



Resource & Land Management
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May 26, 2017

Mark Cliffe-Phillips
Executive Director
Mackenzie Valley Environmental
Impact Review Board
Box 938, 5102-50th Ave
Yellowknife, NT X1A 2N7

Dear Mr. Cliffe-Phillips,

Subject: INAC- Final Closing Comments for the Canadian Zinc Prairie Creek All Season Road Project.

Indigenous and Northern Affairs Canada (INAC) would like to thank the Mackenzie Valley Environmental Impact Review Board for the opportunity to participate in the environmental assessment for the proposed Prairie Creek All Season Road Project (Canadian Zinc).

Please find attached INAC's final closing comments following the public hearing for your consideration.

Yours sincerely,

Michael Roesch
Senior Program Manager
Resource & Land Management
NWT Region

c.c.: Mark Hopkins, Director General, Natural Resources and Environment, INAC
Catherine Conrad, Senior Director, Environment and Renewable Resources, INAC
Kim Pawley, Manager, Environmental Assessment, Land Use Planning and Conservation, INAC



Closing Submission
Mackenzie Valley Environmental Impact Review Board
Canadian Zinc – Prairie Creek All Season Road

Indigenous and Northern Affairs Canada (INAC) is pleased to provide the following closing submission to the Mackenzie Valley Environmental Impact Review Board (the Review Board) for the environmental assessment of the Canadian Zinc Prairie Creek All Season Road Project.

INAC has participated as a Party in the environmental assessment of the Prairie Creek All Season Road Project. The Minister of INAC is the federal Minister under section 130 (1) of the *Mackenzie Valley Resource Management Act (MVRMA)* makes a decision on this project on behalf of the responsible Federal ministers having jurisdiction. INAC is also a responsible Minister under the *MVRMA* as the proposed project crosses over Indian Band Lands (IAB Lands) and will require both a licence and a lease from the department.

INAC's main consideration in this review process is to ensure that land tenure for the IAB lands complies with departmental permitting and leasing policies and provides consistency with the permits and leases for the proposed barge landing area and road way required by the Parks Canada Agency (PCA) and the Government of the Northwest Territories (GNWT).

In its Technical Report of March 10th, 2017 (PR# 450), INAC provided recommendations to the Review Board related to:

- land tenure for the barge landing area on the south side of the Liard River and the road way that crosses the Indian Band lands,
- public access control,
- spill contingency planning for the barge area on the south side of the Liard River, and
- closure and reclamation of the barge landing and roadway on the Indian Band Lands.

INAC has considered the information provided by Canadian Zinc in their April 6, 2017 letter (Public Registry # 488), meetings held with the GNWT, INAC, and Canadian Zinc, in Yellowknife November 16, 2016 (Public Registry #428), as well as information presented at the Fort Simpson Public Hearing, April 26-28, 2017 (PR# 524, 525, and 528). INAC respectfully provides the Review Board with the following closing remarks.

Closing Statement

In INAC's Technical Report, (PR# 450) INAC made ten recommendations to the Review Board. INAC is satisfied that Canadian Zinc will meet eight of INAC's recommendations through the review of the necessary plans and issuing of licence and leases for the proposed project during the regulatory phase.

INAC will work closely with Canadian Zinc, the Parks Canada Agency, and the GNWT to insure consistency of the permitting of the All Season Road, and for the Barge Landing on the north shore of the Liard River.

The two recommendations from the technical Report that INAC is concerned that may not be met prior to the regulatory phase of the proposed Project are related to the Land Tenure recommendations 1 and 2. These are as follows;

Land Tenure

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.

During the time between the submission of INAC's Technical Report (PR# 450) on March 10, 2017, and the date of the Public Hearings in Fort Simpson, N.W.T., Canadian Zinc submitted a letter on April 6, 2017 to the Review Board copying both the Chief Marcellais of the Nahanni Butte Dene Band, the GNWT, and INAC (PR# 488). In this letter, Canadian Zinc has agreed to obtain the necessary licences and leases as required by the GNWT and INAC and recommended in their respective technical reports (PR# 455, and PR# 450).

Canadian Zinc has provided an assessment of spill risk and consequence in the Developer's Assessment Report (Public Registry #55), and in their response to Undertaking #2, (PR# 539). Canadian Zinc identified the barge landing areas and the Laird River crossing as moderate risk sites in these assessments. The terms and conditions within the INAC Licence of Occupation and Surface Lease would make Canadian Zinc liable for any contamination on the IAB Lands as a result of an accident, spill or malfunction.

INAC had advised the Nahanni Butte Dene Band in a January 27, 2017 letter to Chief Peter Marcellais (PR# 420) that in order for the department to be able to issue the Licence of Occupation and the Surface Lease to Canadian Zinc for the road way and the barge landing on the IAB Lands, that the Nahanni Butte Dene Band would first need to relinquish their interest in the IAB Lands through a Band Council Resolution. To date INAC has not received a Band Council Resolution to this effect. Without this Band Council Resolution, INAC would be unable to provide the necessary Licence of Occupation and Surface Lease to Canadian Zinc. Although Canadian Zinc has stated that they will obtain the necessary licences and permits, in the Nahanni Butte Dene Band's Technical Report (PR #460), and during the Public Hearings (PR # 521, 524, and 528) in Fort Simpson, the Nahanni Butte Dene Band did not make any commitments to relinquish their interest in the IAB parcel to support Canadian Zinc in obtaining the necessary licences and permits.

To insure that the Nahanni Dene Butte Band relinquishes their interest in the IAB lands INAC is recommending to the Mackenzie Valley Review Board that they consider a measure in the Report of Environmental Assessment to require this. This will provide assurance to the department that prior to the regulatory stage that the Nahanni Butte Dene Band will relinquish their interest in the IAB lands enabling INAC to provide the necessary licence and lease that will insure environmental protection to the IAB lands as well as liability for Canadian Zinc in the event of an accident, malfunction or spill on these lands.

If the Prairie Creek All Season Road Project is approved and proceeds to the regulatory phase, should the Nahanni Butte Dene Band not relinquish their interest in the Indian Band Lands, INAC could not provide the necessary surface lease and licence of occupation. This would be a risk to the project as the proposed barge landing location, as well as the road over the IAB Lands could not proceed as currently planned and reviewed throughout the Environmental Assessment process. The result would be that the current road alignment as on the IAB lands would need to be moved to the GNWT lands, and the barge landing would need to be relocated to GNWT lands to align with the new road alignment. This alternative road alignment and barge landing location and the potential impacts and requirements have not been considered in the review of the proposed project.

Spill Contingency and Emergency Response Plans

During the Public Hearings in Fort Simpson Canadian Zinc agreed to provide responses to ten undertakings. Undertaking 10 required Canadian Zinc to provide a list of management and monitoring plans in a table format that will be developed or updated, what each plan applies to, what phase(s) it applies to, and what government agencies will be involved in review and approval. The table has been provided and is attached to Canadian Zinc's Undertaking Responses (PR 539). The first plans listed in the table are the Spill Contingency and Emergency Response Plans. The Review Agencies listed to review and approve these plans are Parks Canada Agency, Environment and Climate Change Canada, and the Government of the Northwest Territories. INAC will also have to review and approve the Spill Contingency and Emergency Response plans associated with the lease and licence that Canadian Zinc will need to obtain from the department for the IAB Lands. INAC requests that this table be updated by Canadian Zinc to reflect this.

Conclusions

INAC requests that the Mackenzie Valley Review Board consider a measure in the Report of Environmental Assessment for the proposed Project that will require the Nahanni Butte Dene Band to relinquish their interests in the IAB lands.

INAC requests Canadian Zinc to update the table for Undertaking 10 to include INAC as a government agency to review and approve Spill Contingency and Emergency Response Plans.

INAC will continue to work with Canadian Zinc to develop the required final plans for the roadway and barge landing located on the IAB Lands. This work will be in co-operation with the GNWT and PCA to insure that wherever possible, the terms and conditions in all of the necessary leases, licences and permits mirror each other to provide consistency for the entire length of the all season road and barge landing areas.

INAC thanks the Mackenzie Valley Environmental Impact Review Board for providing INAC the opportunity to participate in and provide input into the environmental assessment process for the Prairie Creek All Season Road Project.