

TECHNICAL REPORT

Regarding the proposed

FORTUNE MINERALS NICO PROJECT



Submitted August 2nd, 2012

Plain Language Executive Summary

The North Slave Métis Alliance (NSMA) represents the Aboriginal rights-bearing Métis of the Great Slave Lake area, who use and exercise their Aboriginal rights primarily in the area north and east of Great Slave Lake, NT. The North Slave Métis have continuously “used and occupied” their traditional lands from the seventeenth century to the present time. Métis settlements existed long before Europeans “established effective control” of the area. This means the North Slave Métis people possess Aboriginal rights and title to our traditional lands and the resources on our traditional lands, including the right to manage those lands and resources, which are recognised and protected under section 35 of Canada’s Constitution Act (1982). Our Aboriginal Water Rights are further protected by sections 14(4) b and 14(5) of the NWT Waters Act. Despite the fact that Canada has not yet begun negotiations with us to define the extent and application of our rights, we can look to the United Nations Declaration on the Rights of Indigenous Peoples, and the Declaration of Human Rights, which Canada has endorsed, for guidance. We also rely on the 2003 Powley Decision of the Supreme Court of Canada, and other Canadian jurisprudence.

The NSMA has been registered as a non-profit society in the Northwest Territories since 1996, for the stated purpose of negotiating a regionally based comprehensive claim centered in the North Slave Region of the Northwest Territories. Prior to that, our members were represented in the 1975-1990 Dene-Métis Comprehensive Claim negotiation process by the Métis Nation of the Northwest Territories¹ (MNNWT) which was formed in 1972 to represent all indigenous Métis in the Northwest Territories. This organisation was disbanded after the Final Agreement was rejected, and the pan-territorial process was abandoned in favor of the pursuit of regional claims. The North Slave Métis was endorsed by the MNNWT as the North Slave Regional Métis land claim organisation before it was disbanded.² It is also important to note that the Tlicho Agreement contains a non-derogation clause which states in section 2.7.1(b)(ii), General Provisions, that “No provision in the Agreement shall be construed to affect any Aboriginal rights of any Aboriginal people other than the Tlicho.”

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

The NSMA is concerned about Fortune Minerals proposed Nico project because it is in the center of the traditional territory the North Slave Métis, and will interfere with North Slave Métis Aboriginal Rights. Fortune’s project will deplete non-renewable mineral resources to which the North Slave Métis have Aboriginal Rights. The Nico project will also impact the availability and quality of renewable resources, including air, water, soil, vegetation, and

¹ This is NOT the same organization as the current-day Northwest Territory Metis Nation (NTMN), previously known as the South Slave Métis Tribal Council, formed at the same time as the NSMA, also as a result of the decision to pursue regional instead of pan-territorial claims and the disbanding of the MNNWT.

² 1996-07-07 Metis Nation – Northwest Territories 24th Annual General Assembly Resolution #4. (attached)

wildlife, to which the North Slave Métis also have Aboriginal Rights. The exclusive nature of a land lease excludes NSMA members entirely from portions of their traditional lands. Public safety issues will prevent North Slave Métis from exercising their Aboriginal Hunting Rights near the lease or roads. North Slave Métis community perceptions of overcrowding, competition, resource scarcity and environmental contamination will interfere with traditional use throughout the harvested range of each wildlife species, not just in Fortune's study areas.

These impacts are significant, and cumulative. The North Slave Métis are already severely disadvantaged and vulnerable due to the historic and ongoing discriminatory legislation, policy, and practices of the Canadian, Territorial and Local governments. Inequitable allocation of benefits and costs of development will exacerbate the NSMA's already severely oppressed status. Preferential treatment for Status Indians negatively impacts pride in Métis identity and culture, governance, economic status and even community membership.

Capacity issues prevent us from going into depth on all of our issues. This report will attempt to follow the format template provided by the Board, and will focus on, and be organized according to the following issues:

- ∞ Impacts on traditional use of water
 - Water Quality objectives, criteria and monitoring unacceptable.
 - Water Quantity and Rate of flow not adequately described.
 - Uncompensated interference with Aboriginal water Rights directly, and indirectly, past, present, future and cumulative impacts.
- ∞ Impacts traditional use of air.
 - Inadequate predictions, monitoring, standards, and enforcement.
 - Unmitigated interference with Aboriginal Environmental Quality Rights.
- ∞ Impacts to traditional use and ownership of land.
 - Interference with Aboriginal Use and Occupancy Rights, past, present, future and cumulative impacts.
 - Permanent depletion of non-renewable mineral resources.
 - Temporary and permanent changes to vegetation and terrain.
 - Uncertainty regarding roads.
- ∞ Impacts on traditional use of wildlife.
 - Failure to address Boreal Caribou
 - Unacceptable risks to Bathurst Caribou
 - Inadequate consideration of other wildlife
 - Temporary and potentially permanent changes to wildlife habitat, productivity, quality.
 - Inadequate consideration of Cumulative impacts – especially associated with roads.
 - Interference with Aboriginal Harvesting Rights.
- ∞ Impacts on traditional culture and traditional economy.
 - Inequitable distribution of benefits and costs
 - Failure to provide community specific impact predictions and mitigations, and failure to address disadvantaged and vulnerable populations.
 - Impacts to community cohesiveness, cultural pride, and governance.
 - Heritage resource impacts and uncertainty associated with roads.

In terms of significance assessment, we have rated the above noted impacts as below:

VEC	DURATION	EXTENT	SEVERITY	SIGNIFICANT
Water	120 years	unknown	severe	significant
Air	20+ years	10 ha	Unknown	Potentially significant
Land	Forever	~ 100 ha	severe	significant
Wildlife	Unknown	Unknown	severe	significant
social	forever	regional	severe	significant

In summary, the NSMA concludes that this proposed project poses known significant impact risks to the environment that are unmitigated or inadequately mitigated, as well as unknown risks that are potentially significant. This project could easily be rejected based on the uncertainty of the duration and extent of wildlife and wildlife harvesting impacts, specifically boreal and barren-ground caribou, especially considering the uncertainties surrounding access roads. However, at this time, we recommend ordering an Environmental Impact Review, with instructions that Fortune fill information gaps, provide missing predictions and mitigations and improve the certainty of proposed mitigations, to reduce the significance of residual impacts to an acceptable level – “acceptable” meaning, of course, with our free, prior and fully informed consent. Our detailed rationale follows.

IMPACTS ON NORTH SLAVE MÉTIS TRADITIONAL USE OF WATER.

DEVELOPER'S CONCLUSION

Fortune predicts that water quality will be impacted by fugitive dust emission and treated effluent from the project as far downstream as the Marian River. Fortune proposes to use an ion exchange effluent treatment facility to reduce concentrations of aluminum, ammonia, antimony, arsenic, cadmium, cobalt, iron, lead, selenium, and uranium to meet site-specific water quality objectives at the end of pipe. The site-specific water quality objectives are based on toxicity levels which allow concentrations of aluminum, iron and arsenic in Nico, Peanut and/or Burke Lake to become elevated to levels that could cause toxicity during operations. Chromium, mercury, silver and thallium in Nico and Peanut Lakes may become elevated to levels that exceed CCME guidelines during operations. Most contaminants are elevated above baseline concentrations. (AANDC Technical Report, page 5)

Even though metals are predicted to exceed CCME guidelines in the Marian River, Fortune believes this is not significant because the incremental change is within the range of natural variation and toxicity levels are not exceeded. (DAR 7-16)

“.....concentrations of **mercury** may exceed the CCME guideline value of 0.000026 mg/L in **Nico Lake** following closure...” “**beryllium** concentrations in **Nico Lake** are predicted to increase during operations and continue to increase post-closure to levels 7 to 10 times higher than average baseline concentrations.”

“**Barium** concentrations are predicted to increase by up to 50% and 32% in **Peanut Lake and Burke Lake**, respectively, during operations and remain 22% and 10% higher, respectively, than baseline concentrations post-closure;” **Beryllium** concentrations in **Peanut Lake and Burke Lake** are expected to increase from baseline concentrations by up to 420 and 230%, respectively, during operations and remain up to 300 and 150% higher, respectively, than baseline concentrations post-closure”;

“Concentrations of **aluminum, arsenic, beryllium, cobalt, copper, iron, selenium, and silver** in the **Marian River** are predicted to increase by up to 60% relative to baseline conditions during the construction and operations”; “Concentrations of **antimony, lead, molybdenum, and thallium** are predicted to remain elevated in the **Marian River** post-closure relative to baseline...”; (DAR section 7)

Fortune considers the cumulative effect of its project together with the existing Rayrock mine is to be negligible because Rayrock is 15 km downstream of Fortune's project on the Marian River, and the toxicological impacts on fish are not expected to be additive. Cumulative impacts with the Colomac site are considered non-existent because it is in a different drainage system.

Fortune concludes that there will be no significant effect on traditional use of water or fish as a result of their project. Their rationale is that there must be significant toxicological effects to fish to result in a significant impact on traditional use.

Fortune considers that impacts must be of a high magnitude risk to aquatic health, and irreversible at the regional scale to be considered significant.

“Changes to the biophysical environment are not predicted to result in significant adverse residual impacts to water quality, fish and fish habitat, Consequently, the NICO Project is not predicted to have significant adverse impacts on the traditional and non-traditional use of these ecological services.” (DAR summary and conclusions, pg. 20-1)

NSMA’S CONCLUSION

The NSMA has not had the opportunity to evaluate these predictions due to limited capacity, but disagrees with Fortune’s conclusions about the significance of the effects on water quality and fish, the effects on traditional use of water and fish, and the cumulative effects on water, fish, and traditional use.

The NSMA does not agree with the method Fortune used to determine site-specific water quality criteria.

The NSMA does not agree with Fortunes rating system for significance of effects.

The NSMA considers the direct, indirect, short term, long term and cumulative impacts to water, fish, fish habitat, and to NSMA’s traditional use of waters, as proposed, to be significant.

It may be possible to mitigate these significant adverse effects on the value of water for traditional use.

RATIONALE (references)

The NSMA is of the opinion that any measurable (substantial) reduction in water quality, quantity or rate of flow to waters in our traditional territory is significant if it occurs without our free, prior and informed consent. The NSMA has consistently insisted that Fortune consult and accommodate the NSMA for impacts to their water rights³.

The North Slave Métis possess Aboriginal Water Rights which includes “the right to have the quality, quantity and rate of flow of waters throughout their territory remain substantially unaltered by any person”. Most modern treaties in Canada limit Aboriginal Water Rights to

³ 2009-06-01 NSMA submission to MVEIRB scoping Fortune Nico (already on the record)

waters on or adjacent to their Settlement Lands. However, since the NSMA has not signed any final agreement, our water rights continue to exist throughout our entire traditional territory.⁴ Internationally, Canada has endorsed the 2007 United Nations Declaration of Indigenous Rights, which states in Article 32:

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

*2. States **shall consult and cooperate in good faith** with the indigenous peoples concerned through their own representative institutions in order to obtain **their free and informed consent prior** to the approval of any project affecting their lands or territories and other resources, **particularly in connection with the development, utilization or exploitation of mineral, water or other resources.***

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

In addition, for any “substantial interference” with their existing water rights, the North Slave Métis community, as represented by their duly elected representative organisation the NSMA, is entitled to reasonable compensation under sections 14(4) b and 14(5) of the NWT Waters Act. All members of the NSMA share communal ownership and occupancy rights to their traditional territory. All NSMA members have a right to use waters and deposit wastes within their traditional territory for domestic use, trapping, hunting, fishing, gathering and other traditional uses.

NSMA members will be prevented from using waters in Nico, Peanut and Burke Lakes due to contamination from mine effluent discharges. They will also be deterred from using Bea, Hislop, Rabbit, Tumi, Betty Rae, Treasure and Lou Lakes due to perceived or suspected risks of contamination. They will also be deterred from using Marian River from approximately Tumi Lake to Squirrel Lakes, if not further downstream, due to real and perceived risk of contamination. The Marian River has a very high heritage value to the North Slave Métis, and any negative impact on this historic water trail is considered significant.

The total area where NSMA traditional water use will be negatively affected is much greater than the mine footprint as calculated by Fortune, and is a significant size. This assessment does not even take into account the negative impacts of water use along the access road and hypothetical new Tlicho road.⁵

The degree of change to water quality proposed by Fortune is substantial, cumulative and perpetual, and would therefore be considered significant even in the absence of Aboriginal

⁴ 1982 Constitution Act. Section 35.

⁵ NSMA Traditional Land Use, Occupancy and Knowledge Report for Fortune’s Nico Project. In print.....

Water Rights. Others share our desire to maintain water quality, quantity and rate of flow in its unaltered natural state. Both the federal and territorial governments have published statements in support of the maintenance of water quality at a natural level,

“Waters that flow into, within or through the NWT are substantially unaltered in quality, quantity and rates of flow.” – Goal of the NWT Water Stewardship Strategy (AANDC and GNWT, 2010)

“For waters of superior quality or that support valuable biological resources, the CCME non-degradation policy states that the degradation of the existing water quality should always be avoided.” (CCME, 1999)

The “measurement” of reduced water quality must include cultural perceptions and preferences as informed by the traditional knowledge of the North Slave Métis community, and not only biological and chemical data. Community perception of un-natural waters, dirty waters, or off-limits waters can have a negative effect on traditional use of water in the area.⁶

The NSMA has not completed a detailed analysis of the calculations upon which the water quality predictions were made, but disagrees with the use of toxicity levels as default site specific water quality objectives. A “limits of acceptable change” framework is preferred, based upon cultural preferences and financial considerations, as well as toxicological information and aesthetics. We consider natural pre-impact conditions as baseline conditions to be the default site-specific water quality objectives, and we assert that any change from baseline requires justification and consent.

The NSMA disagrees with Fortune’s conclusion that a 60% increase in already high metal concentrations in Marian River is insignificant. The high level of background variability during open water season might be explained by a forest fire. An influx of contaminants resulting from a one-time event should not be used to set a standard for ongoing discharges that will last 20 years or more. Data collected during unpredictable “acts of God” such as forest fires should be used in worst case scenario modelling, but not used for establishing an average baseline. Overall contaminant loading and timing of discharges should also be considered. If there is a natural surge of contaminants during freshet, for example, then discharges should be timed to occur also at freshet.

The NSMA disagrees with the method Fortune has used to analyze cumulative effects. Whether or not contaminants from two projects actually mix together in one water body is an overly simplistic analysis that does not address the increasing number of impacted water bodies within NSMA’s traditional territory, or the increasing proportion of impacted versus natural water bodies, for each type of water body. Impacted water bodies should be classified by type of water body, and type and level of impact, and then analyzed according to the negotiated

⁶ NSMA Traditional Land Use, Occupancy and Knowledge Report for Fortune’s Nico Project. In print..... 2001, NSMA. Can’t Live Without Work. (already on the record)

limits of acceptable change. The use of traditional knowledge is essential in determining types of lakes, rivers and wetlands, as well as in classifying impact types and magnitude, and in determining acceptable limits of change. There are only a few large, navigable and culturally significant rivers in NSMA territory. It is important to protect them and not allow them to be treated the way that rivers are treated in the south.

RECOMMENDATIONS

- ∞ Fortune should be required to negotiate water quality criteria, including closure criteria, with the NSMA and other Aboriginal Water Rights holders, according to the limits of acceptable change framework. Social, cultural and economic considerations should be considered, including reasonable compensation for substantial alterations in water quality.
- ∞ Fortune should be required to fund an independent watchdog agency with a mandate to monitor community perceptions of change in quality (traditional value) of water. This monitoring would include the performance of traditional activities using water, such as tea boiling and tasting, fish netting and tasting, swimming, washing, canoeing, drinking, and cooking. It will also incorporate monitoring of aesthetics such as visual, olfactory and auditory perceptions, and other cultural values.
- ∞ Fortune should be required to use traditional knowledge in the assessment of cumulative effects, and consider numbers of impacted water bodies in the traditional territory as well as the size of impacted water bodies and the magnitude of existing and future impacts.
- ∞ Fortune should be required to manage their discharges to be compatible with the natural flow pattern of the Marian River.

IMPACTS ON NORTH SLAVE MÉTIS TRADITIONAL USE OF AIR.

DEVELOPER'S CONCLUSION

During operations, the project is expected to pollute the air with emissions from fuel combustion and dust. Nitrogen dioxide will exceed “applicable standards” 250 m inside the project lease boundary, or 1.7 km from the center of the lease area. The maximum predicted particulate concentration is expected to exceed the “applicable standard” outside the lease boundary up to 39 days per year. The applicable standards and identification of monitoring requirements are not developed, and are expected to be dealt with during permitting.

Human, caribou and fish health are expected to be affected by air quality changes, but the effects are considered negligible. There is no discussion of dioxin or furan emissions related to incineration of garbage, freon emissions related to air conditioning, or any emissions related to processing chemicals, milling, cleaning products, paints, etc. We found no discussion of behavioral or aesthetic impacts on people, fish, wildlife or birds from dust, visibility, vibrations, or odors, except that noise will exceed benchmarks at night, and will not return to background levels for 3.3 km from mine operations.

Assessed negligible impacts on human health from airborne exposures to contaminants, negligible exposure through wildlife ingestion. Negligible noise. No incinerator management plan.

NSMA'S CONCLUSION

The NSMA does not consent to these expected air quality impacts, and there is community concern about potential unexpected impacts.

Inadequate predictions, monitoring, standards, and enforcement.

Unmitigated interference with Aboriginal Environmental Quality Rights.

RATIONALE (REFERENCES)

Human health is not the only concern with air quality. There is also concern about aesthetics, impacts to vegetation, wildlife behavior impacts.

No one is really responsible for monitoring and enforcing air quality.

Incineration can release dioxins and furans.

RECOMMENDATIONS

- Predictions should be made for dioxins, furans, odors, visibility.
- Engagement is needed obtain fully informed consent to impact Aboriginal Environmental Quality Rights.
- Certainty is needed regarding the regulator and enforcement

DRAFT

IMPACTS ON NORTH SLAVE MÉTIS TRADITIONAL USE AND OWNERSHIP OF LAND.

DEVELOPER'S CONCLUSION

Fortune noted, correctly that the North Slave Métis Alliance's asserted aboriginal rights in the area of the project have not yet been recognized by Canada. Other than that, Fortune has not addressed the issue of disputed property rights, or the depletion of non-renewable resources.

Site management and environmental monitoring will continue until the site meets all closure conditions. But no independent monitoring or oversight of monitoring and no monitoring of traditional use.

No compensation for loss of use, temporary or permanent.

NSMA'S CONCLUSION

The North Slave Métis Alliance has consistently asserted our Aboriginal Rights and Titles in the area of the Nico project. Free, prior and fully informed consent is required before Fortune has the right to use or remove resources from our lands.

RATIONALE

There has already been significant interference with North Slave Métis use and occupation of this part of their traditional territory, starting in 1923 with the establishment of the Yellowknife Game Preserve for Treaty Indians only, and becoming progressively worse as government implemented social assistance, housing, education, and health care programs exclusively for Treaty Indians, making it extremely difficult for Métis to remain and thrive in the so-called Tlicho communities of Rae Lakes, Lac La Martre, Fort Enterprise, and Fort Rae, even though each of those communities were originally established, governed, and populated almost exclusively by Métis. Crown issued tenures, such as for the Colomac mine (1989-1999), the Snare Lake Hydro Project, and Fortune's exploration activities, along with the settlement of the Tlicho Comprehensive Claim, have all served to further discourage Métis use of the area. **The impact is already severe, and needs to be remediated, not exacerbated.**

The **Traditional Land Use and Knowledge Study** conducted by the NSMA, funded by Fortune, demonstrates that although individual members of the North Slave Métis community do continue to use the land and harvest resources in the area of the proposed Fortune Nico project, they are strongly discouraged from doing so, and they do not generally know what the rest of the community is doing, or where. **NSMA members are in general poorly informed or disturbingly misinformed about their aboriginal heritage and property rights.** There is a prevalent misperception among NSMA members that they are no longer allowed to occupy and use the lands and waters, or harvest natural resources, in "Tlicho territory" or on so-called

“Tlicho Lands”. Métis settlements have, by virtue of government subsidies and policies, been expropriated and given to others.

The North Slave Métis community is in a severely disadvantaged state, especially in comparison to the Tlicho who have a settled land claim, recognised land and resource rights, traditional knowledge programs, land use and resource management authority, language programs, schools of their own, subsidized governance infrastructure, and much much more. These disadvantages make the **North Slave Métis community particularly vulnerable** to impacts, especially considering that they have **not yet recovered from the genocidal policies and practices of the residential school system and the Indian Act which have cost them several generations of cultural and heritage transmission.**

Closure of the project will occur within two years following the end of operations. Most, but not all infrastructure will be removed, however the final closure condition will not be achieved for approximately 120 years after closure, since the open pit will take that long to fill and begin flowing over. At closure, the flooded open pit, the constructed wetlands, the seepage collection ponds, surge ponds, and excavated ditch, totalling **84 ha, will not be reclaimed**, all of which will fill with water, eventually. The tailings area will be covered by half a meter of overburden on top of a quarter meter of sand. The vegetation is expected to recover within 75 years.

Changes to the biophysical environment are not predicted to result in significant adverse residual impacts on terrestrial or or aquatic ecosystems, and therefore also not predicted to have significant adverse impacts on the traditional and non-traditional use of ecological services. The NSMA does not agree with Fortune’s logic. Traditional use can be significantly impacted at the levels of impact that Fortune deems to be insignificant. 84 ha is a significant amount of land to be left impacted, and reclamation is not the same as restoration. **Any difference between pre-existing natural conditions and environmental conditions after reclamation will have an effect on traditional use, and particularly on the aesthetic values of the land and resources.**

Given the history of colonialism in the north, the present marginalisation of Métis from management of their lands and resources, and the inequitable distribution of benefits and costs of development, there is a very significant concern within the North Slave Métis community about allowing companies to self-regulate. There is even concern about conflict of interests between the different roles that AANDC plays in northern development. There is an obvious conflict between the rent-collecting landlord and the fiduciary obligations Canada owes aboriginal peoples. There are well documented issues related to inspections, which each of the existing independent monitoring agencies have commented on. (documents on websites)

RECOMMENDATIONS

- IBA is needed as evidence of free, prior and informed consent.
- An independent monitoring agency with teeth and a mandate to commission TK research is needed.

IMPACTS ON NORTH SLAVE MÉTIS TRADITIONAL USE OF WILDLIFE.

DEVELOPER'S CONCLUSION

Impacts have been predicted on barrenground caribou through habitat change, as well as sensory disturbances, which may extend as far as 15 km from the mine site. New roads will increase access for hunters, while employment income will increase the number of hunters who have the ability to afford hunting equipment and supplies. Even in combination with other previous, existing and reasonably foreseeable developments in the caribou range, as well as the effects of climate change on vegetation, insect harassment, heat stress, diseases, and predation, Fortune rates impacts on barrenground caribou as low or moderate. Change in caribou abundance of 1-10% is rated as low significance, and 10-20% change is classified as a moderate impact, although Fortune admits that **little is known about ecological effect thresholds**. Fortune suggests that impacts must decrease population resilience and increase risk to population persistence in order to be considered significant.

NSMA'S CONCLUSION

Impacts on the NSMA's traditional use of wildlife will be significantly and unacceptably impacted.

RATIONALE

The NSMA disagrees strongly with Fortune's assessment because it ignores the importance of ecological effects thresholds, has no temporal frame of reference, and is not related to any agreed sustainable baseline population or optimum harvest level. There is no evidence supporting the presumption that "population persistence risk" is or can be related to any fixed percentage change in abundance, especially in the absence of any understanding of ecological effect threshold levels for caribou. Currently, the Bathurst caribou herd is so small that NSMA members cannot even exercise their aboriginal harvesting rights. **The Government of the Northwest Territories considers the Bathurst herd of barrenground caribou to be in danger of becoming extinct.** The precautionary principle must be invoked, and **NO additional negative influence on barrenground caribou can be tolerated.**

The NSMA asserts that **any impact on caribou, however small percentage wise, be it health, abundance, or behavior, is significant if and when and to the extent it significantly interferes with Aboriginal harvesting success.** It is not the number of caribou that needs to be monitored, but rather the quality, quantity, and cost of the traditional Aboriginal caribou harvest. This traditional harvest needs to be standardized in such a way that it can be measured and monitored, and difficult political decisions need to be made as to the desired optimum sustainable harvest level, or management goal for caribou.

The domestic and commercial harvest of caribou by Aboriginal Peoples must not be negatively affected without full, prior, and informed consent. Aboriginal harvesting rights, which are Constitutionally protected, must be given precedence over other harvesting rights, including mineral resource harvesting rights, and over other land use rights such as are granted in “Crown Land” Leases. Mineral tenures and Crown land leases have been, and continue to be issued by the Crown **WITHOUT ADEQUATE ABORIGINAL CONSULTATION.** We can not over-emphasise the importance of this point.

Moose, boreal caribou, fur,

RECOMMENDATIONS

- Independent Monitoring Agency with teeth, and mandate to DO monitoring, incorporate available TK, and provide capacity to communities.
- Obtain free, prior and fully informed consent of the NSMA, and document with an IBA.
- Environmental review of wildlife impacts, especially barrenground and boreal caribou.

IMPACTS ON NORTH SLAVE MÉTIS TRADITIONAL CULTURE AND ECONOMY.

DEVELOPER'S CONCLUSION

Fortune noted that Yellowknife is the only RSA community with a higher proportion of non-Aboriginals (77%) than Aboriginals (23%) in the population (NWT Bureau of Statistics 2010a), and also claimed that "No data are publicly available about the Métis population."

In its July 10th updated commitments table Fortune declined GNWT's recommendation to formalize its commitments in a Socio-economic Agreement, but indicated that the possibility of signing such an agreement with the Tlicho Government.

The Nico Project is expected to have significant positive impacts on the economics of the Tlicho communities. This is no surprise, since they are entitled to resource royalties, tax revenues, an Impact Benefit Agreement, and other benefits through their Settlement Agreement. Fortune proposes a socioeconomic monitoring program to supplement, not duplicate, the IBA. Cultural pride and community cohesiveness is to be addressed by providing some employee benefits.

NSMA'S CONCLUSION

Fortune's project, as proposed, will have a significant, irreversible effect on the well-being of the entire North Slave Métis community. Fortune proposes to discriminate unjustifiably against the North Slave Métis in favor of the Tlicho in terms of signing a Socioeconomic Agreement, performing socio-economic monitoring, provision of business opportunities, and compensation.

There is sufficient information available publicly to estimate the cultural and economic impacts on the North Slave Métis of Fortune's NICO project⁷, and Fortune did receive a summary presentation of the archival research done by the NSMA for its Traditional Land Use and Knowledge Study.

destruction, damage and appropriation of Métis heritage resources,

The NSMA's internationally recognized Indigenous Human Rights are being ignored, along with NSMA's Canadian Constitutionally protected Aboriginal Rights. This is discriminatory, and flies in the face of the principles of Equity and Natural Justice.

RATIONALE

⁷ NSMA 2005. DCAB toolkit report, Mackenzie Gas Project submissions by NSMA,

The archival research done by the NSMA as part of its **Traditional Land Use and Knowledge Study** clearly indicates that **Métis have been systematically discriminated against**, first by the Hudson's Bay Company, then by Canada, and now by all levels of government – the Tlicho Government, local governments, the Government of the Northwest Territories, and the Government of Canada. The apparent goal, and obvious effects, of these successive waves of discrimination are to **dispossess the Métis of their lands and resources**, and to **make them, as a distinct aboriginal-rights bearing group, disappear**.⁸ Both the Tlicho and the Akaitcho have made public statements to the effect that there is not now, and never was, such a thing as a “Métis People” in the Northwest Territories. The Akaitcho have in fact sued Canada for even negotiating with Métis groups in the South Slave area. Obviously, however, the North Slave Métis community does exist, and has **Human and Aboriginal Rights to continue to exist**.

This project will last long enough to **prevent an additional generation of Métis children from learning about this land from their elders**. It is exceptionally difficult to recover lost traditional knowledge once the chain of transmission has been broken. This is a significant impact which interferes with the NSMA's **Aboriginal Right to use and occupy their traditional lands**, and their **Aboriginal Right to transmit their culture and knowledge to future Métis generations**. There is potential for these impacts to be **permanent and irreversible** if not very carefully mitigated.

Positive and negative impacts are expected on the social and cultural environments of the Tlicho, and the North Slave Métis. But there is no guarantee of positive impacts on the Métis of the North Slave. The thresholds for continued socioeconomic and cultural survival for the North Slave Métis are not known, but the well-being of the North Slave Métis community deserves to be monitored no less than the well-being of any other sensitive and threatened population. The North Slave Métis deserve a fair and equitable share of the benefits of development of our lands and resources, just as the Tlicho do, so that we too can thrive.

Fortune's proposed project is in direct competition with NSMA's rightful intention to develop its own resources, including mineral resources. The NSMA is extremely concerned about the **depletion of non-renewable mineral resources** from our lands, and the **inequitable sharing of resource revenues** due to Canada's failure to complete a timely and adequate “strength of claims analysis” of, and accept for negotiation, the North Slave Métis Alliance's comprehensive aboriginal rights claim; both governments' failure to include the NSMA in the Devolution Transfer Agreement negotiations; the Tlicho failure to include the NSMA in its Land Use Planning process; and Fortune Minerals Limited's failure to conclude negotiations on an Impact-Benefit Agreement with the NSMA. There is **no guarantee that there will be ANY benefits to NSMA members, or to the NSMA community-owned businesses, although negative impacts to both are CERTAIN**. This is obviously unjust, interferes with the NSMA's internationally and nationally recognised **inherent right of self determination**, and would be an international disgrace to Canada, if it was allowed.

⁸ NSMA 2000.Can't Live Without Work. (On the record).

The NICO Project includes an all-season transportation corridor approximately 27 km long, to accommodate a 6m wide gravel road (the access road), which is expected to join the project site to a hypothetical new Tlicho road between Bechoko (Rae) and Gameti (Rae Lakes) which will be built by “others”. The Tlicho Land Use Planning process, which is underway, is expected to determine the route and timing of this hypothetical new road, which is considered “essential” to Fortune’s project. Five B-trains a day of concentrate will head south, while four truckloads a day of supplies will head north. Stream crossings for the access road will all be culverts, except for one bridge over the Marian River. The airstrip included in the original proposal has now been removed from consideration.

There is a very high probability that **Métis heritage resources** exist in the area of the new roads which are either undiscovered, undervalued, or incorrectly attributed to the Tlicho or to Europeans. It is **very harmful, economically and culturally, to NSMA community well-being to have their heritage resources damaged, destroyed or appropriated.** It is also very distressing to the NSMA to know that a **land use planning process** is under way, in our traditional territory, without our involvement, because this **interferes with our inherent right of self determination.** The local study area and regional study area which were used for this environmental assessment may not even be in the right place, if the currently expected location of these hypothetical roads turns out to be incorrect. As well, the local and regional study areas did not adequately investigate increased use of the existing winter road, the increased use of the existing highway, or the use of the hypothetical new “Tlicho road” to Gameti (Rae Lakes). And to the south.

RECOMMENDATIONS

- Negotiate an IBA with the NSMA
- Conduct an environmental review of the community specific impacts on vulnerable and disadvantaged communities such as the NSMA.
- Keep the public registry open until September 15th so that NSMA can submit its traditional knowledge report to be considered along with the Tlicho report.
- Require Fortune to involve the NSMA as a full partner in the conduct of any heritage resource assessments.

2012-07-30 Pre-hearing conference notes:

1-877-215-4724 3404306.

Notes: Hearing dates in August.

- Lack of participant funding is an ongoing issue.
- Rushed hearings, critical information not on the record yet.
- Information lacking, uncertainty, need to refer to Env. Review. Or reject...?
- Parties will sit together, all presentations on one computer, speed up short presentations
- **Ask for commitments during hearing – clearly and on the record.**

27 Wati – community (Gameti people need to be flown in, Wekweti)

Fortune presentation – 20 minutes

Caribou and socioeconomic

29 Yellowknife – formal hearing. Tree of Peace.

Opening Remarks, Board

Tlcho – welcome

Opening statements 5min. each.

- Parties in order, team, mandate, brief statement of position.
- board mandate to assess adequacy of crown consultation

Presentations, followed by questions.

5. min Water quality – operations and closure. Aboriginal and existing water users rights. **2 min.** Air Quality -

30 Bechoko

Opening

2 min Traditional knowledge

5 min. Caribou and wildlife

? Closure –

? Evening session – caribou and closure.

31 Bechoko

3 min. Access Road – bridge – uncertainty, planning process, heritage resources,

10 min Culture, Heritage, Social, Economics

Closing statement will be submitted as final argumenet in writing at later date....

2012-08-20 new Fortune info on closure – **commitments table.**

Notice to come out this Wednesday Aug 2. - Written submissions from Public.

2012-08-22 – hearing presentations based on technical reports and.....? new info. Draft?

If hearing presentations change from draft, ensure circualted to others....

Date – final arguments, written.

Date – undertakings. Transcripts, **commitments table.**

2012-09-15 Tlcho TK study will be submitted.

Date – keeping public record open for some time after all evidence in



NORTHWEST TERRITORIES

BOX 1375, YELLOWKNIFE, N.W.T. X1A 2P1 PHONE (403) 873-3505 FAX 873-3395

METIS NATION - NORTHWEST TERRITORIES
24TH ANNUAL GENERAL ASSEMBLY
JULY 5, 6 & 7, 1996
INUVIK, N.W.T.

RESOLUTION #4 - 24AGA - 1996

WHEREAS the North Slave Metis organizations have formed an alliance in the North Slave Region;

AND WHEREAS this alliance desires an elucidation of its Aboriginal rights and initiation of lands and resources negotiations in the North Slave Region;

AND WHEREAS the Metis Nation - Northwest Territories supports and endorses the elucidation of Aboriginal rights and the lands and resources initiative desired by the North Slave Metis;

THEREFORE BE IT RESOLVED THAT this 24th Annual General Assembly of the Metis Nation - Northwest Territories fully supports and endorses achievements of the North Slave Metis regional initiatives.

MOVED BY: BILL ENGE

YELLOWKNIFE LOCAL #66

SECONDED BY: BETTY LEVADNUK

FORT SMITH LOCAL #50

MOTION CARRIED UNANIMOUSLY

APPROVED BY:


GARY BOHNET, PRESIDENT