



OCT 24 2016

VIA EMAIL

Mr. Chuck Hubert
Senior Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
P.O. Box 938
YELLOWKNIFE NT X1A 2N7

Dear Mr. Hubert:

Canadian Zinc Corporation's Prairie Creek all-season road project environmental assessment - GNWT responses to second round information requests (EA1415-01)

In light of their respective mandates and responsibilities related to the Prairie Creek All-season Road environmental assessment (EA), Government of the Northwest Territories (GNWT) departments have reviewed the information requests (IRs) that the Mackenzie Valley Environmental Impact Review Board (the Review Board) and EA parties have addressed to the GNWT. The GNWT is pleased to provide the attached responses to those IRs, and anticipates that responses will assist in informing the Review Board and all parties about the nature and significance of the proposed project's potential impacts.

The GNWT looks forward to reviewing all other IR responses as well as the Review Board's updated workplan for this file.

If the Review Board or any of the parties to this EA have questions about the GNWT's IR responses, please contact Melissa Pink, Manager, Project Assessment Branch, at Melissa.Pink@gov.nt.ca or 867-767-9183 ext. 24069, or Paul Mercredi, Project Assessment Analyst, at Paul.Mercredi@gov.nt.ca or 867-767-9183 ext. 24068.

Sincerely,

Lorraine Seale
Director
Securities and Project Assessment

Attachment

A. Originating IR – MVEIRB #21

<p>MVEIRB #21: Road capacity and infrastructure (for GNWT)</p>	<p>Comment: Canadian Zinc wants to use Hwy 7 and the Nahanni Butte access road for access the all season road project. Residents and communities use these roads to access essential goods and services. Sections of these roads may require road improvements to accommodate the project, as they are currently not able to accommodate the larger payload vehicles that the project proposes to utilize (73.2T 9 axle).</p> <p>Recommendation:</p> <ol style="list-style-type: none"> 1. Describe what upgrades would be required to Highway 7 to accommodate the increased axle number and vehicle weights proposed. 2. How long would these required upgrades take to complete? 3. Consider how a potential upgrade to Highway 7 and higher payload vehicles might affect non project related traffic use, as well as road infrastructure.
--	---

GNWT response

1. Describe what upgrades would be required to Highway 7 to accommodate the increased axle number and vehicle weights proposed.

Government of the Northwest Territories (GNWT) understands that the Project intends to use approximately 12 km of the Nahanni Butte Access Road in addition to approximately 130 km of NWT Highway #7 (Liard Highway). Based on currently available information, in order to accommodate the year-round increased axle number and vehicle weights that Canadian Zinc proposes Highway #7 would need to undergo a full rehabilitation for Km 20-130. Also, the Nahanni Butte Access Road would require a full re-design and construction. However, for a full assessment of the design requirements GNWT still requires a response to the following two points mentioned in GNWT's response to Undertaking #41, sent to the board in July of this year:

- forecast Distribution of mine traffic along Highway 7 (north and south); and
- maximum daily traffic forecasts during mine development (all vehicles) and production periods (trucks).

Once GNWT has received and reviewed Canadian Zinc's information, GNWT will provide an update to the Review Board.

GNWT has held a teleconference with Canadian Zinc on October 17 to discuss Highway #7 as well as the Nahanni Butte Access Road. GNWT notes that further discussion is warranted in relation to Canadian Zinc's proposed use of these road sections. GNWT is committed to timely

dialogue with Canadian Zinc on this matter, and remains available to provide further clarification to Canadian Zinc, the Review Board and other parties.

2. How long would these required upgrades take to complete?

The best-case scenario would include 1 year design and engineering, and 3-4 years of construction working from each end of the highway, completing 40 km/year (20 km each end).

3. Consider how a potential upgrade to Highway 7 and higher payload vehicles might affect non project related traffic use, as well as road infrastructure.

As described in GNWT's response to Undertaking #41, impacts to local residents as a result of any road construction would be minimal.

However, GNWT is not planning on doing any major reconstruction or realignments involving Highway #7 or the Nahanni Butte Access Road. Current maintenance plans consist of resurfacing (gravel) only. GNWT recommends that Canadian Zinc adhere to road restrictions for Highway #7 and the Nahanni Butte Access Road when determining available haul periods. Those described in the Canadian Zinc letter to MVEIRB dated April 1, 2016, are accurate but may require further refinement as conditions merit just prior to haulage: GNWT recommends that Canadian Zinc contact GNWT's Department of Transportation before starting to haul.

B. Originating IR – MVEIRB land tenure

<p>MVEIRB [no numbering]: Leasing and land tenure options and access control</p>	<p>Comment: The Review Board seeks clarification from the GNWT regarding their September 22 letter to CanZinc on how the described land tenure obligations and additional lease requirements may affect access control to the proposed all-season road.</p> <p>Canadian Zinc wants to use Hwy 7 and the Nahanni Butte access road for access the all season road project. Residents and communities use these roads to access essential goods and services. Sections of these roads may require road improvements to accommodate the project, as they are currently not able to accommodate the larger payload vehicles that the project proposes to utilize (73.2T 9 axle).</p> <p>Recommendation: The Review Board requests the following information from the GNWT:</p> <ul style="list-style-type: none"> • Does a lease allow the lease holder to restrict access (e.g. fence, gate) onto a leased parcel of land[?] Provide examples. • Submit to the Board provisions that can legally be applied to a lease regarding prohibiting access onto or through a lease • Is there an opportunity to use a lease to restrict access to the proposed all-
--	--

	<p>season road?</p> <ul style="list-style-type: none"> Describe any other land tenure options available to the GNWT to limit access on the proposed all-season road
--	--

GNWT response

1) Does a lease allow the lease holder to restrict access (eg. fence, gate) onto a leased parcel of land? Provide examples.

As set out in the response to Round 1 IR#44, a lease is a tenure instrument which grants an exclusive right to occupy and allow the lessee to control access onto that parcel of land. A lessee may place structures and improvements on the lease land if it is consistent with the use described in the lease. For example, improvements such as gates and fences are common on lease parcels in the NWT where there may be materials and infrastructure the lessee needs to protect and where the lessee needs to minimize liabilities. Examples of leases which have been fenced or gated by the lessee include fuel tank sites, explosives storage areas and open pits.

2) Submit to the board provisions that can legally be applied to a lease regarding prohibiting access onto or through a lease.

For clarity, a lease by definition allows the lease holder to prohibit access by other parties onto or through the land in question, except in certain emergency/public safety situations. This is because, as set out in the response to Round 1 IR#44, a lease interest conveys exclusive possession to the lease holder. A lease holder may also choose to allow others access onto or across the lease. GNWT notes that lessees may not enter into sub-leasing arrangements (granting access in exchange for payment), without the express consent of the lessor (GNWT).

Land leases may include conditions to allow access, including for the following circumstances:

- a) for emergency use, particularly along waterfront leases;
- b) by government officials for inspections and compliance; and
- c) for the development of a public utility.

3) Is there an opportunity to use a lease to restrict access to the proposed all-season road?

Whether the lease/leases for the barge landing sites will provide an access control mechanism for the road is dependent upon if the road route traverses through the lease year round or if traffic traverses through the leased land only during the summer barging season. Further, the GNWT cannot accurately state whether any leases required for the barge landing or laydown sites will restrict road access as GNWT currently does not have lease applications and accompanying detailed designs to consider. That said, the lease of the barge landing site may prevent ease of access to the roadway if the lessee so desires.

Although the GNWT does not have these particular lease applications to consider, on September 23 GNWT issued IRs to Canadian Zinc to foster a robust assessment of potential impacts in relation to the proposed development and potential leases at that location. Additionally, on October 3 GNWT held a teleconference with Canadian Zinc to discuss the relevance of GNWT's September 22 land tenure obligations letter to the environmental assessment. In order to support further and timely discussion of this particular subject during the environmental assessment, GNWT encourages Canadian Zinc to provide adequate responses to the GNWT's September 23 information requests.

Canadian Zinc developments described to date include barge operations across the Liard River and other laydown, storage and maintenance facilities to support the road operation that will require a land lease (as noted in GNWT's letter to the board on September 22nd). This requirement is consistent with other requirements for long-term commercial/industrial developments on GNWT land across the territory. For the barge landing, water lot leases will be required where improvements are constructed below the ordinary high watermark (OHWM) and placed on the bed of the body of water. A lease for the adjoining shore lands above the OHWM generally accompanies the water lot lease to the extent that the barge operations and supporting infrastructure require. Leasing these water lots for barge landings/dock facilities and adjacent land necessary for the operation is consistent with other allowed supporting infrastructure for similar commercial/industrial developments in the NWT, including other sites along the Liard River. Please note that Indigenous and Northern Affairs Canada (INAC) currently holds administration and control of the south shore (above the OHWM) of the Liard River and GNWT has no jurisdiction to require leasing of those lands.

4) Describe other land tenure options available to the GNWT to limit access on the proposed all-season road.

The GNWT is the manager of public land and works within its legislative and policy framework to manage land in the best interests of the public as a whole. The Department of Lands deals with land applications on a case-by-case basis, considering the proposed use of the land, location and any concerns raised during consultation. As stated in the response to Round 1 IR#44, the GNWT has reviewed its legislative and regulatory tools and has not identified any mechanisms, including land tenure to control access by the public along the length of industry-developed roads. That said, some of Canadian Zinc's proposed developments are located on water-lots or on parcels of land associated with the all-season road that require a lease in order to manage the use of land while protecting tax payers, occupants and the environment. The issuance of a lease for the barge-landing site would not prevent anyone from traversing through the territorial land around the leased parcel to access the road on the other side of the lease, but the lease may diminish the ease of access to the roadway.