

NORTH SLAVE MÉTIS ALLIANCE

PO Box 2301 Yellowknife, NT X1A 2P7



July 19, 2019

JoAnne Deneron,
Chairperson
Mackenzie Valley Environmental Impact Review Board
200 Scotia Centre
PO Box 938, 5102 50th Ave
Yellowknife, NT X1A 2N7
Email: jdeneron@reviewboard.ca

Via Email

Dear Ms. Deneron:

Re: Consultation regarding Thaidene Nënë

We write to request that the Mackenzie Valley Environmental Impact Review Board ("MVEIRB") conduct an environmental assessment of the proposed Thaidene Nënë territorial protected area and national park reserve (Thaidene Nënë protected areas)

NSMA appreciates the important role that the MVEIRB plays in ensuring that developments in the Northwest Territories (NWT) in general and the five regions of the NWT in particular (in this case the North Slave region) - which are a cause for public concern or are likely to have significant adverse effects on the environment - are properly assessed. Due to significant public concern respecting the proposed establishment of the Thaidene Nënë protected areas, NSMA asks that the MVEIRB undertake an environmental assessment of the Thaidene Nënë protected areas, notwithstanding Parks Canada's decision - in its recent preliminary screening - not to refer the proposed Thaidene Nënë national park reserve to the MVEIRB.

NSMA's connection to Thaidene Nënë

NSMA is the only Indigenous group in the Northwest Territories that has received judicial recognition of its members' common law Aboriginal rights as Métis. NSMA's very *raison d'être* is to advocate for the rights of the Métis of the Great Slave Lake area.¹ NSMA members are a distinct constituency of the contemporary Métis collective of the Great Slave Lake area, a constituency which aspires to exercise and protect its Métis practices and customs on traditional Métis lands to the north of Great Slave Lake.²

¹ *Enge v. Canada*, 2017 FC 932, para. 102

² *Enge v. Canada*, 2017 FC 932, para. 197

The historical record is clear that the community of Métis of the Great Slave Lake area hunted and trapped over a wide-ranging area in the NWT.³ The Thaidene Nënë area in particular was an area of moderate to high historical intensity of use by the Métis. Ancestors of NSMA members regularly hunted and trapped in the area and guided explorers and fur traders on historic travel routes, particularly along the East Arm of Great Slave Lake and up past Artillery Lake.

NSMA's historic ancestors and contemporary members are past and present harvesters of wildlife in the Thaidene Nënë area - including the harvesting of fish and caribou. With respect to contemporary harvesters, these include NSMA members such as Wayne Mercredi, who hunts along the East Arm and around Lutsel K'e, and the late Edward Jones, whose father, Edouard Jones Sr., was a fur trader at Lutsel K'e in the 1930s.

Public Concerns

NSMA members want measures in place that ensure that the establishment of the Thaidene Nënë protected areas contemplated by Canada and the GNWT do not result in the impairment or extinguishment of the common law Aboriginal rights of NSMA members as Métis of the Great Slave Lake area.

It is of significant public concern that Canada and the GNWT have failed to adequately consult with and appropriately accommodate the interests of NSMA members respecting Thaidene Nënë, particularly in relation to the conservation and management of wildlife. NSMA wishes to point out here that it is of the view that the draft establishment agreements respecting the Thaidene Nënë protected areas, and the terms of reference for the proposed management board and regional management body, that Canada and the GNWT are negotiating with other Indigenous groups in no way fulfils their obligations to respect the Aboriginal rights of NSMA members.

Beyond the potential impacts that the Thaidene Nënë protected areas will have on NSMA members' harvesting rights, NSMA is also concerned about the apparent inconsistency in how Canada and the GNWT have involved the Indigenous groups who have traditional land use claims to the Thaidene Nënë area in the establishment of the protected areas. Canada and the GNWT are both aware that NSMA has strong Aboriginal rights claims in the Thaidene Nënë area, yet NSMA has not been afforded the same degree of involvement in the development of the Thaidene Nënë park reserve as the Yellowknives Dene First Nation, Deninu Kue First Nation or Northwest Territories Métis Nation.

Canada and the GNWT's exclusion of the NSMA from being involved in the Thaidene Nënë initiative to the same degree as the above-named Aboriginal organizations is profoundly discriminatory. Canada and the GNWT have "real and constructive knowledge" that NSMA members are s.35 Aboriginal rights holders as the GNWT was the Defendant in *Enge vs Mandeville 2013* and Canada and the GNWT were both

³ *Enge v. Mandeville*, 2013 NWTSC 33, paras. 191-192, 218, 233; *Enge v. Canada*, 2017 FC 932, para. 20

Defendants in *Enge vs Canada 2017*. The courts found, in both cases, that NSMA members have a good prima facie claim as s.35 Metis Aboriginal rights holders.

NSMA is also concerned about its exclusion from the planned management and regional management boards for the proposed protected areas. These bodies will provide recommendations and advice on matters that will impact the Aboriginal rights of NSMA members. Management plans in particular are likely to have potential adverse effects on the exercise of Aboriginal rights by NSMA members in the park reserve, because the management plans will address operational issues like access and use in the park reserve. In addition, recommendations and advice by the regional management body with respect to visitor access, allowable uses and the issuance of authorizations may also have a negative impact on the exercise of Aboriginal rights of Aboriginal rights holders including the impacting of resource interests in the Thaidene Nënë area.

A further cause of public concern is that sites of significance to the Métis in the Thaidene Nënë area will go unrecognized or misinterpreted. NSMA wants to ensure that interpretation and protection of sites of cultural, spiritual, historic and archaeological significance - within the protected areas - will not be limited to the interpretations of them by the LKDFN, DKFN and YKDFN. The opportunities for visitor experience in the proposed protected areas are stated to be aimed at appreciating and understanding the relationship between the Akaitcho Dene First Nations and Thaidene Nënë, yet, the Thaidene Nënë area also has a rich history of Métis use and occupation and continues to be used by the Métis to the present day.

Finally, NSMA does not support the allocation of contracting, training and employment opportunities going exclusively to one Indigenous group. NSMA also does not support Parks Canada selectively entering into impact benefit agreements with only a select few affected First Nations and Métis. NSMA is of the view that economic opportunities arising from the Thaidene Nënë park should be shared among all Indigenous groups with traditional claims to the area.

Next Steps

We look forward to hearing from you about the next steps that the MVEIRB intends to take in respect of the proposals for the Thaidene Nënë protected areas. Please contact the undersigned should you need any further information.

Yours truly,



William (Bill) A. Enge
President

cc. Christopher Devlin, Devlin Gailus Watson, Barristers and Solicitors

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