

NORTH SLAVE MÉTIS ALLIANCE

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August 10, 2016

Clayton Balsillie
Director of Aboriginal Consultation and Aboriginal Relations
Department of Aboriginal Affairs and Governmental Relations
Government of the Northwest Territories
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Via Email

Dear Mr. Balsillie:

Clayton

**Re: Preliminary Assessment of NSMA members' Aboriginal rights as Métis
Vis a Vis the Proposed "Tlicho All-Season Road"**

In a letter dated July 27, 2016, Mr. Michael Conway, Regional Superintendent, North Slave Region, Department of Transport (DoT), Government of the Northwest Territories (GNWT), wrote to the North Slave Métis Alliance (NSMA) extending an offer to meet with you to discuss NSMA's "concerns not specific to the Tlicho All-Season Road". As per Mr. Conway's letter, we are writing to confirm that we wish to meet with you for the above-noted purposes.

NSMA is ready, willing and keen to meet with you – and any other representatives from DoT and/or the GNWT – so that we may have a meaningful discussion regarding the GNWT's information and views of NSMA members' Aboriginal rights as Métis.

We also wish to emphasize that, while this discussion may not be specific to the proposed Tlicho All-Season Road, it is fundamental to ensuring that the consultation regarding the proposed Tlicho All-Season Road is conducted in a manner that upholds the honour of the Crown. That's because any time the GNWT (acting in its capacity as the "Crown") is contemplating an action that may adversely affect the Aboriginal rights of our members, NSMA wants to engage in a respectful dialogue with the GNWT that the duty to consult is meant to foster. In order to do so, NSMA needs to know that the GNWT's information and views concerning the content and strength of NSMA members' Aboriginal rights as Métis, is accurate for the purposes of the consultation in question.

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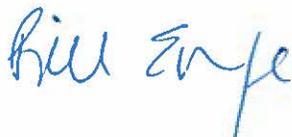
Please note: Canada's Federal Court of Appeal recently confirmed that without this information (i.e. preliminary strength of claim assessment), it's impossible for the parties to engage in meaningful consultation, because they will not know and will not be able to discuss what's in play in the consultation.¹ In NSMA's letters dated March 24, 2016 and June 2, 2016, to the DoT and Wek'eezhii Land and Water Board (WLWB) respectively, NSMA underscored the fact that there has been no preliminary strength of claim assessment of NSMA members' Aboriginal rights as Métis - provided by the GNWT or DoT - to guide a consultation regarding the proposed Tlicho All-Season Road.

While the GNWT acknowledges its duty to consult NSMA regarding the proposed Tlicho All-Season Road, the limited exchange of letters to date between NSMA and DoT has been focused on impacts and possible mitigation measures. In the same decision noted above, the Federal Court of Appeal confirmed that it is not consistent with the honour of the "Crown" for the "Crown" to simply assert that a project's impact will be mitigated without first discussing the nature and extent of the Aboriginal rights that are to be impacted by a proposed development. What this means, in the context of the proposed Tlicho All-Season Road, is that the GNWT must provide its preliminary strength of claim assessment and engage in a respectful dialogue about NSMA members' rights **before** there can be an assessment and consultation about the impacts of the Tlicho All-Season Road on NSMA member's Aboriginal rights as Métis. It goes without saying that DoT's failure to provide this information frustrates everyone's efforts to engage in a meaningful dialogue.

For all of the reasons pointed out above, NSMA looks forward to meeting with you to hear and discuss the GNWT's views respecting NSMA members' Aboriginal rights as Métis. We are available to meet, (preferably in the afternoon) on the following dates in August 2016: 22, 23, 24, 25, 30, 31 to discuss this important matter.

I look forward to hearing from you.

Sincerely,



William (Bill) A. Enge
President
Email: president@nsma.net

cc: **Mr. Michael Conway**, Regional Superintendent, North Slave Region, DoT
Email: michael.Conway@gov.nt.ca

¹ *Gitxaala Nation et al. v. Her Majesty the Queen et al.*, 2016 FCA 187 paras. 307-309

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