

NORTH SLAVE MÉTIS ALLIANCE

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Mark Cliffe-Phillips
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Wek'eezhii Land and Water Board
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February 28, 2009

Re: Fortune Minerals Nico Project Applications for Land Use Permit (W2008D0016) and Water Licence (W2008L2-0004)

Dear Mr. Cliffe-Phillips,

The North Slave Metis Alliance (NSMA) acknowledges receipt of your request for comments regarding the application by Fortune Minerals to conduct a mining and milling project in the vicinity of Lou and Nico Lakes, within the North Slave Métis traditional territory, and submits the following comments for your consideration during the environmental screening of this project.

Non-renewable resource depletion: The North Slave Métis Alliance asserts Aboriginal and Treaty Rights to the beneficial use and management of all resources within its territory. That territory extends from Great Bear Lake to Great Slave Lake, and from the Mackenzie River to Contwoyto Lake, in Nunavut. This project is right in the middle of our territory, and will remove a valuable resource that will no longer be available for our use. Since our comprehensive claims have not yet been settled, our entitlement to a share of the resource royalties, taxes, land use fees, and water use fees is not certain to be respected. This is a potential permanent negative socio-economic impact on our People of extreme significance. Having our natural resources taken from us without compensation is an impact to our social, economic, health and political wellbeing. There is a great deal of concern in the NSMA community about the inequitable allocation of benefits and costs of development, and discrimination against Métis.

Heritage, historic, cultural and archaeological resource impacts: There has been no assessment of potential impacts to Métis heritage, historic or cultural resources. The proponent's consultant, Golder, used only John Mantla, a Tlicho Dene from Rae, for advice when attempting to locate sites and interpret their significance. Likewise, only a Dogrib First Nation Representative participated in the resource assessment program. The section of the 2003 Heritage Resource Assessment report dealing with cultural context does not even mention the fact that the area has been occupied for centuries by Métis. Despite the discovery of various sites with doghouses, tent frames, evidence of trapping, graves and cemeteries, cabins, chimneys, claim posts, and even a survey marker, the pivotal role of the Métis in introducing these types of artefacts to the region, and helping to bring (arguably) culturally appropriate social and economic development to the Dene, over the past few centuries, is not even discussed. The possibility that the cut lines and old claim posts either belonged to or were established by Métis prospectors is also not considered. This needs to be further investigated.

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Golder's 2003 report states that the project "will have a negligible effect on significant heritage or cultural resources" because the traditional use sites in the area do not meet the criteria for being formally recorded as archaeological sites. There are many sites of high interest to the Métis that do not (yet) meet those criteria. As well, some of the sites visited in 2003 which did not qualify then, might qualify now. We do not want our sites destroyed just because they are 20 or 30 years old instead of 50. We do not agree with the arbitrary use of that number of years to identify artefacts of historic, heritage, or cultural significance.

The NSMA is extremely concerned that our heritage and cultural resources may be at risk, and have not been evaluated. We must be involved in any such evaluation.

The NSMA is extremely vulnerable, culturally, due to the ongoing dispersion of our population and discrimination against Métis culture. Because of the Crown's incorrect interpretation of the Indian Act (which is still under litigation with regards to the Métis, but which has been settled, in a Supreme Court case, in favour of the Inuit). Canada has, for the past few decades, supported the preservation of Dene languages, but not Michiff. Canada has supported the health care, social services and housing for Dene residents to remain in their small isolated communities (which were established and built in the first place by Métis), but not supported the Métis. If this project goes ahead without an in-depth assessment of the cultural, heritage and social impacts on the Métis, there is an extremely high probability of irreversible harm to an already endangered aboriginal culture. There is certainly a high degree of concern in the Métis community. No mitigation has been proposed or considered.

Interference with traditional use: NSMA members are entitled to practice their traditional activities throughout their territory, but they will not be able to do it in the vicinity of this project for the life of the mine and for an unknown period of time before and afterwards. There has been no attempt to quantify or mitigate this interference with their land and water use rights, or harvesting rights.

Socio-economic impacts: The assessment of the proponent does not address the highly probable inequitable distribution of employment, business, and training or education benefits. The proponent apparently presumes that current residential proximity to the project site is the source of entitlement to benefits, rather than existing aboriginal and treaty rights, which are protected by our Constitution. There seems to be no real effort to identify the particular Aboriginal Communities within the City of Yellowknife who have constitutionally protected land, resource and self-governance rights. It is not current residency, or length of historic residency, but the fact of occupation at the time of "effective European control" which determines who does, or does not, hold those rights. Resource depletion is also not considered.

Biophysical effects: We are concerned about the chemicals that will be used in the process plant, and their transportation to the site. We are concerned about dust, physical dangers, sharp rocks, water contamination, vegetation contamination and destruction, noise, smoke, and interference with fish, bird and wildlife behaviour and health.

Aesthetics: The area of this project is exceptionally beautiful, and of high scenic value. This needs to be preserved, but we are not certain that it will be possible to **restore** the site completely after 15 years of mining, and so much movement of rock. Besides the visual aesthetics, we also value the smell, taste, and feel of the land, vegetation and waters. We need to be fully consulted

on closure objectives, options, and criteria, and compensated for any changes to the environment – both temporary and permanent.

The NSMA submits these comments as the duly elected political representative of the indigenous North Slave Métis People who have continuously used and occupied the area since well before Europeans implemented effective control over the management of water use, and who therefore possess existing Aboriginal Rights and Aboriginal Titles to the lands, waters, and resources in the area of this project. About seventy-five out of the estimated ninety North Slave Métis families occupying this area in 1921 also participated in the signing of Treaty 11 at Fort Rae, and therefore also possess existing Treaty Rights. **These existing Aboriginal and Treaty Rights are protected by section 35 of the Constitution of Canada.**

The North Slave Métis People hold and continue to exercise communally held rights to use water for domestic, instream and commercial purposes, as an Aboriginal group who shares occupancy, use and ownership rights in the land while practicing activities similar in nature to trapping, hunting and outfitting concessions. **Our People are therefore entitled to compensation for any interference with these rights, as provided for in section 14(4)b and section 14(5) of the NWT Waters Act.**

The NSMA takes its representative mandate seriously, and must ensure it is “consulted and accommodated,” on any and all forms of activities planned or underway by public and private sector organizations, wishing to or undertaking activities on its traditional lands.

Our comments here have been brief, based upon our expectation of a referral to the Mackenzie Valley Environmental Review Board for environmental assessment.

If you have any questions regarding this intervention, please do not hesitate to email me at the address provided below.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheryl Grieve". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sheryl Grieve, B.Sc.
Manager of Environment, Lands and Resources
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