

**Indigenous and Northern Affairs Canada
Technical Report**

For

**Canadian Zinc's Proposed Prairie Creek Mine All
Season Road Project
EA 1415 – 01**

March 10, 2017



March 10, 2017

Chuck Hubert
Sr. Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
200 Scotia Centre – 5102 – 50th Ave
Yellowknife, NT X1A 2N7

Dear Mr. Hubert,

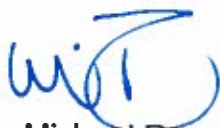
Re: Technical Report – Prairie Creek All Season Road – EA1415 - 01

Indigenous and Northern Affairs Canada (INAC) is pleased to submit the attached technical report to the Mackenzie Valley Environmental Impact Review Board (MVEIRB) on the proposed Prairie Creek All Season Road Project – EA1415 – 01.

INAC would like to thank the Board for the opportunity to present our technical review of the proposed Prairie Creek All Season Road. INAC would like to confirm our attendance at the upcoming Community Hearing in Nahanni Butte and Fort Simpson, April 24-28, 2017.

If you have any questions about this technical report, please do not hesitate to contact me at (867) 669-2440 or Michael.Roesch@aandc-aadnc.gc.ca.

Yours sincerely,



Michael Roesch
Senior Program Manager
Resource & Land Management
NWT Region

Cc: Mark Hopkins, Director General, Natural Resources & Environment, INAC

Encl.

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ACRONYMS

| | |
|---------------|---|
| CZN | Canadian Zinc Corporation |
| CRP | Closure and Reclamation Plan |
| DAR | Developer's Assessment Report |
| EA | Environmental Assessment |
| GNWT | Government of the Northwest Territories |
| IAB | Indian Affairs Branch |
| INAC | Indian and Northern Affairs Canada |
| MVEIRB | Mackenzie Valley Environmental Impact Review Board |
| MVLWB | Mackenzie Valley Land and Water Board |
| MVRMA | Mackenzie Valley Resource Management Act |
| NBDB | Nahanni Butte Dene Band |
| NT | Northwest Territories |
| PC | Parks Canada |
| PTO | Permission to Occupy |

NON TECHNICAL SUMMARY

INAC has conducted a focused review on water and federal land aspects related to the proposed project. The review included all documentation related to the Environmental Assessment of the proposed Prairie Creek All Season Road up to and including responses to the second of Information responses February 7, 2017, and recent letters to the Mackenzie Valley Review Board up to and including March 2nd, 2017.

INAC's review is strictly limited to the Federal Crown Land that is described as the Indian Affairs Branch (IAB) Parcel between KP 160 – 165.

In this report, INAC provides specific comments on the following 5 areas:

1. Concerns related to Land Tenure for the Indian Affairs Branch Lands.
2. Issues related to limiting public access to the proposed All Season Road.
3. Concerns related to the barge landing area and potential for contamination of the water course in both summer barging and winter ice road use.
4. General Road Construction concerns.
5. Closure and Reclamation

Where possible, INAC has provided recommendations to the Mackenzie Valley Environmental Impact Review Board (MVEIRB) to assist in its decision making process and in preparation for the Report of Environmental Assessment.

INAC must be confident that the contingencies proposed by the Developer during operations will provide a level of adequate environmental protection. Additionally, INAC must ensure all land tenure is consistent with the instruments issued by the Government of the Northwest Territories (GNWT) and Parks Canada (PC). Finally, the impact must be minimal with respect to the Nahani Butte Dene Band (NBDB) Indian Affairs Branch (IAB) lands, while upholding an adequate level of protection.

INTRODCUTION

Indian and Northern Affairs Canada (INAC) has a mandated responsibility to protect the environment and promote sustainable development in the Northwest Territories. INAC has legislated responsibilities for water management and protection that stem from the *Northwest Territories Waters Act* (NWTWA). INAC provides expert technical advice to regional resource management boards and is a Responsible Minister under the *Mackenzie Valley Resource Management Act* (MVRMA).

INAC'S TECHNICAL REVIEW

Land Tenure

Issue: All Season Road and Barge Landing within the IAB parcel near Nahanni Butte

References:

1. NPMO – Response to NBDB – IAB Lands Mtg. – 10-06-16 (PR# 228)
2. Meeting Summary – GOC – GNWT – NBDB – IAB – CanZinc - June-3-16 (PR# 227)
3. Letter to INAC from CanZinc re access road land tenure (PR# 374)
4. INAC letter to NBDB - Nahanni Butte IAB lands (PR# 420)
5. Note to File Board staff meeting in Nahanni Butte_3-Feb-2017 (PR# 408)

Reviewer Comments:

INAC concedes that there is some confusion related to the issuance of Land tenure within the IAB parcel that has led the parties to believe a Permission to Occupy (PTO) can be issued to Canadian Zinc Corporation. The IAB Information & Backgrounder provided with Document PR #228 states that a PTO can be issued to an individual. This has typically been done in all communities with IAB parcels strictly for residential purposes.

As noted throughout the proponent's submission, the proposed all season road will handle loads carrying hazardous materials. The IAB portion of the road needs to be protected in the same fashion as the other two jurisdictions covering the remaining length of the road under Parks Canada and the GNWT. This opinion was shared with the Nahanni Butte Dene Band (NBDB) during our community visit February 3rd, 2017.

INAC agrees with CZN that the width of the road should be as minimal as possible within the IAB Parcel to limit the impact to the IAB Lands and the NBDB. This includes the laydown area for the barge landing at the Liard River. INAC is willing to work with CZN and NBDB to reach an acceptable description and site plan.

Recommendations:

1. INAC recommends that the Nahanni Butte Dene Band relinquish their interest in the IAB parcel by a Band Council Resolution for the road and the barge landing area at the Liard River.
2. INAC Recommends that the Band Council Resolution be a part of the CZN applications for surface tenure in order for them to be considered, should the development be approved to proceed to the regulatory process.
3. INAC recommends that a Licence of Occupation be the instrument issued for the road tenure and a federal surface lease be the instrument issued for the barge landing site.
4. INAC recommends that the above noted Licence and Lease documents be consistent with those issued by the Government of the Northwest Territories (GNWT) and Parks Canada (PC) for their portions of the road.
5. INAC recommends that the issuance of any dispositions issued by PC, GNWT and INAC be linked to the mine site tenure. All of the dispositions should be similar in term and conditions so that CZN cannot assign one interest to another party without assigning them all.

Public Access

Issue: Access Control

References:

1. EA1415-01 Developer's Assessment Report (PR# 55)
2. Email from NBDB to MVEIRB (PR# 381)

Reviewer Comments:

Both INAC and the GNWT have stated that a Licence of Occupation should be issued for the road and surface leases for the Barge Landing sites. INAC acknowledges that access is important to NBDB and CZN in the review of the proposed all season road. INAC does not have legislative or regulatory power to restrict access to the road. As a lease holder, CZN would have the ability to deny access to the lease parcel, thereby providing some measure of access control through the lease boundary. It would not restrict users from traversing the lease interest and accessing the road at another point. By requesting holding a lease on either side of the Liard River, CZN would be able to control a majority of public access into the area.

While not recommended, members of the public may access roads issued under a Licence of Occupation similar to other areas in the Northwest Territories (ie: Tibbett to Contwoyto Road.) A licence of occupation is a non-exclusive authorization that permits the occupancy of land for a specific purpose, and does not convey exclusive possession of the lands.

Recommendations:

1. INAC recommends that all parties further discuss the issue of access and define the controls that the proponent has suggested. Specifically the checkpoints and the ability of NBDB members to deter non-mine related use. (DAR Section 6.3.6 – Access Control PR #55) It needs to be clear what authority and enforcement is allowable in conjunction with Public Safety.

Barge Landing Area

References:

1. EA1415-01 Developer's Assessment Report (PR# 55)
2. Compiled Round 2 information requests with responses and attachments (PR# 370, GNWT#11)
3. DAR pg. 146-147 (PR #55)

Reviewer Comments:

INAC notes that Spill Equipment will not be stored at either of the Barge Landing Sites during the Operating period of the proposed road. INAC agrees with CZN's opinion that the number of fuel/oil deliveries, quantities, and the potential duration and severity warrant appropriate preparations at high risk locations. CZN notes that they do not foresee significant risks in terms of spills at the barge landing site. INAC agrees with CZN that safe and easy loading/unloading procedures will be required during operation and construction phases of the all season road and should include Barge Refueling procedures. However, the barge landing site is adjacent to a river that is upstream from the Nahanni Butte community and it should be classified as a high risk site for accidents and malfunctions.

Recommendations:

1. INAC recommends that one of the Liard River Barge Landing sites be designated as a high priority site and that a Comprehensive Spill Kit is stored at this location.
2. INAC recommends that the Spill Kit be located on the same side of the river where the Barge Refueling will take place.

Road Construction

Issue: CZN and NBDB are referencing that they will undertake to co-manage the proposed all season road.

References:

1. Letter to INAC from CanZinc re access road land tenure (PR# 374)
2. Email from NBDB to MVRB re timing of technical report preparation meeting (PR# 396)
3. Nahanni Butte Dene Band Chief letter to Review Board 20-Jan-2016 (PR# 400)
4. Dehcho Drum article re access road 26-Jan-2017 submitted by NBDB (PR# 402)
5. CBC North article 30-Jan-2017 re Prairie Creek Access Road (PR# 403)
6. NBDB Chief letter to INAC 27-Feb-2017 (PR# 422)
7. Dehcho Drum Article - 2Mar17 submitted by NBDB (PR# 423)

Reviewer Comments:

Both CZN and NBDB are making references to a co-management agreement for the all season road. NBDB have made recent statements that their current un-permitted road construction is a part of the proposed Prairie Creek All Season Road. During the community session February 3rd, 2017 in Nahanni Butte, INAC and GNWT government officials were informed by the NBDB that the current road construction was not a part of the proposed all season road. Statements in the media and NBDB correspondence since that meeting do not reflect that position. It is unclear to INAC if the recent land use activities are linked to the Canadian Zinc Corporation proposed all season road. Regardless, the GNWT and INAC have served a stop work order to the NBDB.

Recommendation:

1. INAC Recommends all work currently taking place on the proposed all season road alignment within the IAB lands cease until such time that the Environmental Assessment is complete, and until such time that NBDB or CZN acquires the necessary Land Use Permit to resume any work.

Closure and Reclamation:

Reviewer Comments:

The Principles of the MVLWB/AANDC Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories can be found on the Boards Website. INAC would expect the Abandonment and Restoration plan from the proponent will follow these guidelines.

Recommendations:

1. INAC recommends that the proponent will follow the the MVLWB/AANDC Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories for the closure of the barge landing on the north side of the river, and the portion of the all season road that passes through the NBDB IAB lands.

CONCLUDING REMARKS

INAC is committed to working with interested parties towards the resolution of outstanding issues identified during the Environmental Assessment Process, and looks forward to the Board's decision in this regard.

Summary of Recommendations

1. INAC recommends that the Nahanni Butte Dene Band relinquish their interest in the IAB parcel by a Band Council Resolution for the road and the barge landing area at the Liard River.
2. INAC Recommends that the Band Council Resolution be a part of the CZN applications for surface tenure in order for them to be considered, should the development be approved to proceed to the regulatory process.
3. INAC recommends that a Licence of Occupation be the instrument issued for the road tenure and a federal surface lease be the instrument issued for the barge landing site.
4. INAC recommends that the above noted Licence and Lease documents be consistent with those issued by the Government of the Northwest Territories (GNWT) and Parks Canada (PC) for their portions of the road.
5. INAC recommends that the issuance of any dispositions issued by PC, GNWT and INAC be linked to the mine site tenure. All of the dispositions should be similar in term and conditions so that CZN cannot assign one interest to another party without assigning them all.
6. INAC recommends that all parties further discuss the issue of access and define the controls that the proponent has suggested. Specifically the checkpoints and the ability of NBDB members to deter non-mine related use. (DAR Section 6.3.6 – Access Control PR/55) It needs to be clear what authority and enforcement is allowable in conjunction with Public Safety.
7. INAC recommends that one of the Liard River Barge Landing sites be designated as a high priority site and that a Comprehensive Spill Kit is stored at this location.
8. INAC recommends that the Spill Kit be located on the same side of the river where the Barge Refueling will take place.

9. **INAC Recommends all work currently taking place on the proposed all season road alignment within the IAB lands cease until such time that the Environmental Assessment is complete, and until such time that NBDB or CZN acquires the necessary Land Use Permit to resume any work.**
10. **INAC recommends that the proponent will follow the the MVLWB/AANDC Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories for the closure of the barge landing on the north side of the river, and the portion of the all season road that passes through the NBDB IAB lands.**