

# Feds, GNWT broke rules on park creation

It's a worrisome day when we cannot trust our governments to follow their own laws.

But that's where we find ourselves with the process used to create the 26,000 square kilometres of Thaidene Nene National Park and Thaidene Nene NWT Protected Area this past week.

Let me be clear, the Chamber is not against the establishment of parks and protected areas but these developments have to undergo the same legal scrutiny as an exploration or mine development permit.



**GUEST  
Columnist**

Gary Vivian is president of the NWT & Nunavut Chamber of Mines

By law, the creation of both of these huge protected areas comes under the Mackenzie Valley Resource Management Act (MVRMA), where they must be treated as a "development" of the land, just as is a mine, a road or a quarry.

The MVRMA is considered one of the most progressive, transparent and inclusive laws for land and resource management

in the world: it has its roots in the requirements of Indigenous land claims; it creates a very inclusive resource management process using boards made up of Indigenous and public government representatives; and it has a registry to provide full public disclosure.

So why were governments not required to follow this stellar legislation in establishment of these parks?

Despite the strengths of this law, it seems to have one weakness: it allows government agencies and departments that propose parks to oversee their own regulatory process, called a preliminary screening. Yikes! When the proponent for a park is also allowed to oversee the regulatory review of its own park creation process, it's a perceived conflict of interest. And in the cases of Thaidene Nene, it has now become a real conflict of interest.

This is not just our opinion.

The Mackenzie Valley Review Board has



Thaidene photo courtesy of Lutsel K'e First Nation

**Guest columnist Gary Vivian, says the Chamber is not against the establishment of parks and protected areas such as Thaidene Nene near the community of Lutsel K'e (pictured) but these developments have to undergo the same legal scrutiny as an exploration or mine development permit.**

the job of overseeing developments. They recently issued two reports criticizing the governments of Canada and the NWT for not following the rules. Read their full reports on the public registry, but here are some excerpts:

"Parks Canada's approach ... is not consistent with the MVRMA to complete a preliminary screening after irrevocable decisions to proceed with a development have already been made." In other words, Parks Canada legislated the park without completing the requirements of the law.

The review board "is deeply concerned with how the GNWT appears to have modified the might test found in the MVRMA." This test of public concern "stems from the land claim agreements and is written in law" and "it is

incumbent on screeners to duly consider it and apply it consistent with the intent and letter of the MRMA."

Unfortunately, while the board is critical of the governments for not following the MVRMA legislation, it appears both governments have taken them out of play, and neutralized their ability to do anything about it.

If we let governments ignore their own laws, then we no longer have the rule of law.

And we are all losers when government is

allowed the arrogance to ignore the laws they themselves created on our behalf.

At the least, the public deserves an apology from Canada and the NWT government for breaking the rules. At best, both governments should be taken to task to ensure this doesn't happen again, and that improvements are made.

Will they have the courage to do so themselves? Or must we the public and other politicians take them to task?

The strength of our laws depends on it.