



THE SAHTU SECRETARIAT INCORPORATED

P.O. Box 155,
Deline, NT X0E 0G0
Tel: (867) 589-4719, Fax: (867) 589-4908

April 10, 2014

BY FAX: (867) 598-2325

Paul Dixon
Executive Director
Sahtu Land and Water Board
P.O. Box 1
Fort Good Hope, NT X0E 0H0

Dear Sir:

Re: Application for renewal by Imperial Oil N.W.T. Resources Limited ("Imperial") and the question of the Sahtu Land and Water Board's jurisdiction

Please be advised that the Board of The Sahtu Secretariat Incorporated (the "SSI") unanimously approved a resolution at its meeting of April 8, 2014, confirming its support for the position that the Sahtu Land and Water Board (the "Board") has a broad mandate that applies to all development proposals in the Mackenzie Valley and this mandate includes the regulation and collection of security for abandonment and reclamation liabilities at Imperial's Norman Wells operations.

The SSI objects strenuously to the positions set out by Imperial in its written submission relating to the Board's jurisdiction. It is our understanding that Imperial is asserting that the Board has no jurisdiction with respect to certain aspects of the Norman Wells operations, including land use matters, since land use has already been determined and approved by the 1944 Proven Area Agreement. This assertion is very troubling for several reasons.

Firstly, Imperial's interpretation of the Board's jurisdiction is inconsistent with the spirit and intent of the *Sahtu Dene and Metis Comprehensive Land Claim Agreement* (the "Sahtu Agreement"). Section 25.3 of the Sahtu Agreement establishes the Board with a wide and comprehensive mandate to undertake environmental impact assessments and reviews of all development proposals in the Mackenzie Valley and consider any impacts on lands, waters and air.

As directed by the Supreme Court of Canada, the Sahtu Agreement must be interpreted generously. The Sahtu Agreement and other treaties will not accomplish their purpose if they are interpreted by government officials in "an ungenerous manner or as if it were an everyday commercial contract."¹ The Court specifically stated that the Crown must act honourably in the implementation of treaties.¹ In our view, Imperial's position is based on a narrow interpretation of the federal legislation and that interpretation is inconsistent with the Sahtu Agreement.

Secondly, the Norman Wells operations must be managed and regulated in accordance with contemporary standards in a transparent and public process. The SSI have deep concerns that Imperial maintains that the Board has no authority with respect to key aspects of the Norman Wells operations, such as remediation and collection of security, and instead maintains that such matters are regulated by the federal Minister behind closed doors in accordance with the 1944 Proven Area Agreement. This seems to imply that the rules

relating to the Norman Wells operations are separate from any other project in the Mackenzie Valley and decisions relating to the Norman Wells operations are disconnected and uncoordinated with the Board. This is contrary to the express principles of the Sahtu Agreement.

The SSI is concerned that the extensive environmental concerns relating to the Norman Wells operations may not be addressed fully and, in particular, the SSI and the public may not be able to provide input into decisions relating to such matters. Since 1944, contemporary standards and processes have been established to review and assess development proposals in the Mackenzie Valley and we urge the Board to exercise its authority and apply contemporary standards to the Norman Wells operations.

For too long, the Norman Wells operations have operated without any local review or assessment of proposed environmental affects or any accountability to the Sahtu and local residents. Our views and concerns have been typically disregarded. This is unacceptable.

In closing, the SSI points out that appropriate weight must be given to Canada's submission since it has a one-third interest in the Norman Wells Proven Area. As a result, similar to Imperial, Canada's propriety interest may colour the views that it submits to the Board.

We look forward to the decisions from the Board with respect to this matter.

Sincerely,



Ethel Blondin-Andrew
Chairperson

c. Minister, Aboriginal Affairs and Northern Canada
Premier, GNWT

¹ *Little Salmon*.

² *Little Salmon*, at para. 62 citing *Haida Nation v. British Columbia (Minister of Forests)*, 2004 S.C.C. 73, at para.17.