

## SUMMARY TEXT FOR NAHʔA DEHÉ DENE BAND PRESENTATION AT PUBLIC HEARING IN FORT SIMPSON

Prepared June 15<sup>th</sup>, 2011  
Updated June 21<sup>st</sup>, 2011 (see shaded areas)

**Introduction:** The Nahʔa Dehé Dene Band (NDDB) has been dealing with the Prairie Creek Mine since it was first developed in the late 1970s and early 1980s. For three decades, NDDB has been concerned about potential environmental impacts from mine development and operation, while trying to gain benefits from the mine's operations.

In 2008, as the mine was moving from the development to operational phase, the Nahʔa Dehé Dene Band recommended an environmental assessment (EA) of the mine and then established a three-path approach to dealing with mine issues:

1. Preparation of a traditional knowledge assessment of mine impacts;
2. Engagement in the environmental assessment process; and
3. Negotiation of an Impact Benefit Agreement (IBA).

The intent at that time was to establish a reasonable balance between protecting the environment and getting benefits from the mine, all rooted in the NDDB assertion that mine operations will primarily affect the Nahʔa Dehé got'ine traditional land use area.

1. **TK Assessment:** A confidential TK Assessment of the Prairie Creek Mine was completed in April 2009 and provided to INAC. This assessment:

- provided an overview of the history of the Nahʔa Dehé got'ine (people) and their traditional land use and cultural activities in the Nahʔa Dehé (Nahanni River) valley and surrounding area;
- described specific traditional values and interests in the area potentially impacted by the Prairie Creek Mine; and
- identified preliminary concerns, from a cultural perspective, about the operation of the mine and winter haul road operations.

More detailed work regarding the potential impact of the mine on traditional values was carried out in 2009 and an Addendum to the TK Assessment was prepared and submitted to the MVEIRB as a component of the EA process.

This Addendum identified the following main environmental concerns:

- Possible contamination of the water and fish in Prairie Creek from mine operations;
- Possible contamination of wetlands and waterways around the mine site along the winter haul road corridor from spills;

- Contribution to cumulative contamination of the Nahanni River, through Prairie Creek;
- Disturbance to wildlife,-- particularly boreal caribou, moose, and Dall's sheep -- around the mine site and along the winter haul road corridor;
- Damage to cultural resources in the traditional mountain passes from winter haul road operations; and
- Overhunting and other disturbances to wildlife from public access to over-wintering habitat along the winter haul road corridor.

2. **EA Involvement:** The Nahz'a Dehé Dene Band (NDDDB) has continued to carry these environmental concerns, along with a number of socio-economic concerns, forward throughout the EA process, through active participation in EA activities. Earlier this month, NDDDB submitted a technical report to the MVEIRB which contained a set of recommendations, two of which were subsequently modified.

A few of these recommendations are already being met through commitments from Canadian Zinc Corporation. Other recommendations were submitted before NDDDB was able to see the final technical recommendations being made by other interveners, particularly responsible government departments. It is now clear that most of the outstanding NDDDB concerns can be met through implementation of many of the technical recommendations made by these departments to the Board.

This presentation will therefore list specific NDDDB recommendations and then identify the departmental recommendations (or other commitments) that will help address NDDDB concerns.

1. *NDDDB recommends that the MVEIRB require Canadian Zinc Corporation to enhance its Water Treatment Plant such that it can meet EQCs most protective of the aquatic environment.*
  - a. *If there is a reasonable and justifiable rationale for not enhancing the Water Treatment Plant to meet the most protective EQCs, NDDDB recommends that the public registry remain open for EA0809-002 until there is consensus between Canadian Zinc Corporation, responsible authorities, and NDDDB regarding the water quality management system and criteria utilized such that minimal changes to water quality and the aquatic environment can be assured. NDDDB will accept a consensually-agreed-upon water quality management system.*

The departmental technical recommendations that will address this concern are as follows:

- INAC Site Specific Water Quality Objectives and Effluent Quality Criteria recommendations 1-4 (p. 55);
- INAC Water Management and Storage recommendations 1-4 (p. 55-56);
- INAC In-stream Mercury Concentrations recommendations 1-2 (p. 56);
- INAC Initial Dilution Zone and Dilution in Prairie Creek recommendation 1 (p. 56);
- INAC Effluent Discharge recommendations 1-4 (p. 57);
- INAC Aquatic Effects Monitoring Program and Adaptive Management recommendation 1 (p. 58);
- EC recommendations 3,4,6,8,9,10,11,12,13,14, and 16 (p. 35-36);
- NRCan recommendations 6 and 11 (p. 34-35);
- DFO recommendations 1, 2, and 8 (p. 15).

NDDDB now understands that improving the efficiency of the Water Treatment Plant is not feasible, so this recommendation will need to be met through the implementation of departmental recommendations. However, for clarity, NDDDB has determined that it will accept water quality criteria that strike a reasonable balance between the criteria proposed by CZN and the criteria proposed by responsible government departments, where these criteria differ.

2. *With respect to post-closure impacts, NDDDB recommends that the public registry remain open for EA0809-002 until there is consensus between CZN, responsible authorities, and NDDDB on the long-term efficacy, stability, and/or impact of the tailings disposal system such that there is assurance that no significant long-term bioaccumulation or bio-concentration of contaminants will occur in the downstream environment. Consensus must also be reached in relation to post-closure monitoring time frames.*
  - a. *NDDDB further recommends that CZN be required to post a reclamation bond significant enough to carry out post-closure monitoring and mitigation of post closure water quality impacts.*

The departmental technical recommendations that will address this concern are as follows:

- INAC In-stream Mercury Concentrations recommendation 2 (p. 56);
- INAC Post Closure Conditions recommendations 1-2 (p. 57);
- NRCan recommendations 11-12 (p. 35);
- DFO recommendation 9 (p. 15).

There still needs to be clarity on the manner and amount of reclamation bonding required for this mining project.

3. *In order to reduce the potential for, or impacts from, spills along the haul road, NDDDB recommends that:*
- *More stringent spill prevention and response plans be developed and approved by regulators for the first 54 kilometres of the road prior to final approval of mine operations;*
  - *CZN clarify and finalize its road alignment plan for the Silent Hills prior to final approval of mine operations;*
  - *The Spills Contingency Plan address the potential for spill events that occur during adverse road or weather conditions;*
  - *In the Spills Contingency Plan, CZN holds overall responsibility for spills response whether spills occur from the actions of CZN or subcontracted personnel (individual party liability can be addressed after the fact);*
  - *NDDDB be consulted and play a meaningful role in Spill Contingency Planning and response; and*
  - *CZN table a Mine Economic Feasibility Report with regulators prior to final approval of mine operations to ensure that there is enough profitability in the mine that profit versus safety considerations can be reasonably balanced without affecting mine sustainability.*

The departmental technical recommendations that will address this concern are as follows:

- INAC Access Road – Land Disturbance, Road Construction and Operation recommendations 1-2 (p. 58);
- INAC Access Road – Spill recommendation 1 (p. 60);
- NRCan recommendations 1, 2, 10 (p. 34-35);
- Parks recommendations 1-2 (p. 25).

This recommendation will be met through implementation of departmental technical recommendations relating to road construction and operation as well as spills contingency planning.

NDDDB concerns about safety versus cost considerations will likely be adequately addressed through implementation of departmental recommendations and the posting of an appropriate reclamation bond noted in NDDDB recommendation #2. As well, NDDDB notes that CZN has recently engaged SNC-Lavalin Inc. to complete a

Feasibility Study on the Prairie Creek Mine which is expected to be completed by the end of 2011.

4. *NDDB recommends that, as a component of its previous recommendation regarding the Prairie Creek Mine water quality management system, particular attention be paid to reducing the presence of mercury and any other element in the mine effluent known to bio-accumulate or bio-concentrate, such that levels of these elements do not exceed existing levels in Prairie Creek at all times.*

This recommendation is hereby modified to read "... such that these levels do not exceed levels that can cause short or long term harm to the aquatic environment". The appropriate levels can be determined through implementation of departmental recommendations, including the setting of balanced water quality criteria noted above under recommendation 1.

The departmental technical recommendations that will address this concern are as follows:

- INAC In-stream Mercury Concentrations recommendation 2 (p. 56);
- INAC Post Closure Conditions recommendations 1-2 (p. 57);
- NRCan recommendations 11-12 (p. 35);
- DFO recommendation 9 (p. 15).

5. *NDDB recommends that the Draft Wildlife Management Plan be expanded to include more pro-active, science and TK-based monitoring practices, not just incident and sighting documentation, and that this redrafting be carried out by CZN in cooperation with NDDB, Parks Canada, and the GNWT. The final plan should be reviewed and approved by the proposed Technical Advisory Committee prior to any required regulatory approvals.*

The departmental technical recommendations that will address this concern are as follows:

- EC recommendations 15, 24 and 25 (p. 35, 36, 37);
- Parks recommendation 7 (p. 26-27).

NDDB notes that the approach suggested in Park recommendation 7 should also be applied to boreal caribou, sheep, and moose populations between the Park boundary and the Liard River.

6. *NDDB recommends that the GNWT continue to oversee archaeological assessment work and that the required AIA be carried out as planned this summer, with direct NDDB involvement.*
  - a. *NDDB further recommends that any cut and fill activities associated with access road construction in or around the sites of main concern be monitored by an archaeological technician and/or an informed NDDB member to ensure protection of potential heritage resources.*

This matter will partially be addressed through the AIA requirement. Site monitoring at mountain passes during road construction could simply be addressed through a commitment by Canadian Zinc Corporation.

7. *NDDB recommends that, in lieu of being able to place public access restrictions on the road, an NDDB-staffed checkpoint be established near the entry point to the road during winter operations and that the following points be agreed to and posted at this checkpoint:*
  - *Public use of the access road is at one's own risk;*
  - *No extended stopping or parking is allowed along the access road (so that haul traffic is not restricted in any way);*
  - *Haul trucks and other operational vehicles have the right-of-way at all times;*
  - *No towing or any other vehicle maintenance services will be provided by CZN, its subcontractors, or NDDB; and*
  - *No shooting from, across, or along the road corridor is allowed (for safety reasons).*

This matter will be addressed through a current commitment by Canadian Zinc Corporation to establish a NDDB operated check point, as well as through discussions with the proposed Prairie Creek Technical Advisory Committee to finalize road restrictions and warnings.

8. *NDDB recommends that CZN and/or government agencies:*
  - *Ensure stringent environmental protection measures are put in place and help community members fully understand these measures;*
  - *Support and fund NDDB's training priorities;*
  - *Assist the Band and NDDB members in getting access to capital, partners, and expertise in order to take advantage of business opportunities;*
  - *Support and fund better counselling and healing programs to address substance abuse issues;*
  - *Support and fund money management programs;*

- *Support cultural and language programs;*
- *Ensure that community members are allowed time off for the community fall hunt; and*
- *Operate initially with a 3 weeks in/3 weeks out shift option but assess the effectiveness of this shift rotation on NDDB employees on an annual basis.*

Environmental concerns are being addressed through NDDB intervention in the EA process. Most socio-economic concerns are being addressed through the IBA signed this past March between NDDB and Canadian Zinc Corporation. However, NDDB will need ongoing support from government agencies to ensure that it has the capacity to fully implement and benefit from the IBA. NDDB is aware that the GNWT is calling for a socio-economic agreement between CZN and the GNWT, but this would be a territorial agreement and would not override the current IBA that NDDB has with CZN.

9. *NDDB recommends that CZN and/or AAND and/or Parks Canada provide the funding necessary for NDDB's full participation in the proposed Prairie Creek Technical Advisory Committee.*

NDDB notes that Environment Canada supports the role of this committee in the design of monitoring programs (EC, p. 35). Canadian Zinc Corporation has committed to the establishment of this committee and Parks Canada has agreed to participate. Funding for NDDB participation has yet to be addressed by CZN and/or government departments.

3. **IBA Negotiations:** The Nahzà Dehé Dene Band signed a Memorandum of Understanding with Canadian Zinc in the fall of 2009. This MOU led to the negotiation of an Impact Benefits Agreement that was signed off by Canadian Zinc and the NDDB Council in early 2011.

The IBA acknowledges NDDB rights and interests in the mine impact area, provides a range of direct and potential benefits to NDDB, and does not restrict NDDB from continuing to participate in the EA process to protect its environmental interests.

**Conclusion:** At this point in time, the Nahzà Dehé Dene Band can make the following comments regarding the its original goal, which is *‘to establish a reasonable balance between protecting the environment and getting benefits from the mine, all rooted in the NDDDB assertion that mine operations will primarily affect the Nahzà Dehé got’ine traditional land use area’*.

With respect to socio-economic impacts and benefits, the Nahzà Dehé Dene Band is confident that its socio-economic interests will be adequately addressed through the full implementation of the IBA it currently has with Canadian Zinc, as long as implementation support is provided by the appropriate government agencies.

With respect to environmental protection, if the current technical recommendations made by NDDDB and government departments are carried out -- particularly with respect to the establishment of a protective water quality management system, spill contingency planning, and wildlife management planning -- NDDDB feels that its short and long term environmental interests will be protected.