



**GHOTELNENE  
K'ODTINEH DENE**

*Nuh Nene is our home.*  
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**Northlands Land Claims**

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May 5, 2023

***By Email***

Nunavut Impact Review Board  
P.O. Box 1360  
Cambridge Bay, NU X0B 0C0

Attention: Karen D. Costello  
Executive Director

Dear Ms. Costello;

**RE: Comments on Standard Impact Statement Guidelines**

Ghotelnene K'odtineh Dene are pleased to provide preliminary comments regarding the NIRB Draft Standard Impact Statement Guidelines ("IS Guidelines"). Ghotelnene K'odtineh Dene appreciated the opportunity to participate in a virtual consultation session with the NIRB's representative on April 13, 2023. This discussion was helpful and led to a better understanding of the development of the IS Guidelines.

For Ghotelnene K'odtineh Dene, it is critical that the IS Guidelines provide clear direction with respect to Ghotelnene K'odtineh Dene and the requirement for Ghotelnene K'odtineh Dene rights and interests to be given appropriate consideration in the IS Guidelines. The Board's responsibility to ensure that Ghotelnene K'odtineh Dene's right and interests are considered was stated by the Minister of Northern Affairs in a decision letter, dated January 31, 2022:

The responsible Ministers would like to confirm that Canada acknowledges the asserted and established Section 35 rights of Ghotelnene K'odtineh Dene in Nunavut. In addition, we highlight the Board's responsibility to consider the potential impacts of projects on these rights and interests. Ghotelnene K'odtineh Dene have used and lived on and continue to use and live on the lands and waters that are part of the Qamanirjuaq caribou herd's habitat, both inside and outside of Nunavut. Further, Canada is currently negotiating a land claims agreement with Ghotelnene K'odtineh Dene to address their harvesting, land and other related rights in the southwestern portion of Nunavut and southeastern portion of the Northwest Territories. Once in effect, the Ghotelnene K'odtineh Dene Agreement would be a land claims agreement, within the meaning of Section 35 of the *Constitution Act, 1982*. For the purpose of this decision, the responsible

Ministers have considered the Project's potential impacts on Ghotelnene K'odtineh Dene's asserted and established Section 35 rights within their traditional territory, both inside and outside of Nunavut.<sup>1</sup>

The preliminary feedback provided by the NIRB with respect to the inclusion and consideration of Ghotelnene K'odtineh Dene rights and interests in the NIRB's processes, including the draft IS Guidelines, in our view, has not been reflective of the NIRB's responsibility as set out by the Minister of Northern Affairs in the passage reproduced above.

Furthermore, the Crown in right of Canada purports to rely upon the NIRB's assessment process, and associated proceedings, to assist in discharging the Crown's duty to consult with Ghotelnene K'odtineh Dene when a project may potentially affect Ghotelnene K'odtineh Dene rights or interests. If Ghotelnene K'odtineh Dene is not given adequate consideration in the NIRB's processes, including the IS Guidelines, this may require a far more extensive Crown consultation process after the NIRB's final report and recommendations are issued, possibly resulting in additional variations in the final decision. This is likely to reduce the efficacy of the assessment process and is not in the interests of any party.

The NIRB has assumed that an appropriate approach to incorporating Ghotelnene K'odtineh Dene's rights, interests, knowledge and concerns into an impact statement is to rely on assessment-specific guidance provided by the Federal Crown, ideally in the form of Ministerial guidance at the earliest stages when an assessment is triggered. However, as noted above, broad Ministerial guidance in relation to projects in general was provided to the NIRB on January 31, 2022. This project-specific approach would add unnecessary uncertainty, delay and cost to the assessment process. In our experience, proponents begin preparing impact statements well in advance of an assessment being triggered. While undertaking this preparatory work, proponents rely on the Standard IS Guidelines. Under the proposed project-specific approach much of this work would have to be revised at the time the assessment was triggered.

The consideration and inclusion of Ghotelnene K'odtineh Dene in the IS Guidelines is of critical importance and should be addressed in the Revised Draft IS Guidelines. The Nunavut Agreement and the *Nunavut Planning and Project Assessment Act* do not preclude the inclusion and consideration of Ghotelnene K'odtineh Dene's rights and interests in the NIRB's processes. Failure to appropriately include and consider Ghotelnene K'odtineh Dene's rights and interests in the NIRB's processes can contribute to unacceptable adverse impacts to Ghotelnene K'odtineh Dene's rights and interests within Nunavut and may undermine the assessment process in Nunavut. Ghotelnene K'odtineh Dene would welcome further discussions with the NIRB about this issue.

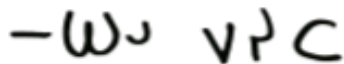
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<sup>1</sup> Letter from Minister Daniel Vandal to Kaviq Kaluraq, Nunavut Impact Review Board, dated January 31, 2022 (NIRB Registry File Name: 220131-11MN034-Ministers Response Re NIRB Reconsideration Report-ICHE)

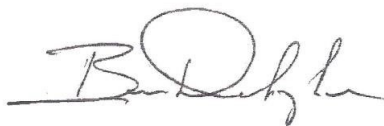
We would like to thank the NIRB for the opportunity to share these comments and concerns. We look forward to continued discussion with the NIRB on the Revised Draft IS Guidelines and the opportunity to provide further comments.

Sincerely,

Masi cho,

Handwritten signature of Geoff Bussidor in black ink.

Geoff Bussidor  
Chief Negotiator  
Sayisi Dene First Nation

Handwritten signature of Benji Denechezhe in black ink.

Benji Denechezhe  
Chief Negotiator  
Northlands Denesuline First Nation