

# **NORTH SLAVE MÉTIS ALLIANCE**

**PO Box 2301 Yellowknife, NT X1A 2P7**



October 26, 2016

**Rebecca Chouinard**  
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## **Via Email**

Dear Ms. Chouinard:

**Re: MV2016X0013 MV2016L8-0004 -- Bullmoose-Ruth Remediation Project  
MV2016X0021/MV2016L8-0006 – Gordon Lake Group Remediation Project**

Thank you for your letter dated October 12, 2016. We have reviewed the draft Land Use Permits (LUP) and Water Licenses (WL) for the above-noted projects. We understand that the deadline for reviewers to submit comments is October 28, 2016. We submit this letter – today – to meet that deadline.

At the outset of this letter, the North Slave Métis Alliance (NSMA) wishes to inform you that it does not agree with the assessment of NSMA members' Aboriginal rights as Métis, as per the two letters Indigenous Affairs and Northern Development Canada (Canada) submitted to the Mackenzie Valley Land and Water Board (the Board) dated September 28, 2016.

Contrary to Canada's assertion that it has "on many occasions directly explained this strength of claim assessment to the NSMA", the assessment articulated in Canada's letters of September 28, 2016, is relatively new. It stems from ongoing litigation between Canada and NSMA. The first time Canada articulated the aforementioned assessment was in its legal submissions to the Federal Court of Canada (FCC) on June 29, 2016. Prior to that, Canada was consulting NSMA on the basis of its members' asserted Aboriginal right to harvest caribou in the area north of Great Slave Lake, Northwest Territories (NWT). With that in mind, Canada's new assessment suggests that Canada's focus is now on maintaining a consistent legal position, rather than on upholding the honour of the Crown in its dealings with NSMA.

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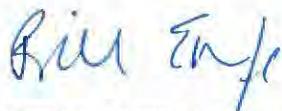
**Email: [general@nsma.net](mailto:general@nsma.net)**

Canada's new assessment is also wrong at common law. The Supreme Court of the Northwest Territories declared that NSMA and its members have a good *prima facie* claim to the Aboriginal right to harvest caribou north of Great Slave Lake, NWT, particularly in an area covered by two wildlife management zones established by the Department of Environment and Natural Resources, Government of the Northwest Territories, which are used to govern caribou harvesting north of Great Slave Lake. Shortly after the aforementioned Supreme Court of the Northwest Territories declaration, Bernard Valcourt, Canada's Minister of Aboriginal Affairs and Northern Development (as INAC was then known) wrote to NSMA that "Canada acknowledges that the North Slave Métis Alliance has a good *prima facie* claim to the Aboriginal right to hunt caribou on their traditional land". Canada's assessment in its September 28, 2016 letters run contrary to both these findings. That being said, we have scheduled a meeting on November 4, 2016, with INAC representatives Carey Ogilvie and James Lawrance, to discuss our concerns about Canada's new "strength of claim assessment" as outlined in its September 28, 2016 letters.

Unfortunately, Canada's focus on maintaining its FCC legal position, and its failure to understand how NSMA members' hold their Aboriginal rights as Métis, means Canada consistently engages in flawed consultations with NSMA regarding impacts on NSMA members' Aboriginal rights. In the Bullmoose-Ruth Remediation Project, for example, NSMA was not provided with an opportunity to participate in options evaluation, or development of site-specific risk evaluation, or to provide NSMA members' Traditional Knowledge or traditional land use information (which did not inform remediation objectives for sediment and soil).

In closing, in light of Canada's water downed (inadequate) consultation with the NSMA respecting the above-noted remediation projects, the best we can do, for now, is comment on procedural improvements to the draft Land Use Permits and Water Licenses. To that end, we provide our comments in an Appendix to this letter.

Sincerely,



William (Bill) A. Enge  
President

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## Appendix

### **Comments on draft WL & LUP for Bullmoose-Ruth Remediation Project**

- Part F Item 7: Should be "90 days prior to construction or 90 days following the issuance of WL, whichever is sooner.
- Part F Item 8: Should be "prior to completion of active remediation"
- Part F Item 16: Biological Oxygen Demand: Should be 25mg/L. Wherever possible, Effluent Quality Criteria (EQC) should be set based on preservation of baseline condition, rather than pollute-up-to principle.
- Part F Item 18: Water EQF are acceptable, as they are based on Council of Canadian Ministers of Environment (CCME) guideline for Residential/Agricultural use criteria, which is appropriate for contaminated sites in the North.
- Part F Item 20: the same as above
- No comments on the draft LUP.

### **Comments on draft WL & LUP for Gordon Lake Group Remediation Project**

- Part F Item 6: Should be "90 days prior to construction or 90 days following the issuance of WL, whichever is sooner.
- Part F Item 7: Should be "prior to completion of active remediation"
- Part F Item 15: It is unclear whether the same comment applies here as Bullmoose-Ruth project. Clarification could be asked to the Board. If it's applicable, recommendation would be: Biological Oxygen Demand: Should be 25mg/L. Wherever possible, Effluent Quality Criteria (EQC) should be set based on preservation of baseline condition, rather than pollute-up-to principle.
- Part F Item 16: Water EQF are acceptable, as they are based on Council of Canadian Ministers of Environment (CCME) guideline for Residential/Agricultural use criteria, which is appropriate for contaminated sites in the North.
- Part F Item 18: the same as above
- No comments on the draft LUP.