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SAYISI DENE FIRST NATION

September 2, 2021

Stephen McCarthy
Senior Consultation Analyst, Prairie and Northern Region
Email: Stephen.mccarthy@iaac-aeic.gc.ca

Dear Mr. McCarthy,

RE: Sayisi Dene First Nation Review of the Round 1, Package 3 Information Request Response for the Alamos Gold Inc. Lynn Lake Project.

I am writing as the elected Chief, on behalf of the Council and Nation members of the Sayisi Dene First Nation ("SDFN") in response to your email dated August 23, 2021.

As part of our ongoing commitment to the environment within our Treaty area, we have reviewed the Alamos Gold Inc. ("Alamos") Lynn Lake Project (the "Project") Round 1, Package 3 Information Request ("IR") responses. On August 5, 2021, Alamos submitted responses to the Round 1, Package 3 IRs. The Agency reviewed the responses and found the information sufficient for moving forward with a technical review. On August 23, 2021, the responses were provided to Sayisi Dene First Nation ("SDFN") for review and comment. The below themes can be used to in furthering discussion with the Impact Assessment Agency of Canada ("IAAC") on potential impacts to Sayisi Dene First Nation rights and interests.

While Alamos indicates that the 59 IRs within Round 1 Package 3 have been fully addressed and answered as clearly and succinctly as possible, we do not feel that there is sufficient information contained within this IR package in relation to Indigenous rights, interests, issues, and concerns and further information gathering/engagement must be undertaken by Alamos and the IAAC to address these instances.

As with the EIS, Alamos relies on current use of lands and resources for traditional purposes as the only mechanism for identification of impacts to Indigenous rights. This is problematic for a variety of reasons, including:

1. Sayisi Dene First Nation, due to the ongoing COVID-19 pandemic, has yet to complete the information gathering for a Study,
2. Following provision of the Study, ongoing engagement is required by Alamos to understand the results and integrate it into the assessment process, and
3. Even in consideration of the study and ongoing engagement, certain aspects that reflect Sayisi self-governance and self-determination can only be gathered through ongoing discussions between Sayisi, Alamos, and the Crown.

The Study will provide a base for greater engagement and greater understanding of Sayisi Dene First Nation issues. We hope that Alamos and the IAAC take advantage of this.

In addition to these overarching concerns, there are specific problems with the IR responses which are articulated below.

Understanding of Rights

The IR responses, as articulated, highlight the fundamental misunderstanding of Alamos of what Indigenous rights are. This is likely due to the direction provided in the legislation guiding this Project, *Canadian Environmental Assessment Act, 2012* which includes a focus on current use. Current use is an expression of the *exercise* of a right, not the right itself. Therefore, when asked to describe Indigenous nations views on their established rights that may be impacted by the Project, Alamos, instead describes the exercise of those rights via Traditional Land and Resource Use Studies completed.

Rights are not conditional upon current practice; nor can a right be revoked or downgraded in importance due to a lack of contemporary expression. Rights remain until extinguishment. Further, the presence or viability of a resources (e.g., fish) does not ensure continuity of that right in specific locales. Rights, instead, are multi-faceted; even harvesting rights.

In order to understand a right you need to fully contextualize it. First, does the right exist? Sayisi Dene First Nation holds rights in the Project area identified in Treaty No. 5. (broadly, harvesting rights). Sayisi Dene First Nation also holds rights that have been practiced since before European contact. While these rights may currently be distorted by the federally imposed system of governance (the *Indian Act*), they persist and include a right to self-governance and self-determination, a right to cultural well-being and integrity, a right to language, etc. Second, what aspects contribute to the meaningful exercise of those rights? For harvesting rights, this can be achieved by looking at the physical requirements of the right such as availability, and more importantly, access to resources, conditions and preferences, and whether there are economic or social conditions that interact with the right. For non-harvesting rights, the ability to exercise the rights and limitations imposed by the colonial system, social, and intergovernmental considerations must be identified. Once the rights have been properly contextualized, they can be understood and pathways of impact from the Project can be recognized.

It is clear from the IR responses that Alamos does not understand Indigenous rights, how to contextualize them, or how to assess impacts to them due to the narrow scoping of the Environmental Impact Statement. This means this task will be left to the Crown, who holds the duty to consult and accommodate. Following provision of the Sayisi Dene First Nation Study, we hope to have further discussions with the IAAC on impacts to our rights as our study will identify guiding values and topics based on our understanding of which rights have a pathway of impact from the project.

Aggregated Information

In many instances, the IAAC requested that Alamos provide specific information from each Indigenous group. For example, in IAAC IR #151, the IAAC asks for Alamos to provide “plants species of importance to each Indigenous group”. The implication from this ask is that information provided by Alamos would be disaggregated and reflective of each Indigenous nation. This lack of specific response is likely a result of the limited ongoing engagement undertaken

by Alamos in relation to this Project. Alamos did not receive additional information from Sayisi Dene First Nation because they did not ask for it, did not provide capacity funding to collect it, and did not engage with Sayisi Dene First Nation on the issue. Sayisi Dene First Nation has limited capacity to direct to this Project application. Without specific and clear direction from Alamos on information needs, Sayisi Dene First Nation cannot be expected to undertake any data collection or additional participation. This remains a gap in the responses, specifically for IR #151, #171, #176, #177, #186, and #188.

Lack of Additional Data

The above noted issue of aggregated information is related to the ongoing assertion by Alamos that no additional information was provided by Indigenous nations in relation to specific IR responses. For example, in IR #151, Sayisi Dene First Nation was not notified that plant species of importance required confirmation and no in depth engagement was undertaken with Sayisi Dene First Nation to characterize or confirm plants of importance to our Nation. The generalization of Indigenous plant species, while advantageous for streamlining the assessment process, does not account for location specific importance. For example, areas of teaching which have generational importance.

Another example includes IR response #152 which states that "Information on key habitats for plants of importance to Indigenous Nations (e.g., areas of higher abundance important for the maintenance of the species) is not available for the Boreal Shield Ecozone in which the RAA is located, or Manitoba". However, information on key habitats is traditional ecological knowledge that is held by Sayisi Dene First Nation members. If Alamos had identified that this information was required, and provided sufficient capacity for engagement, we could have provided relevant key habitat information for plants of importance to Sayisi Dene First Nation.

This lack of data due to Alamos not identifying an information need include IR response #151, #152, and #153.

Engagement

While Alamos has provided Sayisi Dene First Nation with capacity funding to complete a Study, ongoing engagement in relation to the EIS has been lacking. This issue is highlighted in the above noted comments but also persists throughout other IR responses whereby Alamos has indicated that no additional information was provided or there was a lack of comments provided on documents issued (IR response #155, #156, #159, #170, #173). It must be noted that this is not due to a lack of interest or concern on the part of Sayisi Dene First Nation but is wholly related to the limited capacity funding provided. No capacity has been provided to support ongoing engagement, review of additional documents, or provision of comment. Sayisi Dene First Nation does not have internal capacity to deal with this Project and our staff are allocated to specific tasks. Without directed funding, these activities cannot be undertaken, and they are not covered by Impact Assessment Agency funding.

Monitoring and Follow-up

This issue of ongoing capacity funding is critical in the consideration of ongoing monitoring and follow-up after project approval. Sayisi Dene First Nation are stewards of our Treaty area and protectors of the natural environment. In order for us to fulfill that role with the Alamos project, we require ongoing capacity funding for monitoring and follow-up to have dedicated monitors available. Some specific instances where this would be valuable include IR response #152 (and #155, #156, and #159), where Sayisi Dene First Nation monitors could provide input to ensure reclamation seed mixes are reflective of species of importance to Sayisi Dene First Nation. Another instance where Sayisi Dene First

Nation monitors would be valuable includes monitoring swamps to ensure they are not affected by the Project during any mine phase (IR response #148). This involvement in monitoring programs is enshrined within the United Nations Declaration on the Rights of Indigenous Peoples Article 29.1 which states that "Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination … 3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented."

Requirement for IAAC Process

As we have noted that Traditional Land and Resource Use Studies are insufficient in understanding rights and potential impacts to rights; and we have identified that our Study, while reflective of Sayisi Dene First Nation rights, will not be a full impact assessment of the rights of Sayisi Dene First Nation. Therefore, the IAAC should engage with us following the submission of our study to understand our rights and assess the level of impact. Further, the IAAC should engage with us to ensure collaborative dialogue on the measures to address those impacts. While we hope that this discussion can be collaborative and fruitful, please note that all participation is bound by available capacity funding to allow for our ongoing involvement and will have to be scaled to what has been provided.

Thank-you for your consideration of our comments on Round 1, Package 3 IR responses. We look forward to a positive relationship with the IAAC and Alamos moving forward and hope to work together to resolve any outstanding issues.

Sincerely,

<Original signed by>

Chief Yassie

CC Lynn Lake IAAC General
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