



Akaitcho Interim Measures Agreement Implementation Office
NWT Treaty #8 Tribal Corporation

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Mackenzie Valley Land
 & Water Board

File MV2006C0008

AUG 09 2006 MV2006C0009

Application # MV2006C0012

Copied To LH/Imm/Reg

August 9, 2006

Willard Hagen – Interim Chair
 Mackenzie Valley Land and Water Board
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Gabrielle Mackenzie-Scott – Chair
 Mackenzie Valley Environmental Impact Review
 Board
 200 Scotia Centre
 Box 938, 5102 – 50th Ave
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RE: Recent inconsistency in MVLWB and MVEIRB decisions

Mr. Hagen and Ms. Mackenzie-Scott:

The issuance of land-use permits by the MVLWB to Uravan Minerals Inc. and Trigon Exploration Canada Ltd., as well as decisions made by the MVEIRB to *not* refer these developments to environmental assessment on its own motion, are indicative of a trend towards inconsistency in recent MVLWB and MVEIRB decisions. This inconsistency is exemplified by:

- A decision regarding the issuance of a permit to Kodiak Exploration Ltd. that was postponed until such a time as the MVLWB received confirmation from the Crown that adequate consultation had taken place. However, the MVLWB did not similarly insure proper consultation had taken place before issuing permits to Uravan and Trigon.
- The referral of applications by UR-Energy Inc. and Wyn Developments Inc. to respective environmental assessments, whereas applications by Uravan and Trigon for very similar work in areas immediately adjacent were not.
- The referral of applications from Wyn, Fortune Minerals Ltd., and Alberta Star Development Corp. to environmental assessment due to "public concern", and the non-referral of the Trigon and Uravan applications though the body of evidence in these instances clearly demonstrated that the likelihood of "public concern" was equal if not considerably higher than that for Wyn, Fortune, and Alberta Star.

Seeking some clarity on how the MVLWB and MVEIRB review applications and determine whether or not they should be referred to environmental assessment, I would appreciate answers to the following questions:

- What are the respective roles and responsibilities of the Crown, the MVLWB, and the MVEIRB vis-à-vis consultation with the AKFNs? Will the MVLWB and MVEIRB insure that adequate consultation with the AKFNs has occurred prior to the issuance of a permit? Will they also make themselves aware of the substantive issues identified through consultation and consider these prior to permit issuance?
- How do the MVLWB and MVEIRB justify referring a particular development to an environmental assessment whereas a very similar development immediately adjacent with virtually identical potential impacts is not referred?
- How do the MVLWB and MVEIRB determine whether a development is likely to be of public concern or not? Do the boards use thresholds, or is each application considered on a more case-by-case basis? If evaluated on a case-by-case basis, how is consistency taken into account?

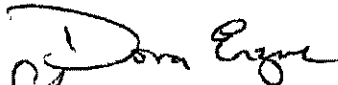
Answers to these questions will be very indicative of the rationales and means whereby the MVLWB and MVEIRB will fulfil their respective mandates in the future. Answers to these questions will also inform AKFN measures to insure the protection of their rights and their territory.

Prior to closing, I will highlight the need for, prior to the issuance of any permit or license in the Akaitcho territory:

- the MVLWB to insure that adequate consultation with the AKFNs has occurred, and that it is aware of the substantive issues identified through the consultation process (keeping in mind that the courts have determined that the duty to consult *cannot* be delegated to industry);
- the MVLWB to either determine that the permit will not infringe upon the aboriginal and Treaty rights of the AKFNs, or in instances where there will be infringement, to insure that proper accommodation and compensation will occur;
- the MVLWB, or the MVEIRB on its own motion, to refer to environmental assessment those development applications where:
 - the nature and scope of the practice of aboriginal and Treaty rights in the area in question is unclear,
 - there has been no determination as to the impact the potential development may have upon the practice of aboriginal and Treaty rights,
 - there has been no accommodation and / or compensation where it has been determined that aboriginal and Treaty rights will be infringed upon.

I look forward to your respective responses.

Sincerely,



Stephen Ellis – Akaitcho IMA Implementation Coordinator
NWT Treaty #8 Tribal Corporation

- c. Chief Fred Sangris – YKDFN (Ndilo)
Chief Peter Liske – YKDFN (Dettah)
Chief Adeline Jonasson – LKDFN
Chief Robert Sayine - DKFN
Sharon Venne – Akaitcho Chief Negotiator
Paul Boucher – DKFN Community Negotiator

Jonas Sangris - YKDFN Community Negotiator
Steven Nitah - LKDFN Community Negotiator
Rosie Bjornson - DKFN IMA Community Coordinator
Phil Moonson - YKDFN Negotiations Coordinator
Monica Krieger - LKDFN Wildlife, Lands, and Environment Manager



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FAX TRANSMITTAL FORM

To: Willard Hagen, MVLWB

From: Dora Enzoe

Fax # 867-873-6610

Number of pages including cover page: 4

Phone #

Date: August 9, 2006

RE: Recent Inconsistency in MVLWB and MVEIRB Decisions

Message: Please forward fax. Thank You

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