

**APPLICATION
DENIED**

BC's Kemess North and Nova Scotia's Whites Point projects promised jobs and revenue, but the communities were looking for overall sustainability.

Alberto Fonseca and Robert Gibson

NORTHGATE MINERAL CORPORATION's proposed Kemess North Project will not be going ahead, at least not soon and not as proposed. The project – an open-pit, copper-gold expansion to an existing mine in a remote, mountainous area of northcentral British Columbia – was rejected by provincial and federal authorities.

In his March 7, 2008, announcement, BC Environment Minister Barry Penner said that while the government recognized that the mine would bring jobs and other economic benefits for an expected 13 years of construction and operation, these benefits would be “outweighed by the adverse social, environmental and cultural effects and risks.”

In denying Northgate's application, Penner accepted the recommendation of a federal-provincial environmental assessment panel that had held public hearings and applied a “contribution to sustainability” test to the proposed project.

While environmental assessment processes are often presented as a means of contributing to sustainability, the long-standing tradition has been to focus only on how to mitigate significant adverse effects. Instead, the Kemess North panel took the sustainability requirement seriously. They asked whether the project would leave a positive overall legacy, not just whether the immediate effects would be minimally damaging.



J.P. Laplante / <http://hsekehmay.net>

The victors and their lake: Karl Sturmanis (Tsay Keh Dene Natural Resources Co-ordinator), Chief Dolly Abraham and Councillor Irene French (both of Takla Lake First Nation) fought to protect six-kilometre-long Amazay Lake from a mine extension that would have converted the lake to a waste rock and tailings pond. The Kemess panel based its decision on a sustainability test and was the first in Canada to recommend the outright rejection of a mining project.

In its September 2007 final report, the panel concluded that the project was not likely to bring lasting gains, especially because of the long-term effects of the mine wastes on ecological and Aboriginal interests. The project as proposed would have dumped 700 million tonnes of acid-generating mine tailings and waste rock into nearby Amazay Lake (also called Duncan Lake), a body of water that is spiritually significant for local First Nations.

The company said that using Amazay Lake for tailings disposal was the safest and least costly option. But the panel noted that after the mine closed, the wastes would have to be managed for thousands of years. First Nations members, who are the region's main residents and who have unresolved land claims in the area, would be most at risk.

For its assessment review, the Kemess panel adopted a sustainability-based evaluation framework based on recent mining industry initiatives and on the BC government's 2005 Mining Plan. The framework focused on five sustainability considerations: environmental

stewardship, economic benefits and costs, social and cultural benefits and costs, fair distribution of benefits and costs, and present versus future generations.

After evaluating the project in light of these considerations, individually and in combination, the panel concluded that "overall, from a public interest perspective, the benefits of project development do not outweigh the costs."

Although the Kemess panel was the first in Canada to recommend the outright rejection of a mining project, it was not the first to apply a sustainability test. The pioneering case was the mid-1990s environmental assessment of the Voisey's Bay nickel mine-mill project in Labrador.

The Voisey's Bay panel, established under a joint agreement involving two Aboriginal organizations as well as the federal and provincial governments, examined "the extent to which the undertaking may make a positive overall contribution towards the attainment of ecological and community sustainability, both at the local and

It is not an issue of whether sustainability tests will be increasingly applied in environmental assessment reviews, but how fast it will happen.

regional levels.” In the end, the panel found that the proposed project was generally acceptable if the project proponent met certain conditions.

The Kemess North panel report took a similar approach, though with an analysis based on five key sustainability considerations, and with less favourable results for the proponent.

In October 2007, only a month after the Kemess North decision, a federal-provincial panel on the other side of the country released its sustainability-based review, also concluding that the project proponent had failed to pass the test. The Whites Point panel reviewed a proposal for a large basalt quarry and marine terminal in Nova Scotia (see “Power of the People” on page 13). The panel found the immediate economic gains from the project would accrue mostly to the proponent and would compromise long-term qualities and opportunities, in this case sustainable community economic development based on tourism and fishing. The Nova Scotia government accepted the panel’s recommendation to reject the project, though the proponent, a US firm, has since initiated an appeal under NAFTA.

Whether the Voisey’s Bay, Kemess and Whites Point cases represent the future of environmental assessment in Canada is not yet clear. But Anthony Hodge, a professor of mining and sustainability at Queen’s University, believes the writing is on the wall. He says, “It’s inevitable that this is going to happen more and more.” It is not an issue of whether sustainability tests will be increasingly applied in environmental assessment reviews, but, says Hodge, “how fast it will happen.”

Joan Kuyek, the national co-ordinator of MiningWatch Canada, is less optimistic. While Kuyek hopes that the higher test will prevail, she fears that the Kemess and Whites Point results may trigger industry lobbying against panel reviews with sustainability expectations.

Last year, MiningWatch took Fisheries and Oceans Canada (DFO) to court for dodging a full assessment of the proposed Red Chris Copper-Gold Mine in Northern BC. Federal Court Justice Luc Martineau ruled in favour of MiningWatch, agreeing that DFO had unlawfully evaded the required comprehensive study of the Red Chris proposal in favour of a simple screening process. However, that ruling was appealed and has since been overturned by a higher court.

Kuyek believes industry lobbying lay behind DFO’s efforts to minimize assessment obligations and is likely

to focus now on preventing entrenchment of the Voisey’s Bay, Kemess and Whites Point precedents.

Such lobbying contradicts the global mining industry’s commitment to the principles of sustainable development. An example of the mining industry’s official stand is the Sustainable Development Framework of the International Council on Mining and Metals, which has been embraced by the world’s top mining corporations and associations.

The BC and Nova Scotia governments’ acceptance of the Kemess and Whites Point panel recommendations appears to corroborate Hodge’s optimism. Other Canadian and international cases also point to the spread of sustainability-based tests. Applications have been reported in Australia, Hong Kong, Ghana, South Africa and the United Kingdom, among others. In 2006, the international *Journal of Environmental Assessment Policy and Management* dedicated an entire issue to the “new” field.

Approaches vary. Some consider economic, social and ecological effects (the “three pillars” of sustainability) separately, while others attempt to address interrelationships and overlapping concerns such as livelihood effects, and the distribution of gains and losses. But they all share a broader agenda and a longer vision than has been common practice.

It is an innovation that brings to mind the sensible words of Henry David Thoreau: “In the long run, men hit only what they aim at. Therefore, though they should fail immediately, they had better aim at something high.” 🗨️

Alberto Fonseca is a PhD candidate in the Faculty of Environment at the University of Waterloo.

In Brazil, he was an environmental auditor and also worked for a large mining company.

Robert Gibson, chair of Alternatives’ editorial board and professor at the University of Waterloo, has a special interest in sustainable assessment process design and implementation.

The International Institute for Environment and Development describes a test that measures sustainability in **Seven Questions to Sustainability: How to Assess the Contribution of Mining and Minerals Activities**. Find this and the environmental assessment panel reports for the Kemess North, Voisey’s Bay and Whites Point projects at www.alternativesjournal.ca/34-4/toc.