



November 21, 2017

Umar Hasany  
Project Officer  
Northern Projects Management Office  
Canadian Northern Economic Development Agency  
5019 – 52<sup>nd</sup> Street  
Yellowknife, NT  
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**Re: Prairie Creek Mine All Season Road EA 1415-01  
Responses from Indigenous Groups to Letter September 12, 2017**

Dear Mr. Hasany:

We refer to the joint letters from CanNor (NPMO) and GNWT, dated September 12, 2017, to Nahanni Butte Dene Band (NBDB) and to five other Indigenous groups, being invitations to provide comments for Aboriginal consultation and potential accommodation regarding the Report on Environmental Assessment issued by the Mackenzie Valley Environmental Impact Review Board on the proposed Prairie Creek All Season Road (EA1415-01).

We also refer in particular to the response letters received from Nahanni Butte Dene Band, dated October 5, 2017, and the response letters from Liidlii Kue First Nation (LKFN) and Dehcho First Nations (DFN), both dated October 20, 2017.

We understand that the invitation for comments was issued in relation to the Aboriginal consultation responsibilities of the Government of Canada and the Government of the Northwest Territories. The Governments' invitation letters note that the Governments rely on the environmental assessment process to assist in fulfilling the duty to consult, and where appropriate accommodate, with respect to potential adverse impacts of the Project on asserted or established Aboriginal and or Treaty rights.

We were pleased to see that the response letters from Nahanni, LKFN and DFN all indicated their general agreement or acceptance with the Report and the Board's Decision, while making various other comments.

However, the responses from LKFN and DFN appear to include numerous comments relating to matters that were reviewed and evaluated during the EA process and do not appear to specifically relate to potential adverse impacts of the Project on asserted or established Aboriginal and or Treaty rights.

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CanNor Letter re All-Season Road Consultation

As you are aware, Canadian Zinc Corporation concluded an Impact Benefit Agreement (IBA) with the NBDB in January 2011 and an IBA with LKFN in June 2011. While the specific details in these agreements are confidential (at the request of the communities), it is public knowledge that the IBA agreements include commitments by Canadian Zinc to provide for monitoring of the mine access road by NBDB members and monitoring of the mine site by LKFN members. Each Band was and is aware of the other's area of responsibility and, in this way, there is a clear division of tasks and responsibility.

The Report of Environmental Assessment (REA) is, unfortunately, ambiguous on the topic of monitoring responsibilities in Measures 15-1 and 15-4. In Measure 15-4, the Report refers to "monitoring initiatives undertaken by Nahanni Butte Dene Band, Liidlii Kué First Nation, and Dehcho First Nations". CZN sought clarification on this point from Board staff immediately following release of the REA, and also during subsequent briefing conference calls for parties to the EA, organised by the Board, in which the measures were explained. Board staff advised that the Board elected to not define which community or indigenous group should have the opportunity and/or the responsibility for conducting monitoring, and that the word "and" was not intended to indicate that all three of the indigenous groups should be involved.

The NBDB's response refers to the promise that the Band would be responsible for the road monitoring, and it is clear that Nahanni expects to be conducting the monitoring. The NBDB consider the access road and mine site to be wholly within their traditional territory. The responses by LKFN and DFN indicate that those groups expect to be involved in the monitoring.

This is an issue which will have to be clarified by the Mackenzie Valley Land and Water Board and Parks Canada at the permitting and licensing stage or resolved by agreement. It should be remembered that (from east to west) part of the road route passes adjacent to the Nahanni community village, part through Indian Affairs Branch (IAB) Lands reserved for Nahanni, part through Crown Land in proximity to Nahanni, part through the Nahanni National Park Reserve under the jurisdiction of Parks Canada, and the final part again through Crown land.

Further comments to the response letters from NBDB and LKFN are provided below.

### **Nahanni Butte Dene Band (NBDB)**

Canadian Zinc is in advanced discussions with the NBDB towards concluding a Traditional Land Use Agreement. As mentioned above, the road route passes either adjacent, or in close proximity, to the Nahanni community. This proposed Traditional Land Use Agreement will include commitments for the co-management and monitoring of the all-season road and additional accommodation having regard to the additional impacts that the all-season road may have on Nahanni.

Canadian Zinc supports NBDB's desire to expand the Indian Affairs Branch (IAB) Lands set-aside for community expansion, on the understanding that there will be mutual support from the Band for any regulatory instruments to enable the all-season road to cross the IAB Lands.

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CanNor Letter re All-Season Road Consultation

Canadian Zinc also strongly supports Nahanni's desire to build a Youth Centre at 2<sup>nd</sup> Gap and we have been discussing the logistical and financial support that CZN could provide to further this worthy objective.

## LKFN

Canadian Zinc entered into an Impact Benefit Agreements with LKFN in June 2011. At the outset of the recent EA, although LKFN was not a registered participant in the EA at that time, LKFN were generally supportive of the all-season road, understood and accepted NBDB as the nearest and most impacted community to the Prairie Creek project, and did not voice any concerns with respect to items such as additional benefits or support for traditional knowledge studies.

In July 2016 during a Cultural Technical Session in Fort Simpson, LKFN indicated a desire to document their traditional knowledge (TK), and requested funding support for this activity. CZN advised that the NBDB TK study had been funded by government financial assistance.

Subsequently, discussions were initiated with CZN in relation to additional benefits from CZN having regard to the proposed all season road. CZN does not believe that the proposed all season road represents any additional impacts to LKFN. Nevertheless, CZN has indicated to LKFN that the Company is willing to consider reasonable additional accommodation. Discussions on a supplemental agreement to provide for some additional accommodation or benefits are at the preliminary stage.

We note that LKFN's response letter, with the report attached thereto, seems to be largely revisiting the EA process in which LKFN was an active participant in the later stages,

In Section 2.0 of the attached LKFN report "Introduction", LKFN note that "*We have extensive historical use of the Nahanni area, as shown through previous Indigenous Knowledge studies related to our Dehcho Land Use Plan and Nahanni National Park Expansion*". From this, it is clear that significant traditional knowledge information is already available and could be provided, and extensive further studies should not be considered necessary.

CZN is amenable to incorporating traditional knowledge into the studies and assessments that will be undertaken, however this TK knowledge needs to be provided in a timely manner and with reasonable expectations with respect to involvement in the studies and assessments.

LKFN's reply includes frequent references to funding for activities they say need to be completed before permits are issued. The normal practice and procedure of the Mackenzie Valley Land and Water Board is for permits to be issued with conditions stipulating the activities that need to be completed before development or construction can commence. As such, if those conditions are not met and until such conditions are satisfied, development or construction cannot proceed.

We submit that the normal process and the imposition of conditions effectively addresses any concern that CZN may not be financially able to conduct the required activities. Quite simply, if CZN does not have the financial capability, the road would not be built.

## Closing Remarks

The Review Board recommended various measures, including requirements that Canadian Zinc engage with traditional knowledge holders from Nahanni Butte Dene Band and other First Nations about ways to avoid impacts on heritage resources and to conduct systematic wildlife monitoring and adaptive management using traditional knowledge. The Review Board also recommended additional baseline surveys. CZN completed a number of the baseline monitoring surveys identified in the Review Board Report during summer 2017, including for collared pika, wetland and forest birds and rare plants. These surveys were undertaken in collaboration with Parks Canada and Environment and Climate Change Canada, and with the involvement of NBDB members.

Canadian Zinc believes that any concerns of all Aboriginal communities can be addressed and accommodated. CZN also believes that the various measures recommended in the Report of EA, many of which build on commitments CZN made during the course of the EA, can be satisfactorily addressed.

CZN wishes to proceed through the permitting process expeditiously, while simultaneously and subsequently addressing the requirements and conditions that will be contained in those permits.

We look forward to the distribution of the Minister's decision.

If you require clarification on any of the foregoing, or any other additional information, please do not hesitate to contact us.

Yours truly,



David P. Harpley, P. Geo.  
VP Environment and Permitting Affairs

cc. Kate Hearn, Assistant Deputy Minister, Government of the Northwest Territories