

August 23, 2016

EA1617-01

Michael Conway
Regional Superintendent, North Slave Region
GNWT - Department of Transportation
Yellowknife, Northwest Territories

Sent via email

Dear Mr. Conway,

Re: Crown consultation during environmental assessment of proposed Tłı̨chǫ All-Season Road (EA1617-01)

The Review Board is aware of the correspondence between the North Slave Metis Alliance (NSMA), Government of the Northwest Territories (GNWT), and Wek' èezhii Land and Water Board (WLWB) regarding engagement and consultation for the GNWT's proposed Tłı̨chǫ All-Season Road that appears on the WLWB online registry (referenced under Land Use Permit application W2016E0004). Review Board staff are in the process of copying these and other relevant materials from the WLWB registry over to our registry.

The Environmental Impact Assessment process set out under Part 5 of the *Mackenzie Valley Resource Management Act* (MVRMA) must, among other things:

- Take into account the concerns of aboriginal people and the general public;
- Have regard to the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley; and
- Have regard to the importance of conservation to the well-being and way of life of aboriginal peoples of Canada to whom section 35 of the *Constitution Act, 1982* applies and who use an area of the Mackenzie Valley.

To implement these statutory responsibilities during an environmental assessment (EA), the Review Board provides numerous opportunities for engagement and involvement, in a variety of formats (written, in-person, formal, informal, technical, non-technical, etc.), including:

- Subscription to our public registry and online review system;
- Community and technical scoping sessions and public review of a draft terms of reference for the EA;
- Written information requests and in-person technical sessions; and
- Public hearings (including written submissions, in-person presentations and questioning, and written closing arguments).

The Review Board uses these engagement tools and the entire EA process to fulfill its statutory responsibilities. The Review Board has also adopted the *MVLWB Consultation and Engagement Policy* and *MVLWB Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*.



The Review Board acknowledges that fulfillment of Part 5 of the MVRMA can also satisfy crown consultation obligations; however, it is not the Board's role to make determinations on the existence of or strength of any aboriginal rights. The Review Board's primary interest is in the conduct of the EA. How well the EA process might satisfy crown consultation obligations depends on the direct engagement between government and potentially-affected aboriginal organizations. It is the Review Board's policy to encourage and foster such engagement, which can continue throughout the EA process and even in the regulatory process.

With regard to the proposed Tłı̨chǫ All-Season Road, and considering the consultation-related correspondence posted to the WLWB online registry, the Review Board's view is that further direct consultation between the GNWT and the NSMA is appropriate. Therefore, the Review Board encourages the GNWT to carry out such direct consultation with the NSMA. Please submit any meeting notes or outcomes so that they can be posted to the Review Board's public registry.

Please contact Mark Cliffe-Phillips at mcliffephillips@reviewboard.ca or 766-7055 if you have any questions.

Regards,

Mark Cliffe-Phillips
Executive Director

cc: Bill Enge, President, NSMA
Clayton Balsillie, Aboriginal Consultation and Relations Division, GNWT