



Box 32, Wekweètì, NT X0E 1W0
Tel: 867-713-2500 Fax: 867-713-2502

#1-4905 48th Street, Yellowknife, NT X1A 3S3
Tel: 867-765-4592 Fax: 867-765-4593
www.wlwb.ca

July 8, 2016

Michael Conway, Regional Superintendent
Department of Transportation
Yellowknife, Northwest Territories

Dear Mr. Conway,

RE: NSMA Correspondence about GNWT TASR Engagement and Consultation

The Wek'èezhìi Land and Water Board (Board) received correspondence from the North Slave Metis Alliance (NSMA) dated June 2nd, 2016 in which NSMA outlines concerns about the engagement and consultation process undertaken by the Government of the Northwest Territories (GNWT) in relation to ongoing planning for the Tlicho All Season Road (TASR). The Board's Engagement Policy is intended to ensure the involvement of potentially affected parties in the planning of projects that will be subject to regulatory decision-making by the Board. In addition, the Board is aware that its proceedings contribute to the process of Crown consultation which may be required when government actions could infringe s. 35 Aboriginal rights.

At this stage in the TASR review it is the Board's view that there is still an opportunity for the NSMA's concerns to be further considered. We urge GNWT to take any necessary action to ensure that these concerns receive appropriate attention.

Yours truly,

A handwritten signature in blue ink, appearing to read "Ryan Fequet".

Ryan Fequet
Executive Director

Copied to: Bill Enge, President North Slave Metis Alliance
Russell Neudorf, Deputy Minister Transportation
Wek'èezhìi West Distribution List



FILE COPY

JUL 26 2016

Mr. Ryan Fequet
Executive Director
Wek'èezhìi Land and Water Board
1-4905 48TH STREET
YELLOWKNIFE NT X1A 2S3

BY EMAIL

Dear Mr. Fequet:

Re: GNWT TASR Consultation and Accommodation of NSMA

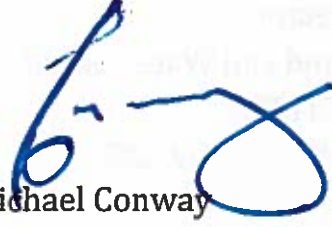
Thank you for your July 8, 2016 Letter, which requested that the GNWT take any necessary action to ensure that the North Slave Métis Alliance's (NSMA) concerns receive appropriate attention.

The GNWT responded to the concerns raised by the NSMA in its Proponent Responses, submitted on July 4, 2016. The GNWT is of the view that its engagement, consultation and accommodation, as set out in the Proponent Responses, has been appropriate and that the GNWT's obligations to the NSMA respecting the Tlicho All Season Road [TASR] have been met. The GNWT has also offered to meet with the NSMA to discuss concerns raised that are not specific to this project and looks forward to this broader engagement.

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We trust that the above helps answer any questions and appreciate that the Wek'èezhìi Land and Water Board must carry out its own assessment of the adequacy of Crown consultation and accommodation prior to issuing the land use permit and water licence for the TASR.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Michael Conway', with a large, stylized loop at the end.

Michael Conway
Regional Superintendent
North Slave Region
Department of Transportation



JUL 27 2016

Mr. Bill Enge
President
North Slave Métis Alliance
32 Melville Drive
PO BOX 2301
YELLOWKNIFE NT X1A 2P7

BY EMAIL

Dear Mr. Enge:

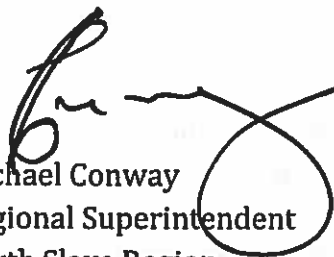
Meeting to discuss Concerns not specific to TASR expressed by the NSMA in the June 2, 2016 Letter to the WLWB

The GNWT carefully reviewed the June 2, 2016 North Slave Métis Alliance (NSMA) letter to the Wek'èezhìi Land and Water Board (WLWB) pertaining to the Tł̨chq All-season Road (TASR). The GNWT notes that the NSMA raised a number of concerns in that letter that are not specific to the TASR.

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The GNWT would like to extend an offer to meet with the NSMA to discuss the concerns not specific to the TASR that the NSMA raised in its June 2, 2016 letter to the WLWB. If you would like to meet, please contact Clayton Balsillie, Director of the Aboriginal Consultation and Relations Division in the Department of Aboriginal Affairs and Intergovernmental Relations, by e-mail at Clayton_Balsillie@gov.nt.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Conway', with a large circular flourish at the end.

Michael Conway
Regional Superintendent
North Slave Region
Department of Transportation

c Mr. Russell Neudorf
Deputy Minister
Department of Transportation

Ms. Laura Duncan
Tłıchǫ Executive Officer
Tłıchǫ Government

Mr. Ryan Fequet
Executive Director
Wek'èezhì Land and Water Board

Katie Rozestraten

Subject: DOT Letter to NSMA re Concerns Not Specific to TASR
Attachments: DOT letter to NSMA Jul 27 2016.docx.pdf

From: Michael Conway
Sent: Wednesday, July 27, 2016 12:05 PM
To: 'president@nsma.net'; Bill Enge (billenge@nsma.net)
Cc: Laura Duncan (lauraduncan@tlicho.com); Russell Neudorf (Russell_Neudorf@gov.nt.ca)
Subject: DOT Letter to NSMA re Concerns Not Specific to TASR

Good Morning Mr. Enge:

Attached is a letter addressing items not specific to TASR in your letter of June 02nd to the Wek'èezhìi Land and Water Board.

Thank you,

Michael...

Michael Conway
Regional Superintendent
Department of Transportation
Yellowknife, Northwest Territories
867-767-9089 Ext 31194

NORTH SLAVE MÉTIS ALLIANCE

PO Box 2301 Yellowknife, NT X1A 2P7



August 10, 2016

Clayton Balsillie
Director of Aboriginal Consultation and Aboriginal Relations
Department of Aboriginal Affairs and Governmental Relations
Government of the Northwest Territories
PO BOX 1320
Yellowknife, NT X1A 2L9
Ph: (867) 767-9138 Ext: 18075
Email: clayton_balsillie@gov.nt.ca

Via Email

Dear Mr. Balsillie:

Clayton

**Re: Preliminary Assessment of NSMA members' Aboriginal rights as Métis
Vis a Vis the Proposed "Tlicho All-Season Road"**

In a letter dated July 27, 2016, Mr. Michael Conway, Regional Superintendent, North Slave Region, Department of Transport (DoT), Government of the Northwest Territories (GNWT), wrote to the North Slave Métis Alliance (NSMA) extending an offer to meet with you to discuss NSMA's "concerns not specific to the Tlicho All-Season Road". As per Mr. Conway's letter, we are writing to confirm that we wish to meet with you for the above-noted purposes.

NSMA is ready, willing and keen to meet with you – and any other representatives from DoT and/or the GNWT – so that we may have a meaningful discussion regarding the GNWT's information and views of NSMA members' Aboriginal rights as Métis.

We also wish to emphasize that, while this discussion may not be specific to the proposed Tlicho All-Season Road, it is fundamental to ensuring that the consultation regarding the proposed Tlicho All-Season Road is conducted in a manner that upholds the honour of the Crown. That's because any time the GNWT (acting in its capacity as the "Crown") is contemplating an action that may adversely affect the Aboriginal rights of our members, NSMA wants to engage in a respectful dialogue with the GNWT that the duty to consult is meant to foster. In order to do so, NSMA needs to know that the GNWT's information and views concerning the content and strength of NSMA members' Aboriginal rights as Métis, is accurate for the purposes of the consultation in question.

Ph: (867) 873-NSMA (6762)

Fax: (867) 669-7442

Email: general@nsma.net

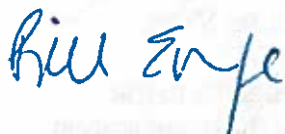
Please note: Canada's Federal Court of Appeal recently confirmed that without this information (i.e. preliminary strength of claim assessment), it's impossible for the parties to engage in meaningful consultation, because they will not know and will not be able to discuss what's in play in the consultation.¹ In NSMA's letters dated March 24, 2016 and June 2, 2016, to the DoT and Wek'eezhii Land and Water Board (WLWB) respectively, NSMA underscored the fact that there has been no preliminary strength of claim assessment of NSMA members' Aboriginal rights as Métis - provided by the GNWT or DoT - to guide a consultation regarding the proposed Tlicho All-Season Road.

While the GNWT acknowledges its duty to consult NSMA regarding the proposed Tlicho All-Season Road, the limited exchange of letters to date between NSMA and DoT has been focused on impacts and possible mitigation measures. In the same decision noted above, the Federal Court of Appeal confirmed that it is not consistent with the honour of the "Crown" for the "Crown" to simply assert that a project's impact will be mitigated without first discussing the nature and extent of the Aboriginal rights that are to be impacted by a proposed development. What this means, in the context of the proposed Tlicho All-Season Road, is that the GNWT must provide its preliminary strength of claim assessment and engage in a respectful dialogue about NSMA members' rights before there can be an assessment and consultation about the impacts of the Tlicho All-Season Road on NSMA member's Aboriginal rights as Métis. It goes without saying that DoT's failure to provide this information frustrates everyone's efforts to engage in a meaningful dialogue.

For all of the reasons pointed out above, NSMA looks forward to meeting with you to hear and discuss the GNWT's views respecting NSMA members' Aboriginal rights as Métis. We are available to meet, (preferably in the afternoon) on the following dates in August 2016: 22, 23, 24, 25, 30, 31 to discuss this important matter.

I look forward to hearing from you.

Sincerely,



William (Bill) A. Enge
President

Email: president@nsma.net

cc: Mr. Michael Conway, Regional Superintendent, North Slave Region, DoT
Email: michael_conway@gov.nt.ca

¹ *Gitxaala Nation et al. v. Her Majesty the Queen et al.*, 2016 FCA 187 paras. 307-309

Mr. Ryan Fequet, Executive Director, Wek'eezhii Land and Water Board
Email: rfequet@wlwb.ca

Mr. Russell Neudorf, Deputy Minister, Department of Transportation
Email: russell_neudorf@gov.nt.ca



OCT 20 2016

Mr. William (Bill) Enge
President
North Slave Métis Alliance
PO BOX 2301
YELLOWKNIFE, NT X1A 2P7

NSMA Members' Strength Of Claim Preliminary Assessment

Dear Mr. Enge:

Thank you for your August 10th and October 06th, 2016 letters requesting to meet with the Government of the Northwest Territories (GNWT) Department of Aboriginal Affairs and Intergovernmental Relations (DAAIR) to discuss the GNWT's preliminary assessment of the North Slave Métis Alliance (NSMA) members' asserted Aboriginal rights claim in the Northwest Territories (the "preliminary assessment").

The GNWT conducted the preliminary assessment following direction from the courts in the *Enge v. Mandeville et al* decision (2013 NWTSC 33). The GNWT is in the process of finalizing the preliminary assessment. The results of the preliminary assessment will help inform the GNWT's pre-consultation assessment as outlined in Step 1 of the GNWT's Approach to Consultation with Aboriginal Governments and Organizations, when considering a proposed government action that has the potential to adversely impact the asserted Aboriginal rights of NSMA members.

The GNWT would like to meet with NSMA representatives to discuss the results of the preliminary assessment after they have been disclosed to the NSMA in writing. DAAIR anticipates the disclosure to occur in the next couple of months.

With respect to the Tłıchǵ All-Season Road (TASR, the Project), the GNWT encourages NSMA's continued participation in the TASR environmental assessment (EA), and notes that NSMA has raised concerns with respect to caribou and Métis heritage resources. The GNWT has stressed that it will rely on the environmental assessment process being undertaken by the Mackenzie Valley Environmental Impact Review Board (MVEIRB) to learn more from each Aboriginal government and organization (AGO) about the nature of their proposed concerns on Aboriginal and Treaty rights relating to the TASR.

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The expectation from the GNWT is that AGOs, including the NSMA, will utilize this opportunity to raise concerns and be willing to discuss ways in which those concerns can be mitigated, in order to ensure that those concerns are heard, considered, and accommodated as appropriate. This is in keeping with the theme that courts have stressed on numerous occasions regarding the reciprocal obligation on AGOs to clearly describe the impacts on Aboriginal and/or Treaty rights in consultation processes that are made available to them. The EA being undertaken by MVEIRB is a process that courts have already affirmed provides an excellent opportunity for an AGO to: express its interests and concerns regarding impacts on section 35 rights; ensure that the concerns are seriously considered; and, when possible, have those concerns integrated into the proposed Project in the form of Project accommodations.

If you have any questions or require any additional clarification regarding this letter, I can be reached at the contact information below.

Sincerely,



Mr. Clayton Balsillie
Director, Aboriginal Consultation and Relations
Aboriginal Affairs and Intergovernmental Relations
Email: clayton_balsillie@gov.nt.ca
Phone: 867-767-9025 Ext. 18075

c. Mr. Gary Bohnet
Principal Secretary

Ms. Shaleen Woodward, Acting Deputy Minister
Aboriginal Affairs and Intergovernmental Relations

Mr. Michael Conway, Regional Superintendent
Department of Transportation, North Slave Region

Mr. Russell Neudorf, Deputy Minister
Department of Transportation

Mr. Ryan Fequet, Executive Director
Wek'èezhì Land and Water Board

Mr. Bret Wheler, Senior EA Policy Advisor
Mackenzie Valley Review Board

Mr. Terry Hall, Director
Land Use and Sustainability, Department of Lands