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Preliminary Screening Notification - Establishment of Ts'udé Niljné Tuyeta Territorial Protected Area

The Department of Environment and Natural Resources (ENR), as a designated authority for establishment and management of protected areas under the new Northwest Territories *Protected Areas Act*, is undertaking a preliminary screening for the proposed establishment of Ts'udé Niljné Tuyeta as a territorial protected area.

In the enclosed package (and available at www.enr.gov.nt.ca), you will find a description of the proposed Ts'udé Niljné Tuyeta territorial protected area, including location, cultural, ecological and socio-economic values, proposed governance structure, visitor access, prohibited and allowable activities, future corridors, expected infrastructure, timelines for establishment and past public engagement.

Please review the enclosed information. Based on your local knowledge, interests in and/or use of the area, please advise as to whether you feel the proposed territorial protected area might be cause for public concern or significant adverse impacts to the environment.

Please provide your input to me at the email address below on or before **June 28, 2019**.

If you have any questions regarding the above proposal, please contact me at (867) 767-9233 ext. 53076 or by email at: Michelle_Swallow@gov.nt.ca.

Sincerely,

Michelle Swallow
Manager, Conservation Planning
Environment and Natural Resources

Attachment

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c. Dr. Joe Dragon
Deputy Minister
Environment and Natural Resources

Dr. Erin Kelly
Assistant Deputy Minister
Environment and Climate Change
Environment and Natural Resources

DISTRUBUTION LIST

Chief Wilfred McNeely Jr.
K'asho Got'ine Dene Community
Council
chief@kashogotine.com

Grand Chief Wilfred McNeely Jr.
Sahtú Dene Council
chief@kashogotine.com

Mr. Charles McNeely, Chairperson
Sahtú Secretariat Incorporated
charles_mcneely@hotmail.com

Mr. Edwin Erutse, President
Yamoga Land Corporation
president@yamoga.ca

Mr. David Codzi, President
Ayoni Keh Land Corporation
davidcodzi@behdziahda.com

Mr. Winston McNeely, President
Fort Good Hope Métis Local #54 Land
Corporation
wfmcneely@rocketmail.com

Mr. Harold Grinde, President
Association of Mackenzie Mountain
Outfitters
ganariver@pentnet.net

Ms. Marie Fast
Canadian Wildlife Service
marie.fast@canada.ca

Mr. Harry Harris, Acting President
Fort Good Hope Renewable Resource
Council (RRC)
fgh.rrc@northwestel.net
Intergovernmental

Indigenous and Northern Affairs
Canada
aadnc.ntcard.aandc@canada.ca

Mr. Adrian Paradis
CanNor NWT Region
adrian.paradis@canada.ca

Mr. Kris Brekke
CPAWS NWT Chapter
kris@cpaws.org

Mr. Rolland Pangowish
Dene Nation
lands@denenation.com

Mr. Barret Lenoir
Ducks Unlimited
b_lenoir@ducks.ca

Environmental Assessment
Environment Canada and Climate
Change
ec.ea.nwt.ec@canada.ca

Ms. Eva Walker
Environment and Climate Change
Canada
eva.walker@canada.ca

Ms. Georgina Williston
Environment and Climate Change
Canada
georgina.williston@canada.ca

Ms. Melissa Pinto
Environment and Climate Change
Canada
melissa.pinto@canada.ca

Mr. Larry Dow
Fisheries and Oceans Canada
larry.dow@dfo-mpo.gc.ca

Fisheries Protection Program, Triage
Group
Fisheries and Oceans Canada
fisheriesprotection@dfo-mpo.gc.ca

Mr. Francois Larouche
Fisheries and Oceans Canada
francois.larouche@dfo-mpo.gc.ca

Ms. Laura Watkinson
Fisheries and Oceans Canada
Laura.Watkinson@dfo-mpo.gc.ca

Mr. Glen Mackay
GNWT - Education, Culture and
Employment
Glen Mackay@gov.nt.ca

Mr. Jeff Walker
GNWT - Environment and Natural
Resources - Superintendent Sahtu
Region
Jeff Walker@gov.nt.ca

Ms. Loretta Ransom
GNWT - Environment and Natural
Resources (EA)
Loretta Ransom@gov.nt.ca

Mr. Nathen Richea
GNWT - Environment and Natural
Resources
Nathen Richea@gov.nt.ca

Mr. Patrick Clancy
GNWT - Environment and Natural
Resources
patrick clancy@gov.nt.ca

Mr. Rick Walbourne
GNWT - Environment and Natural
Resources
Rick Walbourne@gov.nt.ca

Dr. Erin Kelly, Assistant Deputy
Minister, Environment and Climate
Change, GNWT
Erin Kelly@gov.nt.ca

Environmental Assessment Central
Email
GNWT - Environment and Natural
Resources
gnwt ea@gov.nt.ca

Environmental Health
GNWT - Health and Social Services
Environmental health@gov.nt.ca

Mr. Jon Posynick
GNWT - Infrastructure
Jon Posynick@gov.nt.ca

Ms. Marty-Ann Bayha
GNWT - Industry Tourism and
Investment - Superintendent Sahtu
Region
[Marty-Ann Bayha@gov.nt.ca](mailto:Marty-Ann_Bayha@gov.nt.ca)

Mr. Johnny Lennie
GNWT - Industry Tourism and
Investment - Sahtu
johnny_lennie@gov.nt.ca

Mr. Stephen Deschene
GNWT - LANDS - Superintendent
Sahtu
[Stephen Deschene@gov.nt.ca](mailto:Stephen_Deschene@gov.nt.ca)

Ms. Katie Rozestraten
GNWT - Lands
katie_rozestraten@gov.nt.ca

Ms. Shirley Standafer-Pfister
GNWT - Lands
shirley_standafer-pfister@gov.nt.ca

Mr. Chris Hewitt
GNWT - Municipal and Community
Affairs
[Chris Hewitt@gov.nt.ca](mailto:Chris_Hewitt@gov.nt.ca)

Ms. Angela Love
Mackenzie Valley Land and Water
Board
angela.love@mvlwb.com

Ms. Jen Potten
Mackenzie Valley Land and Water
Board
jpotten@mvlwb.com

Mr. Kierney Leach
Mackenzie Valley Land and Water
Board
kleach@mvlwb.com

Mackenzie Valley Land and Water
Board
preliminaryscreening@reviewboard.ca

Mr. Daniel Mark McNeely
MLA - Sahtu Region
[Daniel McNeely@gov.nt.ca](mailto:Daniel_McNeely@gov.nt.ca)

Mr. Hal Logsdon
NWT Floatplane Association/COPA
108
logsdon@theedge.ca

Mr. Geoff Ray
NWT Recreation and Parks
Association
gray@nwtrpa.org

Ms. Renée Comeau, Executive Director
NWT Chamber of Commerce
admin@nwtchamber.com

Mr. Tom Hofer
NWT & Nunavut Chamber of Mines
executivedirector@miningnorth.com

Mr. Lou Covello
NWT & Nunavut Chamber of Mines
louis.covello@gmail.com

Ms. Pauline De Jong
NWT – Office of the Regulator of Oil
and Gas Operations
Pauline_DeJong@gov.nt.ca

Ms. Cathie Bolstad, CEO
NWT Tourism
executive@spectacularnwt.com

Ms. Brenda Anderson, Executive
Assistant
NWT Tourism
brenda@spectacularnwt.com

Ms. Melanie Harding, Executive
Director
Sahtu Land Use Planning Board
exec_director@sahtulanduseplan.org

Ms. Debora Simmons, Executive
Director
Sahtu Renewable Resources Board
director@srrb.nt.ca

Mr. Don Morin, Chairperson
Spectacular NWT
info@spectacularnwt.com

Mr. Tavis Molnar
Arctic Red River Outfitters
info@arcticred-nwt.com

Mr. Harold Grinde, President
Gana River Outfitters
ganaiver@pentnet.net

Ms. Wendy Grater
Black Feather Wilderness Adventures
and Services
info@blackfeather.com

Mr. Al Pace and Ms. Lin Ward
Canoe North Adventures
info@canoenorthadventures.com

Mr. Calef Staples
Mountain River Outfitters Inc.
calefstaples@gmail.com

Mr. Ted Grant, Simpson Air
Nahanni Mountain Lodge Ltd
info@simpsonair.ca

Mr. Neil Hartling
Nahanni River Adventures Ltd
info@nahanni.com

Mr. Dave and Wendy Hibbard
Nahanni Wild
info@nahanniwild.com
joel@nahanniwild.com

Mr. Travis Wright, President
North-Wright Airways
info@north-wrightairways.com
travis.wright@north-wrightairways.com

Mr. Bob Schnurr
Air Tindi Ltd.
bobsc@airtindi.com

Mr. Steven Jeffery
Ahmic Air Limited
sjeffery@ahmicair.com

Mr. Dennis Rusch
Canadian Helicopters Limited
dennis.rusch@canadianhelicopters.com

Ms. Mareen Churchill
Remote Helicopters (NWT) Ltd.
maureen.churchill@remotehelicopters.com

Mr. Kim Hornsby
Thebacha Helicopters Ltd.
admin@thebachahelicopters.ca

Mr. Jonathan Talon
Denendeh Helicopters Ltd.
jonathan.talon@gsheli.com

Mr. Jonathan Talon
Sahtu Helicopters
jonathan.talon@gsheli.com

Mr. Jonathan Talon
Great Slave Helicopters 2018 Ltd.
jonathan.talon@gsheli.com



Establishment of Ts'udé Niljné Tuyeta territorial protected area under the *Protected Areas Act*

Purpose of the Preliminary Screening

The *Mackenzie Valley Resource Management Act* (MVRMA) establishes an integrated system of land and water management that includes land use planning, environmental impact assessment (EIA) and review, and the regulation of land and water use through associated institutions of public government.

Land use plans define where certain activities can take place and determine the effect of human impacts on the landscape. They are also used to assign special areas of spiritual, ecological or cultural importance for protection, and areas designated for development. In the Sahtú settlement area, land use planning is required as a result of the *Sahtu Dene and Métis Comprehensive Land Claim Agreement* (SDMCLCA), and the process to complete the land use plan is set out in the MVRMA.

Section 2.53 of the SDMCLA and 124(2) of the MVRMA requires the GNWT to conduct a preliminary screening of any development, including the establishment of a territorial park, that it proposes to undertake that is not otherwise subject to permitting or licensing by the land and water boards. This means the GNWT is responsible for carrying out a preliminary screening for the proposed establishment of Ts'udé Niljné Tuyeta as a territorial protected area under the *Protected Areas Act*.

The purpose of the preliminary screening is to determine whether there might be any significant impacts on the environment or significant public concerns with the establishment of Ts'udé Niljné Tuyeta. If the GNWT determines that significant adverse impacts are likely or that significant public concerns exist, it is required to refer the matter to the Mackenzie Valley Environmental Impact Review Board for an environmental assessment. In determining significant adverse impacts, the GNWT will consider the significance of a development's potential adverse effects (e.g. their magnitude, duration, geographic extent and likelihood). Throughout the preliminary screening, the development is examined as a whole, not solely from a regulatory perspective. The GNWT will consider evidence concerning any likely adverse cultural, socio-economic and cumulative impacts over time.

Description of Proposal

Structure of Ts'udé Niljné Tuyeta and Enabling Legislation

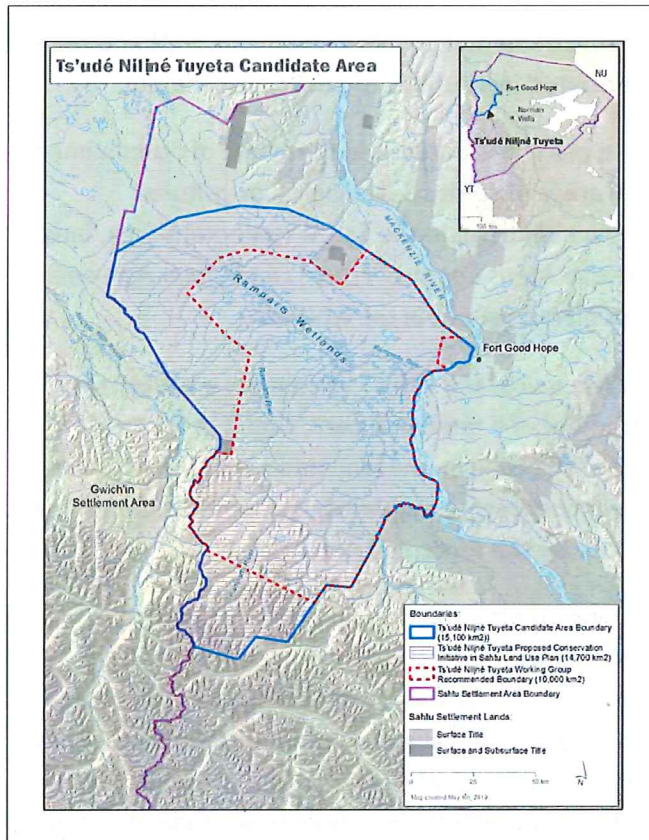
The Government of the Northwest Territories (GNWT) has been collaborating with the Yamoga Land Corporation, Fort Good Hope Métis Nation Local #54 Land Corporation and Fort Good Hope Dene Band to establish Ts'udé Niljné Tuyeta as a territorial protected area using the *Protected Areas Act*. The Act provides for the creation of permanent protected areas to support and promote the protection, conservation and maintenance of biodiversity, ecological integrity and cultural continuity of the NWT.

Location and Map

The map below shows the proposed Ts'udé Niljné Tuyeta territorial protected area within the red dotted line, which is the area described in this Preliminary Screening. This area totals 10,050 km². The



blue line represents the full extent of the original Ts'udé Niljné Tuyeta candidate area (14,629 km²), which is currently zoned as a Proposed Conservation Initiative and is protected under the 2013 Sahtú Land Use Plan (SLUP). Efforts to establish Ts'udé Niljné Tuyeta as a protected area under territorial legislation are being coordinated with the SLUP process and the enactment of the *Protected Areas Act*. Areas outside the red dotted line are to be excluded from the final boundary.



Cultural, Ecological and Socio-economic Values

Ts'udé Niljné Tuyeta (also referred to as Ramparts River and Wetlands) has been identified for several decades by the Sahtú Dene and Métis as an important ecological and cultural area worthy of long term protection. Ts'udé Niljné Tuyeta is of considerable cultural and ecological significance to the K'asho Got'ine Dene and Métis of Fort Good Hope. The diverse landscape, extensive wetlands and plentiful wildlife have supported hunting, fishing, trapping and other traditional activities for generations. The K'asho Got'ine have been stewards of Ts'udé Niljné Tuyeta, and have used the land to pass down knowledge of many sacred places, cultural sites, harvesting areas and traditional trails that are integral to the K'asho Got'ine way of life.

The establishment of Ts'udé Niljné Tuyeta as a territorial protected area will not affect any asserted or established Aboriginal and/or treaty rights within the boundary of the protected area. The rights of Indigenous peoples are protected under the *Constitution Act, 1982* and through the SDMCLCA. The establishment of Ts'udé Niljné Tuyeta territorial protected area is consistent with the SDMCLCA, and will be done in accordance with Chapter 17 - Protected Areas, and Chapter 26 - Heritage Resources.



Ts'udé Niljné Tuyeta also includes recreational benefits and ecological goods and services of value to the residents of the Northwest Territories and others. Many local residents and visitors use the proposed territorial protected area of Ts'udé Niljné Tuyeta for a variety of activities, including fishing, boating (motorized and non-motorized) and sightseeing. It is intended that local residents and visitors can continue to enjoy these activities in Ts'udé Niljné Tuyeta, once established as a protected area.

The final boundary for Ts'udé Niljné Tuyeta territorial protected area represents 67% of the Proposed Conservation Initiative zone, or the original candidate area. Areas with known high mineral potential were excluded from the final boundary after a mineral resource assessment was completed. Ts'udé Niljné Tuyeta territorial protected area excludes 100% of areas with very high zinc-lead and moderate copper potential. Approximately 100% of very high, 77.2% of high and 96% of moderate to high oil and gas potential lands in the Sahtú will be available for exploration and development when Ts'udé Niljné Tuyeta is established. Areas excluded from the proposed protected area that are currently within the Proposed Conservation Initiative zone would be rezoned by the Sahtu Land Use Planning Board after Ts'udé Niljné Tuyeta protected area is established.

With the establishment of Ts'udé Niljné Tuyeta territorial protected area, over two thirds (198,560 km²) of total land in the Sahtú Settlement Area (282,070 km²) would remain unencumbered Crown land available for development in both General Use Zones (25%) and Special Management Zones (42%) in the Sahtú Land Use Plan. These zones allow all land uses, subject to conformity requirements set out in the land use plan.

The GNWT intends to partner with Indigenous governments and organizations to develop and support sustainable and long-term economic and social benefits from the establishment of the territorial protected area. Tourism is anticipated, and the revenue, taxes and employment generated from this industry will be a long-term, sustainable socioeconomic opportunity from which local residents and the territorial economy can benefit.

Governance Structure

Ts'udé Niljné Tuyeta territorial protected area, once established under the *Protected Areas Act*, will be established and managed collaboratively by the K'asho Got'ine of Fort Good Hope (Yamoga Land Corporation, Fort Good Hope Métis Nation Local #54 Land Corporation and Fort Good Hope Dene Band) and the GNWT. The Ts'udé Niljné Tuyeta Establishment Agreement sets out the process for managing Ts'udé Niljné Tuyeta territorial protected area, including establishing a Management Board, and developing and approving a Management Plan. The governance structure will provide an ongoing and meaningful role for the K'asho Got'ine of Fort Good Hope in protecting and managing Ts'udé Niljné Tuyeta. All decisions and management actions in respect of Ts'udé Niljné Tuyeta will be made using the best available information, including Indigenous traditional knowledge and values, local and community knowledge and scientific knowledge.

Visitor Access

Visitation to remote northern protected areas is generally low compared to southern protected areas and parks with road access. It is anticipated the parts of Ts'udé Niljné Tuyeta territorial protected area



adjacent to the Mackenzie River and easily accessible by boat will receive more visitors than the backcountry areas.

The Management Plan for Ts'udé Niljné Tuyeta, once developed, may include provisions regarding registration of visitors to Ts'udé Niljné Tuyeta territorial protected area and provisions to ensure minimal conflict between visitors and traditional uses. Based on the current understanding of visitation and associated recreational activities within Ts'udé Niljné Tuyeta, the projected impact of visitation and associated activities on the ecological and cultural values or the K'asho Got'ine way of life in Ts'udé Niljné Tuyeta is minimal. The Management Plan for Ts'udé Niljné Tuyeta will include provisions to monitor the ecological and cultural values of Ts'udé Niljné Tuyeta.

Prohibited and Allowable Activities

The *Protected Areas Act* sets out certain activities that are prohibited in NWT Protected Areas, including Ts'udé Niljné Tuyeta. Mining and oil and gas developments, including exploration, are prohibited, as are non-renewable and/or large scale energy developments.

The *Protected Areas Act* also sets out activities that are only allowed in certain circumstances. These activities include damaging or destroying vegetation, removing stone, soil or aggregates, gardening, dumping substances that would degrade or alter the quality of the environment, and small-scale renewable energy development.

An activity that is prohibited or restricted under the *Protected Areas Act* does not affect the exercise of an Aboriginal or treaty right in respect of that activity. A person who has an Aboriginal or treaty right within Ts'udé Niljné Tuyeta territorial protected area does not require a permit under the *Protected Areas Act* to exercise that right in the protected area and is not required to pay any fee to do so. If an activity is allowed, it must not substantially alter or diminish the biodiversity, ecological integrity and cultural continuity within the area. Any activity that is allowed may be managed through permits, zoning or conditions in regulations and the Management Plan. Activities that may be permitted include, but are not limited to, sustainable tourism, traditional economies and economic activities related to conservation. Research, monitoring and educational activities will be encouraged within Ts'udé Niljné Tuyeta, as long as they comply with the Management Plan and any terms and conditions. Such activities are expected to have minimal impacts on the ecological and cultural values of Ts'udé Niljné Tuyeta.

All existing land titles and interests in Ts'udé Niljné Tuyeta territorial protected area will continue to exist in accordance with the terms and conditions that are in effect on the date Ts'udé Niljné Tuyeta territorial protected area is established.

Tourism Operator Licences that are in effect within any part of Ts'udé Niljné Tuyeta at the time Ts'udé Niljné Tuyeta is established as a territorial protected area will remain valid for the duration of their terms, provided the tourism operator remains in good standing and is in compliance with all applicable terms and conditions of the Tourism Operator Licence. New applications will be submitted to the Management Board for review and recommendations. Applications for amendment or renewal of a Tourism Operator Licence will be considered and any terms and conditions of the Tourism Operator



Licence must comply with the Management Plan and any policies, including policies developed for the protection of Heritage Resources.

Corridors

The *Protected Areas Act* allows for the development of transportation or transmission corridors through NWT Protected Areas when certain conditions are met. The Establishment Agreement for Ts'udé Niljné Tuyeta territorial protected area allows for the development of future access corridors if there is no alternate route of comparable cost effectiveness and technical feasibility that would avoid Ts'udé Niljné Tuyeta. When considering recommendations related to the proposed construction, use or maintenance of an access corridor, the Ts'udé Niljné Tuyeta Management Board will consider consistency with the Management Plan, potential impact on traditional uses and measures that minimize impacts in making their recommendation. Any future corridor would also be subject to measures set out in the Management Plan, and to mitigation measures identified through preliminary screening, environmental assessment and regulatory permitting under the MVRMA.

Infrastructure

Infrastructure necessary to support the operation of Ts'udé Niljné Tuyeta territorial protected area will include, but not be limited to:

- traditional trails
- patrol, research and monitoring cabins
- administration offices
- operational storage and staging facilities
- equipment necessary to support management and operations
- a visitor and educational facility

This infrastructure may be located within the community of Fort Good Hope and/or within Ts'udé Niljné Tuyeta territorial protected area.

Timeline

An Establishment Agreement with Yamoga Lands Corporation, Fort Good Hope Métis Nation Local #54 Land Corporation and Fort Good Hope Dene Band needs to be finalized and signed, and regulations will need to be put in place establishing Ts'udé Niljné Tuyeta as a protected area under the *Protected Areas Act*.

The establishment process is expected to be complete by September 2019.

Once formally established, a Management Plan for the territorial protected area of Ts'udé Niljné Tuyeta must be created within five years, in accordance with the *Protected Areas Act*. There will be an opportunity for public engagement on the Management Plan. Interim management guidelines may be prepared to guide protected area management prior to the Management Plan being completed.



Public Engagement

The K'asho Got'ine have been working to protect Ts'udé Niljné Tuyeta for decades. During land claim negotiations in the 1990s, the Ramparts River wetlands were identified as an area to be protected from development. Between 2006 and 2012, the K'asho Got'ine worked with Canada, the GNWT, industry representatives and other non-government organizations as a working group under the NWT Protected Areas Strategy (PAS) to identify the values to protect, and to develop boundaries for a future protected area. This conservation planning exercise was done complementary to the development of the regional SLUP, which was finalized in August 2013. Significant public engagement and consultation informed the development of the SLUP between 1998 and 2013, resulting in Ts'udé Niljné Tuyeta being zoned as a Proposed Conservation Initiative, which set the stage for future protected area establishment.

In 2012, as part of the PAS planning process, stakeholder and public engagement meetings took place, along with opportunities for written comments, on the boundaries for the proposed territorial protected area of Ts'udé Niljné Tuyeta.

In 2018, online public engagement on key concepts of Protected Areas Legislation took place. The feedback received was used to inform the establishment agreement for Ts'udé Niljné Tuyeta.

In April and May 2019, the Standing Committee on Economic Development and Environment held public hearings on the *Protected Areas Act*. There was considerable support from Indigenous governments and organizations and environmental non-governmental organizations for the Act, with some minor edits suggested to the content for the Committee to consider.