



Yamoga Lands Corporation
P.O. Box 229. Fort Good Hope. NT X0E 0H0

May 08, 2024

Sahtu Land and Water Board
Box 1, Fort Good Hope, NT X0E 0H0

**Re. Preliminary Screening and Review of Imperial Oil Resources N.W.T. Limited's "IOR-NWT")
Application for a Type A Land Use Permit**

I write to express my concern with the quick timelines and lack of funding available to the K'ahsho Got'ine to participate in the Sahtu Land and Water Board's (the "SLWB") preliminary screening and review of IOR-NWT's application for a Type A Land Use Permit.

On March 28, 2024, IOR-NWT applied to the SLWB for a Type A Land Use Permit to complete geotechnical investigations on Goose and Bear Islands to support design work for the proposed replacement of flowlines between Bear and Goose Island (the "Application"). On April 22, 2024, the SLWB commenced a preliminary screening and review of the Application. The SLWB has required that interested parties submit comments on the preliminary screening and review by May 13, 2024, only three weeks after the parties received notice of the preliminary screening and timeline for review.

The K'ahsho Got'ine Committee seeks to meaningfully engage in the preliminary screening and review of the Application to evaluate impacts on K'ahsho Got'ine Rights. This requires time, funding and coordination.

I. Impact on K'ahsho Got'ine Rights

The proposed geotechnical investigations on Goose and Bear Islands are located directly upstream of our K'ahsho Got'ine territory and our community of Fort Good Hope. As such, the activities may pose a significant risk to our community, our way of life, and the exercise of our constitutionally protected K'ahsho Got'ine Rights, including our right to the maintenance of the quality and quantity of water flowing through the Mackenzie River.¹

¹ Including our right under section 20.1.8(a) under the *Sahtu Dene and Metis Comprehensive Land Claim Agreement* – "Participants have the right to have waters which are on or flow through or are adjacent to Sahtu lands remain substantially unaltered as to quality, quantity and rate of flow when such waters are on or flow through or are adjacent to Sahtu lands." The Mackenzie River flows through and is adjacent to Sahtu Lands.

We remind the SLWB that the Crown has a duty to consult with, accommodate, and justify any infringement to our K’ahsho Got’ine Rights. It is, therefore, critical that we have access to a fair and transparent regulatory process that allows for meaningful engagement, including reasonable timelines and appropriate funding. Furthermore, it is essential that decisions issued with respect to the Applications justify any infringement of K’ahsho Got’ine Rights.

II. Timelines

The SLWB’s preliminary screening and review has only provided interested parties with three weeks to engage and respond to the Application and the SLWB’s proposed conditions for a Type A Land Use Permit. This timeline is not sufficient to support meaningful engagement.

We require sufficient time to engage with K’ahsho Got’ine knowledge-holders and gather evidence of land-use and K’ahsho Got’ine Rights within the areas affected by the proposed geotechnical investigations. We also require sufficient time to appropriately engage with technical and legal experts to assess the potential impacts of the proposed geotechnical investigations on our Rights.

Courts have found that compressed timelines which do not allow for meaningful engagement from affected Indigenous rights-holders may violate the Crown’s duty to consult, accommodate and justify infringement of Indigenous rights.² In order for the Crown to discharge its duty to consult, we require additional time to support our meaningful engagement in this review process.

We request at least one additional month to respond to the Application. The need for additional time is particularly pressing given our pre-existing involvement in the Canadian Energy Regulator’s ongoing Hearing Process for the flowline replacement activities.

III. Funding for Engagement

To date, the K’ahsho Got’ine have incurred significant financial costs in responding to regulatory proceedings and engaging with the Norman Wells Operations, including preparation for the regulatory process for the proposed flowline replacement activities.

The SLWB has not provided any funding to cover our costs of meaningful participation. The lack of funding provided for our participation is in breach of the Crown’s duty to consult with and accommodate the K’ahsho Got’ine. Courts have held that “the issue of appropriate funding is essential to a fair and balanced consultation process, to ensure a ‘level playing field’.”³ As such, we expect funding to support our engagement in this regulatory process.

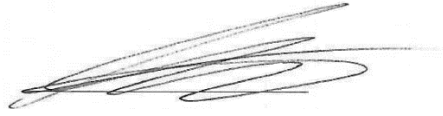
IV. Next Steps

To satisfy its duty to consult with, accommodate and justify any infringement on our K’ahsho Got’ine Rights, we request the SLWB extend the timelines as requested above and provide funding to support our meaningful engagement in the review of this Application.

² *Moulton Contracting Ltd. v British Columbia*, 2013 BCSC 2348 at para 293

³ *Platinex Inc. v Kitchenuhmaykoosib Inninuwug First Nation*, [2007] O.J. No. 2214 (ONSC) at para 27

Sincerely,



Edwin Erutse
President, Yamoga Lands Corporation

cc.

Chief Colin Pierrot, Fort Good Hope Dene Community Council, chief@fortgoodhope.ca

Aurora McNeely, Fort Good Hope Métis Nation Local #54 Land Corporation,
fghmetislandcorp@outlook.com

Bob Overvold, Fort Good Hope Métis Nation Local #54 Land Corporation,
bovervold150@gmail.com

Bonnie Kakfwi, Fort Good Hope Renewable Resources Council, fgh.rrc@northwestel.net

Darcy Edgi, K'ahsho Got'ine Foundation, darcyedgi@gmail.com

Daniel Masuzumi Sr., K'ahsho Got'ine Foundation, danny.masuzumi@kg-f.ca

Alexa Scully, K'ahsho Got'ine Foundation, alexa.scully@kg-f.ca

Brie O'Keefe, K'ahsho Got'ine Foundation, brie.okeefe@gmail.com

Daniel T'seleie, K'áhshó Got'ine Government danieltseleie@hotmail.com

Ceilidh Stubbs, Legal Counsel, cstubbs@firstpeopleslaw.com

Bruce McIvor, Legal Counsel, bmcivor@firstpeopleslaw.com

Sylvie Canning, Project Manager, scanning@firstpeopleslaw.com