

From: [Shannon Allerston](#)
To: [Permits](#)
Subject: FW: MVLWB Meeting follow-up: Land tenure
Date: April 16, 2019 4:12:19 PM
Attachments: [GNWT Lands response to MVLWB April 2019.pdf](#)

MV2007L8-0031 and MV2019X0007 – GNWT description of Federal Reserve Lands for the Giant Project

From: Erika Nyyssonen <Erika_Nyyssonen@gov.nt.ca>
Sent: April-16-19 4:08 PM
To: Shannon Allerston <sallerston@mvlwb.com>
Cc: Tyree Mullaney <tyree@mvlwb.com>; Kimberley Murray <kmurray@mvlwb.com>; Angela Plautz <aplautz@mvlwb.com>; Harris2, Katherine (AADNC/AANDC) <katherine.harris2@canada.ca>; natalie.plato@canada.ca; Alex Lynch <Alex_Lynch@gov.nt.ca>; Markey, Andrea (AADNC/AANDC) (andrea.markey@canada.ca) <andrea.markey@canada.ca>
Subject: MVLWB Meeting follow-up: Land tenure

Hi Shannon,

Our apologies on the delay in answering your questions about land tenure, specifically on reserves. Please find attached a response from GNWT Lands. We hope that this helps answer those questions.

We also will be providing you a response to your questions related to the Waters Act vs the MVRMA very shortly.

Once you've had time to review that information, please let us know if you have any follow up questions.

Kindly, Erika

From: Shannon Allerston [<mailto:sallerston@mvlwb.com>]
Sent: Friday, March 01, 2019 1:36 PM
To: Erika Nyyssonen
Cc: Tyree Mullaney; Kimberley Murray; Angela Plautz; Harris2, Katherine (AADNC/AANDC); natalie.plato@canada.ca
Subject: RE: Meeting follow-up: Land tenure

Hey Erika,

Were you able to get anything on the history and status of the land tenure bit for the reserve lands to justify its status as Federal lands (on commissioners lands on municipal lands)?

Thanks!

Shannon

From: Erika Nyyssonen <Erika_Nyyssonen@gov.nt.ca>
Sent: December-17-18 11:43 PM
To: Shannon Allerston <sallerston@mvlwb.com>; Harris2, Katherine (AADNC/AANDC) <katherine.harris2@canada.ca>; natalie.plato@canada.ca
Cc: Tyree Mullaney <tyree@mvlwb.com>; Kimberley Murray <kmurray@mvlwb.com>; Angela Plautz <aplautz@mvlwb.com>

Subject: Re: Meeting follow-up: Land tenure

Hey Shannon, SO helpful. Thank you. We are really appreciative of the three of you taking the time to spend reviewing aspects of the work we have done, and providing us with guidance.

As for the land tenure piece, I can pull that together early in the new year if you're ok waiting? (I'm back Jan 2) Otherwise I will leave that to Natalie over the next week if possible.

Thanks.

Happy Holidays All!

E

From: Shannon Allerston <sallerston@mylwb.com>

Sent: Monday, December 17, 2018 4:00:16 PM

To: Erika Nyyssonen; Harris2, Katherine (AADNC/AANDC); natalie.plato@canada.ca

Cc: Tyree Mullaney; Kimberley Murray; Angela Plautz

Subject: Meeting follow-up: Land tenure

Hey everyone,

Thanks so much for coming in today. I hope it was helpful. I'd like to follow up with you on a few things that were left sort of unresolved this morning so that we can try to work our way through them before the application is complete.

1. Land tenure – Can somebody reply by email with a bit of a summary about the land tenure discussions that are happening between GNWT and CIRNA to date, maybe a short history about what has been done so far (in regards to the Reserve Lands), what the plan is moving forward (to encompass the entire project area under the reserve lands), and what impact Devolution had on the ownership/management of these lands, if any. A description of what exactly reserve lands are and what it means would be helpful. I think jurisdiction is a bit cloudy and it may take some discussion between everyone to get to a common understanding.
2. Compensation – there will still need to be some internal and legal review of the Draft Guidelines before they are ready to share. In the meantime, if you have any specific questions or concerns, can you send them on for us to consider? There might be some important pieces that we are missing that we can include in any discussions we have during the review. I could probably give you a summary of how it looks in the Giant circumstances based on a couple of scenarios and identify some questions we have already about the process by email in a more informal way.
3. Confidential Cover – From the Board's updated Rules of Procedure:
Decisions Requested from the Board during a Proceeding
 21. The Board may make a Ruling on any legal or procedural matter required to ensure procedural fairness and progress during a Proceeding.
 22. Any issue raised by a Party in the course of a Proceeding that requires a Ruling from the

Board shall be addressed by way of a written Request for Ruling.

23. The Request shall include a clear, concise statement of the issue, the relevant facts, an explanation of the Ruling being sought, the reasons why the decision or Ruling should be granted by the Board and any authorities being relied on by the Party requesting the Ruling.

24. A Request for Ruling made under Rule 22 shall be addressed to the Chairperson and filed with the Executive Director, who shall ensure its circulation to the Parties.

25. The Chairperson shall, after consultation with the Executive Director, issue a Directive setting out a timeline for the consideration of a Request for Ruling, including time for the participation of the Parties.

26. A Party wishing to respond to a Request for Ruling shall file a written response and any supporting documents with the Executive Director within the timeline set out in the Directive issued under Rule 25. The Executive Director shall ensure that all participating Parties are provided with such responses before the Board considers the Request.

27. The Party that filed the Request for Ruling shall be given the opportunity to reply to the responses of other Parties.

28. A Request for Ruling will be dealt with as a Written Proceeding unless the Board, in its discretion, decides the matter is better addressed through a Public Hearing.

29. The Board may dismiss a Request for Ruling which, in its view, is frivolous, vexatious, or an abuse of process. Reasons for such a decision will be provided to Parties participating in the Request for Ruling process.

Special Rules about Evidence

42. All information provided to the Board in a Proceeding is public unless specific arrangements are made under Rules 59 and 60 to ensure its confidentiality or its protection.

Evidence Protected by Law, Private and Proprietary Matters

59. Any Party seeking to protect confidential, proprietary or sensitive information in a Proceeding must submit a Request for Ruling under Rule 22 to have such information protected.

60. Where the Board approves a Request for Ruling to protect the information described in Rule 59, it will issue a Directive setting out the arrangements for receiving the evidence and outlining how the evidence is to be treated on the Public Record.

4. Draft CRP and Water Licence – Once we have an opportunity to read and think about some of the changes Elissa brought up today, we can discuss on the afternoon of January 8, 2019.
5. Updated Work Plan – Tyree already sent out one new draft work plan and we can continue to refine it based on feedback.

Please let me know if there is something I'm missing. Thanks again for taking the time to meet with us.

Shannon Allerston, MA, MSc

Regulatory Specialist

Mackenzie Valley Land and Water Board

7th Floor, 4922 48th St, PO Box 2130 | Yellowknife, NT | X1A 2P6

ph 867.766.7465 | fax 867.873.6610

sallerston@mvlwb.com | www.mvlwb.com

Please note: All correspondence to the Board, including emails, letters, faxes and attachments are public documents and may be posted to the public registry.





APR 16 2019

MS. ERIKA NYSSONEN
SENIOR ADVISOR, GIANT MINE
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Giant Mine Remediation Project Reserves

For the purposes of the Giant Mine Remediation Project there will be two reserves established, one for the land and one for the bed of the body of water. This is because of the two pieces of legislation that they fall under, the *Commissioner's Land Act*, RSNWT 1988,c.C-11 and the *Northwest Territories Lands Act*, SNWT 2014,c.13. The two reserves will serve the same purpose in that they will grant Canada a right to occupy the land for the purpose of the remediation; they will simply be set up under different legal instruments.

The land where Giant Mine currently sits is in the administration and control of the Government of the Northwest Territories (GNWT) for all surface land. For the land portion of the site the administration and control was granted to the GNWT through Orders in Council issued by the Privy Council in the 1970's. The Orders in Council did not include the subsurface land and therefore the subsurface is still in Canada's control, while the surface is Commissioner's land under the *Commissioner's Land Act*. The Devolution agreement did not change this as section 6.18 of the Devolution Agreement explicitly excluded the transfer of the subsurface of the Giant Mine site, given this the Commissioner retained surface rights and Canada (INAC) retained subsurface rights. For the purpose of remediation, the Commissioner's land has been reserved to INAC under section 4(b) of the *Commissioner's Land Act* giving INAC a right to occupy the land for the purpose of remediation.

There is a second portion of the land to be remediated where administration and control of the surface and subsurface was given to the GNWT through the Devolution Agreement, this is the bed of the body of water in Back Bay. This portion is considered territorial land and falls under the *Northwest Territories Lands Act*. Given this, a second reserve, setting aside this land under section 19(b) of the *Northwest Territories Lands Act* will be granted to INAC to cover this portion of the site.

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Following the cooperation agreement between the GNWT and INAC, the GNWT has agreed to provide unrestricted surface access to and occupancy of the site for the purpose of the remediation. The GNWT is currently working with the INAC and the Giant Mine Project Team to confirm the boundaries of the reserves and ensure that all other land interest that may conflict with the remediation project are addressed before the project start date.



Robert Marchiori
Manager
Commissioner's Land Administration
Department of Lands

- c. Mr. Scott Stewart, Regional Superintendent
North Slave Region, Department of Lands