



Alternatives North

January 9, 2013

Scott Vaughan
Commissioner of the Environment and Sustainable Development
Office of the Auditor General
240 Sparks Street
Ottawa ON
K1A 0G6

Re: Petition on Perpetual Care of Contaminated Sites and the Giant Mine

Dear Mr. Vaughan

Please accept this petition pursuant to s. 22(1) of the *Auditor General Act*.

Background Information

The Giant Mine in Yellowknife, Northwest Territories is one of the largest and most contaminated sites in Canada. Since 1999 when the site became a public liability, the federal government with the Government of the Northwest Territories, has managed Giant Mine and developed a Remediation Plan. That Plan is now the subject of an ongoing environmental assessment by the Mackenzie Valley Environmental Impact Review Board. The Plan requires perpetual care of the site forever, especially with regard to freezing the 237,000 tonnes of arsenic trioxide underground. Long-term monitoring and management, or perpetual care, will be necessary to maintain other aspects of the project such as fencing of open pits, inspection and repair of engineered covers on tailings, and water treatment. The federal government has spent over \$160 million on the site to date, and another at least \$480 million will be required to implement the Plan. Having followed the Giant Mine and its remediation for many years, it is not clear how the principles of sustainable development have been applied to government efforts to remediate the site and meaningfully involve the public.

I believe that the majority of the following questions fall within the responsibilities of the Minister of Aboriginal Affairs and Northern Development and to a lesser extent, the Treasury Board Secretariat and the Minister of the Environment.

Federal Policy Framework for Perpetual Care of Federal Contaminated Sites

1. a) Does the federal government have a policy framework for the perpetual care of federal contaminated sites such as the Giant Mine?

- b) If not, when will one be developed?
 - c) How will the public be consulted about the framework and its development?
 - d) How will the policy framework be applied to Giant Mine?
2. How does the federal government account for and calculate the liability for perpetual care sites in the Public Accounts?
 3. a) Please explain if there are any special funding mechanisms for the funding of perpetual care at federal contaminated sites.
 - b) If there is nothing beyond the usual annual appropriation cycle currently in use, please explain why and what steps will be taken to study and implement other options.

Actions to Prevent Further Public Liabilities and Perpetual Care of Contaminated Sites

4. What specific legislative and regulatory changes have been put in place by Aboriginal Affairs and Northern Development Canada, Environment Canada and the Treasury Board since 1999 to prevent further uncontrolled mine abandonments and public liabilities from mining on federal lands?
5. Please explain why there is no legal or regulatory requirement for financial security and closure plans for mining operations on federal Crown lands in the Northwest Territories and how this meets the needs of future generations.

Perpetual Care and Giant Mine

6. Please provide a detailed justification for the trade-offs that were made in choosing the frozen block method for arsenic containment at the Giant Mine even though it requires perpetual care forever and how the needs of future generations were considered.
7. Does Aboriginal Affairs and Northern Development Canada acknowledge that the frozen block method for remediation of the Giant Mine underground arsenic is an interim solution and that further strategic investment in ongoing research and development is required into a more permanent solution?
8. a) Please explain if minimizing perpetual care requirements was a primary goal or objective of the Giant Mine Remediation Plan.
 - b) Please explain how perpetual care requirements for Giant Mine have been minimized.
9. Does the Giant Mine Remediation Plan build on best practices and lessons learned from perpetual care from nuclear waste sites and other federal contaminated sites in Canada and around the world?

10. Please provide an explanation and any evidence that Canada has complied with each of the following articles of the United Nations Declaration of the Rights of Indigenous Peoples in remediating the Giant Mine site:

a) Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

b) Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

c) Article 29

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

d) Article 32

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

11. Please explain what, if any, research or study by the federal government has been undertaken on long-term funding options for the perpetual care of the Giant Mine site.

12. Please provide a detailed explanation of how the frozen block method, the lack of any specific long-term funding mechanism for the perpetual care of the Giant Mine, and no specific plans for investment in ongoing research and development meets the needs of future generations?

I look forward to receiving the Government of Canada's response to these questions.

Sincerely,

A handwritten signature in black ink that reads "K O'Reilly". The signature is written in a cursive style with a small dot above the 'i' in "O'Reilly".

Kevin O'Reilly
Giant Mine Coordinator
Alternatives North
Tel: 867-920-2765
Email: kor@theedge.ca