

NORTH SLAVE MÉTIS ALLIANCE

PO Box 2301 Yellowknife, NT X1A 2P7



June 1, 2009

Alan Ehrlich

Senior Environmental Assessment Officer

Mackenzie Valley Environmental Impact Review Board

200 Scotia Centre. 5102-50th Ave.

Box 938, Yellowknife, NT. X1A 2N7

Re: North Slave Métis Alliance Scoping of Fortune Minerals Nico Project - EA0809-004

The North Slave Métis Alliance (NSMA) has conducted a preliminary review of the project description for the Fortune Minerals Nico Mine Project. As we understand it, the project involves the following components:

- ∞ open pit mine - 1.5km long by half a km wide, and 230 meters deep
- ∞ underground mine
- ∞ removal of a total of 21.8 million tonnes of ore from our land assessed to contain 2.36% cobalt, 0.63% bismuth, 22.5% iron, 16.0% sulphur, 40.8% arsenic, 0.18 ounces per ton (oz/t) silver, and 0.14 oz/t gold.
- ∞ processing plant designed for 1.7Mt per year, for a mine life of 15 years
- ∞ waste rock (81Mt) storage south of the open pit,
- ∞ transportation routes – possible all weather overland road. ?
- ∞ dam structures, a pump house and water management structures
- ∞ a tailings (22Mt) management area,
- ∞ service complex and work camp
- ∞ power generation facilities - Diesel
- ∞ effluent treatment facility
- ∞ waste management facilities
- ∞ Airstrip and site roads
- ∞ storage facilities for fuels, chemicals and explosives.
- ∞ Employment = 141 mine + 84 mill employees, 24x7,365 days/yr. For 15 years.
- ∞ Training
- ∞ Business opportunities
- ∞ Research and monitoring

The following impact matrix indicates the significance we attribute to the predicted impacts resulting from the each project component to each environment component:

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Impact Significance -

mine component on

environment component

	land	air	water	biota	social	economic	heritage culture
open pit mine - 1.5km long by half a km wide, and 230 meters deep	high	med	med	med	med	high	med
underground mine	low	low	med	low	med	high	low
removal of 21.8 million tonnes of gold, cobalt, bismuth and copper ore	low	low	low	low	med	high	low
processing plant designed for 1.7Mt per year - 15 years	high	high	high	med	med	high	low
waste rock (81Mt) storage south of the open pit,	high	med	med	med	low	low	med
site roads	med	med	med	med	low	low	med
transportation routes	high	med	high	high	high	high	high
dam structures	low	low	high	high	low	med	high
water management structures	low	low	high	high	low	med	high
a tailings (22Mt) management area,	high	med	med	med	low	med	high
service complex	high	med	med	med	high	high	high
workcamp	high	med	med	med	high	high	high
power generation facilities - diesel	high	high	high	high	high	high	high
effluent treatment facility	low	med	high	high	med	med	high
waste management facilities	high	high	med	med	med	med	high
Airstrip	high	high	med	high	med	med	high
a pump house	low	low	high	med	low	low	low
storage facilities for fuels, chemicals and explosives.	high	low	med	high	low	low	med
Employment 141 mine + 84 mill employees, 24x7,365 days/yr. 15 years.	low	low	low	low	high	high	med
Training	low	low	low	low	high	high	med
Business opportunities	low	low	low	low	high	high	med
research and monitoring	low	low	low	low	med	med	high

The NSMA also wishes to identify the following community concerns with respect to the scope of the environmental review for the proposed Nico Mine project:

- ∞ The scope of the review must include a credible analysis of the economic impacts on the North Slave Métis, including direct, induced, and cumulative effects.
 - The NSMA community has a very significant socio-economic concern about non-renewable resource depletion, made many times worse by the fact that our property rights in the resource are receiving no recognition. Once the resources

- are removed, the option for the Métis to develop them in the future, under more favorable economic conditions, is foreclosed forever.
- There were Métis prospectors, geologists and miners (Salt River Salt mine, owned by Francois Beaulieu II was the first mine in the NWT, and Charles Camsell was Métis) in the NWT well before Europeans established effective control over mineral resources, and the Métis have a strong claim to mineral resource management and ownership rights within their territory. If non-renewable resource development projects could be delayed until after the Métis comprehensive claim in the North Slave Region is settled, the potential benefits to the North Slave Métis could be immense.
 - The purpose of this project is to remove 514,480 tonnes of cobalt (\$USD 20-50/lb, 2,204.62262 lbs = 1 tonne, roughly \$57 Billion USD), 137,340 tonnes of bismuth, 4.9 million tons of iron, 3.5 million tons of sulphur, 8.9 million tons of arsenic, 3.4 million ounces of silver (\$USD 15/oz – \$51 million USD), and 3 million ounces of gold (getting close to \$USD 1,000/oz = \$3 Billion USD) from our traditional lands. The in-situ value of these resources, to us, has not been calculated, and therefore our opportunity cost (not being able to develop our own resources) is unknown. We have no idea when Canada will complete a revenue sharing agreement for resource royalties and other taxes and revenues with the NSMA. Presuming that we are legitimately entitled to a minimum of 1% of the gross resource value as our share of the royalties, as the Aboriginal Title holders to the lands, with subsurface rights, we should expect somewhere in excess of \$600,500,000.00 over the 15 year project as proposed, or \$40 million a year, without having to lift a finger. This will be a very extremely significant economic loss to us if the project goes ahead ignoring our rights.
 - Conversely, and controversially, the Tlicho do receive tax and royalty income if these resources are developed now. This is obviously not an equitable situation, and one of the more important principles of both democracy, and sustainable development is the concept of equity.
 - ∞ The scope of the review must include not only the construction of the road(s), but its (their) ongoing use and maintenance, and induced development that will occur as long as we can imagine into the foreseeable future.
 - Road building fragments fish, bird, and wildlife habitat encourages invasive species, increases ease of access and harvesting pressure, disrupts waterways, damages or destroys habitat, creates emissions of noise, odours and dust, increases risks of accidents and spills, and changes the aesthetic and economic properties of the surrounding area.

- Métis heritage and cultural resources may be placed at risk of damage or destruction directly through construction activities, but also on a long term ongoing basis as a result of increased access. No one other than the Métis are competent to identify Métis heritage and cultural resources, or to determine the proper means of protection. Without meaningful participation in the identification and management of Métis cultural and heritage sites, the perception of damage to Métis sites will remain.
- Increased ease of access to Métis territory will cause an increase in development interest and harvesting pressure by others (such as has happened with the Ingraham Trail), and is an infringement of the North Slave Métis People's Constitutionally protected Treaty 11 right to protection from white competition, as promised by Commissioner Conroy, guaranteed by the solemn Word of Honor of Bishop Breynat, and witnessed by a number of officials present at Treaty 11 signing in Fort Rae in 1921. (Fumealeau, 1944. As Long as This Land Shall Last.)
- North Slave Métis use of their territory in the vicinity of any new road will be affected by the real and perceived increase in competition, crowding and safety risks. This impact can not be alleviated by industry or government assurances, as there exists a serious and longstanding lack of trust between the Métis and those who have demonstrated they intend to expropriate Métis property without compensation, and who habitually ignore Métis rights.
- Road access encourages lazy, reckless hunters and creates a safety concern for traditional hunters within rifle range of the road.
- Roads both attract and create mortality risks for ungulates, and can affect wildlife abundance and behaviour.
- ∞ The scope of the review should include the production, transportation and burning of diesel.
 - Burning diesel emits noise, odours, greenhouse gasses, and particulates.
 - All of the above are environmental contaminants which can affect the wellness and plants, animals, fish, birds and other land, air or water biota, including humans.
 - All of the above are a nuisance to the Métis owners, occupants, and users of the lands, waters and natural resources in the vicinity of the project.
 - The release of the contaminants to Métis land, air and water, and the contamination of Métis foods, medicines and materials, is an infringement of the North Slave Métis People's Constitutionally protected Treaty 11 right to freedom from interference with their way of living, as promised by Commissioner Conroy, guaranteed by the solemn Word of Honor of Bishop Breynat, and witnessed by a

number of officials present at Treaty 11 signing in Fort Rae in 1921. (Fumealeau, 1944. As Long as This Land Shall Last.)

- The North Slave Métis People also have an inherent existing Aboriginal Right to an unaltered natural environment, protected by section 35 of the Constitution of Canada. But, the North Slave Métis will not be able to use the air, land, water, or natural resources in the vicinity of the project that are affected by the diesel emissions, at least not as formerly.
- Due to a long history of Métis oppression by colonial interests, and ongoing community mistrust, it is unlikely that scientific measurements, government inspections, and industry assurances will be sufficient to alleviate the perception of contamination. Interference with the Métis way of living in the vicinity will continue as long as the perception of contamination remains, whether the perception is accurate or not.
- No one other than the Métis are competent or authorized to assess the magnitude and significance, to the Métis, of the odour and noise emissions, or the significance, to the Métis, of the greenhouse gas and particulate emissions.

A copy of our February 28, 2009 intervention to the Wekheezhii Land and Water Board is attached for additional reference. It addresses non-renewable resource depletion, heritage and cultural impacts, interference with traditional use, socioeconomic impacts, biophysical impacts, and aesthetics. Given more time and resources, we would be pleased to expand significantly on each of our points of concern. Also, with further discussion and review we would likely identify additional concerns.

The North Slave Metis Alliance (NSMA) submits these comments as the duly elected representative of the indigenous North Slave Métis People who have continuously “used and occupied” the North Slave area of the Northwest Territories (NWT) since before Europeans “established effective control” of the area. This means the indigenous North Slave Métis People possess Aboriginal Rights and Titles to the lands and resources throughout the North Slave region of the NWT.

As well, about seventy-five of those roughly ninety Métis families¹ in the area “took Treaty” at Fort Rae, in 1921, which means that most, if not all, North Slave Métis also possess Treaty Rights throughout the Treaty 11 area. The area identified for Treaty 11 started at Fort Providence, went up the Deh Cho (Mackenzie River) to Great Bear Lake, then across to Contwoyto Lake, encompassing Aylmer River, Artillery Lake and Snowdrift, then followed Great Slave Lake back to Fort Providence, which includes the area relevant to this application. The terms and conditions of the treaty included promises that;

¹ Treaty Research Report, Treaty Eleven (1921) INAC 1986. QS-3440-000-EE-A1

- nothing would be allowed to interfere with their hunting, trapping, and fishing;
- the old and destitute would be cared for;
- they would be protected from white competition; and
- they would continue to live their lives as formerly, without interference, as long as the grass grows and the rivers flow.

Treaty 11 has never been properly implemented, although the Métis kept their part of the bargain by allowing settlers, miners, and lumberpersons to share the lands peacefully. Many members of the 15 "old, respected, and even historic" North Slave Métis families that chose to accept Scrip instead of Treaty may never have received it. The Yellowknife Game Preserve was abolished without adequate consultation, accommodation or compensation.

With all this in mind, the NSMA takes its representative mandate seriously, and must continue to ensure it is "consulted and accommodated," on any and all forms of activities planned or underway by public and private sector organizations, wishing to or undertaking activities on its traditional lands.

Please contact the undersigned by email if you have any further questions in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sheryl Grieve', with a stylized, cursive script.

Sheryl Grieve
Manager, Environment and Resources
lands@nsma.net

NORTH SLAVE MÉTIS ALLIANCE

PO Box 2301 Yellowknife, NT X1A 2P7



Mark Cliffe-Phillips
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Wek'eezhii Land and Water Board
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February 28, 2009

Re: Fortune Minerals Nico Project Applications for Land Use Permit (W2008D0016) and Water Licence (W2008L2-0004)

Dear Mr. Cliffe-Phillips,

The North Slave Metis Alliance (NSMA) acknowledges receipt of your request for comments regarding the application by Fortune Minerals to conduct a mining and milling project in the vicinity of Lou and Nico Lakes, within the North Slave Métis traditional territory, and submits the following comments for your consideration during the environmental screening of this project.

Non-renewable resource depletion: The North Slave Métis Alliance asserts Aboriginal and Treaty Rights to the beneficial use and management of all resources within its territory. That territory extends from Great Bear Lake to Great Slave Lake, and from the Mackenzie River to Contwoyto Lake, in Nunavut. This project is right in the middle of our territory, and will remove a valuable resource that will no longer be available for our use. Since our comprehensive claims have not yet been settled, our entitlement to a share of the resource royalties, taxes, land use fees, and water use fees is not certain to be respected. This is a potential permanent negative socio-economic impact on our People of extreme significance. Having our natural resources taken from us without compensation is an impact to our social, economic, health and political wellbeing. There is a great deal of concern in the NSMA community about the inequitable allocation of benefits and costs of development, and discrimination against Métis.

Heritage, historic, cultural and archaeological resource impacts: There has been no assessment of potential impacts to Métis heritage, historic or cultural resources. The proponent's consultant, Golder, used only John Mantla, a Tlicho Dene from Rae, for advice when attempting to locate sites and interpret their significance. Likewise, only a Dogrib First Nation Representative participated in the resource assessment program. The section of the 2003 Heritage Resource Assessment report dealing with cultural context does not even mention the fact that the area has been occupied for centuries by Métis. Despite the discovery of various sites with doghouses, tent frames, evidence of trapping, graves and cemeteries, cabins, chimneys, claim posts, and even a survey marker, the pivotal role of the Métis in introducing these types of artefacts to the region, and helping to bring (arguably) culturally appropriate social and economic development to the Dene, over the past few centuries, is not even discussed. The possibility that the cut lines and old claim posts either belonged to or were established by Métis prospectors is also not considered. This needs to be further investigated.

Golder's 2003 report states that the project "will have a negligible effect on significant heritage or cultural resources" because the traditional use sites in the area do not meet the criteria for being formally recorded as archaeological sites. There are many sites of high interest to the Métis that do not (yet) meet those criteria. As well, some of the sites visited in 2003 which did not qualify then, might qualify now. We do not want our sites destroyed just because they are 20 or 30 years old instead of 50. We do not agree with the arbitrary use of that number of years to identify artefacts of historic, heritage, or cultural significance.

The NSMA is extremely concerned that our heritage and cultural resources may be at risk, and have not been evaluated. We must be involved in any such evaluation.

The NSMA is extremely vulnerable, culturally, due to the ongoing dispersion of our population and discrimination against Métis culture. Because of the Crown's incorrect interpretation of the Indian Act (which is still under litigation with regards to the Métis, but which has been settled, in a Supreme Court case, in favour of the Inuit). Canada has, for the past few decades, supported the preservation of Dene languages, but not Michiff. Canada has supported the health care, social services and housing for Dene residents to remain in their small isolated communities (which were established and built in the first place by Métis), but not supported the Métis. If this project goes ahead without an in-depth assessment of the cultural, heritage and social impacts on the Métis, there is an extremely high probability of irreversible harm to an already endangered aboriginal culture. There is certainly a high degree of concern in the Métis community. No mitigation has been proposed or considered.

Interference with traditional use: NSMA members are entitled to practice their traditional activities throughout their territory, but they will not be able to do it in the vicinity of this project for the life of the mine and for an unknown period of time before and afterwards. There has been no attempt to quantify or mitigate this interference with their land and water use rights, or harvesting rights.

Socio-economic impacts: The assessment of the proponent does not address the highly probable inequitable distribution of employment, business, and training or education benefits. The proponent apparently presumes that current residential proximity to the project site is the source of entitlement to benefits, rather than existing aboriginal and treaty rights, which are protected by our Constitution. There seems to be no real effort to identify the particular Aboriginal Communities within the City of Yellowknife who have constitutionally protected land, resource and self-governance rights. It is not current residency, or length of historic residency, but the fact of occupation at the time of "effective European control" which determines who does, or does not, hold those rights. Resource depletion is also not considered.

Biophysical effects: We are concerned about the chemicals that will be used in the process plant, and their transportation to the site. We are concerned about dust, physical dangers, sharp rocks, water contamination, vegetation contamination and destruction, noise, smoke, and interference with fish, bird and wildlife behaviour and health.

Aesthetics: The area of this project is exceptionally beautiful, and of high scenic value. This needs to be preserved, but we are not certain that it will be possible to **restore** the site completely after 15 years of mining, and so much movement of rock. Besides the visual aesthetics, we also value the smell, taste, and feel of the land, vegetation and waters. We need to be fully consulted

on closure objectives, options, and criteria, and compensated for any changes to the environment – both temporary and permanent.

The NSMA submits these comments as the duly elected political representative of the indigenous North Slave Métis People who have continuously used and occupied the area since well before Europeans implemented effective control over the management of water use, and who therefore possess existing Aboriginal Rights and Aboriginal Titles to the lands, waters, and resources in the area of this project. About seventy-five out of the estimated ninety North Slave Métis families occupying this area in 1921 also participated in the signing of Treaty 11 at Fort Rae, and therefore also possess existing Treaty Rights. **These existing Aboriginal and Treaty Rights are protected by section 35 of the Constitution of Canada.**

The North Slave Métis People hold and continue to exercise communally held rights to use water for domestic, instream and commercial purposes, as an Aboriginal group who shares occupancy, use and ownership rights in the land while practicing activities similar in nature to trapping, hunting and outfitting concessions. **Our People are therefore entitled to compensation for any interference with these rights, as provided for in section 14(4)b and section 14(5) of the NWT Waters Act.**

The NSMA takes its representative mandate seriously, and must ensure it is “consulted and accommodated,” on any and all forms of activities planned or underway by public and private sector organizations, wishing to or undertaking activities on its traditional lands.

Our comments here have been brief, based upon our expectation of a referral to the Mackenzie Valley Environmental Review Board for environmental assessment.

If you have any questions regarding this intervention, please do not hesitate to email me at the address provided below.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sheryl Grieve', with a stylized, flowing script.

Sheryl Grieve, B.Sc.
Manager of Environment, Lands and Resources
lands@nsma.net