



September 28th 2016

Ms. Rebecca Chouinard
A/Executive Director
Mackenzie Valley Land and Water Board
7th Floor - 4922 48th Street
Yellowknife, NT X1A 2P6

MV2016X0013
MV2016L8-0004

Dear Ms. Chouinard:

Re: Bullmoose-Ruth Remediation Project – September 14th 2016 Letter from the North Slave Métis Alliance Regarding Consultation

I am responding to your letter dated September 19th 2016 regarding concerns raised by the North Slave Métis Alliance (NSMA) about the Bullmoose-Ruth Remediation Project (the Project).

To begin, it is important to note the following points:

- On May 31st 2016, the Contaminants and Remediation Division (CARD) sent a project update letter to all parties, including the NSMA, as identified in the Project Engagement Plan;
- The successful contractor, Rowe's Outcome Joint Venture, sent a letter of invitation to the NSMA to attend a community meeting on August 30th 2016 which launched the Project by describing the Project work plan, schedule and potential socio-economic benefits;
- At the Board's September 9th 2016 Technical Session, CARD conveyed that the scope of its consultation effort included the Northwest Territory Métis and the NSMA (we understand now that use of the phrase "NWT Métis" in the presentation resulted in a misunderstanding and we will avoid this in the future);
- CARD has a funding agreement with the NSMA to support its involvement in the Board's regulatory process; specifically, the Project Engagement Plan which includes an Engagement Committee through which activities such as site tours, Elders' Committee meetings and project update meetings are delivered;
- There have been regular emails and telephone discussions between CARD's Project Manager and the NSMA Regulatory Analyst since June of 2016; and
- CARD has arranged for a site tour with the NSMA on September 29th 2016 that will include NSMA Elders and the NSMA's Regulatory Analyst.

In answer to NSMA concerns about the adequacy of consultation, please consider the following:

- Canada has on many occasions directly explained its strength of claim assessment to the NSMA. That assessment found there is not sufficient evidence the NSMA, as a separate or distinct entity from the Northwest Territory Métis Nation, represents the rights of Great Slave Lake area Métis. CARD is aware of the NWT Supreme Court's judgement that the Great Slave Lake area Métis have a *prima facie* claim to caribou harvesting rights in an undefined area of Great Slave Lake, though we note that the Court did not opine on the status of the NSMA as a rights representative organization. CARD has engaged both the Northwest Territory Métis Nation and the NSMA in regard to this clean-up project. This is an appropriate approach to ensure any potential negative impacts of its activities can be identified and accommodated if appropriate, thus to discharge any duty to consult;
- According to the common-law, it is not sufficient for the NSMA to simply say its members have Aboriginal rights and they may be impacted. It is incumbent upon the NSMA to identify to Canada and the Board, the specific rights it asserts and to specify the types of negative impacts it believes may occur; and
- CARD has engaged the NSMA in a number of ways and the NSMA is participating in the Board's regulatory process. Subject to what may be learned regarding potential impacts on NSMA members' asserted Section 35 rights, Canada expects that the Board's process will provide an appropriate level of consultation for a project of this nature, particularly given the unconfirmed status of the NSMA as a rights representative organization for Great Slave Lake area Métis and the limited potential for negative impact on rights.

CARD is willing to meet with NSMA representatives to further discuss potential impacts of project activities. Representatives of the NSMA can contact me directly at (867) 669-2405 or the Bullmoose-Ruth Remediation Project Manager, Mr. Ron Breadmore, at (867) 669-2743 or by email at ron.breadmore@aandc-aadnc.gc.ca.

Should you wish to discuss concerns with Canada's strength of claim assessment, please contact Mr. James Lawrance at the Indigenous and Northern Affairs Canada regional office at (867) 669-2583 or by email at lawrancej@inac.gc.ca .

Sincerely,



Carey Ogilvie
Senior Manager