



March 8, 2016

Ms. Heather Bourassa, Chair
Sahtu Land Use Planning Board
PO Box 235
Fort Good Hope, NT
X0E 0H0

Dear Ms. Bourassa:

Re: HPAR as a Legacy Land Use

In your letter dated December 8, 2015, you requested that we provide the Sahtu Land Use Planning Board with a detailed rationale for why the Howard's Pass Access Road Upgrade Project (the Project) should be considered a legacy land use pursuant to SLUP 2.5.D.

The Sahtu Land Use Plan was approved on August 8, 2013. Section 2.5.D of the approved plan titled "Application to Land Uses that are a Legacy of Decisions Before Approval of the Plan" stipulates the following:

"The MVRMA and SDMCLCA provide for land use plans to be implemented by authorizations and dispositions, and do not give land use plans retroactive effect.

Accordingly, a land use that has been authorized when the Plan is approved may be undertaken or continued despite any nonconformity with the Plan until the authorization or disposition on which it depends expires or becomes eligible for renewal or amendment. From that date forward the Plan applies to the land use to the extent provided for below."

The remainder of that section sets out a detailed list of the kinds of interests or entitlements that that give rise to a legacy land use. The list includes several distinct categories under which an undertaking can be considered a legacy land use. Using those categories, we provide below a detailed rationale for why the Howard's Pass Access Road (HPAR) Upgrade Project should be considered a legacy land use.

1. *Sub-Section 1.1 reads as follows: “Ongoing or proposed land uses for which one or more applicable authorizations have been issued under federal or territorial law prior to the Plan coming into effect.”*

The HPAR was originally permitted under Class A Land Use Permit N76F375 as issued by Indian and Northern Affairs and nine separate Water Licenses as issued by the Northwest Territories Water Board. All were issued in May of 1977. Construction of the HPAR was completed under those authorizations during 1977 and 1978. These authorizations predate the establishment of the SLUP. There have been numerous other authorizations related to the HPAR since that time.

2. *Sub-Section 1.2 reads as follows: “Land uses for which authorizations are required in order to exercise rights created by or pursuant to a disposition of interests or entitlements that were issued by the Crown or a district land corporation prior to the Plan coming into effect...”*

Aboriginal Affairs and Northern Development Canada granted SCML a Licence of Occupation for the HPAR that became effective on January 1, 2012 (105I/1-14-2).

Under that Licence, SCML became authorized to occupy a right-of-way approximately 57 kilometres long (the LOC specifically excluded the 23 kilometre portion of the HPAR within the Nahanni National Park Reserve) and sixty metres wide for “...the construction, operation, maintenance, inspection, alteration, replacing and repair of an all-weather access road.”

Effective April 1, 2014, the Government of the NWT assumed responsibility for the administration and control of certain portions of the lands granted to SCML in accordance with the Northwest Territories Lands and Resources Devolution Agreement. In order to facilitate this transfer of responsibility, the original Licence was amended, effective March 31, 2014, to cover only 33 kilometres of the HPAR situated in two separate areas (including HPAR lands in the Sahtu).

Licence of Occupation 105I/1-14-2 predates establishment of the SLUP.

3. *Sub-section 1.3 reads as follows: “Land uses for which authorizations are required in order to exercise rights created by or pursuant to successor interests or entitlements to those identified in sub-section 1.2.”*

The Licence of Occupation entitles SCML to use the land for the “construction, operation, maintenance, inspection, alteration, replacing and repair of an all-weather access road”. Land use authorizations will be required to complete

alterations to the HPAR necessary to make it both safe and efficient for commercial use.

4. Sub-section 1.4 reads as follows: ***“Land uses for which authorizations are required that are necessarily incidental to the exercise of rights created by the interests or entitlements identified in 1.2 and 1.3”.***

Several new gravel and or rock quarries will need to be established along the HPAR as part of the road upgrade project. Materials sourced from the quarries will provide materials for upgrading the HPAR, and will require “incidental authorizations”.

I hope this information replies to your query. Please feel free to contact us if further clarifications are required.

Sincerely,
SELWYN CHIHONG MINING LTD.

A handwritten signature in black ink, appearing to read 'M. Albert', written in a cursive style.

Maurice Albert
Vice President, External Affairs