



September 28th 2016

MV2016X0021
MV2016L8-0006

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

Dear Ms. Chouinard:

Re: Gordon Lake Group Remediation Project – September 19th 2016 Letter from North Slave Metis Alliance Regarding Consultation

I am responding to your letter dated September 23rd 2016 regarding concerns raised by the North Slave Métis Alliance (NSMA) about the Gordon Lake Group Remediation Project (the Project).

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

- On June 10th 2016 the Contaminants and Remediation Division (CARD) sent a project update letter to all parties identified in the project's engagement plan including the NSMA;
- On August 15th 2016 CARD sent a letter notifying the parties identified in the project's engagement plan, including the NSMA, that the Project had been posted on Buyandsell.ca; and
- The Project received 5 Aurora Research Institute Licences and an archaeologist permit during the project assessment phase, all of which were sent to the NSMA.

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 Project Manager, Mrs. Alison Heslep, by telephone at (867) 669-2769 or Alison.heslep@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,

A handwritten signature in black ink, appearing to read 'C. Ogilvie', with a stylized flourish at the end.

Carey Ogilvie
Senior Manager
Contaminants and Remediation Division