration adjacent to Drybones Bay and further inland. The proposed undertaking included access over lake ice and via helicopter from Yellowknife and the drilling of approximately 100 holes in five claim areas, including the Mud Lake Claim Group, the Hurcomb Claim, the Red Claim Group, the Fate Claim and the GTen 16 Mineral Claim. The majority of the holes are land-based while some are expected to occur on frozen lakes and ponds. Associated activities are airborne geophysical surveys, ground geophysical surveys, ground geochemical till sampling, line cutting, a semi-permanent camp with sumps and an equipment storage/staging area, as well as mini-bulk sampling.

The Mud Lake Claim Group, the Red Claim Group and the Hurcomb Claim Group, are continuous claims approximately 5 kilometres southeast of the Drybones Bay area while the Fate Claim and the GTen 16 claim are located further inland respectively to the north and northeast.

This development is one of four diamond exploration activities in the same general area all of which underwent environmental assessment at the same time. This report is one of a series for the proposed developments in the vicinity of Wool and Drybones Bay areas. Although this report addresses the proposed development of SDC, all these developments are closely related due to:

- similarities in the environmental setting for the proposed developments;
- the concurrent timing of the proposed developments;
- common environmental, social and cultural issues arising from the proposed developments;
- public concern about all developments in Wool and Drybones Bay area; and,
- their contributions to cumulative effects in the Wool and Drybones Bay area.

A review of the evidence on the public record has convinced the Review Board that:

- Drybones Bay is a vitally important cultural and heritage area for the Yellowknives Dene First Nation, North Slave Metis Alliance, and Lutsel K'e Dene First Nation. It was the site of an Aboriginal community, holds many burial sites and archaeological sites, and is used extensively today for hunting, trapping, and providing youth with cultural exposure to traditional activities and the land.
- The developer's efforts to consult with Aboriginal parties were improved over the course of the proceeding and by the time of the public hearing showed a greater understanding of the cultural importance and use of the area, as reflected in improved mitigation measures.
- Aboriginal groups in this EA did not have adequate resources to participate fully in this proceeding, as no participant funding was available.
- Fish and fish habitat effects have been largely resolved by a commitment from the

- developer not to drill in depths that are likely to cause impacts to fish populations.
- Gravesites have not been adequately identified and protected during allocation of subsurface mineral interests in the staking process.
  - The YKDFN would like the area protected at least for the interim.

Significant adverse cumulative impacts on culture of the YKDFN and First Nations and Métis will result from further development of this area. The individual contribution of SDC's development, although extensive, is not expected to be a significant contributor to these cumulative impacts as a result of the mitigation measures proposed by the developer. The Review Board therefore (pursuant to *MVRMA* section 128 (1)(ii)(b)) recommends approval of the proposed development with mitigation to reduce impacts so that they are no longer significant.

The Review Board has recommended the following:

- SDC will not commence drilling within the three kilometre zone until the operational areas within the claim blocks are surveyed by a qualified archaeologist, accompanied by an Aboriginal elder and a translator if required, to detect suspected archaeological, historical, burial or cultural sites. (R1)
- SDC will only use access routes in the three kilometre zone if routes are scouted by an Aboriginal elder, a translator, if required, and a qualified archaeologist for suspected archaeological, historical, burial or cultural sites. Use of these access routes will only be permitted over packed snow or on lake ice. (R2)
- Any drill sites not in the three kilometre zone must be scouted by an Aboriginal elder, a translator, if required, and a qualified archaeologist for suspected archaeological, historical, burial or cultural sites. (R3)
- Aboriginal parties and the Prince of Wales National Heritage Centre will provide precise locations and the extent of recorded archaeological, historical, burial or cultural sites to SDC for its claim blocks. (R4)
- SDC will maintain a 100 metre buffer around all known and suspected archaeological, historical, burial or cultural sites. (R5)

In order to address EA process issues and the overall sensitivity of the area, the Review Board has suggested the following:

- Indian and Northern Affairs Canada (INAC), Environment Canada (EC), Fisheries and Oceans Canada (DFO) and the Government of the Northwest Territories (GNWT) should design and test a model for Crown consultation with Aboriginal rights holders for developments in the Mackenzie Valley at the earliest possible date. (S1)
- The Government of Canada should at an early date develop and institute a method to provide participant funding at the EA level under the *MVRMA* to be equivalent to the Comprehensive Study Review funding practices under *CEAA*. (S2)
- INAC should consider establishing a prospecting permit approach pursuant to section 29 of the *Canada Mining Regulations* for this area in order to provide Aboriginal communities concerned about the Wool and Drybones Bay areas the opportunity to provide input into staking areas and to avoid conflict over land use. (S3)

- No new land use permits should be issued for proposed developments within the Shoreline Zone, and within Drybones Bay and Wool Bay proper, for which applications for Land use Permits have not already been received by the release date of this Report of Environmental Assessment, until a plan has been developed to identify the vision, objectives, and management goals based on the resource and cultural values for the area. This plan should be drafted and implemented with substantive input from Aboriginal parties. The plan should specifically address future development and include provisions for protecting sensitive environmental, cultural, and spiritual sites. This exercise should be completed within 5 years and provide clear management prescriptions for the future development of this region. (S4)
- The federal and territorial governments should organize and conduct a thorough archaeological, burial and cultural site survey of the area extending from the western headland of Wool Bay to the southern tip of Gros Cap, within the Shoreline Zone. This survey should be designed in collaboration with the Yellowknives Dene First Nation, the North Slave Metis Nation, and other Akaitcho First Nations with an interest in the shoreline zone. The survey will be jointly funded by the federal and territorial governments. SDC should participate in this initiative in areas proposed for use in its claim areas. (S5)

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## Abbreviations

CARC	Canadian Arctic Resources Committee
CE Study	Gartner Lee Ltd.'s Cumulative Effects Study
CEAA	Canadian Environmental Assessment Act
CGV	Consolidated GoldWin Ventures Inc.
CPAWS	Canadian Parks and Wilderness Society
DAR	Developer's Assessment Report
DFO	Department of Fisheries and Oceans
DKFN	Deninu K'ue First Nation
EA	Environmental Assessment
EC	Environment Canada
EIR	Environmental Impact Review
HADD	Habitat Alteration, Disruption or Destruction
INAC	Indian and Northern Affairs Canada
LSA	Local Study Area
LKDFN	Lutsel K'e Dene First Nation
MVLUR	Mackenzie Valley Land Use Regulations
MVRMA	Mackenzie Valley Resource Management Act
NAGRC	North American General Resources Corporation Ltd.
NSMA	North Slave Métis Alliance
NSV	New Shoshoni Ventures Ltd.
NU	Nunavut
NWT	Northwest Territories
NWT Métis	NWT Métis Nation
PR	Public Record
RSA	Regional Study Area
RWED-GNWT	Resources, Wildlife and Economic Development, Government of Northwest Territories
TK	Traditional Knowledge
VC	Valued Component
YKDFN	Yellowknives Dene First Nation

## 1. Introductory Information

This section provides background information on the referral of this development to the Mackenzie Valley Environmental Impact Review Board (Review Board) and sets out the requirements for Environmental Assessment (EA) under the *Mackenzie Valley Resource Management Act (MVRMA)*. It also provides an overview of the environmental setting and a brief description of the development proposal.

Section 2, Environmental Assessment Process, presents the Review Board's EA process and the role of each EA phase in making a determination under section 128 of the *MVRMA*. This section also describes process issues that arose during the course of the proceeding.

Section 3, Public Concern, considers the extent of, reasons for, and significance of public concern.

Section 4, Impact on the Environment, considers the environmental components that the developer was required to examine during its impact assessment of the development on the biophysical and socio-economic environment and includes the Review Board's conclusions about the environmental impacts of the proposed development and their significance.

Section 5, Summary of Recommendations and Suggestions, contains a summary of all recommendations and suggestions of the Review Board in consideration of all material on the public record (PR).

### 1.1. Introduction

#### *1.1.1. Referral of the Proposed Development to the Review Board*

On June 11, 2003 Snowfield Development Corp. (SDC) applied to the Mackenzie Valley Land and Water Board (MVLWB) for a Type "A" Land Use Permit (MV2003C0023) for a period of 5 years.<sup>1</sup> The proposed undertaking included access over ice and via helicopter from Yellowknife and the drilling of approximately 100 holes in five claim areas, including the Mud Lake Claim Group, the Hurcomb Claim, the Red Claim Group, the Fate Claim and the GTen 16 Mineral Claim. These claims extend inland from and

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<sup>1</sup> This land use permit application does not cover developments on SDC's other claims in the area, including GTen 1, 2, 3 and 5 (Public Hearing Transcript (19:1-3), January 13, 2004, PR #139).



adjacent to Drybones Bay. The majority of the holes are land-based while some are expected to be drilled on frozen lakes and ponds.<sup>2</sup> Associated activities are airborne geophysical surveys, ground geophysical surveys, ground geochemical till sampling, line cutting, a semi-permanent camp with sumps and an equipment storage/staging area, as well as mini-bulk sampling<sup>3</sup>.

A preliminary screening of the proposed development was initiated on June 11, 2003 as required under the *MVRMA*. On June 30, 2003, the MVLWB referred the development to the Review Board under subsection 125(1) of the *MVRMA*. The reason for the referral was:

*“there is a likelihood that the proposed development may be a cause of public concern”* (MVLWB Reasons for Decision, July 11, 2003).<sup>4</sup>

The Review Board formally notified regulatory bodies of the referral and began planning the EA in a letter dated July 16, 2003 (PR #3).

### *1.1.2. Requirements of the Mackenzie Valley Resource Management Act*

The Review Board administers part 5 of the *MVRMA* and has decision-making responsibilities in relation to the proposed development.<sup>5</sup> The Board is responsible for the conduct of an EA which considers the environmental, socio-economic and cultural impacts of the proposed development in accordance with section 114 and section 115 of the *MVRMA*. The conduct of the SDC EA was based on the Board's *Rules of Procedure*.

Pursuant to section 117 of the *MVRMA*, the Board must determine the scope of a development and set out the factors to be considered in the EA for a development in consultation with the federal or territorial Responsible Ministers, if such consultation is requested. None was in this case. The Board is also required to prepare and submit a report of EA in accordance with subsection 128(2), a decision under subsection 128(1), and written reasons for decision, required by section 121, to the Minister of Indian and Northern Affairs Canada (INAC).

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<sup>2</sup> The DAR had indicated that no drilling would occur on lakes or ponds. Different submissions expressed different levels of certainty in drilling on lakes and ponds.

<sup>3</sup> Mini-bulk sample was viewed as contingent upon positive findings.

<sup>4</sup> Based on a correction to the Reasons for Decision issued July 11, 2003, PR #2.

<sup>5</sup> The Minister of DIAND and responsible ministers make the final decision in consideration of the Review Board's recommendations and suggestions.



## 1.2. Overview of the Proposed Development

### 1.2.1. *Environmental Setting*

The environmental setting has been described based on the broad interpretation of environment under the *MVRMA* that includes land, water, air or any other component of the environment, including the social and cultural environment. Given the nature of this referral, this section emphasizes the social and cultural environment based on use of the project area.

The Great Slave Lake is the fifth largest lake in Canada with a surface area of 28,400 square kilometres and the deepest lake in North America, reaching a maximum depth of 614 metres. Drybones Bay offers rich and varied habitat for many different species of wildlife throughout the year. The area's wetland habitat is ideal for moose and other fur-bearers including muskrat, marten and beaver. The shallow bays provide important habitat for fish spawning and nurseries. The inlets, bays, and islands along the coast, provide nesting, breeding, and/or staging habitat for waterfowl, passerines, and raptors.

The intensive historical and current use of this area by Aboriginal peoples, including the Dogrib, Dene, and Métis is well known. Cabin foundations, grave sites, traplines, and recently documented archaeological sites found in the sheltered interior of Drybones Bay demonstrate the use of the area and the richness of its heritage and cultural resources. The traditional importance of Drybones Bay is underlined by the stories of Aboriginal peoples who speak of living in and around Drybones Bay, as well as seeking protection in the shelter of Drybones Bay when bad weather makes travel by boat too dangerous. Traditional use in the bay includes fishing, camping, hunting, trapping, picnicking, berry-picking, harvesting traditional medicines, and spiritual practices. The area has long been a gathering place for Aboriginal peoples and a place where elders teach young people about their culture.

Residents of Yellowknife, Dettah, N'Dilo, Lutsel K'e, Fort Resolution, and Hay River regularly travel along the shores of Great Slave Lake to harvest and pursue traditional livelihoods as well as for recreation. The proximity of Drybones Bay to the growing City of Yellowknife has been linked to increased year-round recreational use of the area. In the summer, the area is frequented by boaters, including but not limited to recreational boaters and canoeists, as well as some members of the Great Slave Cruising Club, and Great Slave Yacht Club. Some naturalists are also known to go bird-watching in these sheltered bays which accommodate an abundance of bird species. In the winter, the area is visited by people on snowmobiles, including members of the YK Snowmobiler's Club.



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Commercial activities in the Drybones Bay area have included fisheries and tourism. Commercial fisheries have existed in the region since the early to mid-1900s. Tourism outfitter activities have also increased in the area (hunting and cultural tours).

Prospecting and mineral exploration activity in the Drybones Bay area dates back to the 1930s but there has been recent resurgence in staking and drilling activity in the area in search of diamonds and other minerals. Historical information about mining activity around Yellowknife describes timber harvesting and firewood collection for the mines with a network of trails being bulldozed through the bush to gain access to upwards of 10,000 cords of timber in the 1940s.

This more recent activity has been noted by traditional land users. Because there is no requirement to consult the traditional users of an area before staking mineral claims, some of the recent development activity appears to have taken place without an understanding of the intensity of local land use and of the cultural importance of the area to Aboriginal users. Treaty land entitlement negotiations, which include this area, are ongoing between the Akaitcho Treaty 8 First Nations and Canada but they have not yet been completed.

These circumstances, combined with increasing pressure on valued traditional use areas throughout the Akaitcho Territory, have prompted concern about the future development of the Wool and Drybones Bay area. Concerns have been voiced about the areas where Akaitcho First Nations and Métis believe traditional uses have already been affected due to mineral exploration and mine development. These kinds of concerns underscore the relative importance of areas, such as Wool and Drybones Bay.

### *1.2.2. Description of the Operation<sup>6</sup>*

Under the proposed Ticho Project exploration programs, Snowfield Development Corporation (SDC), proposes to conduct diamond exploration in the Drybones Bay area. The proposed undertaking includes access over ice and via helicopter from Yellowknife and the drilling of approximately 100 holes in five claim areas, including the Mud Lake Claim Group, the Hurcomb Claim, the Red Claim Group, the Fate Claim and the GTen 16 Mineral Claim. Associated activities are airborne geophysical surveys, ground geophysical surveys, ground geochemical till sampling, line cutting, a semi-permanent

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<sup>6</sup> This description does not encompass the full range of activities described in the land use permit application which described up to four stages of the program in each of the claim areas. This operational description was prepared based on the Developer's Assessment Report (DAR). The DAR and subsequent submissions focused mainly on Stages I and II and each subsequent description varied slightly with respect to the number and location of the drill sites due mainly to the interpretation of preliminary geophysical surveys. Refinements described in amendments and additions, responses to information requests, and SDC's presentation at the public hearing are reflected.



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camp with sumps and an equipment storage/staging area, as well as mini-bulk sampling. The operational area includes claims that extend inland from and adjacent to Drybones Bay (see Figure 1).

The exploration on each claim is results driven. The results from each stage lead to decisions (about nature and timing) for the next step to determine the location of the kimberlitic body. Consequently, the development will evolve with earlier stages of the development being described with greater certainty than later stages.

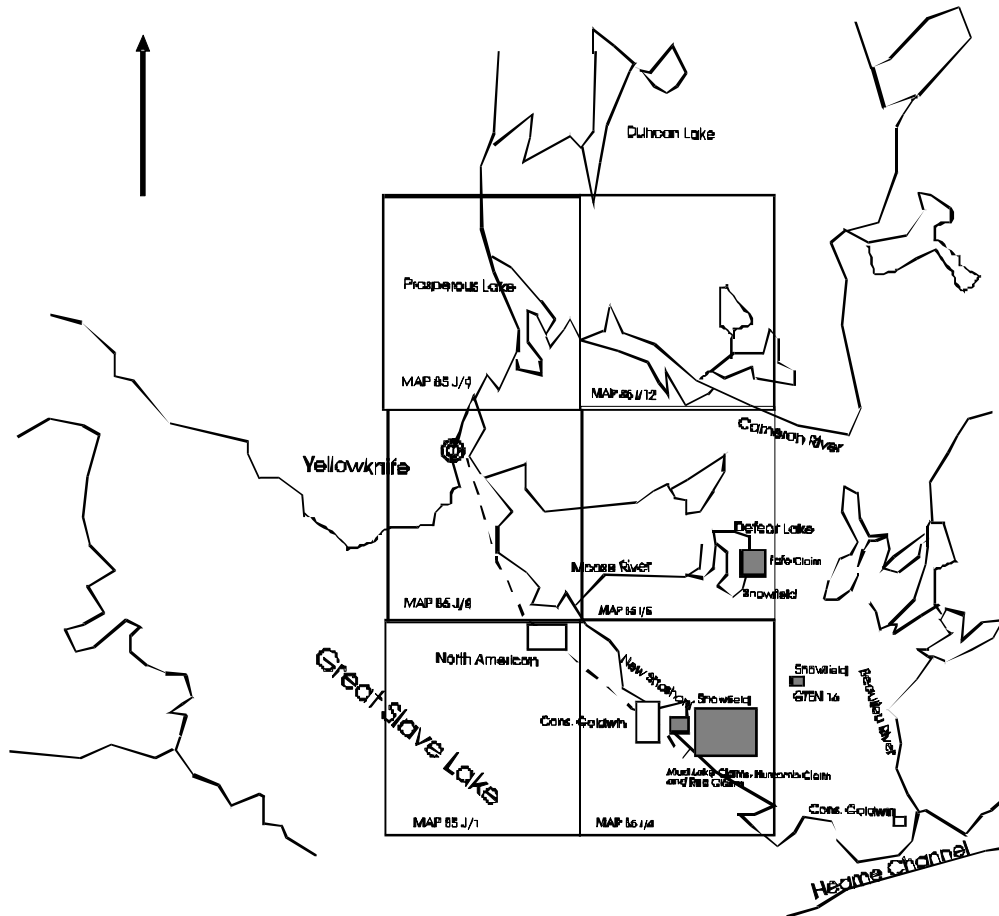


Figure 1. Location of Ticho Project



**Table 1. Staged Activities by Claim**

<b>Stages by Claim Group</b>	<b>Activities<sup>7,8</sup></b>	<b>Time and Duration</b>
<b>Mud Lake Claim Group</b>		
Stage I	<ul style="list-style-type: none"> <li>• Grid establishment, ground geophysics and sampling</li> <li>• 10 to 20 diamond holes are proposed to delineate the kimberlite body</li> <li>• mini-bulk sampling by trenching or drilling for a volume less than 500 tonnes<sup>9</sup></li> </ul>	July - September 2003 October 2003 - April 2004 (60 - 100 days) January or February 2004 (10 - 15 days)
Stage II	<ul style="list-style-type: none"> <li>• up to 30 drill holes<sup>10</sup> are proposed as amendment to land use permit application</li> </ul>	To be determined
<b>Hurcomb Claim</b>		
Stage I	<ul style="list-style-type: none"> <li>• grid establishment, ground geophysics and sampling</li> <li>• 5 to 7 diamond holes on targets located based on the results of the preliminary survey</li> </ul>	July – September 2003 January- April 2004 (20-30 days)
Stage II	<ul style="list-style-type: none"> <li>• drilling of up to 10 holes<sup>11</sup> are proposed as amendment to land use permit application</li> </ul>	To be determined
<b>Red Claim Group</b>		
Stage I	<ul style="list-style-type: none"> <li>• grid establishment, ground geophysics and sampling</li> </ul>	Before December 2003 (40 - 80 days)
<b>Fate Claim</b>		
Stage I	<ul style="list-style-type: none"> <li>• 3 diamond holes into a known geophysical target on Defeat Lake to a depth of 100 to 200 metres</li> </ul>	January - April 2004 (10-15 days)
<b>GTen 16</b>		
Stage I	<ul style="list-style-type: none"> <li>• grid establishment, ground geophysics and sampling</li> <li>• 3 to 5 drill holes into known geophysical targets to a depth of 100 to 200 metres</li> </ul>	October 2003 (10-15 days) January – April 2004 (10 - 15 days)

<sup>7</sup> Some activities (grid establishment, ground geophysics and sampling) do not require a land use permit and have already been started (i.e., cutlines less than 1.5 metres wide do not require a land use permit).

<sup>8</sup> Developer's presentation indicated that a total of 100 drill holes would be drilled by program completion, accordingly with results of preliminary surveys SDC has adjusted the number of drill holes anticipated for the claim areas for the upcoming season to consist of up to 20 for Mud Lake Claim, up to 10 holes on the Hurcomb Claim, up to 20 holes on the Red Claims Group, up to 3 holes on the Fate Claim, and up to 5 holes on the GTen 16 Claim.

<sup>9</sup> Added as per request of SDC (PR #80).

<sup>10</sup> As per *Amendment and Additions to Snowfield Development Corporation's Assessment Report* (p. vi).

<sup>11</sup> As per *Amendment and Additions to Snowfield Development Corporation's Assessment Report* (p. vi).





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SDC's activities occur during two primary seasons, summer and winter. Depending on weather conditions, the summer period (July – October) will focus on line cutting, geochemical soil/till sampling surveys, airborne or ground geophysical and ground penetrating radar surveys, prospecting and, where ground surface conditions permit, helicopter supported drill programs. The winter exploration period (November - April) will emphasize ground and helicopter supported drill programs, ground geophysical and ground penetrating radar surveys and some trenching for sampling of kimberlite. Diamond drills will be used mainly from October through April.

Most drilling is planned to be completed in the winter of 2003/04 for the Mud Lake, Hurcomb, Red and Fate Claims while GTen 16 will occur during the summer and fall of 2004. The DAR states that all drill sites are land based, but subsequent submissions indicate geophysical anomalies within Defeat Lake for the Fate Claim.<sup>12</sup> Some future drilling may occur on frozen lakes. The drilling procedure will be as follows:

1. The drill will be set up in a self-contained, completely enclosed module with an opening for the drill rods to be put through to contact the ground.
2. A drill bit will be fitted to the ground contact end of the drill rods.
3. The drill bit is turned at a very fast speed with pressure on it and it cuts through the overburden until it reaches solid rock. In most cases, casing (a larger diameter drill rod) is put down between the drill set up and the solid rock.
4. Drilling proceeds with the hollow drill bit cutting through the rock to capture a solid core of rock that is brought to surface by a wire line attached to the core barrel (a smaller diameter drill rod that fits inside the main drill rods), where it is analyzed by a geologist.
5. The drill bit cuts a hole that is between 2 to 5 inches in diameter depending on the type of drilling being undertaken and the rock conditions.
6. Core samples will be initially inspected on site and then transported to a facility in Yellowknife (yet to be secured) for additional analysis.

Drill sites will be kept as small as possible to minimize disturbance. Drill pads will be 100 square metres for land-accessible sites and 200 square metres for helicopter accessible sites.<sup>13</sup> Drill pads will generally be set back 30 metres from the ordinary high water mark of nearby water bodies. Final drill site selection will be completed in conjunction with local First Nations' groups in the same manner used by Snowfield and Diamonds North earlier this year.

During the winter months of 2003/04 and 2004/05, access to the program area will be by ice road between Yellowknife and the Pebble Bay Camp on Great Slave Lake. Access to the Mud Lake Claim Group, the Red Claim Group and the Hurcomb Claim

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<sup>12</sup> See *Amendment and Additions to Snowfield Development Corporation's Assessment Report* (p. vii).

<sup>13</sup> See Public Hearing Transcript (49:4-6), January 13, 2003, PR #139.



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from the shoreline of Great Slave Lake at the Pebble Beach Camp will generally occur over existing access roads and trails created under Land Use Permit # N199C0104. Other limited and temporary overland access (roads and trails) to specific exploration and drill sites will be constructed in the winter. All temporary access will be constructed in accordance with existing NWT guidelines for the construction, maintenance and closure of winter roads. Reclamation of access routes will follow to restore the area.

Access to the Fate and the GTen 16 Claim, as well as remote portions of the Red Claim Group and Hurcomb Claim from Yellowknife or the Pebble Beach Camp will be mainly by fixed-wing aircraft or helicopter. Temporary emergency shelter may be required at remote sites (Fate and GTen 16 Claims) in the event that bad weather prevents return to Pebble Beach Camp. During stage I, the number of flights (fixed wing or helicopter) from either Yellowknife or the Pebble Beach Camp will be about two per day. During drill moves, a helicopter will probably be used for 1-3 hours in local flight. Since air service support will be obtained from Yellowknife, pilots will be knowledgeable in all aspects of flying in the NWT.

SDC proposes to establish a semi-permanent camp and equipment storage/staging area approximately 75 meters back from the shoreline of Great Slave Lake (UTM Co-ordinates 355308 East / 6890125 North) to support remote activities. During operations (June 1, 2003 - October 31, 2008), the camp will accommodate up to 20 people, or have the capacity to expand to that size. The camp will consist of 5 - 6 sleep tents, a kitchen and dining tent, an office and first-aid tent, as well as a wash and shower tent. Each tent will have a wooden frame and 3/4 inch plywood floor mounted on 2 x 6 beams. Additional structures (tents or modular structures) will be established as required for latrines, supplies storage, core storage tent and helicopter supplies or equipment. There will be a designated burn area with burn barrel, a helipad, camp fuel cache, diesel powered electrical generator, electric powered pump to provide potable water and personal hygiene lake water.

Potable water will be pumped from the lake through an insulated poly-line, heated when required. Potable water will be stored in a holding tank. Grey water will be dispersed through an insulated poly-line, heated when required, to a sump of suitable capacity at least 100 metres from the ordinary high water mark of the nearest water body.

A fuel storage area will be created separate from the camp and setback the requisite distance from any watercourse. The fuels storage area will store up to ten drums (205 litres) of diesel fuel, four drums (205 litres) of jet fuel, two drums (205 litres) of gasoline and four containers (100 pounds) of propane. Oils required for the electrical generator and water pump will be stored in the generator shed. Two containers (100 pounds) of propane will be stored near the kitchen area for cooking and domestic hot water.



SDC's Environmental Operating Procedures will be used to eliminate spills and to reduce drips and leaks wherever possible. Spill kits and ancillary equipment and supplies (drip pans/pails, absorbent pads/material and absorbent pads/material) will be on-site wherever fuel or oil is stored, transferred or drips and leaks may occur as well as at base camp. Training will be provided for all staff and contractors. In the event of spillage or drippage due to fuel transfer or equipment failure, immediate remedial actions will be taken to stop and contain the flow. Contaminated snow or ice will be scraped, bagged and disposed of. Contaminated soil, sand or vegetation will be bagged and disposed of or aerated on tarps.

When clearing is unavoidable, it will be carried out in a manner that does not promote erosion. Wherever possible, areas that are naturally free of vegetation will be selected for logistical support sites (e.g. campsite, helipad). Operations requiring vehicle access will be conducted during the winter-spring period in order to take advantage of ice-covered waterways and frozen snow-covered ground to prevent disturbance of the soil and ground cover vegetation.

Preliminary restoration activities will occur immediately after completion of work at each site with final restoration occurring in the summer and immediately before all required company and regulatory environmental/land use inspections. Any bush and trees cut for survey lines, drill pad sites or camp locales will be reduced to manageable sizes and neatly piled. Cleared vegetation will be spread over exposed soil to prevent erosion and to enable seed stock to regenerate. Till or soil sample sites will be reclaimed by filling the sample pit and by replacing organic covering material immediately upon completion of the sample collection. Earth moving associated with the construction of small pits and sumps<sup>14</sup> will be reclaimed by stockpiling topsoil or surface material separate from the sub-soil and replacing it, preferably within six months, to maintain seed viability, nutrient quality and microbial activity to aid in regeneration and re-vegetation.

Foot accessible grid lines for geophysics, geochemistry and geology will be of minimal width. No large trees will be felled. Tree branches will be cut to allow foot access and line of sight. The blazing of trees will be avoided unless required by government regulations.

Drill cuttings are the only potential residual output of diamond drilling. Where produced, this fine material will be transferred to a land-based sump by pumping. Drill water will be re-circulated to the extent possible. Drill additives will be seldom used, and when required, only from a list of environmentally benign products. A spill kit will be located at each drill site during drilling.

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<sup>14</sup> To be used for the collection and disposal of benign waste (e.g. ashes/coins from burnt garbage, drill fluids, grey water and sewage) and not to occur within 100 metres of the ordinary highwater mark of nearby water bodies..



Types of waste that will be generated are used fuel containers plus human occupation waste. Combustible camp garbage and kitchen waste will be burned in the field in a converted fuel drum incinerator with ashes buried in a pit. During forest fire danger periods, combustible garbage will be transported to Yellowknife for disposal. Non-combustible garbage will be transported to Yellowknife for re-cycling or landfill disposal.

Sanitary sewage will be contained in outhouse pits, limed daily, and capped upon discontinuance of daily use or camp closure. Camp and personal hygiene grey water will be piped to a designated sump, covered in winter to keep out snow. Biodegradable, low-phosphate soaps will be used for kitchen dish/camp cleaning. No kitchen waste will enter the grey water settling sump.

Drill cuttings and fluids will be collected in tanks/sumps or topographic low areas thereby preventing any migration into natural waters. The amount of drill cuttings is not expected to exceed 0.25 – 0.50 cubic metres of material for each drill site.

At the camp, an electric powered pump will be installed to provide potable water and personal hygiene lake water from Great Slave Lake. Potable water, pumped from the lake through an insulated, heated as required, poly-line, will be stored in a dry in a holding tank. Grey water will be dispersed through an insulated, heated as required, poly-line to an outfall at an approved sump of suitable capacity.

Little lake water, if any, will be used to construct the ice road. Drilling water will be obtained from small lakes and ponds near each drill site. Water will be re-circulated reducing the quantity required to about 25,000 litres per drill hole. Used drill water will be disposed of in approved land site sumps as authorized by land enforcement officers.

Employment from the development will vary from 3 to 20 people in the field at any given time. Potential staffing includes: exploration staff: line cutters and support staff, camp attendant, cook and support staff, geologists, geophysicists and technicians: drilling contractor, and two technical consultants

## 2. Environmental Assessment Process

### 2.1. Parties to the EA

There were twelve parties to the EA. According to the *Rules of Procedure*, the developer is a directly affected party. Eleven government departments, Aboriginal



groups, other organizations, and leaseholders in the vicinity of the development were accepted as registered parties. They included:

- Indian and Northern Affairs Canada (INAC);
- Fisheries and Oceans Canada (DFO);
- Environment Canada (EC);
- Government of the Northwest Territories (GNWT);
- Yellowknives Dene First Nation (YKDFN);
- North Slave Métis Alliance (NSMA);
- Lutsel K'e Dene First Nation (LKDFN);
- Northwest Territory Métis Nation;
- Deninu K'ue First Nation(DKFN);
- NWT and Nunavut Chamber of Mines; and,
- Mr. Greg Robertson.

During the EA process, government representatives had the opportunity to identify their interest in the proceedings and to notify the Review Board of their Minister's intent to participate in the role of a responsible minister defined in section 111 of the *MVRMA*. The responsible ministers are the Ministers of DFO, EC, and RWED-GNWT. The Minister of INAC is the federal minister defined by the *MVRMA* and plays the central decision-making role.

## 2.2. EA Approach

The EA process had three phases: a scanning phase to define information needs and to describe the development and potential impacts; an analysis phase to explore the reasons for public concern and associated environmental issues; and a decision phase to consider, evaluate, and weigh evidence in order to render an EA decision. Figure 2 shows the phases and tasks undertaken in each phase.



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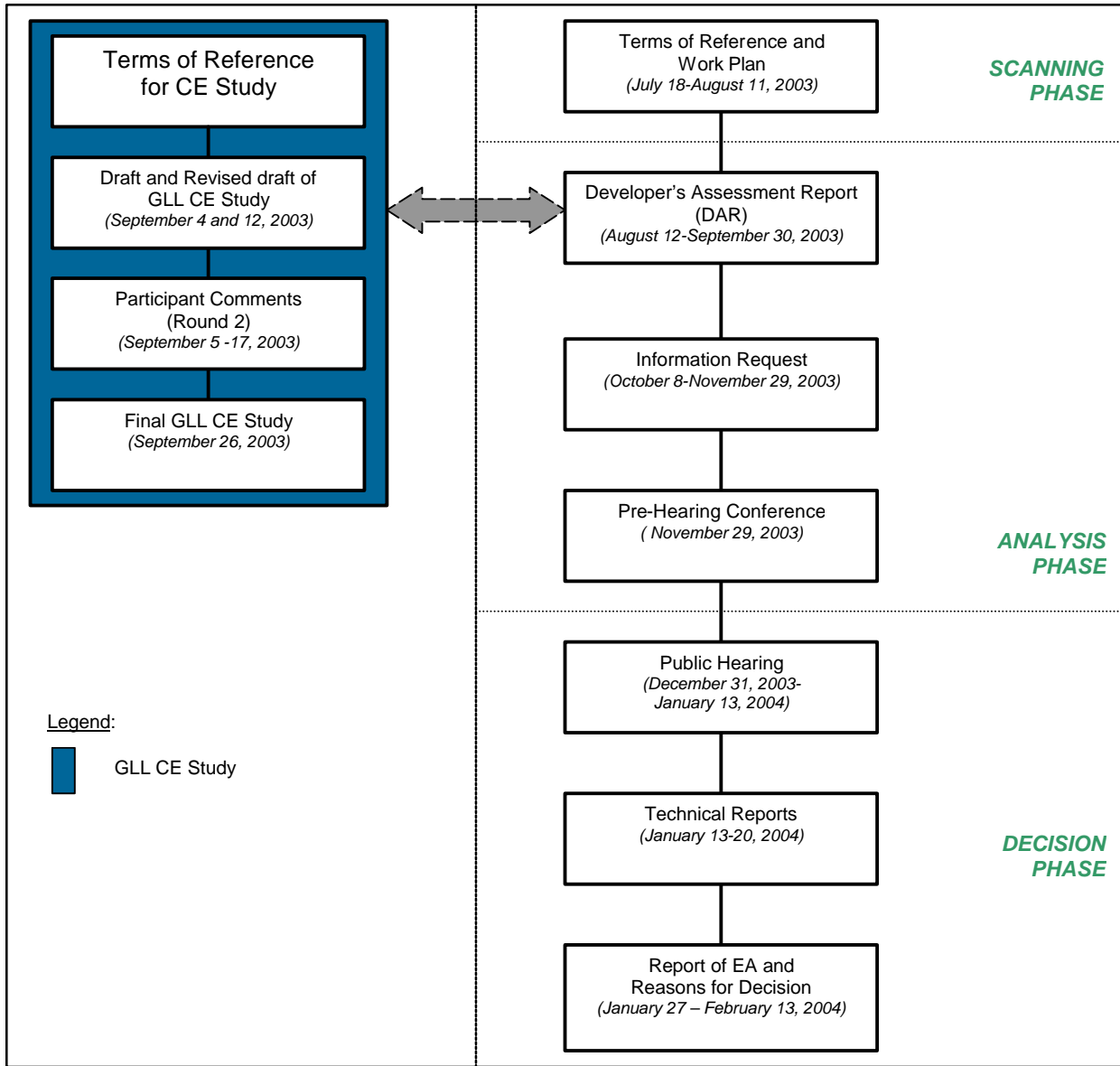


Figure 2. Overview of the Environmental Assessment Process



### *Cumulative Effects Study*

The Review Board commissioned an independent regional Cumulative Effect (CE) Study. This study was undertaken outside this EA process, and although more relevant to the EAs of Consolidated GoldWin Ventures (CGV), North American General Resources Corporation (NAGRC) and New Shoshoni Ventures (NSV) in the Wool and Drybones Bay area,<sup>15</sup> it offered a regional perspective of development.

The Review Board directed the consultant to:

- identify suitable Valued Components (VCs),
- explore the importance of the region from a ecological, cultural and economic perspective,
- highlight contentious issues emergent within the region associated with potentially conflicting land uses,
- pinpoint sensitive areas under pressure from cumulative effects;
- provide a decision-making framework for the sub-region based on risk analysis; and,
- offer advice on mitigations to be applied on a sub-regional basis to alleviate any potential cumulative effects.

The CE Study was managed openly. All draft and final versions of the report were distributed unchanged by the Review Board and staff, to ensure the independence of the work.

By completion of the CE Study, the report had been reviewed three times. Drafts were distributed on September 5 and 16, 2003. The final version of the CE Study was released on September 26, 2003.

SDC filed comments on this study (PR #76) but was not obligated to use the study in the preparation of its own cumulative effects analyses in accordance with the Terms of Reference. When the DAR was found in non-conformity, SDC took the opportunity to consider the study in completing its supplementary filing entitled, *Amendment and Additions to Snowfield Development Corp.'s Assessment Report (DAR)*.

### *Development of the Terms of Reference and Work Plan*

The Review Board issued a *draft Terms of Reference and Work Plan* for the EA on July 18, 2003. The documents were distributed by fax and e-mail to organizations that

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<sup>15</sup> This study is more relevant to the other EAs because that process required the developers to submit a CE Statement based on the CE Study and comments of parties on the CE Study.



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wanted to remain on the distribution list<sup>16</sup>. Comments on the draft were received from EC (PR #14) and DFO (PR #15) between July 18 and 23, 2003.<sup>17</sup> YKDFN indicated that there was insufficient time and resources to comment (PR #26). NSMA was unable to respond due to travel schedules. In lieu of specific comments, INAC submitted a series of documents regarding the Cumulative Effects Assessment and Management Framework (CEAMF) for the Slave Geological Province to aid the process (PR #23).

The final *Terms of Reference and Work Plan* was issued on August 11, 2003. The Terms of Reference described the scope of development and scope of assessment and provided direction to SDC and others about their roles, responsibilities and deliverables in the EA process. The Work Plan established the milestones and identified the Review Board's expectations for the completion of the EA.

The Work Plan was amended by rulings of the Review Board in response to concerns expressed by the parties on three occasions:

- August 11, 2003 the Work Plan was changed to accommodate the developer's late submission of the DAR and to extend the CE Study in a joint proceeding for developments in Wool and Drybones Bay (PR #28);<sup>18</sup>
- August 26, 2003 the Work Plan was affected by a finding of non-conformity that had to be addressed by the developer before continuing the EA process (PR #36); and,
- December 8, 2003 the Public Hearing was re-scheduled to allow for more community engagement to resolve issues before holding the Public Hearing (PR #118).

### *Submission of the Developer's Assessment Report*

The Developer's Assessment Report (DAR) was prepared according to the *final Terms of Reference* issued by the Review Board. The DAR was received by the Review Board on August 20, 2003 (PR #34). The developer was advised on August 26, 2003 that the DAR was not in conformity with the *final Terms of Reference*. The submission was found in non-conformity on the basis of the following sections of the report: corporate history, location and design of operations, operational details, water use and cumulative effects.

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<sup>16</sup> These organizations were INAC, DFO, Environment Canada, GNWT, YKDFN, NSMA, LKDFN, NWT Métis, NWT and Nunavut Chamber of Mines, Great Slave Cruising Club, City of Yellowknife, CPAWS and CARC. Not all organizations decided to be parties to the EA while others sought status as parties just prior to the public hearing.

<sup>17</sup> YKDFN submitted a request to extend the Information Request period (PR #55). As SDC was not in conformity, there was no need to rule on this item.

<sup>18</sup> At this point in time, SDC was part of a joint EA process that included CGV, NAGRC and NSV.





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A revised DAR and supplementary material (PR #40 and #43) were received and distributed to the parties on August 28, 2003. Without cumulative effects analysis, SDC remained in non-conformity.

A meeting with the developer on September 23, 2003 clarified the information required in order to fully address the deficiency statement. The minutes of this meeting were distributed and filed on the public registry (PR #59).

On September 30, 2003, SDC submitted the *Amendment and Additions to Snowfield Development Corp.'s Assessment Report (DAR)* (PR #68). This document was accepted by the Review Board and SDC was found in conformity.

### *Information Requests*

Information Requests (IRs) were used to make specific and focused requests for clarification or additional information regarding the DAR and other submissions as well as to provide focused assessment to examine the potential effects of mini-bulk sampling.<sup>19</sup> IRs were issued on behalf of the Board on November 4, 2003 (PR #85). SDC and all other parties with the exception of some Aboriginal parties filed responses to the first round of IRs.<sup>20</sup>

In a second round, proposed IRs were invited from all parties (PR #88). DFO submitted proposed IRs that were issued by the Review Board. YKDFN filed proposed IRs after the deadline. Due to the lateness of the submission, the Review Board did not issue the IRs formally but indicated that the developer should be prepared to respond to these items at the public hearing. Responses to the second round of IRs were submitted by the developer on December 2, 2003.

The IRs were intended to further discussion on potential impacts and cumulative effects in preparation for the public hearing. The IR responses were reflected in SDC's presentation at the public hearing. The IRs and the responses are included on the public record for the Review Board's consideration.

### *Pre-Hearing Conference*

A pre-hearing conference was held by Review Board staff and legal counsel on November 29, 2003. The public were notified via public radio and newspaper announcements. Parties to the EA and the public were invited to attend.

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<sup>19</sup> The Review Board, in response to a request to consider mini-bulk sampling (PR #80), ruled to adjust the scope of the development because the activity was no longer speculative but appeared imminent based on preliminary results.

<sup>20</sup> Given the difficulty some Aboriginal parties were having to participate in proceedings, it was decided that the questions would be issued verbally at the public hearing, if required.



The pre-hearing conference was devoted to a discussion of the hearing process and procedures, and setting a day-by-day draft agenda for the public hearing. Parties were advised of the Review Board's decision to focus presentations at the hearing by adding the public registry for Consolidated GoldWin Ventures, North American General Resources Corporation and New Shoshoni Ventures to the public registry of SDC. This decision allowed parties to focus presentations on inland use in SDC's program area and to limit discussion of the CE Study given that the developer had prepared its own analysis.

### *Public Hearing*

A public hearing was held January 13, 2004 in Yellowknife. The public was notified of the public hearing by means of public radio announcements and newspaper ads. The principal goal of the public hearing was to allow the public to hear and discuss unresolved technical issues that arose during the proceeding, and to enable members of the public to speak to issues they perceived to be of importance.

Presentations were made by SDC, and other parties to the EA. The parties could question each other on issues. The scope of the hearing addressed the direct and indirect impacts highlighted by the parties.

### *Technical Analysis Reports*

Parties had an opportunity to file any additional technical analyses to assist with the EA decision. The developer had an opportunity to present its views on the information provided to the Review Board, including any proposed amendments, additions or refinements to the development or the DAR. The public hearing appeared to have resolved most issues.

### *EA Decision*

The Review Board will provide the Minister of INAC and the designated regulatory authority (the MVLWB) with its *Report of Environmental Assessment* as per section 128(2) of the *MVRMA*. The Minister of INAC will distribute the report to every responsible minister as per 128(2)(a) of the *MVRMA*. The developer and the other parties will also receive copies of the *Report of Environmental Assessment*.



## 2.3. Determinations of Significance

Section 128 of the *MVRMA* requires the Review Board to decide, in its opinion, based on all the evidence on the public record, whether or not the proposed development will likely have a significant adverse impact on the environment or be a cause for significant public concern. These conclusions are contained in this *Report of Environmental Assessment*.

The parties to the EA were asked to assist the Review Board by providing the basis for their conclusions about the significance of the potential impacts of the development. The Review Board asked the parties to identify the expertise applied and, if possible, the source of the information used as a basis for their conclusions. Ultimately, the Review Board is required by law to make its determination on the question of impact significance. In so doing, the Review Board considers the following characteristics of any impacts identified:

- Magnitude;
- Geographic extent;
- Timing;
- Duration;
- Frequency;
- Nature of the impact;
- Irreversibility of the impact;
- Probability of occurrence; and,
- Predictive confidence level.

If the evidence on the public record raises issues of public concern, the Review Board evaluates that evidence both in its own right and in light of any determinations made about the significance of the impacts caused by the development. Significant public concern is also a test under which the Review Board could refer the development to environmental impact review (EIR).

The Review Board's analysis and the reasons for its determination of the significance of the impacts which are likely to result from the SDC development are described in detail in sections 3.0 Public Concern and 4.0 Impact on the Environment.

## 2.4. Scope of the Proceeding

### 2.4.1. *Scope of the Proposed Development*

The scope of the development includes the elements of the proposed development that will be considered in the EA. The scope of development takes into account both principal and accessory development activities.



In this case, there were discrepancies between the land use permit application and the DAR. The scope of the development for this EA was limited to the description presented in the DAR and the developer's presentation at the public hearing, as amended in response to the questions of the Review Board and the parties.

Consequently, the Review Board identified the principal development activities to be:

- Geochemical till sampling;
- Ground and airborne geophysical surveys (magnetometer and HLEM);
- Access over ice and along existing road cuts/trails already on the claims with helicopter support from Yellowknife as terrain and environmental conditions dictate; and
- Seasonal diamond drilling in the Mud Lake Claim Group (6 km Southeast of Drybones Bay), the Hurcomb Claim (12 km South of Drybones Bay), the Red Claims Group (9 km East of Drybones Bay), the Fate Claim (16 km Northeast of Drybones Bay) and the GTen 16 Claim Group (20 km East-Northeast of the Drybones Bay) over a four year period.

The land use permit application makes reference to potential bulk sampling in some claims, subject to preliminary findings. As this activity was subject to an amendment to any land use permit issued, bulk sampling was initially excluded from the scope of this EA. When the developer indicated that bulk sampling was more imminent based on preliminary results and requested an expansion to the scope of the EA, the Review Board granted this request with the stipulation that more extensive IRs be issued to ensure the activity was properly assessed.

Additional developments and activities are:

- Camp to accommodate up to 20 people (5-6 sleep tents, kitchen/dining tent, office/first aid tent, and wash/shower tent);
- Equipment storage/staging area; and
- Fuel supply and refueling procedures.

#### 2.4.2. *Scope of the Environmental Assessment*

The scope of assessment covers the components of the environment that will be evaluated for impacts from the proposed development. In determining the scope of assessment, the Review Board was conscious of its obligation under subsection 117(2) of the *MVRMA* to consider:



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- the impact of the development on the environment including the impacts of malfunctions or accidents;
- any cumulative effects that are likely to result from the development in combination with other developments; and,
- comments submitted by members of the public.

After considering all information available in the public record, the Review Board decided on the scope of assessment. The scope of the assessment focused on the potential impacts of the proposed development on subsistence and traditional land use, fish and wildlife resources, cultural and heritage resources, and cumulative effects.<sup>21</sup>

### 2.5. EA Process Issues

#### 2.5.1. Community Engagement

The Review Board encourages community engagement in its EA process. The Review Board believes that through effective community engagement, a developer can build constructive relationships with communities, create a better program design through the incorporation of TK, and address public concerns on the basis of mutual understanding. These are some of the reasons that developers should involve the affected communities in the development of their DAR and throughout the EA process.

In this case, community engagement began before preliminary screening while the developer was undertaking similar work in conjunction with Diamonds North in the Drybones Bay area.<sup>22</sup> This community engagement, although laying the foundation for relationships with the parties, was related to a different development and not relevant to the Ticho Project. The developer has an obligation to undertake community engagement for each and every development for which it seeks a land use permit.

Nevertheless, before SDC applied for a land use permit, it did participate in a community meeting organized and hosted by YKDFN on April 3, 2003.<sup>23</sup> This meeting to discuss development in the Wool and Drybones Bay areas gave the developer an opportunity to introduce its upcoming development, and to understand community concerns.<sup>24</sup> From the time of its land use permit application, SDC recognized the spiritual, cultural and historical significance of the Drybones and Wool Bay areas.

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<sup>21</sup> Unlike the other proposed developments in the Wool and Drybones Bay area that made use of the Gartner-Lee Ltd. cumulative effects Study in preparing cumulative effects analysis, SDC drew of the report for information but prepared its own analysis.

<sup>22</sup> Described in the DAR and appears in the Public Hearing Transcript (see 52:25-53:14).

<sup>23</sup> See comments of Louie Azzolini, Consultant to YKDFN, Public Hearing Transcript (57:2-14), November 25, 2003, PR #142.

<sup>24</sup> A copy of the minutes for this meeting were filed by YKDFN (PR #144 and #145).



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The developer submitted a land use permit application on June 11, 2003. During preliminary screening, SDC's engaged those communities identified by the MVLWB. Letters were issued to the Aboriginal parties identified by the MVLWB.

When SDC's development was referred, the developer asked the Review Board to expedite the EA. The DAR includes no further evidence of community engagement between the referral and the submission of the DAR despite encouragement from Board staff to work with the parties to identify and address concerns (PR #11). The developer acknowledged this deficiency at the public hearing.<sup>25</sup> At the public hearing, SDC also referred to regular reporting of preliminary work to First Nations and regulatory authorities. This reporting was associated with a previous development. When the YKDFN made a request for ruling to change the hearing date to allow for more engagement, it was granted by the Review Board. SDC sent out a letter offering to consult with all Aboriginal parties (PR #123).

Evidence presented at the public hearing and on the public record indicates that YKDFN, LKDFN, and NMSA expressed interest in meeting with SDC. LKDFN was unavailable but welcomed the opportunity for future engagement. SDC filed a submission detailing results of meetings with NSMA that included amended mitigation measures to respond to their concerns (PR #134).

YKDFN requested financial support from SDC to cover the cost of the participation of their legal advisor and consultant (PR #122). The developer decided to defer discussions with YKDFN to the public hearing (PR #122). SDC explained this decision at the public hearing, stating that the involvement of the lawyer was seen to be negotiations and as such "were something that should be done before this Board as opposed [...] (to) entering into private negotiations while the hearing was underway".<sup>26</sup> The NWT and NU Chamber of Mines expressed similar concerns saying,

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<sup>25</sup> See statement by Robert Paterson (Public Hearing Transcript (20:20-21:7), January 13, 2004, PR #139).

<sup>26</sup> See statement made by Robert Paterson (Public Hearing Transcript (150:7-20), January 13, 2004, PR #139).



*"I believe that Snowfield has made many efforts to consult with the YK Dene First Nation and has not been able to successfully conclude those consultations. Community consultation here, in this case, is flawed and it needs to be fixed. I think there are responsibilities on both sides to engage in that consultation and I hope that they can work that out very quickly."<sup>27</sup>*

- Mike Vaydik, NWT and NU Chamber of Mines (Public Hearing Transcript (239:5-12), January 13, 2004, PR #139)

The Review Board believes that the adequacy and effectiveness of community engagement depends on the relationship between the developer and the affected communities. Both the developer and the parties are responsible for effective community engagement - the developer by reaching out and the community by responding<sup>28</sup>. The Review Board can confirm that community engagement has been undertaken but cannot dictate, constrain or impose on the developer or other parties how this engagement must occur.

The Review Board recognizes that the developer did not engage all Aboriginal parties until prior to the public hearing. The Review Board is however encouraged by SDC's recent efforts, based on statements by Fred Turner:

*"It's my understanding that the communication that you people have had with the North Slave Métis Alliance is quite a bit more than [...] some of the other companies [...] have done, and I want to commend you for that. I -- I think that a dialogue that's [...] on an informal basis can probably accomplish an awful lot more and save a lot more time.*

- Fred Turner, NSMA (Public Hearing Transcript (103:7-14), January 13, 2004)

The lateness of this effort in the EA process did not permit the resolution of all outstanding issues. Nevertheless, with continued efforts, the Board is confident that the relationships between the parties can be improved.

SDC's strategy to engage communities is comprehensive and reflects a positive change since the beginning of this proceeding. The Review Board is encouraged by the detailed community engagement planned for the duration of the Ticho project that consists of:

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<sup>27</sup> References to community consultation in this section pertain to what the Review Board has called community engagement. The word "consultation" used in this report refers to the fiduciary obligation to consult.

<sup>28</sup> Required under section 3.1 (b) of the *Interim Measures Agreement between the Akaitcho Territory Dene First Nations and the Government of Canada*, although the applicable schedule is not yet complete.



- A pre-season meeting with traditional land users at one location with field trips to review exploration sites as required;
- Operations activities will include weekly progress reports (wildlife log, ice road log and site visitor log) faxed to regulators and traditional land users and facilitating site visits with traditional land users;
- End of season inspection by representatives of traditional land users; and,
- Post-season meeting with traditional land users at one central location with written environmental reports submitted to regulators and traditional users groups.<sup>29</sup>

In the event that time constraints impose limits on community engagement efforts for Stage I as indicated in the developer's comments at the public hearing, the Review Board is satisfied that other recommendations to address sensitive areas should be sufficient to address community engagement concerns in the interim.

### 2.5.2. Consultation

During the course of the EA, the issue of "consultation" was raised on several occasions. Various parties, including YKDFN, LKDFN, and NSMA, as well as representatives of the federal and responsible Ministers identified the connection between the Review Board's EA process and the "duty to consult" as framed by the courts in cases involving the infringement of Aboriginal rights.

YKDFN wrote to the Review Board on July 31, 2003 (PR #25). This letter referred to correspondence from Honorable Robert D. Nault, Minister for INAC, dated June 30, 2003, that clearly stated that "the MVLWB, together with the MVEIRB, are the primary vehicles for effective environmental assessment consultation with First Nations that may be affected by a proposed development" (as cited by YKDFN, July 31, 2003).<sup>30</sup>

At the Hearings, the NSMA raised similar concerns about whether consultation through the EA process could fulfill fiduciary obligations based on lower court and Supreme Court decisions, including:

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<sup>29</sup> Refer to Public Hearing Transcripts (53:18-54:10), January 13, 2004, PR #139.

<sup>30</sup> Emphasized at the public hearing by Louie Azzolini, Consultant to YKDFN (Public Hearing Transcript (243:14-15), January 13, 2004, PR #139).





*“Consultation must involve substantially addressing the concerns of the North Slave Métis and also providing sufficient information for the North Slave Métis to make informed decisions about the impacts of these proposed developments on our peoples, in our land use activities, and our culture.”*

- Mark Stevensen, Consultant to NSMA (Public Hearing Transcripts (29:1-13), November 25, 2003, PR #142)

*“[T]he capacity and resources to deal with these environmental assessments and cumulative effects assessment have not been provided to aboriginal communities. Aboriginal communities have been required to provide a lot of information, a lot of comments, throughout these environmental assessments.*

*Had we not provided this information, we feel our issues and concerns would never have been addressed, because neither the Federal nor Territorial governments have consulted with us on these proposed projects. Furthermore, the level of technical research required to digest and understand the scope of the impact of these projects is well beyond the capacity of our organization, and that still remains incomplete.”*

- Kris Johnson, NSMA (Public Hearing Transcript (214:24-215:12), January 13, 2004)

Many of the parties to this EA were not clear about the respective roles and obligations of government, the developer and the Review Board in the consultation process. As a result, it is necessary, in the Review Board’s view, to revisit this matter in this report.<sup>31</sup>

The Crown has a fiduciary obligation to consult with Aboriginal groups whose rights may be infringed by activities authorized by government. A number of cases decided by the Supreme Court of Canada support this assertion. The “duty to consult” can vest in either the federal or provincial governments, depending on the nature of the approval being given. By extension, in appropriate circumstances, this duty could also vest in the GNWT. INAC’s correspondence to the YKDFN suggests that the government’s duty to consult with Aboriginal groups whose rights might be infringed upon by regulatory approvals can be achieved, at least in part, through the environmental impact assessment process.

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<sup>31</sup> The Review Board has already expressed its opinion on its role in the Crown’s consultation process. See for example, the Report of Environmental Assessment and Reasons for Decision on the DeBeers Canada Mining Inc. Snap Lake Diamond Project, the Consolidated GoldWin Ventures Diamond Exploration Project, the North American General Resources Corporation Exploration Project and New Shoshoni Ventures Exploration Project.



There is, to the Review Board's knowledge, no case law to support the position set out by the Minister of INAC and his officials about the role of the Review Board's EA process in Crown consultation.

Neither officials of INAC or of any other federal or territorial department have addressed the Review Board about the role of the *MVRMA*'s part 5 process in satisfying the Crown's duty to consult. To the best of the Review Board's knowledge, none of these departments has a formal policy or procedures outlining their approach to Crown consultation. The absence of such a framework complicates the Review Board's proceedings and also makes the boundaries of the community engagement obligations vested in private developers difficult to determine. The end result is confusion and ongoing difficulties for Review Board processes.

The Review Board notes the recent pilot study initiated by Natural Resources Canada (NRCan) and the National Energy Board (NEB) and involving INAC and DFO, south of 60, on the development of consultation techniques for NEB regulated energy projects.<sup>32</sup> North of 60, where a larger proportion of the population exercises Aboriginal rights, government departments have not initiated a similar effort.

The federal Minister's expectations are about the role of "environmental assessment consultation" in the consultation required of the Crown when the infringement of Aboriginal rights which may result from a development are not clear.

Furthermore, the assertion that the EA process is part of government consultation could confuse the adjudicative functions of the Review Board in the environmental impact assessment process with the fiduciary relationship between the Crown and Aboriginal rights holders. The comments of YKDFN and NSMA, based on the federal Minister's correspondence, reflect the view that the Review Board plays an instrumental role in the Crown's consultation process.

The Review Board does not have a direct role in the Crown's consultation process. The Review Board must be fair to the parties which participate in its proceedings. The issue of the role of administrative tribunals in the consultation process was considered by the Supreme Court of Canada in *Quebec*.<sup>33</sup> In that case the suggestion that the NEB had a fiduciary obligation to the Cree while also fulfilling an adjudicative function was refuted by the Supreme Court of Canada.

The Review Board holds the view that it cannot play a direct role in the consultation process arising from the Crown's fiduciary duties. The Review Board must be fair,

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<sup>32</sup> The *Development of a Crown Consultation Model for NEB-Regulated Projects Discussion Paper* was circulated for comment in December 2003 by NRCan and INAC.

<sup>33</sup> *Attorney General v. Canada (National Energy Board)*, [1994] 1 SCR 159.



independent and ensure a complete environmental impact assessment process by thorough public and community engagement in its proceedings. Consultation, if required, is the Crown's responsibility. Government departments are, of course, free to choose to wait until after an EA process is complete before determining and acting on their duty to consult. Ultimately, however, this obligation will have to be honoured.

In order to address this recurring issue and to address the process difficulties resulting from confusion over roles in the consultation process, the Board suggests that:

- S1. Indian and Northern Affairs Canada (INAC), Environment Canada (EC), Fisheries and Oceans Canada (DFO) and the Government of the Northwest Territories (GNWT) should design and test a model for Crown consultation with Aboriginal rights holders for developments in the Mackenzie Valley at the earliest possible date.**

### 2.5.3. *Roles and Responsibilities*

The public record reflects several misunderstandings about the roles and responsibilities of the parties and the Review Board in this EA proceeding. The Review Board's role is clearly defined in the purpose of part 5 of the *MVRMA*, under which the Board derives its authority:

*The purpose of this Part is to establish a process comprising a preliminary screening, an environmental assessment and an environmental impact review in relation to proposals for developments, and*

- (a) to establish the Review Board as the main instrument in the Mackenzie Valley for the environmental assessment and environmental impact review of developments;*
- (b) to ensure that the impact on the environment of proposed developments receives careful consideration before actions are taken in connection with them; and*
- (c) to ensure that the concerns of aboriginal people and the general public are taken into account in that process.*

That said, section 115 of the *MVRMA* identifies guiding principles for the Review Board. The guiding principles that must be considered in rendering each decision are

*The process established by this Part shall be carried out in a timely and expeditious manner and shall have regard to*



- (a) *the protection of the environment from the significant adverse impacts of proposed developments; and*
- (b) *the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley.*

As a consequence, the Board makes decisions about the EA process and the significance of potential adverse environmental impacts and public concern by evaluating the evidence in each individual case. The *MVRMA* obligates the Review Board to consider all perspectives, not necessarily to adopt all perspectives. This is an important distinction since there are times when the parties have conflicting expectations. Under these circumstances, the Review Board considers all submissions, their merits, and makes a fair and impartial decision based on the evidence presented.

The parties and the developer provide evidence for consideration by the Board. The onus is on those submitting evidence to convince the Board of their position as described under Rule 18 of the *Rules of Procedure for Environmental Assessment and Environmental Impact Review Proceedings* that states,

*Any party or member of the public has the responsibility of introducing information or evidence to support their position. Any party or member of the public seeking to convince the Review Board of any point or position during a proceeding bears the burden of proof in so doing.*

The evidence submitted by all parties is judged according to the reliability of the information, its relevance to the environmental setting and the issues in the EA, the logic and clarity of the arguments and other criteria, as appropriate. The Review Board gives whatever weight is appropriate to the evidence submitted by the parties. In the end, the onus lies on the developer to convince the Review Board that the proposed development can go forward and that it will not cause significant adverse environmental impacts or significant public concern.

#### 2.5.4. *Participant Funding*

Throughout the EA process, there were indications that capacity limitations were affecting the participation of Aboriginal parties in this proceeding. NSMA and LKDFN emphasized the challenges to participate in the EA process due to the lack of capacity in the absence of participant funding in several instances:

*“Unfortunately for the North Slave Métis Alliance, we don't have the resources to go out and identify all the heritage resources and critical use*



*areas that are important to the North Slave Metis. This is a capacity and resource issue that needs to be addressed. Before we can provide information, we need to have the capacity to do so.”*

- Kris Johnson, NSMA (Public Hearing Transcript (210:18-24), January 13, 2004, PR #139)

*“As with other Aboriginal parties to these EAs, we severely lack the personnel and financial resources to adequately respond to these reports, especially within the unreasonable time limitations imposed. We have had very little time to gather relevant information and conduct research, especially over the extremely busy summer months when many of our community members are otherwise engaged in cultural and subsistence activities on the land.”*

- Monica Krieger, LKDFN (Fax of November 3, 2003, PR #142)

YKDFN however re-organized its resources, obtained funding and hired consultants to help with a rapid cultural and social impact assessment. The work of the YKDFN was commendable and clearly shows how funding to support the efforts of the parties can enhance the quality of evidence submitted in a proceeding. Nevertheless, YKDFN has also noted the strain of participating in the EA process.<sup>34</sup>

The Board recognizes the value and importance of the participation of Aboriginal groups and non-government organizations in the EA process and their contributions to the Board’s decision. This is particularly noteworthy for EAs of proposed developments where the determination of significance must rely on TK. In these instances, the only way to ensure a quality EA is to provide the resources to allow the parties to conduct the background work needed to participate effectively.

Under the *MVRMA*, there is no mechanism to provide participant funding at the EA level. Only when a project is referred to an environmental impact review (EIR) can the authorities take steps to secure participant funding. The Review Board has not conducted an EIR in the five years since the Act was called into force. Even in the case of an EIR, participant funding under the *MVRMA* would be established on a case-by-case basis. The additional funding would be negotiated for both the EIR process and participant funding with INAC.

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<sup>34</sup> Rachel Crapeau expresses this challenge in saying, “[A] lot of our people don't really understand how many meetings we attend and how many times we have to speak on behalf of our people” (Public Hearing Transcript (268:2-4), November 26, 2003, EA-03-002/EA-03-003/EA-03-004 - PR #301).



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If participant funding were made available as part of a Board EA or EIR proceeding, arrangements would have to be made for an independent third party to make decisions about the distribution of the funds. Given the Board's obligation to be fair in its EA processes, it could not take direct responsibility for decisions about participant funding. Arm's length arrangements of this nature are in place for panels established under the *CEAA*.

Arrangements were originally made for participant funding in EIRs under the *MVRMA* because they are the equivalent to panel reviews under the *CEAA*. However, the Review Board has held hearings on several major projects, including the DeBeers Snap Lake Diamond Project, without an EIR, by setting out an EA process which includes public hearings.

Recent amendments to *CEAA* have been made to provide intervenor funding for Comprehensive Studies. As of October 30, 2003, the Canadian Environmental Assessment Agency expanded its participant funding program to facilitate public participation in Comprehensive Studies. This means that Aboriginal groups and NGOs in the south or the Inuvialuit Settlement Region can now receive participant funding for Comprehensive Study processes as well as panel proceedings. Residents of the Mackenzie Valley do not have the same opportunities, despite the importance of their participation in the part 5 process; despite their valuable contributions to Review Board proceedings; and, despite the clear capacity pressures they are experiencing.

Participant funding should be provided in appropriate cases where broad participation may be integral to an EA decision. The EA is the closest equivalent under the *MVRMA* to a Comprehensive Study under *CEAA*.

The Board recognizes that some delays were necessary in this EA process in order to accommodate Aboriginal organizations as a result of their limited available human resources. Had participant funding been available, communities could have hired additional assistance and a more timely EA process would have been possible. Delays due to inadequate resourcing of Aboriginal organizations during EA processes are likely to continue to occur unless a more comprehensive participant funding mechanism is established for the Mackenzie Valley.

These capacity issues outlined above limit the ability of the Board to meet its statutory obligations "to ensure that the concerns of aboriginal people and the general public are taken into account" (*MVRMA*, section 114(c)) and for the protection of the "environment" and "social, cultural and economic well-being of residents and communities in the Mackenzie Valley" (*MVRMA*, section 115(a) and (b)).



The Review Board has commented on the need for participant funding in previous *Reports of Environmental Assessment*.<sup>35</sup> Recent changes to participant funding under the *CEAA* may place northerners at a disadvantage relative to participants in federal EA processes elsewhere. Northerners should not be treated as second class citizens. The Review Board therefore suggests:

- S2. The Government of Canada should at an early date develop and institute a method to provide participant funding at the EA level under the *MVRMA* to be equivalent to the Comprehensive Study Review funding practices under *CEAA*.**

## 2.6. Proposed Recommendations, and Suggestions

Legal consequences flow from the Review Board's determinations. Where the Review Board determines that a significant adverse impact on the environment is likely or that mitigative or remedial measures are required to prevent a significant adverse impact on the environment, it may make recommendations for consideration by the federal and responsible Ministers. This authority is based on section 128 of the *MVRMA* and provisions in the Gwich'in and Sahtu Dene and Métis Comprehensive Land Claim Agreements. If the federal and responsible Ministers accept the Review Board's recommendations, "a first nation, local government, regulatory authority or department or agency of the federal or territorial government affected by a decision made under this section shall act in conformity with the decision to the extent of its authority" (*MVRMA*, subsection 130(5)).

During the EA, the Review Board can consider the effects of a development in light of government activities, policies and operations. The Board also considers the development in relation to other developments. Even where significant adverse environmental impacts are not identified, the EA process may result in insights about the development, the development process, or the potential response to the development by government agencies and others. In such instances, the Review Board may make non-binding suggestions to government and other authorities. These suggestions are intended to help government and others affected to have a more comprehensive response to the development. Implementation of suggestions is not mandatory even if the federal and responsible Ministers accept this *Report of Environmental Assessment*.

The Review Board's legal authority to make recommendations to mitigate the impacts of the proposed development is based on the *MVRMA* and on the language of subsections

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<sup>35</sup> Refer to section 1.5.3, p. 21 of *Report of Environmental Assessment and Reasons for Decision on the DeBeers Canada Mining Inc. Snap Lake Diamond Project*.



24 and 25, respectively, of the *Gwich'in and Sahtu Dene and Métis Comprehensive Land Claim Agreements*. The Board's interpretation of these authorities is set out below. Subsection 128(1) of the *MVRMA* outlines the Review Board's options upon completion of an EA as follows:

*128. (1) On completing an environmental assessment of a proposal for a development, the Review Board shall,*

- (a) where the development is not likely in its opinion to have any significant adverse impact on the environment or to be a cause of significant public concern, determine that an environmental impact review of the proposal need not be conducted;*
- (b) where the development is likely in its opinion to have a significant adverse impact on the environment,*
  - (i) order that an environmental impact review of the proposal be conducted, subject to paragraph 130(1)(c), or*
  - (ii) recommend that the approval of the proposal be made subject to the imposition of such measures as it considers necessary to prevent the significant adverse impact;*
- (c) where the development is likely in its opinion to be a cause of significant public concern, order that an environmental impact review of the proposal be conducted, subject to paragraph 130(1)(c); and*
- (d) where the development is likely in its opinion to cause an adverse impact on the environment so significant that it cannot be justified, recommend that the proposal be rejected without an environmental impact review.*

The Review Board's authority to make recommendations arises in the context of subparagraph 128(1)(b)(ii) of the Act. A reading of paragraph (b) and subparagraph (ii) indicates that the Review Board has the authority to recommend measures to mitigate impacts when the Board has found a significant adverse environmental impact.

The language in these provisions also seems to require that any recommendations made must be directly linked to the finding of a significant adverse environmental impact. A strict interpretation of this paragraph could prevent the Review Board from recommending measures to prevent adverse environmental impacts from becoming significant. In other words, a strict reading of paragraph 128(1)(b) and subparagraph (ii) could arguably indicate that if an adverse environmental impact is not already significant then the Review Board has no authority to recommend measures to reduce or prevent a significant adverse impact (this is called the "restrictive interpretation" below). This result is not consistent with good EA practice.





One of the important benefits of an EA is the opportunity to minimize all identified adverse impacts through the imposition of mitigative measures. Consequently, the Review Board has adopted a more remedial interpretation of 128(1)(b). This interpretation is in keeping with the overall purpose of *MVRMA* and the land claims upon which the Act is based. There is clear authority for such an interpretation of paragraph 128(1)(b) and subparagraph (ii). The Board's reasons are outlined below.

Any measures recommended by the Review Board under paragraph 128(1)(b) are considered by the federal and responsible Ministers under paragraph 130(1)(b) of the *MVRMA*. If the recommended measures are adopted, they must be carried out by responsible Ministers to the extent of their jurisdiction under subsection 130(5) and by the Land and Water Boards under section 62. The EA process is linked to the regulatory process and if adopted by the appropriate decision-makers must be carried out by regulatory authorities. The result is the "integrated system of land and water management" referred to in the long title of the *MVRMA* and required by the Gwich'in and Sahtu land claims.

The interpretation of paragraph 128(1)(b) will determine whether the Review Board has the authority to recommend measures to mitigate any adverse environmental impacts which might become significant, or only those which have already been determined to be significant. This distinction is important and strikes at the heart of the EA process under the *MVRMA*. If the restrictive interpretation prevailed, the EA process may fail to achieve these statutory goals expressed in section 115 of the *MVRMA*. This section speaks to the need to protect the environment and the social, economic and cultural well-being of residents of the Mackenzie Valley. The Review Board's view is that ignoring evidence of adverse impacts which can be mitigated because the impacts are not yet significant is not consistent with the *MVRMA* or with the Review Board's duty to protect the environment. The Review Board has considered this issue and has decided that it has the authority to recommend measures to reduce the effect of a significant adverse environmental impact below the level of significance and measures to prevent an adverse environmental impact from becoming significant.

The authority for this interpretation is based in section 24.3.5 (a) of the *Gwich'in Comprehensive Land Claim Agreement* and in section 25.3.5 (a) of the *Sahtu Dene and Métis Comprehensive Land Claim Agreement*. These sections are identical so the relevant portion of Sahtu claim only is reflected below:

*25.3.5 (a) subject to 25.3.3(a), a development proposal shall be assessed by the Review Board in order to determine whether the proposed development will be likely to have a significant adverse impact on the environment or will likely be a cause of significant public concern. In making its determination the Review Board may consider terms and conditions to the proposed development which would*



*prevent significant adverse impact on the environment and may recommend the imposition of such terms and conditions to the Minister. Such terms and conditions shall be subject to review pursuant to 25.3.14.*

This provision clearly intended that the Review Board be able to recommend terms and conditions (measures) to the Minister to “prevent significant adverse impact on the environment”. This authority goes beyond the restrictive interpretation of paragraph 128(1)(b) discussed above. It does not require that an impact already be determined to be significant before the Review Board can recommend measures. Instead the Review Board can recommend measures to prevent an impact which is not yet significant from becoming so.

In this regard the restrictive interpretation of paragraph 128(1)(b) of the *MVRMA* is not consistent with these paragraphs of the Gwich'in and Sahtu land claims. The Review Board is therefore of the view that the interpretation of paragraph 128(1)(b) should be more liberal in order to make it consistent with the land claims and with section 115 of the *MVRMA* as well.

Section 3.1.18 of the Sahtu land claim (3.1.19 of the Gwich'in claim) specifies that the Agreement may be used as an aid to interpretation where there is any doubt in respect of any legislation implementing the provisions of the Agreement. Section 3.1.22 of the Sahtu land claim (3.1.23 of the Gwich'in) and part 5 of the *MVRMA* specify that when there is an inconsistency or conflict between any law and a land claim agreement that the land claim agreement applies to the extent of the inconsistency or conflict. This legal hierarchy is clear. The land claim provisions are paramount. Consequently, the Review Board has the authority to recommend measures both to reduce significant adverse environmental impacts below the level of significance and to prevent adverse environmental impacts from becoming significant. This finding is in keeping with good EA practice and is consistent with both the Gwich'in and Sahtu land claims.

### **3. Public Concern**

#### **3.1. Approach**

Public concern is not defined under the *MVRMA*. The *MVRMA* nevertheless requires the Review Board to consider public concern, and if a determination of significance is made under paragraph 128(1)(c), the Board must order an environmental impact review (EIR).



Under the *MVRMA*, no distinction is made between public concern expressed by Aboriginal people and the public. These concerns are given equal weight although the Board makes an effort to interpret the concerns of Aboriginal people in a culturally appropriate manner but within the legal context of the *MVRMA*.

The Review Board's approach to public concern includes consideration of the submissions of the parties to this environmental assessment (EA), analysis of public concern within the context of the *MVRMA*, and the Board's determination of the significance of public concern.

### **3.2. Submissions of the Parties**

The Review Board has heard from many parties and from individuals, Elders and representatives of Aboriginal organizations about the importance of the Drybones and Wool Bay areas. As has been indicated above, this application was referred to EA by the MVLWB on the basis of public concern. The evidence in this proceeding provides a firm foundation for the concerns expressed about these areas, particularly in relation to the possible effects of the proposed development on the cultural and heritage resources important to the Yellowknives Dene First Nation, the North Slave Metis Nation, the NWT Métis Nation, the Lutsel K'e Dene First Nation, and the Deninu K'ue First Nation.

### **3.3. Analysis**

Part 5 of the *MVRMA* makes provision for the Review Board to address public concern which arises in the context of environmental impact assessment processes. When such evidence is heard in an EA, the Review Board must decide how to respond. This analysis explains the approach adopted by the Board to address the evidence of public concern heard in this proceeding.

The *MVRMA* provides a legal framework within which public concern can contribute to the decision-making about developments in the Mackenzie Valley. It is necessary to examine the treatment of public concern through the environmental impact assessment process set out in part 5 of the *MVRMA* in order to determine the appropriate approach to a decision about public concern.

Preliminary screeners exercising their decision-making authority under paragraph 125(1)(a) of the *MVRMA* can make a referral to the Review Board if, in their opinion, the development might be a cause of public concern. That is what happened in the case of SDC. The test for public concern in paragraph 125(1)(a) is a low one. The *MVRMA* does not give any direction to preliminary screeners or the Review Board about how to



measure public concern. Parliament left the screening decision-makers with a subjective test and a low threshold for public concern. The Review Board then concludes that the EA process is intended to address any public concern which results in a referral from the preliminary screening stage.

The context in which public concern is raised in paragraph 125(1)(a), like the context in section 128(1), leads to the inference that the *MVRMA* is talking about public concern about the impacts on the environment that might result from a development. Part 5 is about environmental impact assessment and that the process is directed at the identification and, if possible, mitigation of significant adverse environmental impacts. When the broad scope of the definition for the term “impact on the environment” in section 111 of the *MVRMA* is considered, it is clear that public concern about impacts on the environment can encompass a wide range of issues, including effects on the social and cultural environment and on heritage resources.

Paragraph 128(1)(c) of the Act continues the *MVRMA*’s focus on the theme of public concern and makes this matter a determinant in a decision of whether or not an environmental impact review (EIR) should be ordered by the Review Board. There must however be “significant public concern” before the Review Board can exercise its discretion to order an EIR. This establishes a higher threshold before an EIR can be ordered on the basis of public concern.

Paragraph 117(2)(c) of the *MVRMA* requires the Review Board to consider the public’s comments on a proposed development. Thus, in the Review Board’s view, the statute anticipates that the EA process will address any public concern which led to a referral or arises during an EA process. The result is an EA process that includes a review, analysis and determination by the Board of public concern, as well as on the other factors set out in subsection 117(2).

Upon review of the legislation, good environmental impact assessment process and on consideration of the evidence in this EA, it is clear to the Board that mitigation measures which will alleviate adverse environmental impacts should also alleviate public concern about those impacts. Some of these measures and the community engagement process required by an EA may address public concern directly but the Review Board is also of the view that mitigation measures which reduce impacts on the environment will also reduce public concern.

If this mitigation is not possible or if the EA process brings out other concerns and if the public concerns remaining at the end of the EA process are significant, then one possible outcome is a referral to EIR on the basis of significant public concern under paragraph 128(1)(c).



### **3.4. Conclusions**

In this case, the Review Board finds that the recommendations set out in this report will mitigate the environmental impacts and will address the public concerns raised in this process.

There were other concerns raised before the Board which related to issues of EA process and the quality of the DAR. These concerns are categorically different than public concerns about the potentially adverse impacts on the environment considered in the EA. Process and other issues have been dealt with separately in part 2 of this report of EA. The Review Board is not of the view that this kind of concern is relevant to a paragraph 128(1)(c) decision. The significant public concern referred to in paragraph 128(1)(c) is concern about the effects of the project on the environment.

In light of the residual impacts of this development on the biophysical environment and their relation to public concern, the Review Board finds that once all recommended mitigation measures and commitments offered by the developer are completed, that public concern about these impacts is not significant.

The Review Board's specific findings on public concern are set out in part 4 below.

## **4. Impacts on the Environment**

### **4.1. Approach**

#### *4.1.1. Structure of Analysis*

The impact analysis covers the biophysical environment and cultural landscapes. These topics are interrelated because cultural landscapes reflect the connection between Aboriginal people and the land based on beliefs, values, and customs (such as traditional uses like hunting, trapping, berry picking, and harvesting of medicinal plants). The analysis of topics below is organized under the following headings:

- Description of Issue;
- Summary of Developer's Submissions;
- Summary of Responses from the Parties; and,
- Conclusions.



Project-specific and cumulative effects on the biophysical environment are discussed under section 4.3.1. Project-specific and cumulative effects are discussed for the cultural landscape under section 4.3.2.

#### 4.1.2. *Issues Identification*

The Review Board's *Report of Environmental Assessment* is based on an analysis of issues raised through the environmental assessment (EA) process. The Board's approach to identifying the issues considered in this *Report of Environmental Assessment* follows.

A comprehensive listing of the issues was developed based on the evidence and comments submitted by the parties.

Issues considered to be beyond the scope of the EA, resolved by the parties or during the EA process, or not requiring explanation or analysis in this *Report of Environmental Assessment* beyond listing in Appendix B are not discussed further below.

Some evidence or comments which were, in the Review Board's view, indicative of a larger issue are aggregated and considered jointly below (see for example, cultural landscapes). After the Review Board's analysis of the evidence, issues were placed into one or more of the following categories:

- the evidence indicated that the issue was resolved to the satisfaction of the developer and the parties to the EA or it was determined to have been resolved by the Review Board after reviewing all the evidence in this proceeding;
- the issue was not pursued or carried forward to the public hearing by the parties;
- the issue was carried forward to the public hearing along with a related issue;
- the issue was resolved by way of a commitment made by the developer;
- the issue was without foundation in the evidence on the public record; or
- the issue was not addressed and resolved by the developer or the parties.

The Review Board has narrowed its consideration of the issues for the purposes of this *Report of Environmental Assessment* to those matters which, in the Board's opinion, fall into the last category above or required additional discussion, analysis and, in some cases, action by Responsible Ministers.

#### 4.1.3. *Developer's Commitments*



The developer made a series of mitigation commitments throughout the EA process. A table of these commitments has been compiled by the Review Board from a review of the public record. These commitments are set out in Appendix A.

The Review Board considered the developer's commitments in drawing its conclusions about environmental impacts and their significance, and in setting out its suggestions and recommendations. The Board's decision has been made on the assumption that the developer will fulfill all of its commitments. The Review Board's determination of impacts and the significance of those impacts depend on these commitments. A failure by the developer to fulfill these commitments would affect the determination of the significance of the adverse residual environmental impacts.

## 4.2. Impact Study Areas

The following describes the study areas defined or accepted by the developer for examining potential impacts on the environment from the proposed program. The developer adopted a single local study area (LSA) suited to the assessment of individual Valued Components (VCs) and regional study area (RSA) irrespective of the environmental component analyzed.

The LSA was defined as the area that may be directly disturbed by the physical operations of the development. The LSA was limited mainly to the footprint of the camp, the staging and storage area, access routes (mainly inland), the drill sites, bulk sampling areas and potential sumps or other on land disposal locations. Where precise locations were not known, SDC preferred to use the claim block boundary as a basis for the analysis. The temporal bounding for the LSA appeared to be based on the duration of operations as opposed to the time for habitat recovery.

The developer adopted the RSA from the CE Study as the basis for their statement of cumulative effects. This RSA was roughly based on a region of traditional land use, including 5 kilometres offshore to 10 kilometres inland from the community of Dettah to Matonnabee Point. The temporal bounding for the RSA appeared to be based on the duration of operations although some general references are made regarding the speed of vegetation recovery by willow. References to cleared areas for the purpose of bulk sampling were less specific about recovery times, indicating only a preference to conduct re-vegetation within six months so as to ensure seed viability. The developer did a commendable job in reinterpreting these boundaries to consider cumulative effects to VCs such as caribou and moose, basing its conclusions on population stability, habitat range and affected population due to overlap between habitat range and the operation. In this way, conclusions were adapted to the consideration of individual VCs.



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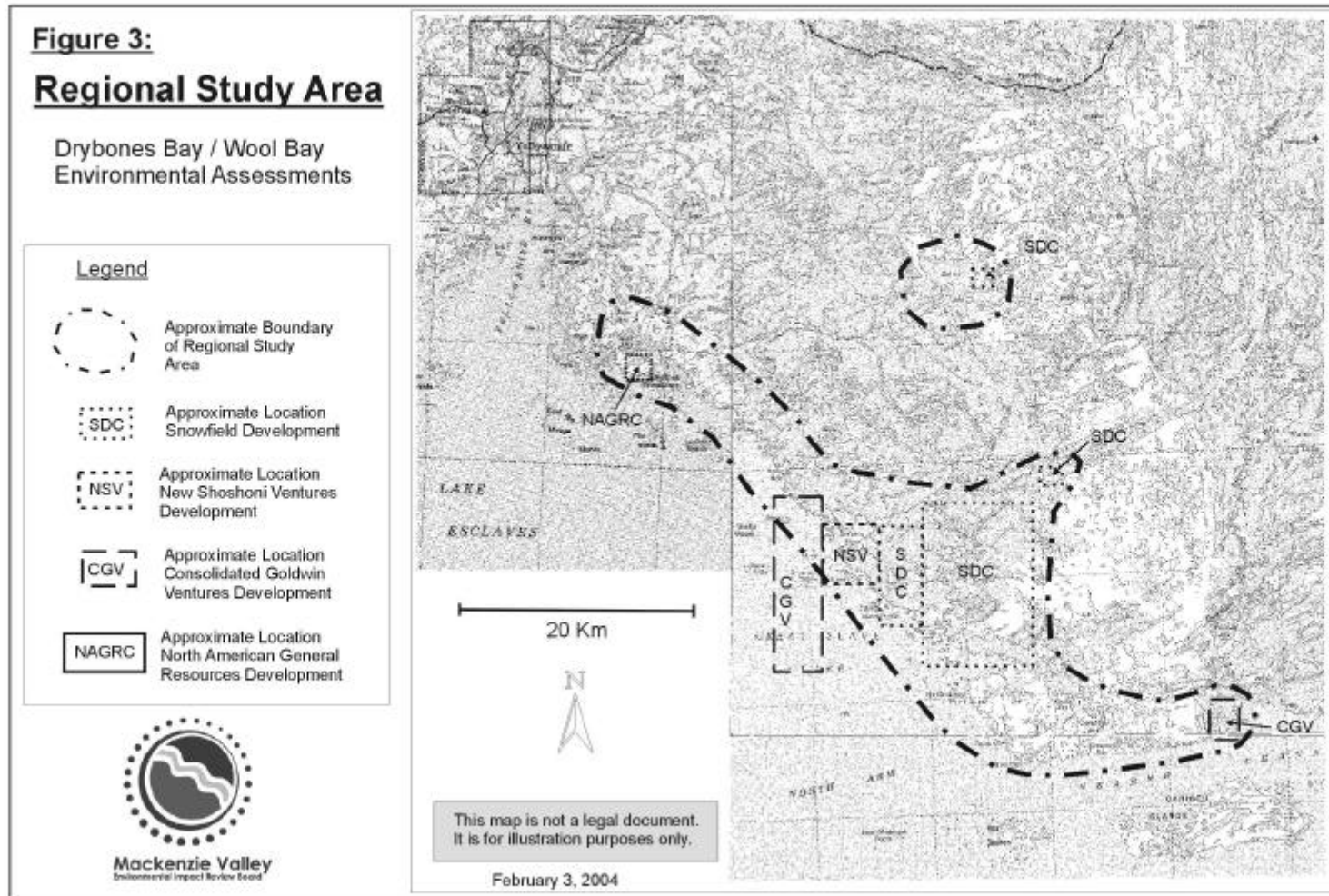
The Review Board has a statutory obligation to consider the social and cultural environment. For this reason, the Board redefined the Local Study Area (LSA) and Regional Study Area (RSA) to better encompass all possible impacts of the development to VCs such as Aboriginal culture. The inclusion of VCs for heritage and traditional use have largely focused on physical sites and have overlooked the traditions and customs associated with the use of such sites.

The LSA adopted by the Board includes the camp, the staging and storage area, the ice road, the drill sites, bulk sampling locations and potential sumps or other on land disposal locations. The RSA adopted by the Review Board is focused on an area of intensive overlapping traditional use, based on the evidence provided by the Aboriginal parties. In the Board's view, there was a need for a larger RSA to accommodate cultural impacts. In the absence of comprehensive TK from all Aboriginal parties, the Review Board has relied heavily on the YKDFN's traditional use map and other reports as a basis for the bounding for the RSA. See Figure 3.





Figure 3. Regional Study Area Adopted by the Review Board



### 4.3. Biophysical Environment

The Review Board has an obligation to make determinations of significance for impacts on the environment. Section 111 of the *MVRMA* defines impact on the environment as:

*“any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.”*

This part of the impact analysis focuses on the land, water, air or any other component of the environment as encompassed by biophysical environment.

The public record was reviewed to identify unresolved issues relating to the biophysical environment. Aspects of the biophysical environment that were addressed in the EA process and in the evidence were fish and wildlife and their habitat, focusing mainly on the physical changes to the land and water.

#### 4.3.1. *Fish Habitat Alteration, Disruption, and Destruction*

##### **Description of Issue**

The possibility of fish habitat alteration, disruption and destruction were identified due to the possibility of drawdown in shallow lakes proposed as water sources as well as potential impacts of stream crossings on water quality. The potential for deleterious substances to enter water bodies was also identified as a potential concern.

##### **Developer’s Submission**

The developer’s DAR (PR #34), response to Review Board and DFO’s IRs (PR #99 and 117), and presentation at the public hearing (PR #139) indicate that significant, lasting impacts to fish or their habitat are unlikely. In general, it was asserted that the volumes of water withdrawn from lakes would be so low regionally that no impacts to fish habitat were anticipated.

Nevertheless, in its response to the Review Board’s IRs, SDC proposed to determine the likelihood that potential drill water source ponds and lakes were fish habitat by measuring lake depth, water temperature and dissolved oxygen. The developer went on to describe the selection criteria it would use to minimize impacts on fish habitat:

- Nearest water source to proposed or future drill-site;



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- Preference to avoid fish habitat where options are available;
- Kimberlitic rock being cored;
- Minimum size of water source of one hectare;
- Minimum depth of free-standing water beneath ice of one metre;
- Minimum water volume of 1,000,000 litres of available water;
- Drawdown not to exceed 2.5% of available water (based on water requirements of 25,000 litres for 100 metre deep hole); and,
- More than one drill hole sourced from same water source (PR #99).

In the event that less than 1,000,000 litres of water was available per drill hole, SDC planned to use additional mitigation measures. These measures included: recirculation of water through the use of settling tanks to reduce water requirements up to 75% or more; monitoring drawdown through regular measures of water depth once per drill shift; pumping of water from an adjacent source if required and moving on to next site to allow water level to recover before resuming or finishing the drill hole (PR #99).

At the public hearing, SDC stated that in the absence of definitive evidence, it would treat all lakes as potential fish habitat (PR #139). Likelihood of fish habitat and species in various claim areas was also described. When questioned further about the interpretation of fish habitat and the approach to be used to mitigate potential adverse effects, the developer explained that shallow lakes would be seen as areas subject to winterkill and therefore would not be viewed as fish habitat but deeper lakes such as Defeat Lake are very likely to harbour fish. Avoidance of impacts would be the goal of the developer, as indicated in saying,

*“[W]e would not necessarily propose to undertake, let's say, detailed fish related studies so much as we would design the exploration program to ensure that the fish resources of those lakes would not be harmed in any way by the exploration drilling programs.”*

- Rick Hoos, Consultant to SDC (Public Hearing Transcript (115:12-17), January 13, 2004, PR #139)

When asked by DFO to clarify the number of new stream crossings to be anticipated as a result of the development, SDC states that up to 2.5 kilometres of new winter tote trail may be constructed but none is predicted to cross streams (PR #117). Concerns about stream degradation due to increased sedimentation were alleviated through the reliance mainly on helicopter support for inland portions of the development.



### ***Submissions of the Parties***

Although many parties expressed general concern about potential impacts to fish, only DFO presented evidence to identify the nature of and mechanism for the potential impact. Based on DFO's concerns regarding drawdown for other developments in the Wool and Drybones Bay area, the IRs were issued to address water source lakes and drawdown requirements (PR #142). Proposed IRs by DFO focused on new stream crossings for the operation.

DFO followed up on the issue of drawdown of lakes at the public hearing. This was particularly noted for Defeat Lake which is likely to contain various spawning shoals for Lake Trout. DFO sought and received assurance from SDC that it would use DFO's protocol for bathymetric surveys.

At the public hearing, DFO indicated that the collection of dissolved oxygen was "a stop gap measure in order to help the company proceed for this winter exploration" but there is inadequate data for other lakes given that the Land Use Permit being applied for is 5-years in duration.<sup>36</sup> DFO inquired about additional studies. There was no commitment by the developer to conduct a comprehensive study of fish.

In the absence of other evidence after the public hearing and based on DFO's participation at the public hearing, most fish habitat concerns appear to have been addressed.

### ***Conclusions***

The developer's numerous commitments reflect a strategy to prevent impacts to fish habitat. These commitments have been accepted by DFO, with one modification to expand lake characteristics studied to determine potential fish habitat. SDC has agreed to address this concern. Therefore, the Review Board finds that, providing these commitments are fulfilled, no significant adverse environmental impact is likely to result for fish habitat as a result of this development.

#### *4.3.2. Biophysical Cumulative Effects*

### ***Description of Issue***

The residual impacts of all lake based drilling programs on fish or their habitat could result in a cumulative effect.

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<sup>36</sup> See comments of Dave Balint (Public Hearing Transcript (113:1-114: 9) January 13, 2004, PR #139).



### ***Developer's Submission***

The developer estimated that the total footprint in its claim areas covered by the land use permit is 8 hectares or 0.05% of the total area held by SDC. The developer stated in its assessment of cumulative effects, that its program is not expected to result in any cumulative impacts (PR #34). With regard to fish habitat, SDC states,

*“Since no activities are planned to take place on any of these lakes, the fish or fish habitat within these lakes will not be affected by the drilling program. Therefore, since fish or fish habitat will not be affected by the exploration program there cannot be any cumulative effects on fish or fish habitat from this project.”*

More recent submissions at the public hearing now suggest there may be targets in Defeat Lake. The precise drill locations have not been determined but the developer indicated that spawning shoals tend to occur in shallow water and kimberlite pipes often occur in deep water such that it is unlikely they will coincide.<sup>37</sup> Mitigation measures discussed in section 4.3.2 of this report are intended to alleviate this concern.

### ***Submissions of the Parties***

GNWT, DFO, and INAC all concluded that residual biophysical effects were unlikely with the mitigation of the exploration program as proposed by SDC. In the absence of residual effects, no cumulative effects can be expected to the biophysical environment.

### ***Conclusions***

The Review Board accepts the conclusions of the developer, supported by DFO, GNWT, and INAC that no residual impacts are expected to result for fish and their habitat, assuming the mitigation measures proposed by SDC are implemented. As a result, the Review Board concludes that there will be no significant adverse impacts on the environment due to cumulative effects.

## **4.4. Cultural Landscapes**

The Review Board must make determinations of significance for impacts on the environment, including “any effect on the social and cultural environment or on heritage resources” (*MVRMA*). This part of the impact analysis focuses on the social and cultural environment and heritage resources.

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<sup>37</sup> See comments of Rick Hoos, Consultant to SDC (Public Hearing Transcript (116:25-117:22) January 13, 2004, PR #139).



The public record was examined for unresolved issues relating to cultural landscapes. Cultural landscapes are places or series of places linked together by water and land routes valued by an Aboriginal group due to the long history of connection to that land and water. The cultural landscape embodies the traditional knowledge of ancestors, past and present relationships, spirits, wildlife, fish and plants, and knowledge of biodiversity and ecology.<sup>38</sup> The cultural landscape and associated oral traditions also embody knowledge of responsibilities that show respectful stewardship. Material remains in the cultural landscape may be prominent, but are more often minimal or absent. Intangible cultural heritage, such as oral narratives, are also associated with the cultural landscape.<sup>39</sup>

A number of tangible and intangible dimensions of the environment are linked in cultural landscapes. The issues discussed in this section include archaeological sites, burial sites, and cumulative effects to cultural landscapes. Changes to the cultural landscape result from impacts to physical aspects of the environment, such as archaeological and burial sites. Impacts to the social and cultural environment arising from impacts on heritage resources may result in cumulative effects that influence cultural identity and well-being. Cumulative effects to the cultural landscape can either negatively or positively impact cultural identity and well-being. For this reason archaeological and burial sites will be considered separately but they will also be dealt with together in a discussion of cumulative cultural effects. This approach is in keeping with the recommendations of the YKDFN.

*"...[W]e don't want our cultural identity treated like points on a map that can be simply managed and mitigated or made less important. Those places, the cultural representations, the landscape and the information those places contain are not just archaeological sites. They're part of our social, spiritual and cultural identity. [...] Those places out there are how we communicate who we are and [...] pass on our culture to our children."*

- Chief Darrell Beaulieu, YKDFN (Public Hearing Transcripts (12:12-21), November 26, 2003, PR #142)

While the Review Board was advised of the existence of spiritual sites in the Drybones and Wool Bay areas, specific sites beyond burial sites were not identified and their role and relative importance to cultural landscapes was not explained in the submissions

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<sup>38</sup> Mitchell, N. and S. Buggiey. 2000. Protected Landscapes and Cultural Landscapes: Taking Advantage of Diverse Approaches. *George Wright Forum* 17(1):35-46.

<sup>39</sup> See Buggiey, Susan, 1999. "An Approach to Aboriginal Cultural Landscapes". Parks Canada, HSMBC agenda paper 1999-10.



made by the Aboriginal parties. Nevertheless, several submissions emphasized the sacred importance of Drybones Bay. Spiritual sites and sacred places are dealt with below relative mainly to burial sites and in the context of cultural identity and well-being under the heading of cumulative effects.

#### 4.4.1. *Archaeological Sites*

##### **Description of Issue**

The proposed development area had never previously been the subject of a complete survey of historical or archaeological sites. The information available in the Prince of Wales Northern Heritages Centre's (PWNHC) database is not complete for this area. In the absence of detailed information for the proposed project area, the ability to recognize and effectively mitigate potential project impacts to known and suspected archaeological sites, as specified under the *MVLUR*, is uncertain.

##### **Developer's Submission**

The developer, in its DAR (PR #34), noted no known historical or archaeological sites in the vicinity of the proposed development. The PWNHC identified only three sites within the Drybones Bay area and they did not coincide with SDC's proposed program (PR #). This was reaffirmed at the public hearing, where SDC stated that during

*"A visit to the Pebble Beach campsite by YKDFN elders, accompanied by archaeological consultant Mr. Randy Freeman [...] reveals no cultural artifacts in the immediate Pebble Beach area."*

- Robert Paterson, SDC (Public Hearing Transcript (41:3-8), January 13, 2004, PR #139)

SDC acknowledged the incompleteness of the PWNHC information at the public hearing stating that this information "did not accurately reflect the real number of cultural and archaeological sites within the Drybones Bay area" (Robert Paterson, Public Hearing Transcript (66:10-12), January 13, 2004, PR #139).

However Mr. Patrick McDowall, an exploration sampling assistant with a background in archaeology, undertook preliminary archaeological observations of the Mud Lake area of the Ticho project for SDC.<sup>40</sup> SDC filed a submission based on Mr. McDowall's

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<sup>40</sup> Any archaeological work conducted in the Northwest Territories requires a research permit from the PWNHC. This documentation was incidental based on observation during preliminary work.



observations that there were no cultural concerns in the Mud Lake Grid area although further archaeological surveys are required (PR #135).

As a result of this preliminary work and concerns expressed by parties, SDC made further efforts to address archaeological concerns. The developer had already made arrangements for its own archaeologist who is familiar with the area to assist them (Public Hearing Transcript (142:24-143:2) January 13, 2004, PR #139).

SDC expressed concern regarding the adequacy of protections in place for archaeological and historic sites, saying,

*“[T]here appears to be a need for significant changes to be implemented with respect to archaeological assessment in the land use permitting process for the north shore of Great Slave Lake”*

- Robert Paterson, SDC (Public Hearing Transcript (73:1-4), January 13, 2004, PR #139)

The developer asked the Review Board to consider recommending that SDC’s proposed spring 2004 exploration program in Mud Lake, proceed as described subject to the implementation of PWNHC’s recommended mitigation.<sup>41</sup> SDC indicated that in the summer of 2004, it would conduct an archaeological impact assessment over its mineral claims, in conjunction with a follow up monitoring program. SDC’s commitment to undertaking this work was evident in the following statement,

*“Snowfield does not object to implementation of a higher level of archaeological awareness, and in fact, fully respects the need for such information, and has committed to undertaking, in consultation with YKDFN, and all related regulatory bodies, such archaeological studies as are recommended on the shorelines of the mineral claims forming the Ticho Project.”*

- Robert Paterson, SDC (Public Hearing Transcript (73:5-11) January 13, 2004, PR #139)

### **Submissions of the Parties**

The legal framework for the protection of historical and archaeological resources was set out by the PWNHC. It consists of several legal instruments, including the *NWT Archaeological Sites Regulations*, *MVRMA*, and *MVLUR*. The *NWT Access to Information and Protection of Privacy Act* also provides some protection indirectly by

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<sup>41</sup> See Public Hearing Transcripts (73:17-74:1), January 13, 2004, PR #139.





controlling the sharing of archaeological information. Each statute or regulation serves a role in the overall management of these resources.

The *NWT Archaeological Sites Regulations* defines an archaeological artifact as “any tangible evidence of human activity that is more than 50 years old, in respect of which an unbroken chain of possession cannot be demonstrated”. Sections 4 and 5 protect archaeological sites, places where archaeological artifacts are found, by making it illegal to search for, excavate, or otherwise disturb archaeological artifacts or sites without holding a valid NWT Archaeologists Permit. The territorial minister responsible for heritage is responsible for issuing the permits under section 6. Section 13 makes the PWNHC the sole legal repository for archeological artifacts in the NWT.

The *MVRMA* defines heritage resources as “archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records.” Under Part 5 of the Act, an “impact on the environment” includes any effect on the social and cultural environment or on heritage resources.

The *MVLUR* address archaeological site protection relative to permitted land uses in sections 6 and 12. Under paragraph 6 (a), “unless expressly authorized by a permit or in writing by an inspector, no permittee shall conduct a land use operation within 30 m of a known monument or a known or suspected historical, archaeological site or burial ground”. Section 12 describes requisite actions during a land-use operation if a suspected historical or archaeological site is discovered. The developer, or permittee, must “immediately suspend operations on the site or burial ground and notify the Board or an inspector; and [...] notify any affected First Nation and the department of the Government of the Northwest Territories responsible therefor of the location of the site or burial ground and consult them regarding the nature of the materials, structures or artifacts and any further actions to be taken” (*MVLUR*, section 12).

Section 19 of the *NWT Access to Information and Protection of Privacy Act* ensures that information about the location of archaeological sites is restricted. This provides protection to the sites because PWNHC “may refuse to disclose information to an applicant where the disclosure could reasonably be expected to result in damage to or interfere with the conservation of sites having an anthropological or heritage value or aboriginal cultural significance” (PWNHC, PR #127).

In correspondence dated July 7, 2003, Dr. Charles Arnold, the Director of Culture, Heritage and Languages, noted that

*“There has never been a systematic archaeological survey conducted along the north shore of Great Slave Lake, and as a result we lack archaeological baseline data for the Drybones/Wool bay area. Judging by the extensive record of traditional land use known through the*



*Yellowknife Dene First Nation oral histories, it is clear that the area has a long history of human activity. Consequently, it is expected that there would be many archaeological sites in the area.” (PR # 116)*

Since this time, the YKDFN has filed with the Review Board the results of their summer field survey.<sup>42</sup> This field work relied on TK of YKDFN to identify previously undocumented archaeological and historical resources in the Wool and Drybones Bay area. The study included the shoreline at Drybones Bay. A total of 64 new sites were discovered ranging from pre-contact to contemporary historical sites.<sup>43</sup> The archaeological assessment of the YKDFN notes a tent camp 3.6 kilometres southeast of Drybones Bay within 3.5 kilometres of eight archaeological and historical sites.<sup>44</sup> The camp is associated with existing cutlines, access roads, drill locations and storage areas and occurs within the Mud Lake Claim area.

However, the YKDFN emphasized that the field study did not encompass the inland areas associated with SDC's entire development.

LKDFN and NSMA expressed their own concerns about potential historical and archaeological sites in the vicinity of the projects, including SDC's development indicating that capacity limitations had hindered their ability to document those sites that may be important to their communities. These parties noted the importance of locating these sites based on Traditional Knowledge, as the LKDFN have already done closer to Lutsel K'e.

The members of the LKDFN travel between Lutsel K'e and the former Aboriginal communities at Wool and Drybones Bay. Many inland traditional trails were noted to be important travel and trapping routes. This was particularly noted in the vicinity of Drybones Bay and is supported by RWED's traditional use study of the area.

The incompleteness of the archaeological survey for the area was emphasized in the submissions of YKDFN, LKDFN, and NSMA. Aboriginal parties emphasized the PWNHC's estimate that less than 1 percent of potential archaeological sites in the Wool and Drybones Bay area are documented (PR #127).

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<sup>42</sup> Reports entitled *Archaeological Assessment of Mineral Exploration and Aggregate Extraction in the Vicinity of Drybones and Wool Bay, Great Slave Lake, Northwest Territories* and *A Preliminary Report on Cultural and Historical Resources of the Drybones and Wool Bay Areas* dealt with historical and burial sites.

<sup>43</sup> A discrepancy was noted by YKDFN in the hearing that acknowledge the actual number of sites is more likely between 56 and 58 due to the inclusion of some recent cabins (Public Hearing Transcript (257:5-7), November 26, 2003, PR #255).

<sup>44</sup> This location, labeled as the NSV camp in YKDFN's heritage report, based on confirmation from Mike Beauregard is SDC's summer field camp (pup and fly tents) to support non-permit requiring activities on its claim in the summer of 2003.



At the public hearing, Tom Andrews, an archaeologist with the PWNHC, indicated that there are regions that are more likely to hold archaeological sites. He stated that,

*“[T]raditional land use, in the absence of specific data pertinent to the distribution of heritage sites, traditional land use is a very important indicator of where people have been, traditionally named places... that kind of information is critical to providing an assessment of what potential impact a project will have on -- on heritage sites in the area.”*

The traditional land use map submitted by YKDFN clearly shows that SDC’s proposed development is setback along the southeastern shore of Drybones Bay. The traditional land use map, when reviewed relative to SDC’s development maps,<sup>45</sup> indicate an overlap with several traditional use trails and water bodies bearing traditional place names. The Red Claim Group contains three archaeological sites consisting of cabins, tent rings and associated artifacts, indicative of past use and occupation. The YKDFN’s archaeological assessment indicates that some of these sites date at least as far back as the early 20<sup>th</sup> century (PR # 49). Although the names of these locations bearing traditional place names were not described in the evidence, the potential for archaeological and heritage sites in the area was emphasized in parties’ submissions.

The YKDFN archaeological and heritage resources report suggests that the potential for disturbance is high. Given the history and intensity of the traditional use within the vicinity of Drybones Bay area, other (suspected) sites may be present in the SDC area. A full assessment is required for the heritage resources of the area based on a comprehensive and systematic study of traditional trails and inland lakes bearing traditional place names.

At present, based on the evidence filed, there is a concentration of archaeological and historic sites in proximity to the shoreline between Wool Bay and Gros Cap.

YKDFN, LKDFN, and NSMA questioned whether or not the developer, in spite of its commitments to avoid and protect archaeological sites, would be able to do so. The absence of a trained archaeologist on-site and winter operations when the physical evidence of archaeological sites would be hidden by snow were emphasized. During the YKDFN field study, Callum Thompson, archaeologist to YKDFN, noted one instance where development had been too close to archaeological sites, where he noted a “[c]ut line running very close to a couple of habitation sites.” (Public Hearing Transcript (261:8), November 26, 2003, PR #142).

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<sup>45</sup> See Figure 1, *Amendment and Additions to Snowfield Development Corp.’s DAR*.



By the end of the public hearing, the Aboriginal parties remained unconvinced that the potential adverse impacts to historic and archaeological sites could be mitigated effectively. The Aboriginal parties requested the opportunity to work with the developer and a qualified archaeologist to document all suspected archaeological sites within SDC's operating area. YKDFN emphasized that they had already begun this work. LKDFN indicated that it would be willing to collaborate with YKDFN on this endeavor.

### **Conclusions**

The Review Board finds that since most of SDC's proposed Ticho Project occurs on land, the developer is likely to encounter suspected archaeological sites. Any operations on lakes or ponds suggested by SDC would avoid these sites. The main impact associated with on-land drilling, trenching and inland access are destruction or damage due to compaction from access to the drill site and disposal areas for drill cuttings, or drilling into an artefact. The impact would be expected to be localized, and limited to the access route or drill location. Packed snow acts as one measure of protection for archaeological sites, although it may be ineffective to protect fragile artifacts or assemblages of natural materials that must be interpreted in context (such as tent rings).

Given that a comprehensive archaeological survey has never occurred for the program area and the summer work by the Yellowknives extended mainly in areas accessible by boat, many of SDC's claim areas may contain artifacts. Further, a predominance of archaeological sites would be expected along the shoreline of Great Slave Lake where there is a high level of use. The Traditional Land Use map submitted by YKDFN clearly shows several lakes bearing traditional places names. In the absence of a comprehensive survey of archaeological sites in the proposed development area, the likelihood of encountering archaeological sites in Mud Lake Claim Group, Fate Claim, Hurcomb Claim and the Red Claim Group is probable. The Review Board accepts the submissions by the PWNHC that extensive traditional use of the area noted by YKDFN, LKDFN, NSMA, and DKFN is associated with a high potential for finding more sites.

The YKDFN's submission documents adverse impacts to existing historical and heritage sites. The Review Board finds that the procedures outlined by the developer will better mitigate potential impacts to archaeological sites during winter operations if Aboriginal parties and archaeologists are consulted prior to drilling. Based on evidence of disturbance to existing archaeological and burial sites, the Review Board has decided to prevent significant adverse impacts on the environment relative to known and suspected historical and archaeological sites. In order to prevent significant adverse impacts to the environment, the Review Board recommends:

- R1. SDC will not commence drilling within the three kilometre zone until the operational areas within the claim blocks are surveyed by a qualified**



**archaeologist, accompanied by an Aboriginal elder and a translator if required, to detect suspected archaeological, historical, burial or cultural sites.**

- R2. SDC will only use access routes in the three kilometre zone if routes are scouted by an Aboriginal elder, a translator, if required, and a qualified archaeologist for suspected archaeological, historical, burial or cultural sites. Use of these access routes will only be permitted over packed snow or on lake ice.**
- R3. Any drill sites not in the three kilometre zone must be scouted by an Aboriginal elder, a translator, if required, and a qualified archaeologist for suspected archaeological, historical, burial or cultural sites.**
- R4. Aboriginal parties and the Prince of Wales National Heritage Centre will provide precise locations and the extent of recorded archaeological, historical, burial or cultural sites to SDC for its claim blocks.**
- R5. SDC will maintain a 100 metre buffer around all known and suspected archaeological, historical, burial or cultural sites.**

The Review Board further notes the request of PWNHC that the developer submit detailed project maps (min. 1:50,000 scale) showing the location of all drill sites, access routes, and support areas to show avoidance of all known archaeological sites. As this information must be submitted to the MVLWB under subparagraph 19(3)(b)(ii) of the *MVLUR*, this is a regulatory issue. SDC should provide a copy of that information to the PWNHC.

#### *4.4.2. Burial Sites*

##### ***Description of Issue***

Documented and undocumented, as well as marked and unmarked burial sites may occur within the developer's claim areas. The ability to recognize and protect these burial sites, in keeping with the intent of the *MVLUR*, is the issue of concern.

##### ***Developer's Submission***

SDC, in its DAR (PR #34) and public hearing presentation (PR #139), notes no known graves in the land based portion of their program. The developer acknowledged that some sites may not be known. SDC then committed that all sites will be respected and



to seek advice from First Nations to ensure that no spiritually significant areas are disturbed.

The developer's commitment at the public hearing to consult with Aboriginal parties to identify potentially sensitive areas appears to apply also to burial sites (see Developer's Submission in section 2.4.1 of this report for details).

### ***Submissions of the Parties***

Many parties, particularly LKDFN emphasized the requirements for the protection of known and suspected burials sites. Many cited the *MVLUR* which describes requirements for permitted operations in the vicinity of historical sites, archaeological sites or burial grounds. The management prescriptions for burial sites are clear under section 6 and 12 which state:

*6. Unless expressly authorized by a permit or in writing by an inspector, no permittee shall*

*(a) conduct a land use operation within 30 m of a known monument or a known or suspected historical, archaeological site or burial ground;*

*12. Where, in the course of a land-use operation, a suspected historical or archaeological site or burial ground is discovered,*

*(a) the permittee shall immediately suspend operations on the site or burial ground and notify the Board or an inspector; and*

*(b) the Board or inspector shall notify any affected First Nation and the department of the Government of the Northwest Territories responsible therefor of the location of the site or burial ground and consult them regarding the nature of the materials, structures or artefacts and any further actions to be taken.*

YKDFN (PR #176 and 142) and LKDFN (PR #142) in their submissions on the public record all indicated concerns about the proximity of burial sites to the development. YKDFN provided evidence of previously undocumented grave sites in the Drybones Bay area as part of their summer 2003 field study and the traditional land use map also showed one burial site within the Mud Lake Claim Group (PR #142). In LKDFN's presentation at the public hearing, they indicated that the documentation of graves for the area is still incomplete (PR #142). Nevertheless, Traditional Knowledge suggests the possible presence as indicated by the following statement,



*“Burial grounds - due to oral history of the Elders, it indicates traditional use of the area. Many of our people have been buried along the shore of Great Slave Lake, particularly at the area of concern or in close proximity. The burial sites are continuing to be recorded from the old history. It is known that there are many unrecorded burial sites in that area.”*

- Angie Lantz, LKDFN (Public Hearing Transcript (132:16-24), November 26, 2003, PR #142)

The evidence filed suggests that a concentration of burial sites is expected to occur in proximity to the shoreline between Wool Bay and Gros Cap. The evidence did not identify the locations of burial sites within SDC’s proposed program area although one site is noted within 1 kilometre of shoreline access near Beniah Islands.<sup>46</sup> The precise location of the sites appeared less important than the perceived sensitivity of the burial sites and appropriate activities near these sites. This is evident in statements made at the public hearing, such as

*“[O]ur ancestral burial grounds and our spiritual belief grounds are all in those areas and once the explorations go into those areas they're going to demand that a lot of these burial grounds be exhumed in order for them to continue their exploration [...] – I think that is not right.”*

- Judy Charlo, YKDFN (Public Hearing Transcript (57:13-18), November 26, 2003, PR #142)

An elder of the LKDFN, described encountering previously unknown gravesites in saying,

*“And sometimes, when I walk, hunting, all of a sudden I would -- I would walk upon a grave out there. Nobody knows where the site is, and I just find it by accident. [...] It's like that on our land, [...] we have respect for ancestral burial grounds.”*

- Albert Boucher, YKDFN (Public Hearing Transcript (156:6-10), November 26, 2003, PR #301)

The YKDFN’s archaeological study noted “evidence of a cut line passing within metres of a graveyard” (PR# 94). A YKDFN elder elaborated on this concern in relation to past activity in the area saying,

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<sup>46</sup> YKDFN indicated that Beniah Islands are incorrectly labeled as Cabin Islands on the 85 1/4 maps used in this proceeding.



*"I've went into that area that you guys are blasting and drilling. I went there this summer to take a look at what you guys have been doing. You are drilling near grave sites."*

- Alfred Baillargeon, YKDFN (Public Hearing Transcript (25:9-12), November 26, 2003, PR #142).<sup>47</sup>

Ultimately, the Elders of the Aboriginal parties want the developers to show respect for these sensitive areas. The intensity of emotion related to protecting burial sites suggests that some development is too close as evident in these statements,

*"[O]ur ancestors and our ancestors before that, we have been buried there for years [...] said, no, those burial grounds will never be touched or exhumed or anything, that is what they said. [...]. We also have a lot of our -- our ancestors history, our other historical areas that are all in those areas that we use in order to teach our children, our community and our spiritual beliefs."*

- Judy Charlo, YKDFN (Public Hearing Transcript (57:13 -58:4), November 26, 2003, PR #142)

*"When the Elders talk about burial grounds, it's a place where it is sacred to everyone because it's the last place you're going to be. They're sacred in so many ways because they're everywhere [...] and that clearly outlines that -- that Aboriginal people have occupied that area. They're sacred because [...] it's an area of respect and it's an area where you go to your loved ones to show your respect, to ask for guidance and help from the creator looking down and it's -- it's -- it's a place of respect basically and everyone can define respect in their own opinion."*

- Shawn Catholique, LKDFN (Public Hearing Transcript (283:5-16), January 13, 2004, PR #142)

## **Conclusions**

The Review Board finds that given the elders concerns about respectful behaviour near burial sites, development too close may be viewed as disrespectful and, therefore, incompatible. SDC's land-based operations coincide with areas with a high probability

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<sup>47</sup> The relevance of this statement to SDC's operation is unclear, since SDC in conjunction with Diamonds North has already been active in the vicinity of Drybones Bay. Nevertheless, it does illustrate what could happen if the location of grave sites is not known based on other observations of development activity in the general area.





of encountering more burial sites, particularly where traditional trails and habitation sites are most dense in the Mud Lake Claim and Red Claim Group.

The *MVLUR* is clear about the requisite setbacks for permitted activities relative to all known and suspected burial sites (section 6(a) and 12). The Review Board notes YKDFN's evidence of other developments failing to observe the 30 metre buffer. These observations may indicate a contravention of the regulations, which would be disrespectful to those descendants of those buried in these areas.

Any activity conducted in the vicinity of burial grounds could have significant adverse impact on the environment. In order to ensure the development is undertaken in a manner to prevent significant adverse impacts, the Review Board has addressed these concerns through recommendations addressing archaeological and burial sites in section 4.4.1.

#### 4.4.3. *Cultural Cumulative Effects*

##### **Description of Issue**

The quality of the social and cultural environment is linked to the maintenance of cultural landscapes. Residual impacts to the biophysical environment and physical aspects of the cultural environment (archaeological sites, grave sites) result in incremental effects on culture. The cumulative effects of exploration and development in the Wool and Drybones Bay area may cause undesirable changes to the relationship between the Aboriginal people and the land as reflected in their cultural identity and well-being.

##### **Developer's Submission**

SDC's submissions on the public record, particularly statements at the public hearing generally addressed past, current and future developments in the vicinity of the proposed project (PR#142).

SDC provided extensive evidence of past timber harvesting to support gold mine operations in the area, previous cut lines to support exploration (PR # 100,117, 129). The developer concluded that past exploration is environmentally benign as regulatory measures were sufficient to ensure no impacts. The developer further pointed out that the claims were lawfully obtained in accordance with the *Canada Mining Regulations*. Given the long history of staking and exploration in the area, surprise was expressed at the concern about the sensitivity of the area and the proposed exploration. Potential cultural effects resulting from historic activity was not discussed in the DAR.



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In terms of current and recent uses, the developer viewed their proposed program as separate from the work of other developers in the area, such as Consolidated GoldWIn Ventures and New Shoshoni Ventures. It was however seen to be a continuation of past efforts undertaken in conjunction with Diamonds North as suggested by the following statement,

*“[W]e never [...] thought that some two years later we would be here in this Hearing still endeavouring to obtain a Land Use permit to undertake what in our experience was to be a relatively low key, low impact basic exploration program on Crown Land and in an area that had a lengthy history of similar ongoing exploration programs and land use permitting. In our naivety we thought that a land use permit application for basic exploration on Crown Land mineral claims would not pose any significant problems or delays provided that we’ve demonstrated the ability to comply with the existing exploration and environmental regulations as applied to many similar basic exploration programs being undertaken throughout the Northwest Territories.”*

- Robert Paterson, SDC (Public Hearing Transcript (70: 21-71: 9) January 13, 2004, PR #139)

In response to concerns about the cumulative effects of the winter road, the developer pointed out that winter use of the area occurs with or without a winter road. SDC further stated that “for the past some 37 years, the temporary winter ice road has been constructed by Mr. Archie Buckley of Yellowknife, who has annually ploughed ice roads to his camps and work areas on the north shore of Great Slave Lake and east of Yellowknife, to service his year round commercial fishing business” (Robert Paterson, SDC, Public Hearing Transcript (41:21-42:1), January 13, 2004, PR #139). In response to specific concerns about access related effects such as cabin construction and timber harvesting, SDC proposed that the north shore developers (CGV, NAGRC and NSV) direct the ice road

“to proceed down the centre of the lake to the west side of Yellowknife Bay and stay well offshore until they need to turn into shore at their respective exploration location”

- Robert Paterson, SDC (Public Hearing Transcript (42:18-23), January 13, 2004, PR #139)

Future development discussed in the DAR did reference archaeological and heritage resources, as well as burial sites (PR #166). Since this activity was seen to be speculative and dependent on preliminary results, there was no perceived impact on



culture. Nevertheless, it should be noted that SDC did not identify any VCs to evaluate impacts on Aboriginal culture.

The developer stated that a greater appreciation for the connections of the Aboriginal parties with the land was gained throughout the EA process.<sup>48</sup> The developer indicated that it wanted to build this relationship over the course of its operation through ongoing community engagement, and employment and training of local Aboriginal staff.

### ***Submissions of the Parties***

The value of Wool and Drybones Bay to the Aboriginal parties was described in the public hearing. The NSMA indicated that “Drybones and Wool Bay are an important harvesting area for the NSMA membership”<sup>49</sup> and are “very spiritually, as well as culturally, important sites to the North Slave Métis Alliance.”<sup>50</sup>

For the YKDFN, the importance of this cultural landscape to the identity of the people was also established. This is emphasized by the following statements:

*“[...] Drybones Bay and Wool Bay are not just archaeological treasure troves. They are still actively used by our membership. They are just as important to our culture now as they were 200 years ago. So I just want to say that today we... genuinely want to protect those places. I think my membership, those of us that are here and other members believe in their hearts and souls that to do otherwise is unthinkable.”*

- Chief Darrell Beaulieu, YKDFN (Public Hearing Transcript (15:18-20), November 26, 2003, PR #142)

The Review Board was presented with ample evidence that this area is extremely important to the Akaitcho people.<sup>51</sup> In terms of the role of this place to the well-being of the people, it is a place for gathering strength. Drybones Bay is a place where:

- Aboriginal people seek refuge and healing.

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<sup>48</sup> See Public Hearing Transcript (117:9-20), January 13, 2004, PR #139.

<sup>49</sup> See correspondence from Kris Johnson, NSMA, dated September 2, 2003 (PR #142).

<sup>50</sup> See Public Hearing Transcripts (122: 21-24), November 25, 2003, PR# 142.

<sup>51</sup> Michel Paper's story showed the importance of the area in the YKDFN's history in saying, “When the flu epidemic went through the territories, [...] we lost a lot of our people. After that, because we lost a lot of our people, [...] there weren't a lot of our people left in the community. Our ancestors were very strong people. Before the white people came in, they hunted and trapped and lived a very rich life and they used to be very rich because they knew how to hunt and they knew how to gather fur but today it is different.” (Public Hearing Transcript (29:16-24), November 26, 2003, 142PR #142PR #142).



*“It’s a place where many of us were born, many of us grew up, spent their summers there home -- at home from residential school.”*

- Chief Darrell Beaulieu, YKDFN (Public Hearing Transcript (13:17-19), November 26, 2003, PR #142)

- Beliefs, values and customs are taught there to live a good life.

*“[O]ur ancestral burial grounds and our spiritual belief grounds are all in those areas... We also have a lot of our --our ancestors history, our other historical areas that are all in those areas that we use in order to teach our children, our community and our spiritual beliefs.”*

- Judy Charlo, YKDFN (Public Hearing Transcript (57:13-18) November 26<sup>th</sup>, 2003, PR #142)

*“Our ancestors have taught us how to live on this land. Just like today, the education, going to school, our ancestors have taught us how to live off the land, how to travel on the land with a dog team. [...] if we don't make a trail for them, there's nowhere for them to travel. It's like making [...] a highway for them.”*

- Michel Paper, YKDFN (Public Hearing Transcript (31:21-32:6), November 26, 2003, PR #142)

- Stories of survival are written on the landscape.

*“When I was young there was no disease or no sickness among us [...] -- people just don't usually get sick and die. We used to live long lives but since 1928<sup>52</sup> when the flu epidemic went through the Northwest Territories a lot of our people [...] passed away, died and since then a lot of [...] our families, our people, have been dying from disease. So at that time the people used to live in the Drybone Bay area and the people made a decision to move to the -- to Dettah where we are presently today. It seem -- because a lot of people have passed away in that area and [...] a lot of our people are buried in that Wool Bay -- Drybone Bay.”*

- Michel Paper, YKDFN (Public Hearing Transcript (29:4-15), November 26, 2003, PR #142)

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<sup>52</sup> Historical documents note that the Spanish Flu pandemic occurred in 1918.



- Harmonious relationships between individuals, families, and communities evolved from spending time and sharing what the land offers.

*“We know that over the years that Drybone Bay has always been a hunting, fishing, and trapping area for anybody. [...] Chief Joe Sangris [...] made an agreement with Chief Jimmy Bruno of Rae and Chief Baptiste Cazon with the Wildlife people [...] where it didn't matter where you were from, you were allowed to hunt, fish and trap in each others territory. As long as you didn't put your trap on top of mine, you can hunt in my area and I'll hunt in your trapping area. That was the agreement the three Chiefs made. [...] Drybone Bay has always been a place where people would stop by [...] and trap on the way to Yellowknife, to trade in their furs. It would be a place where people [...] would go for spring hunting, because it was always plentiful of wildlife and game birds, geese, ducks in the spring, because it -- the water opened in the spring, next stopping site from Rocher River area for the birds. So, [...] I'm hoping [...] this historical information opens the door to sorting out how we can work out these details together and how to do studies together. [...] The door is open to anybody hunt -- to hunt, fish, and trap there. The three main Dene rights, the traditional rights of the Dene, to practice their rights, and it's not closed against anybody. So, it's always been a multi-use area by a lot of people, because it always was a good place to do those three main things that we value.”*

- Rachel Crapeau, YKDFN (Public Hearing Transcript (139:24 -141:7), January 13, 2004, PR #139)

*“[O]ral histories have verified that current relationship exists between the Dene of Yellowknife and Lutsel K'e on the traditional use of Wool Bay and Drybone Bay. We know this because our Elders have identified the traditional names of the exploration sites that will be brought up by the Elders when they speak.”*

- Monica Krieger, LKDFN (Public Hearing Transcript (130:14-18), November 26, 2003, PR #142)

*“[W]e would gather. Sometimes we would see people from Fort Rae. They would spend springtime with us there and sometimes people from Fort Resolution would spend springtime there to go muskrat hunting and also people from Lutsel K'e when they used to travel that area when -- they would pass by Drybones Bay and stop for a little while. Because the area is plenty with fish and other animals, people would stop there and harvest what they need for their travel on to the next area, that's how people used to travel.”*



- Elder Helen Tobie<sup>53</sup>, YKDFN (Public Hearing Transcript (38:5-16), November 26, 2003, PR #142)

In general, there was a perceived incompatibility between the development and other land uses with the values of the important cultural landscapes of the Akaitcho and Métis peoples. This is highlighted in the YKDFN's letter requesting referral to EA (PR #6). This letter and submissions by other parties provide a more comprehensive picture of traditional use and occupancy that is considered by Aboriginal groups to be threatened by this and other proposed developments<sup>54</sup>. The potential conflict with traditional land use given the abundance of traditional use trails in the area used for hunting and trapping as well as dishonouring of sacred burial grounds and spiritual sites vital to the cultural identity of the parties are some examples of connections to the land that may be adversely affected. NSMA, LKDFN, and, to a lesser extent, DKFN supported this view.

YKDFN, LKDFN, NSMA and DKFN provided several submissions about past, current and future developments that were contributing to cumulative effects on the cultural landscape in the Drybones and Wool Bay area. The main submissions about the effects of past development on culture were provided in the stories of elders at the public hearing (PR #142) however YKDFN provided some background in their 2003 field study (PR #255).

Historic activities were highlighted by the YKDFN, NSMA, LKDFN, and DKFN in discussions of mineral staking throughout the Wool and Drybones Bay area. Most of the submissions focused on the traditional importance of the area and concerns about not being consulted prior to the access and use of these lands. The inclusion of burial grounds, as well as historical and archaeological sites of Akaitcho and Métis peoples in the staked claims subject to past exploration has had consequences. The YKDFN's study has highlighted some residual impacts resulting from the preliminary exploration activities on archaeological sites and burial sites (see section 4.4.1 and 4.4.2 of this report).

Additionally, the YKDFN, in submissions to the public record and in elders statements at the public hearing (PR #142), described the historic use of the Wool and Drybones Bay area. The parties explained past impacts of Con and Giant Mine on environmental quality of traditional use areas, citing concerns about water contamination and the fact that drinking water is now transported to Dettah at a cost to the people. Similar concerns were expressed about the deterioration of medicinal plants. The message

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<sup>53</sup> Grand-daughter to Michel Drybones after whom Drybones Bay is named. (Elder Helen Tobie, Public Hearing Transcript (35:21-22), November 26, 2003, 142PR #142PR #142).

<sup>54</sup> North American General Resources Corporation, Consolidated GoldWIn Venture, and New Shoshoni Ventures' diamond exploration programs in the Wool and Drybones Bay areas.



was unequivocal, the YKDFN were bearing the burden of the environmental and therefore cultural costs of development in and around Yellowknife.

These comments were not limited to activities of the distant past but also addressed more recent activities in SDC's operating area. The extensive network of new cut lines adjacent to the shoreline south of Drybones Bay was noted in YKDFN's summer field study. This non-permit requiring activity coincides with an area where archaeological, historic, and burial sites are suspected.

Cumulative land use pressures in the Drybones Bay area were also emphasized by YKDFN. Current activities such as expanded trail use, unauthorized cabin development, and further prospecting were highlighted (PR #6). The mechanism for the enhanced use was explained relative to the (ice) road in noting that the (ice) road will increase land use pressures "[...] because increased accessibility by vehicles does increase hunting pressure,[...] does increase [...] the amount of people who will haul out wood so they can build their cabin and boat out there,[...] does increase accessibility." (Louie Azzolini, Consultant to YKDFN, Public Hearing Transcript (152:7-11), November 25, 2003, PR #142).

Increased access makes the area a more attractive place to develop. NSMA expressed concern about the current and future pace of development in correspondence dated October 9, 2003 stating "Development is not occurring at a rate that is sustainable for Aboriginal communities that must adapt to changes." (PR #142). NSMA further cites the report released by the Conference Board of Canada, *Setting the Pace for Development: An Economic Outlook Report for the Northwest Territories* that states that "the benefits of rapid development occurring in the North are not going to the people who need the benefits the most – namely, Aboriginal peoples." (PR# 142)

Elder Michel Paper expressed concern at the future development possibilities, saying

*"In the next ten years how will their future be with all this mining activities. We have to think about them. We have to make a plan for the next ten years so that we can take care of these young people that are going to be in our position."* (Public Hearing Transcript (31:10-14), November 26, 2003, PR #142).

YKDFN were clear in what they wanted to happen in the Drybones Bay area in response to their cultural concerns, as illustrated by the following statements:

*"The Yellowknives Dene First Nation wants these areas protected."*

- Chief Darrel Beaulieu, YKDFN (Public Hearing Transcripts (23:25-24:1), November 26, 2003, PR #142)



*"It's a place that we want protected. We're in -- in a corner here because we have no land claim settled. Our treaty entitlement negotiations are still ongoing. Nothing's been settled. We haven't withdrawn any lands from development."*

- Rachel Crapeau, YKDFN (Public Hearing Transcript (93:25-94:3), November 26, 2003, PR #142)

*"So what I want is a moratorium on the lands so that no industry or nothing will happen until we have settled our land."*

- Elder Lisa Enzoe, LKDFN (Public Hearing Transcript (143:21-23), November 26, 2003, PR #142)

An alternative view was noted, suggesting uncertainty in the preferred future for the area. Nevertheless, the direction for the short term was clear,

*"Drybone Bay and Wool Bay, I don't think the people want a mine right away or anything happening. It's more of a culture thing. Maybe the next generation will figure that one out, but in between time, while you guys are doing some work up there, we'd like to monitor you guys and as long as you guys consult with us and keep up a clean job I think we could work together."*

- Angus Martin, YKDFN (Public Hearing Transcript (73:13-19), November 26, 2003, PR #142)

Chief Peter Liske concluded, "When we say, no, that's what we mean." (Public Hearing Transcript (21:9), November 26, 2003, PR #142). Elder Michel Paper pointed out that the decision to oppose the development was not easy, saying "We're not here to have an argument about anything. So when we say no, (we know) it's not good always to say no." (Public Hearing Transcript (28:8-10), November 26, 2003, PR #142).

The NWT and NU Chamber of Mines had a different view based on the historic use of the area. Historic commercial use of the area was seen to be more extensive than that proposed by SDC as indicated by the following statements,

*"I know from stories told to me by my father, by Emile Dejeuner, who prospected here in the '30s and by people like Darcy Arden that the area around Drybones Bay was used to harvest timber and firewood for the mines in the early days. In the 1940's Hugh Arden and others bulldozed a network of trails through the bush to gain access to upwards of 10,000*





*cords of timber that was cut and hauled from as far east as Hearne Lake. Little evidence of that activity can be found today.”*

- Mike Vaydik, NWT and NU Chamber of Mines (Public Hearing Transcript (237:25- 238:9), January 14, 2004, PR #139)

*“The ice of Great Slave Lake has been used as a highway for goods travelling north since the 1930's. In fact, it was the only option other than flying until a highway was opened in the 1960's. Nothing remains to mark the path of those ice roads. Old timers have told me about the fish plants and camps that were once large and numerous along the north shore of the lake. Once hundreds of fishermen from the south, as well as northern aboriginal people, lived and fished near Gros Cap. Little remains to show where they were except a few graves and a few camp sites, if you know where to look. The history of that shoreline has seen many different impacts. Most of them far larger and of longer duration than that proposed in the application before you, yet little evidence of this impact can be found today.”*

- Mike Vaydik, NWT/NU Chamber of Mines (Public Hearing Transcript (238:9-24), January 13, 2004, PR #139)

The NWT and NU Chamber of Mines emphasized that the “[...] activity proposed by Snowfield is on Crown land where staking is not restricted. Activity should be allowed to continue if the company can show that it complies with the regulations and the impact of its activity can be mitigated.” (Public Hearing Transcripts (239:20-24), January 13, 2004, PR #139).

## **Conclusions**

The Review Board has heard from many parties and from individuals, elders and representatives of Aboriginal organizations about the importance of the Drybones and Wool Bay areas. The Review Board has no doubt that Wool and Drybones Bay are culturally significant.

In determining the significance of potential adverse cumulative effects of the proposed SDC development on the cultural landscape in the Drybones Bay area, the Review Board considered the potential effects of the development on cultural identity, the social and cultural environment, as well as heritage resources. Lifestyle change imposed by development pressure is not a choice and does not allow Aboriginal parties time to adapt.



On the issue of past development and staking, the Review Board recognizes that the *Canada Mining Regulations* allow prospectors to stake claims, providing they hold a valid permit. Paragraph 11(1)(b) states that “subject to any regulations made under the Territorial Lands Act, a licensee may enter, prospect for minerals and locate claims on lands other than lands used as a cemetery or burial ground.” As INAC pointed out, “In the NWT, land is either available for staking or it is not” (David Livingstone, INAC, Public Hearing Transcript (285:9-10), November 26, 2003, PR #142). As yet, no efforts have been made by Aboriginal parties to have these culturally sensitive areas or burial sites in the Wool Bay and Drybones Bay areas set aside.

The Review Board recognizes the value of consultation before staking in the interests of protecting cultural sites known only through Traditional Knowledge and to give developers a better sense of when they may potentially be venturing into culturally sensitive areas. Section 29 of the *Canada Mining Regulations* specifies how the NWT will be divided for the issuance of permits and the procedures for applying for prospecting permits. Section 29 also establishes the vicinity of Yellowknife as a free entry mining area. The schedules set for the issuance of prospecting permits for other regions, such as the Inuvialuit Settlement Area, allow for consultation. Therefore, the Review Board suggests:

**S3. INAC should consider establishing a prospecting permit approach pursuant to section 29 of the *Canada Mining Regulations* for this area in order to give Aboriginal communities concerned about the Wool and Drybones Bay areas the opportunity to provide input into staking areas and to avoid conflict over land use.**

Sections 4 and 5 of the *MVLUR* allow for several forms of activity with no permit required. Examples include cut lines less than 5 metres in width, use of power-driven earth drilling machinery of a weight less than 500 kilograms and others. Although these activities do not require a permit, they are not without physical impacts. In culturally sensitive areas, these physical impacts can be important. This is the case in the consideration of past developments in the area around Drybones Bay, with a high potential for archaeological and burial sites based on extensive traditional land use.

Based on the heritage and archaeological evidence submitted by YKDFN and discussed throughout section 4.4.1, 4.4.2 and 4.4.3, the Review Board finds that the sensitive cultural sites consisting of archaeological sites, burial sites, and sacred sites occur mainly within 3 kilometres of the shoreline. This zone, referred to as the Shoreline Zone, represents a portion of the Regional Study Area extending mainly from Wool Bay to Gros Cap. Figure 4 illustrates the approximate extent of the shoreline zone.



In this case, the Review Board finds that SDC's proposed development is likely to contribute to cumulative impacts on the cultural landscape. The location of the proposed program, surrounding Drybones Bay and in other traditional use areas, contributes significantly to the cumulative effects in a sensitive area. The Review Board recognizes that this impact is potentially significant, but is satisfied that it is adequately addressed through its recommendations made in sections 4.4.1 of this report.

The Board recognizes that a more comprehensive approach to land use in the area may be necessary. EA is designed to address individual developments, and not to reconcile long-term development priorities. Planning is required to deal with long term objectives related to competing land uses on a regional basis. In order to address planning issues, the Review Board suggests:

- S4. No new land use permits should be issued for proposed developments within the Shoreline Zone, and within Drybones Bay and Wool Bay proper, for which applications for Land use Permits have not already been received by the release date of this Report of Environmental Assessment, until a plan has been developed to identify the vision, objectives, and management goals based on the resource and cultural values for the area. This plan should be drafted and implemented with substantive input from Aboriginal parties. The plan should specifically address future development and include provisions for protecting sensitive environmental, cultural, and spiritual sites. This exercise should be completed within 5 years and provide clear management prescriptions for the future development of this region.**








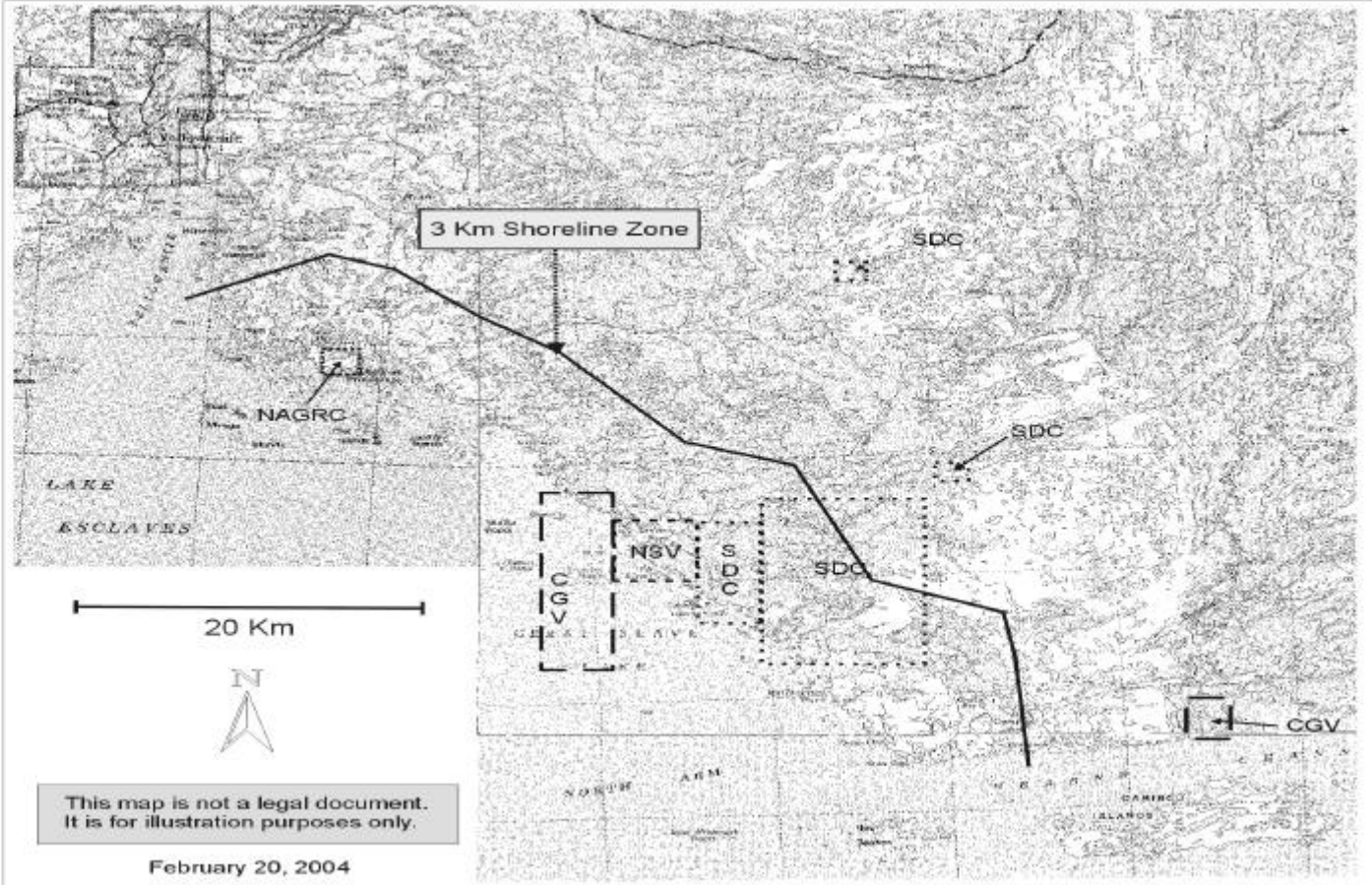
**Figure 4:**

**Shoreline Zone**

Drybones Bay / Wool Bay  
Environmental Assessments

Legend

-  Approximate Boundary of 3 Km Shoreline Zone
-  Approximate Location Snowfield Development (SDC)
-  Approximate Location New Shoshoni Ventures Development (NSV)
-  Approximate Location Consolidated Goldwin Ventures Development (CGV)
-  Approximate Location North American General Resources Development (NAGRC)



**Figure 4: The Shoreline Zone**



In addition to the above, the Review Board notes the shortage of good heritage data for the area. Information about the archaeological and historic, burial and sacred sites is required for good environmental management decisions for this and future projects.

The need for more detailed and comprehensive cultural information for the Wool and Drybones Bay area has been clearly established. Given the extensive claims of SDC and the duration of this exploratory activity, the Review Board suggests:

- S5. The federal and territorial governments should organize and conduct a thorough archaeological, burial and cultural site survey of the area extending from the western headland of Wool Bay to the southern tip of Gros Cap, within the Shoreline Zone.**

**This survey should be designed in collaboration with the Yellowknives Dene First Nation, the North Slave Metis Nation, and other Akaitcho First Nations with an interest in the shoreline zone. The survey will be jointly funded by the federal and territorial governments.**

**SDC should participate in this initiative in areas proposed for use in its claim areas.**

## 5. Summary of Recommendations and Suggestions

In consideration of all evidence on the public record, the Review Board has made a number of findings. These findings relate to both the public concern that was the basis for the referral, and to the environmental impacts, mainly cumulative effects to culture. The Review Board has found that:

- Drybones Bay is a vitally important cultural and heritage area for the YKDFN, NSMA, and LKDFN. It was the site of an Aboriginal community, holds many burial sites and archeological sites, and is used extensively today for hunting, trapping, and providing youth with cultural exposure to traditional activities and the land.
- The developer's efforts to consult with Aboriginal parties were improved over the course of the proceeding and by the time of the public hearing showed a greater understanding of the cultural importance and use of the area, as reflected in improved mitigation measures.
- Aboriginal groups in this EA did not have adequate resources to participate fully in this proceeding, as no participant funding was available.
- Fish and fish habitat may be adversely affected if measures are not put in place to prevent drilling into shoals and prevent drawdown effects.



- Gravesites have not been adequately identified and protected during allocation of subsurface mineral interests in the staking process.
- The YKDFN would like the area protected at least for the interim.

The SDC development, in the culturally important areas surrounding Drybones Bay, has not entirely avoided potential significant adverse impacts to the environment. Measures are required to safeguard culture and to avoid cumulative effects on culture. These Recommendations and Suggestions are presented in the following table.

**Table 2. Summary of Recommendations and Suggestions**

Item	Description	Section
<i>Recommendations</i>		
R1	SDC will not commence drilling within the three kilometre zone until the operational areas within the claim blocks are surveyed by a qualified archaeologist, accompanied by an Aboriginal elder and a translator if required, to detect suspected archaeological, historical, burial or cultural sites.	s. p.
R2	SDC will only use access routes in the three kilometre zone if routes are scouted by an Aboriginal elder, a translator, if required, and a qualified archaeologist for suspected archaeological, historical, burial or cultural sites. Use of these access routes will only be permitted over packed snow or on lake ice.	4.4.1
R3	Any drill sites not in the three kilometre zone must be scouted by an Aboriginal elder, a translator, if required, and a qualified archaeologist for suspected archaeological, historical, burial or cultural sites.	4.4.1
R4	Aboriginal parties and the Prince of Wales National Heritage Centre will provide precise locations and the extent of recorded archaeological, historical, burial or cultural sites to SDC for its claim blocks.	4.4.1
R5	SDC will maintain a 100 metre buffer around all known and suspected archaeological, historical, burial or cultural sites.	4.4.1



**Table 1. Summary of Recommendations and Suggestions (Cont'd)**

<i>Suggestions</i>		
S1	Indian and Northern Affairs Canada (INAC), Environment Canada (EC), Fisheries and Oceans Canada (DFO) and the Government of the Northwest Territories (GNWT) should design and test a model for Crown consultation with Aboriginal rights holders for developments in the Mackenzie Valley at the earliest possible date.	2.5.2
S2	The Government of Canada should at an early date develop and institute a method to provide participant funding at the EA level under the <i>MVRMA</i> to be equivalent to the Comprehensive Study Review funding practices under <i>CEAA</i> .	2.5.4
S3	INAC should consider establishing a prospecting permit approach pursuant to section 29 of the <i>Canada Mining Regulations</i> for this area in order to provide Aboriginal communities concerned about the Wool and Drybones Bay areas the opportunity to provide input into staking areas and to avoid conflict over land use.	4.4.3
S4	No new land use permits should be issued for proposed developments within the Shoreline Zone, and within Drybones Bay and Wool Bay proper, for which applications for Land use Permits have not already been received by the release date of this Report of Environmental Assessment, until a plan has been developed to identify the vision, objectives, and management goals based on the resource and cultural values for the area. This plan should be drafted and implemented with substantive input from Aboriginal parties. The plan should specifically address future development and include provisions for protecting sensitive environmental, cultural, and spiritual sites. This exercise should be completed within 5 years and provide clear management prescriptions for the future development of this region.	4.4.3
S5	The federal and territorial governments should organize and conduct a thorough archaeological, burial and cultural site survey of the area extending from the western headland of Wool Bay to the southern tip of Gros Cap, within the Shoreline Zone.  This survey should be designed in collaboration with the Yellowknives Dene First Nation, the North Slave Metis	4.4.3



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	<p>Nation, and other Akaitcho First Nations with an interest in the shoreline zone. The survey will be jointly funded by the federal and territorial governments.</p> <p>SDC should participate in this initiative in areas proposed for use in its claim areas.</p>	
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## GLOSSARY

**Cultural Identity** – the defining values, beliefs and morals that guide ancestral customs and create a sense of belonging for an individual within a community

**Cultural Landscape** – environmental features that underpin and help to preserve oral narratives and contain knowledge about identity, history, culture and subsistence

**Cultural Risk** – any external influence that threatens the shared values, beliefs, and/or customs, that may be linked to the physical, mental or spiritual environment) that may result in feelings of loss and self-destructive behaviors (depression, suicide, violence and substance abuse)

**Culture** – refers to the beliefs, values and customs that define a group of people inherent to the art, language, spirituality and social institutions that dictate appropriate behavior among individuals and between individuals and the land, animals and spirits

**Development** - means any undertaking, or any part of an undertaking, carried out on land or water

**Environment** - means the components of the Earth and includes

- (a) Land, water and air, including all layers of the atmosphere;
- (b) All organic and inorganic matter and living organisms; and
- (c) The interacting natural systems that include components referred to in paragraphs (a) and (b).

**Follow-up program** - means a program for evaluating

- the soundness of an environmental assessment or environmental impact review of a proposal for a development; and
- the effectiveness of the mitigative or remedial measures imposed as conditions of approval of the proposal.

**Harvesting** - hunting, trapping or fishing activities carried on pursuant to aboriginal or treaty rights.

**Heritage Resources** - means archaeological or historic sites, burial sites, artefacts and other objects of historical, cultural or religious significance, and historical or cultural records.

**Impact on the environment** - means any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.

**Mitigative or remedial measure** - means a measure for the control, reduction or elimination of an adverse impact of a development on the environment, including a restorative measure.



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**Scope of the assessment** - the components of the environment that will be evaluated for impacts from the proposed development.

**Scope of the development** - a description of the development and associated parts as determined by the Review Board.



## Appendix A. Developer's Commitments

**Table 3. Developer's Commitment During Proceeding**

Source	Page #	Line #	Representative	Commitment
PR #68		vii		"Snowfield will continue to respect the land and all cultural or heritage sites. The company intends to seek the advice and consult with all parties having an interest in the use and maintenance of those sites."
PR #134				"... is committed to minimizing the clearing of trees with drill sites situated on ice, open swamp or outcrop, wherever possible."
PR #134				"All water sources used for diamond drilling will be treated as potential fish habitat."
PR #134				"Due to concerns of access to Aboriginal traditional use sites, potential non-lease cabin-building and potential abuse of wildlife harvesting, the inside (or near shore) route will not be used by Snowfield."
PR #139	31	16		"During its exploration activities, Snowfield is committed to hiring locally to the greatest extent possible."
PR #139	31	25	Robert Paterson, SDC	"Snowfield will train aboriginals and summer students [...]"
PR #139	42	18	Robert Paterson, SDC	"Snowfield is proposing that the exploration companies wishing to perform exploration work along the north shore of Great Slave Lake should direct their ice road access to proceed down the centre of the lake to the west side of Yellowknife Bay and stall well offshore until they need to turn into shore at their respective exploration location."
PR #139	47	9	Robert Paterson, SDC	"Initial and ongoing training will be required and provided for all company and contracted on site workers and staff."
PR #139	52	19	Robert Paterson, SDC	"Used water with drill cuttings will be disposed of in an approved land site sump of suitable capacity, at least a hundred metres from the ordinary high water mark of the nearest water course."
PR #139	53	18	Robert Paterson, SDC	"Snowfield is committed to maintaining prompt and a detailed [...] advisory communications with all parties, as follows. Pre-season; meeting with traditional users, preferably at one location with field trips to review exploration sites as required. The work phase; weekly progress reports faxed to regulatory agency and traditional user groups. Weekly progress reports would include monitoring by the company in the form of Wildlife Log, Ice Road Log, and Site Visitor Log. The company will be pleased to facilitate visits by observers from traditional land users. End of the season; this inspection by a representative of traditional user groups. Post-season; meeting with traditional users, preferably at one location, written environmental related reports submitted to [...] regulatory agencies and traditional user groups."
PR #139	67	5	Robert Paterson, SDC	"... to seek the advise, and consult on a regular basis with all parties having an interest in the use and maintenance of those sites."
PR #139	69	4	Robert Paterson, SDC	"... will engage independent archaeologist, who is [...] acceptable to the GNWT Archaeologist Division to [...] undertake in conjunction with the YKDFN a preliminary formal study of the recommended areas during the summer months of 2004."
PR #139	70	2	Robert Paterson, SDC	"... is prepared to negotiate or amend its exploration of the south boundary area of the Hurcomb 1 Claim and the south boundary of the Red 2 Claim and the Red 7 Claim in its entirety. In this regard Snowfield would request reasonable access through those areas to facilitate exploration work on the other parts of those Claims."
PR #139	70	13	Robert Paterson, SDC	"...welcomes the opportunity to perform selected shorelines, archaeological inspections within its mineral claims in order for the company to [...] responsibly direct its exploration activities."



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Source	Page #	Line #	Representative	Commitment
PR #139	73	7	Robert Paterson, SDC	"... has committed to undertaking, in consultation with YKDFN, and all related regulatory bodies, such archaeological studies as are recommended on the shorelines of the mineral claims forming the Ticho Project."
PR #139	79	4	Mike Beauregard, Project Manager for SDC	"... if an incinerator is insisted upon, sure, we'll go there."
PR #139	86	19	Rick Hoos, Consultant to SDC	"...the company will meet with them (the various interested parties) and work out [...] a way of ensuring that a suitable number [...] and source of monitors [...] be chosen to represent the interests of everyone in making these kinds of decisions."
PR #139	89	15	Mike Beauregard, Project Manager for SDC	"... we'll keep a road log as we travel ourselves and [...] we would investigate anybody leaving the road to go inland to see what they're [...] doing just to [...] take a look and see who they are [...] and if there's a problem [...] we would report that problem to the First Nations and the regulatory agencies. [...] By putting the road well off shore, the incentive to go inland would be much reduced, it's not going to be the inside route. During the course of my travel or a contractor's travel on the road, we would endeavouring to keep the clean if we do see a spill or a oil leak or somebody dump their oil out there on the ice, we would have to report it. We would have to report that, as somebody has come along on this ice road and done that. [...] The road is there if you wish to monitor it as well, by all means [...] join us in doing so, but [...] we will be reporting along with several other items on a regular basis [...]."
PR #139	90	10	Mike Beauregard, Project Manager for SDC	"... we've also committed to engaging aboriginal groups, yourselves, anybody that's interested and has an interest in the area [...] in the planning process of how we would take care of those -- for example, the winter road."
PR #139	93	21	Robert Paterson, SDC	"... when the time comes, we will collectively sort it out and -- and appoint, designate, whatever the case may be, someone who will be responsible, independently responsible, let me say that, independent of the actual exploration companies, to have an outside opinion."
PR #139	101	19	Robert Paterson, SDC	"... we have indicated and committed that in undertaking an archaeological review and study of the area, that we would most definitely engage all interested parties, in particular, Elders from various aboriginal groups to assist us in locating any potential sites."
PR #139	102	18	Robert Paterson, SDC	"... if anyone has any immediate knowledge of any areas, we would welcome that, and we would intend to take anybody from -- any interested party out there on a preliminary review of the areas we would propose to do winter work, to see if there is any local knowledge of any potential cultural, historical or sacred sites there."
PR #139	105	16	Robert Paterson, SDC	"We make every effort to employ all eligible people. We will endeavour to train where they don't have previous experience and certainly will be advising all -- the whole -- each aboriginal community of any potential job sites and their candidates can come forth and hopefully we'll be able to hire a reasonable number."
PR #139	111	3	Robert Paterson, SDC	"Where we intend to undertake exploration, we would engage a qualified archaeologist and do the study as laid out [...] in conference with the Aboriginal Elders that we indicated."
PR #139	116	18	Rick Hoos, Consultant to SDC	"Snowfield is fully committed to following DFO's protocols (for bathymetry)."
PR #139	121	24	Mike Beauregard, Project Manager for SDC	"If you can accept the observation that I'm an amateur birder at the same time, yes, we definitely keeping an eye out for migratory and nesting for you." (re: EC request to monitor all nesting sites of birds and avoid disturbance and conflict with those resources)
PR #139	143	3	Robert Paterson, SDC	"So, yes, [...] we can change, and we will change, and we will consult with you, and we welcome the opportunity to consult with you, as you've just requested."



**Report of EA and Reasons for Decision on the Snowfield Development Corp. Diamond Exploration Project**

<b>Source</b>	<b>Page #</b>	<b>Line #</b>	<b>Representative</b>	<b>Commitment</b>
PR #139	316	6	Robert Paterson, SDC	"... we are committed to trying harder to initiate and continue meaningful communications with the YKDFN. We do not wish to initiate an adversarial relationship, nor do we intend to participate in such a relationship."
PR #139	316	17	Robert Paterson, SDC	"We have heard general references to hunting areas, trapping areas and access -- interior access trails on the Ticho project claim areas. Should specific sites be known to parties to these hearings, please bring this information to our attention or to [...] the attention of the Board at the earliest possible time and we commit to reviewing and act upon the matter with you."
PR #139	318	1	Robert Paterson, SDC	"We have clearly stated our commitment to respecting archaeological sites while concurrently undertaking a significant archaeological studies of the Ticho project claim areas where we intend to undertake explorations. We would do this in conjunction with the First Nation Elders as request and discussed at these hearings and we intend to go into further discussions to finalize those details."



## Appendix B. Summary of Issues

This list contains a summary of the issues raised during this proceeding. It is not intended to be exhaustive. For complete details, please refer to the Public Record and Public Hearing Transcripts.

- Adequacy and quality of community engagement of Aboriginal parties by developer before, during and after operations
- Adequacy and quality of consultation of Aboriginal parties by government and Review Board
- Willingness of developer to recognize treaty rights in unsettled areas
- Roles and responsibilities of developer, Aboriginal parties, government departments and the Review Board in the collection of baseline data, analysis of data, submission of evidence and decision-making
- Challenges to participation due to restrictive timelines and capacity limitations (human resources, funding) mainly for Aboriginal parties
- Lack of available baseline information about fish and wildlife populations and habitat (waterfowl, raptors, moose, caribou, etc.), heritage resources (archaeological, historical, and burial sites), and traditional use areas (medicinal plants, berry picking, spiritual/sacred places, etc.)
- Ability to identify, assess and mitigate impacts to fish and fish habitat (identification of fish habitat, drilling in important fish habitat, drawdown effects in fish bearing lakes, spills, etc.) in the absence of baseline information or site specific data
- Ability to identify, assess and mitigate impacts to heritage resources (known and suspected archaeological sites, historic sites, etc.) during winter operations with limited familiarity of the site
- Ability to identify, assess and mitigate impacts to burial sites (known and suspected cemeteries, graves, etc.) during winter operations with limited familiarity of the site
- Ability to identify, assess and mitigate cumulative effects on culture due to non-permit requiring and induced development from mineral development throughout the traditional use areas of the Akaitcho and Métis peoples (enhanced access, conflicting use of traditional use trails, potential impediment to hunting, change in land quality due to noise and visual impact of bulk sampling and cut lines, effects on cultural identity and well-being, etc.)
- Certainty in effective mitigation through collaboration with government and Aboriginal parties familiar with the area to identify effective mitigation and to monitor effectiveness to adapt mitigation measure to be more effective, if required
- Contingencies or approaches planned in the event of conflicts with traditional land use (hunting, fishing, etc.)
- Compensation should traditionally important species of wildlife be impacted (subsistence, hunting, trapping)
- Adequacy and accurate interpretation of TK in the preparation of DARs and development design
- Future plans in claim area (exploration, bulk sampling, mining) and associated contribution to cumulative effects
- Employment opportunities
- Pace of development and distribution of benefits among Aboriginal people, non-Aboriginal residents and non-residents
- Water sources and alternatives for land-based holes



## Appendix C. Public Registry Index

**Table 4. Public Registry Index for SDC EA**

Volume	Item Number	Description	Originator	Date Received/ Sent	Date Added
1	1	SDC's announcement of application for land use permit.	Robert Paterson, SDC	20-Jun-03	14-Jul-03
1	2	Referral letter, reasons for decision and preliminary screening report.	MVLWB	11-Jul-03	14-Jul-03
1	3	Notice of referral to EA.	Sherry Sian, MVEIRB	16-Jul-03	17-Jul-03
1	4	Comments on Drybones and Wool Bay EA - recommendation for archaeological survey.	Chuck Arnold, ECE-GNWT	7-Jul-03	17-Jul-03
1	5	Application for land use permit.	MVLWB	11-Jun-03	21-Jul-03
1	6	Land use permit application.	MVLWB	17-Jun-03	21-Jul-03
1	7	SDC notification of referral and proposed terms of reference and work plan for distribution.	Sherry Sian, MVEIRB	18-Jul-03	21-Jul-03
1	8	Distribution list.	Akaitcho Territory Government	21-Jul-03	21-Jul-03
1	9	Distribution list.	INAC - South Mackenzie District	21-Jul-03	21-Jul-03
1	10	Distribution list.	NWT Metis Nation	21-Jul-03	21-Jul-03
1	11	draft terms of reference for SDC EA.	Robert Paterson, SDC	21-Jul-03	24-Jul-03
1	12	Correspondence with CPAWS re: Drybones Bay exploration distribution lists.	Sherry Sian, MVEIRB	23-Jul-03	24-Jul-03
1	13	Response re: adding CPAWS to distribution list.	Jennifer Morin, CPAWS	23-Jul-03	24-Jul-03
1	14	SDC draft terms of reference and work plan.	Anne Wilson, EC	23-Jul-03	24-Jul-03
1	15	Comments on draft terms of reference for SDC EA.	Elaine Blaise, DFO	23-Jul-03	24-Jul-03
1	16	Re: EA for SDC.	Robert Paterson, SDC	18-Jul-03	24-Jul-03
1	17	Additions to SDC public registry (Refer to PR #11).	Sherry Sian, MVEIRB	28-Jul-03	28-Jul-03
1	18	Re: Clarification of exploratory drilling.	Robert Paterson, SDC	28-Jul-03	30-Jul-03
1	19	Re: Comments on terms of reference and work plan.	Mike Vaydik, NWT/NU Chamber of Mines	28-Jul-03	30-Jul-03
1	20	Comments on the draft terms of reference and work plan for SDC EA.	Robert Paterson, SDC	23-Jul-03	30-Jul-03
1	21	Correspondence re: Diamonds North referral to EA.	Bob Overvold, INAC	2-Jun-03	30-Jul-03
1	22	Standing of parties - CPAWS as an observer.	Jennifer Morin, CPAWS	27-Jul-03	31-Jul-03
1	23	Comments on the draft terms of reference.	Lionel Marcinkoski, INAC	29-Jul-03	31-Jul-03
1	24	SDC EA distribution list.	Kris Johnson, NSMA	29-Jul-03	31-Jul-03
1	25	Letter to Minister Nault re: EAs of NSV, CGV, NAGRC and SDC.	Rachel Crapeau, YKDFN	1-Aug-03	6-Aug-03
1	26	Letter re. draft terms of reference for	Chief Peter Liske,	28-Jul-03	12-Aug-03



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		SDC.	YKDFN		
1	27	SDC - Final terms of reference and standing of parties.	Sherry Sian, MVEIRB	11-Aug-03	12-Aug-03
1	28	Joint process schedule extension - Drybones/Wool Bay EAs.	Sherry Sian, MVEIRB	11-Aug-03	13-Aug-03
1	29	Weledeh Gondi - March/April 2003 Newsletter - Issue 08/Volume 3.	YKDFN		15-Aug-03
1	30	Authority of Dettah and Ndilo and the MVRMA.	Chief Peter Liske, YKDFN	31-Aug-03	15-Aug-03
1	31	Identification of EA roles.	Mike Fournier, EC	11-Aug-03	19-Aug-03
1	32	Identification of EA roles.	Gavin More, RWED	18-Aug-03	19-Aug-03
1	33	Identification of EA roles.	Elaine Blaise, DFO	20-Aug-03	21-Aug-03
1	34	SDC DAR.	Sherry Sian, MVEIRB	20-Aug-03	21-Aug-03
1	35	Reminder for identification of standing for EA.	Sherry Sian, MVEIRB	20-Aug-03	21-Aug-03
1	36	Deficiency and scope of SDC's DAR.	Vern Christensen, MVEIRB	26-Aug-03	28-Aug-03
1	37	Letter re: deficiency and scope of SDC DAR to L. Stephenson (See PR #36).	Sherry Sian, MVEIRB	27-Aug-03	28-Aug-03
1	38	Distribution of letter re: Deficiency and Scope of SDC's DAR (See PR #36).	Sherry Sian, MVEIRB	27-Aug-03	28-Aug-03
1	39	Letter to YKDFN re: report on field studies in the Drybones Bay/Wool Bay areas.	Vern Christensen, MVEIRB	27-Aug-03	28-Aug-03
1	40	Distribution of SDC response to deficiency letter.	Sherry Sian, MVEIRB	28-Aug-03	29-Aug-03
1	41	Distribution of follow-up re: SDC response to deficiency letter.	Sherry Sian, MVEIRB	28-Aug-03	29-Aug-03
1	42	Distribution of follow-up re: SDC response to deficiency letter.	Alan Ehrlich, MVERIB	29-Aug-03	29-Aug-03
1	43	Land use permit application.	Robert Paterson, SDC	1-Sep-03	3-Oct-03
1	44	Representation authorities.	Sherry Sian, MVEIRB	3-Sep-03	3-Oct-03
1	45	SDC response to deficiency letter.	Alan Ehrlich, MVERIB	4-Sep-03	3-Oct-03
1	46	Draft for discussion - regional CE Study for Wool Bay and Drybones Bay.	GLL	4-Sep-03	3-Oct-03
1	47	Draft CE Study from GLL.	Alan Ehrlich, MVERIB	5-Sep-03	3-Oct-03
1	48	Identification of EA roles.	Rachel Crapeau, YKDFN	20-Aug-03	3-Oct-03
1	49	Letter re: SDC EA.	Kris Johnson, NSMA	26-Aug-03	3-Oct-03
1	50	IRs and status of parties.	Sherry Sian, MVEIRB	8-Sep-03	3-Oct-03
1	51	IRs and status of parties.	Sherry Sian, MVEIRB	8-Sep-03	3-Oct-03
1	52	Re-send of material re: IR (above).	Sherry Sian, MVEIRB	9-Sep-03	3-Oct-03
1	53	CE Study, SDC IRs, pre-hearing material of NSV and NAGRC EAs.	Terrafirma Consultants	9-Sep-03	3-Oct-03
1	54	CE Study, SDC IRs, pre-hearing material of NSV and NAGRC EAs.	Sherry Sian, MVEIRB	10-Sep-03	3-Oct-03
1	55	YKDFN request for extension to IR period.	Sherry Sian, MVEIRB	18-Sep-03	3-Oct-03
1	56	Report filed by SDC entitled "The Ticho Project Responsible Mineral Exploration".	Mike Beauregard, SDC	1-Jun-03	3-Oct-03
1	57	Report filed by SDC entitled "The Ticho Project Responsible Mineral Exploration".	Mike Beauregard, SDC	1-Jun-03	3-Oct-03
1	58	SDC - field report from summer of 2003.	Mike Beauregard, SDC Sherry Sian, MVEIRB	24-Sep-03	3-Oct-03
1	59	Meeting minutes to clarify deficiency - SDC.	Sherry Sian, MVEIRB	26-Sep-03	3-Oct-03





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1	60	Report entitled "Diamonds and The NWT".	EMPR - GNWT	1-Oct-03	3-Oct-03
1	61	CE Study - Final Report.	Sherry Sian, MVEIRB	26-Sep-03	3-Oct-03
1	62	Previous comments draft CE Study.	Sherry Sian, MVEIRB	30-Sep-03	3-Oct-03
1	63	Confidentiality of NSMA information contained in GLL study.	Sherry Sian, MVEIRB	1-Oct-03	3-Oct-03
1	64	Diamonds and The NWT	Sherry Sian, MVEIRB	26-Sep-03	3-Oct-03
2	65	INAC trip report.	Sherry Sian, MVEIRB	6-Oct-03	7-Oct-03
2	66	Note to file about CE comments.	Sherry Sian, MVEIRB	7-Oct-03	7-Oct-03
2	67	Announcement of new directly affected party, DKFN.	Sherry Sian, MVEIRB	7-Oct-03	7-Oct-03
2	68	SDC - amendment.	Sherry Sian, MVEIRB	8-Oct-03	9-Oct-03
2	69	Correction to INAC trip report.	Sherry Sian, MVEIRB	9-Oct-03	14-Oct-03
2	70	INAC trip report.	Sherry Sian, MVEIRB	7-Oct-03	14-Oct-03
2	71	INAC trip report.	Sherry Sian, MVEIRB	9-Oct-03	14-Oct-03
2	72	NSMA submission re: GLL CE Study.	Sherry Sian, MVEIRB	9-Oct-03	14-Oct-03
2	73	Regional CE Study for Drybones and Wool Bay.	Sherry Sian, MVEIRB	9-Oct-03	14-Oct-03
2	74	Media release entitled "Boom's benefits flowing south, report conclude."	Kris Johnson, NSMA	18-Jun-03	14-Oct-03
2	75	Conference Board of Canada report entitled, "Setting the pace for development".	Kris Johnson, NSMA	14-Oct-03	14-Oct-03
2	76	SDC response to CE Study and historical claim information.	Sherry Sian, MVEIRB	14-Oct-03	20-Oct-03
2	77	Application for potentially directly affected party status.	Sherry Sian, MVEIRB	15-Oct-03	20-Oct-03
2	78	YKDFN request for ruling re: SDC.	Sherry Sian, MVEIRB	21-Oct-03	21-Oct-03
2	79	Distribution of IRs guidance note.	Sherry Sian, MVEIRB	21-Oct-03	21-Oct-03
2	80	SDC request to include bulk sampling.	Sherry Sian, MVEIRB	20-Oct-03	21-Oct-03
2	81	YKDFN request for ruling of acceptance of confidential material.	Sherry Sian, MVEIRB	28-Oct-03	28-Oct-03
2	82	New additions to the public registry.	Sherry Sian, MVEIRB	29-Oct-03	31-Oct-03
2	83	YKDFN's request for ruling.	Sherry Sian, MVEIRB	30-Oct-03	31-Oct-03
2	84	YKDFN's comments.	Sherry Sian, MVEIRB	31-Oct-03	31-Oct-03
2	85	IRs, round 1.	Sherry Sian, MVEIRB	3-Nov-03	5-Nov-03
2	86	Final version of SDC's first round of IRs.	Sherry Sian, MVEIRB	4-Nov-03	7-Nov-03
2	87	Release of GLL's supplement.	Sherry Sian, MVEIRB	4-Nov-03	7-Nov-03
2	88	IRs.	Sherry Sian, MVEIRB	6-Nov-03	7-Nov-03
2	89	Additions to the public registry.	Sherry Sian, MVEIRB	6-Nov-03	7-Nov-03
2	90	Announcement of Mr. Robertson as new party to EA.	Sherry Sian, MVEIRB	6-Nov-03	7-Nov-03
2	91	Announcement of LKDFN as new party to EA.	Sherry Sian, MVEIRB	6-Nov-03	7-Nov-03
2	92	Supplementary material on cultural landscapes.	Sherry Sian, MVEIRB	10-Nov-03	13-Nov-03
2	93	Reminder of IR deadlines.	Sherry Sian, MVEIRB	12-Nov-03	13-Nov-03
2	94	YKDFN's confidential reports.	Sherry Sian, MVEIRB	12-Nov-03	13-Nov-03
2	95	Comments on CE Study of Drybones and Wool Bay.	Sherry Sian, MVEIRB	21-Oct-03	18-Nov-03
2	96	Identification of EA roles.	Sherry Sian, MVEIRB	27-Oct-03	18-Nov-03
2	97	INAC'S response to the IRs.	Lionel Marcinkoski, INAC	14-Nov-03	18-Nov-03
2	98	CE comments.	Elaine Blaise, DFO	14-Nov-03	18-Nov-03
2	99	Response to first round IRs.	Sherry Sian, MVEIRB	17-Nov-03	18-Nov-03



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2	100	Responses to first round IRs.	Sherry Sian, MVEIRB	17-Nov-03	18-Nov-03
2	101	Correction to INAC's response to IRs.	Sherry Sian, MVEIRB	17-Nov-03	18-Nov-03
2	102	Information regarding heritage protection from PWNHC.	Sherry Sian, MVEIRB	17-Nov-03	18-Nov-03
2	103	GNWT's response to IRs.	Sherry Sian, MVEIRB	18-Nov-03	18-Nov-03
2	104	IR submissions.	Sherry Sian, MVEIRB	18-Nov-03	20-Nov-03
2	105	request for ruling INAC	Sherry Sian, MVEIRB	18-Nov-03	20-Nov-03
2	106	Request to view confidential reports of YKDFN from Robert Paterson, SDC.	Sherry Sian, MVEIRB	20-Nov-03	20-Nov-03
2	107	INAC' s request for ruling.	Sherry Sian, MVEIRB	6-Nov-03	25-Nov-03
2	108	Bureau of Stats IR response from GNWT.	Sherry Sian, MVEIRB	20-Nov-03	25-Nov-03
2	109	Pre-hearing conference for SDC.	Sherry Sian, MVEIRB	20-Nov-03	25-Nov-03
2	110	YKDFN's proposed IRs.	Sherry Sian, MVEIRB	21-Nov-03	25-Nov-03
2	111	Request for ruling from YKDFN re: deferral of public hearing.	Sherry Sian, MVEIRB	27-Nov-03	1-Dec-03
2	112	NWT/NU Chamber of Mines comments on YKDFN's request.	Sherry Sian, MVEIRB	28-Nov-03	1-Dec-03
2	113	Summary of pre-hearing conference and revised slides.	Sherry Sian, MVEIRB	28-Nov-03	1-Dec-03
2	114	YKDFN's proposed IRs.	Sherry Sian, MVEIRB	1-Dec-03	3-Dec-03
2	115	SDC and NWT Metis comments on YKDFN request.	Sherry Sian, MVEIRB	1-Dec-03	3-Dec-03
2	116	Clarification from YKDFN re: deferral of public hearing.	Sherry Sian, MVEIRB	2-Dec-03	3-Dec-03
2	117	Responses to 2nd round IRs from SDC.	Sherry Sian, MVEIRB	2-Dec-03	4-Dec-03
2	118	Review Board's response to YKDFN request for ruling.	Sherry Sian, MVEIRB	4-Dec-03	5-Dec-03
2	119	SDC offer to consult.	Sherry Sian, MVEIRB	8-Dec-03	5-Dec-03
2	120	Responses to RWED's questions from SDC.	Sherry Sian, MVEIRB	8-Dec-03	5-Dec-03
2	121	Announcement of prehearing conference.	Sherry Sian, MVEIRB	13-Nov-03	29-Dec-03
2	122	Updates to public registry.	Sherry Sian, MVEIRB	22-Dec-03	29-Dec-03
3	123	SDC offer to consult.	Sherry Sian, MVEIRB	31-Dec-03	7-Jan-04
3	124	SDC's Ticho Project presentation.	SDC	31-Dec-03	7-Jan-04
3	125	Speaker's notes for SDC and notice re: slides, as received from SDC.	Sherry Sian, MVEIRB	5-Jan-04	7-Jan-04
3	126	Report entitled "Sustainable Economies: Aboriginal Participation in the NWT Mining Industry".	Mike Vaydik, NWT/NU Chamber of Mines	6-Jan-04	9-Jan-04
3	127	SDC, INAC, and GNWT submissions.	Sherry Sian, MVEIRB	6-Jan-04	9-Jan-04
3	128	SDC DAR.	Sherry Sian, MVEIRB	6-Jan-04	9-Jan-04
3	129	SDC, INAC, and GNWT submissions.	Sherry Sian, MVEIRB	6-Jan-04	9-Jan-04
3	130	Change of hearing location.	Sherry Sian, MVEIRB	7-Jan-04	9-Jan-04
3	131	Change of hearing location.	Sherry Sian, MVEIRB	7-Jan-04	9-Jan-04
3	132	NSMA outstanding issues for SDC project.	Sherry Sian, MVEIRB	7-Jan-04	9-Jan-04
3	133	Hearing presentation of LKDFN.	Monica Krieger, LKDFN	7-Jan-04	9-Jan-04
3	134	Results of SDC consultation with NSMA.	Mike Beauregard, SDC	7-Jan-04	9-Jan-04
3	135	New additions to the public registry.	Sherry Sian, MVEIRB	8-Jan-03	9-Jan-04
3	136	Public hearing agenda and reminders.	Sherry Sian, MVEIRB	9-Jan-04	9-Jan-04
3	137	Presentation summary EA hearing.	Sherry Sian, MVEIRB	13-Jan-04	22-Jan-04
3	138	Registry updates and upcoming	Sherry Sian, MVEIRB	22-Jan-04	22-Jan-04



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		closure of PR.			
3	139	SDC public hearing transcripts.	Digi-Tran Inc Transcript	13-Jan-04	16-Jan-04
3	140	Note to file re: public hearing transcript.	Sherry Sian, MVEIRB	26-Jan-04	28-Jan-04
3	141	SDC public hearing CD of presentation slides.	Various parties		28-Jan-04
3	142	Addition of CGV, NAGRC and NSV PRs to SDC's PR.	Sherry Sian, MVEIRB	26-Jan-04	28-Jan-04
3	143	Letter from YKDFN re: SDC EA.	Chief Peter Liske/D. Beaulieu	27-Jan-04	28-Jan-04
3	144	YKDFN-Dettah public meeting minutes - April 2-3, 2003.	Louie Azzolini, YKDFN	28-Jan-04	28-Jan-04
3	145	YKDFN public meeting -April 2/03 - Dettah.	YKDFN	28-Jan-04	28-Jan-04
3	146	Final submissions to PR.	Sherry Sian, MVEIRB	29-Jan-04	3-Feb-04

