

Giant Mine Remediation Project Environmental Assessment Monitoring & Independent Oversight



Alternatives North

Kevin O'Reilly
September 14, 2012

Presentation Outline

- Environmental Management Plans
- Independent Oversight
- Environmental Agreement
- Conclusions



Oversight at Giant Mine Public Information Session March 2012

Environmental Management Plans

- **Good plans contain**
 - objectives
 - measureable performance or criteria (measures of success)
 - monitoring systems to track what happens
 - triggers or thresholds for specific actions
 - where there is uncertainty, research and design work and a schedule to fill gaps
- **developed collaboratively with interested parties**

Environmental Management Plans

- **DAR did not provide detail or a framework toward environmental management plans**
- **DAR did not satisfy AANDC's own Mine Site Reclamation Guidelines for the NWT**
- **Without proper environmental management plans and monitoring programs, there is no way to define or measure success**

Environmental Management Plans

- Working Group established at suggestion of AN and YKDFN
- Working Group usually required at regulatory phase
- Working Group a good step but very slow progress
 - 3 meetings to date
 - Focused largely on definitions and a framework

Environmental Management Plans

- Unclear if Project Team will seek ISO certification (external audit requirements)
- Environmental Management Plan for the Frozen Block should be a priority, hoped for a draft by now
- Without plans, real potential for adverse impacts, particularly from accidents or malfunctions or simple poor performance that might go unmonitored or not acted upon

Environmental Management Plans

- Lack of plans a potential source for significant adverse environmental impacts and significant public concern
- AN recommended that Developer submit plans for approval by regulatory authorities

**Developer—further discussion required,
then agreed in principle**

**AN stands by recommended measure to
mitigate public concern and potential impacts**

INDEPENDENT OVERSIGHT

- **YKDFN, City and Kevin O'Reilly submitted a proposal for case studies and lessons learned on oversight to AANDC in October 2009**
- **Proposal rejected 11 months later, letter from Minister stated work to be done internally as part of DAR**
- **Nothing in DAR about independent oversight**

INDEPENDENT OVERSIGHT

- **AANDC acknowledges conflicting roles of developer, inspector, enforcer, duty to Aboriginal peoples in DAR**
- **clear example of inspector being overridden at Giant during Freeze Optimization Study drilling**
- **No written guidance for employees to avoid conflicts**

INDEPENDENT OVERSIGHT

- **AANDC did not obtain a land use permit for the FOS even though every other party, including GNWT, thought it should**
- **AANDC did not obtain a Development Permit from the City for the demolition of the conveyor**

INDEPENDENT OVERSIGHT

- **Dramatic shift in project management away from Yellowknife to Ottawa and Edmonton**
 - **Several key long-time staff have left**
 - **Resistance from AANDC to supply an organizational chart**
 - **Chart appears to show little decision-making authority in Yellowknife**
- **Could lead to an even less responsive approach by the Giant Mine Team**

INDEPENDENT OVERSIGHT

- **AN recommended a suggestion from the Review Board that**
 - **authority and technical support be located in Yellowknife**
 - **to “increase accountability, transparency responsiveness and build public confidence”**

Developer—multi-faceted team in various centres (did not answer)

AN stands by recommended suggestion

INDEPENDENT OVERSIGHT

- AANDC has supported and signed agreements for oversight for northern diamond mines
- Oversight Working Group set up 6 months ago
 - 11 meetings, 6 drafts of a discussion paper, 7 drafts of an environmental agreement
 - AANDC and GNWT will not commit to independent oversight
- Significant public concern with lack of independent oversight

INDEPENDENT OVERSIGHT

- AN recommended a binding measure for a mutually agreeable public oversight body for the Giant Mine before the project proceeds (as part of an environmental agreement)

Developer—commits to “ongoing discussions”

AN stands by recommended measure to mitigate public concern

ENVIRONMENTAL AGREEMENT

- **No way to require financial security for the Giant Mine Remediation Project**
- **environmental agreement is a way to backstop commitments and serve as a form of 'security'**

ENVIRONMENTAL AGREEMENT

- **AANDC has already signed environmental agreements for NWT diamond mines**
- **Good track record on implementation and success of these agreements**
- **Duplication or overlap with regulatory functions and bodies has not proven to be a problem**

ENVIRONMENTAL AGREEMENT

- Legally binding agreement needed to firm up commitments and to reduce significant public concern
- Agreement is the way to :
 - build independent oversight
 - ensure ongoing research and development,
 - spell out environmental management and monitoring
 - set out perpetual care planning and management requirements
 - start to build public confidence and trust

ENVIRONMENTAL AGREEMENT

- **An agreement should contain**
 - **Roles and responsibilities**
 - **Oversight body (mandate, composition, reporting, funding, advisory in nature with no authority over project)**
 - **Project reporting and access to information**
 - **Agreed upon commitments for environmental management plans and monitoring programs**
 - **Research and development for a permanent solution**
 - **Dispute resolution (for compliance with the agreement)**
 - **Term of the agreement, review and amendment**

ENVIRONMENTAL AGREEMENT

An agreement can be a package of mutually reinforcing commitments and measures to build confidence, accountability, transparency and trust.

An agreement is a “social contract”, just like the contracts necessary to carry out the physical work of the project

ENVIRONMENTAL AGREEMENT

- **Oversight Working Group set up in March 2012 (AANDC, GNWT, YKDFN, City and Alternatives North)**
 - **11 meetings, 6 drafts of a discussion paper, 7 drafts of an environmental agreement**
 - **limited progress**
 - **Alternatives North prepared to sign off on agreement months ago, subject to final review after EA completed**

ENVIRONMENTAL AGREEMENT

- Alternatives North position very clear
 - Agreement should be legally binding
 - if not optional or non-enforceable arrangement?
 - If not, subject to changing personnel and priorities (letter or indication of support not acceptable)
 - Agreement should be for duration of project (forever)
 - subject to review and amendment as necessary (recognition of changing roles and funding level for perpetual care)

ENVIRONMENTAL AGREEMENT

- Alternatives North position very clear
 - Dispute resolution essential for non-compliance with agreement, not for overturning management decisions
 - Need for a proactive approach to a more permanent solution with research and development (10-year technology review makes us all wait for something better to come along)
- Agreement or an agreement-in-principle appears unlikely, despite interest and pressure from the Review Board

ENVIRONMENTAL AGREEMENT

- An agreement is the best way to mitigate significant public concern with the Giant Mine Remediation Project
- AN recommended if no agreement before hearing, the parties should enter into mediation and if necessary, binding arbitration, to reach an agreement before the project proceeds

Developer—commits to “ongoing discussions”

AN stands by recommended measure to mitigate public concern