

VIA EMAIL AND FAX

SEP 17 2018

Grand Chief George Mackenzie
Tłı̨chǫ Government
PO Box 412
YELLOWKNIFE NT X0E 0Y0

Dear Grand Chief Mackenzie:

Consultation on proposed final modifications to three measures in the Report of Environmental Assessment and Reasons for Decision for the GNWT's proposed Tłı̨chǫ All-Season Road Project (EA1617-01)

On March 29, 2018, the Mackenzie Valley Environmental Impact Review Board (Review Board) released the Report of Environmental Assessment and Reasons for Decision (Report of EA) for the Tłı̨chǫ All-Season Road Project (Project). The Review Board recommended the Government of the Northwest Territories' (GNWT), as led by the Department of Infrastructure, proposed Project be approved, subject to the implementation of 23 measures and developer commitments.

On June 22, 2018, in response to the Report of EA, the responsible ministers began consultation with the Review Board to modify three measures related to boreal caribou. This consultation is set out in the *Mackenzie Valley Resource Management Act* (the Act) under section 130(1)(b)(ii). Concurrently, the responsible ministers began Aboriginal consultation with the Tłı̨chǫ Government (TG) sharing the proposed modifications to these three measures via a letter. The letter asked the TG whether the proposed modifications had the potential to adversely impact TG's established Treaty rights. TG's comments on the responsible ministers' proposed modifications for the measures were received on July 23, 2018. The responsible ministers thank you for these comments and acknowledge the on-going collaborative nature of our relationship with the Tłı̨chǫ Government during the decision phase of this Project.

This letter has two purposes. The first purpose is to respond to the specific modifications to measures you proposed in your July 23, 2018 letter. The second purpose of this letter is to seek your views on the proposed final wording for the three measures modified by responsible ministers (attached).

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Responses to Tłı̨chǫ Government's July 23, 2018 letter

In your July 23, 2018 letter, the Tłı̨chǫ Government reiterated support for the responsible ministers' proposed modifications to measures 6-1, 6-2, and 6-3. The Tłı̨chǫ Government also noted that Measure 6-3 required a submission of a "draft plan to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the Tłı̨chǫ Agreement..." and noted that the draft and final plans do not both require a decision under section 12.5.1 of the Tłı̨chǫ Agreement. The Tłı̨chǫ Government proposed a revision where the draft plan is submitted to the Wek'èezhì Renewable Resources Board for review prior to the commencement of construction. The responsible ministers have agreed to modify Measure 6-3 to reflect the request of the Tłı̨chǫ Government.

Consultation on final wording of the Measures

As mentioned at the beginning of this letter, the responsible ministers are now consulting with TG on the final proposed wording of Measures 6-1, 6-2 and 6-3 prior to rendering a final decision under sub-paragraph 130(1)(b)(ii) of the *Mackenzie Valley Resource Management Act*. Your continued input is important for informing the responsible ministers' decision relating to the Project. This is an opportunity to advise the responsible ministers whether their final proposed wording of the three measures (6-1, 6-2, 6-3) has the potential to adversely impact your established Treaty rights. The edits made by the responsible ministers are in green font and the segments of the Review Board's proposed modified text that the responsible ministers agree with are in purple font in the attachment.

The GNWT and the Government of Canada are seeking the TG's response to the following questions:

- Are there any specific components of the modification(s) to the measure(s) in green and/or purple font that you identify as having the potential to adversely impact your established Treaty rights?
- If so, please specify the nature of any and all concerns regarding potential adverse impacts resulting from the modification(s) to the measure(s) in green and/or purple font, and which established Treaty rights you see as being potentially adversely impacted, in your response letter; and

- Please specify what modification(s) to the measure(s) in green and/or purple font you would recommend to address the potential adverse impact.

Please provide any written comments directly to the GNWT's Department of Lands', Project Assessment Branch via Melissa Pink at Melissa.Pink@gov.nt.ca or 867-767-9180 ext. 24021.

Sincerely,



Kate Hearn
Assistant Deputy Minister
Planning and Coordination
Department of Lands
Government of the Northwest Territories



Adrian Paradis
Acting Director General
Northern Projects Management Office
Government of Canada

c: Mr. Gary Bohnet, Principal Secretary, Office of the Premier of the Northwest Territories

Mr. Alan Cash, Deputy Secretary to Cabinet and Assistant Deputy Minister, GNWT Executive and Indigenous Affairs

Mr. Mike Aumond, Secretary to Cabinet/Deputy Minister, GNWT Executive and Indigenous Affairs

Mr. Willard Hagen, Deputy Minister, GNWT Department of Lands

Dr. Joe Dragon, Deputy Minister, GNWT Department of Environment and Natural Resources

Mr. Robert Jenkins, Assistant Deputy Minister, GNWT Department of Environment and Natural Resources

Mr. Mark Hopkins, Director General, Natural Resources and Environment Branch, Crown-Indigenous Relations and Northern Affairs Canada

Mr. Patrick O'Neill, Director General, Explosive Safety and Security Branch,
Natural Resources Canada

Mr. Mark Cliffe-Phillips, Executive Director, Mackenzie Valley Environmental
Impact Review Board

Attachment

Revised proposed wording for Measure 6-1

6-1, Part 1: Develop and implement range plans

The GNWT-ENR will develop and implement a range plan for boreal caribou (ṯḏẕı) in the North Slave portion of the NT1 range, as required by the *Recovery Strategy for the Boreal Caribou in the NWT*. The GNWT-ENR will also develop and implement a range plan for any other region where boreal caribou (ṯḏẕı) may experience impacts related to the Project.

The range plan(s) will be developed collaboratively with Aboriginal groups and co-management partners. GNWT-ENR will complete and submit a range plan for the North Slave portion of the NT1 range to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the Ṯẖcho agreement a minimum of 90 days before the Project is opened for public use.

The GNWT will work collaboratively with the Ṯẖcho Government and other relevant Aboriginal and federal land management authorities to manage habitat to achieve the habitat disturbance threshold set out in this range plan **to the greatest extent possible**. **The GNWT will consult with applicable Aboriginal groups as required.**

6-1, Part 2: Information and adaptive management requirements

For the area identified by the range plan(s) in measure 6-1, part 1, the following must be included in the development and implementation of the *Recovery Strategy for the Boreal Caribou in the NWT* or range plan(s):

- monitoring to determine population trends, abundance and distribution;
- determination of population thresholds and triggers to inform adaptive management;
- harvest monitoring and reporting;
- determining sustainable harvest levels;
- identifying critical habitat;
- ongoing habitat disturbance monitoring;
- setting disturbance thresholds for critical habitat and, **to the greatest extent possible**, managing habitat **towards meeting** these disturbance thresholds for each range planning region; and,
- monitoring predator populations including densities, movements and predation rates.

Monitoring will meet the requirements of Appendix C. GNWT-ENR will work with the developer to adaptively manage Project impacts on boreal caribou (t̥ɔdzı) (following guidance in Appendix B).

Measure 6-2: Determine sustainable harvest levels for boreal caribou (t̥ɔdzı) and implement measures to ensure harvest is sustainable if required

Proposed wording for Measure 6-2

To mitigate significant adverse impacts from the project on boreal caribou (t̥ɔdzı), the GNWT-ENR in collaboration with Aboriginal groups and in accordance with the requirements of the T̥ıcho agreement, will determine sustainable harvest levels for boreal caribou in the North Slave portion of the NT1 range prior to the road being opened to the public.

In that same period, if current harvest levels are determined to exceed sustainable levels, management action will be undertaken in conjunction with the T̥ıcho Government.

If harvest levels are observed to increase towards unsustainable levels once the road is opened to the public, GNWT-ENR and the T̥ıcho Government will submit a wildlife management proposal under section 12.5.1 of the T̥ıcho Agreement to the Wek'èezhì Renewable Resources Board for the timely implementation of any measures necessary to ensure boreal caribou harvest in the region is kept within sustainable levels.

Such measures may include the establishment of a no-hunting corridor along the Project route.

Measure 6-3: Habitat offset and restoration plan

Revised proposed wording for Measure 6-3

The developer will offset effective boreal caribou (t̥ɔdzı) habitat lost because of disturbance from the Project.

The developer, with the involvement of GNWT-ENR, will prepare and implement a habitat offset plan. This plan will describe how the required habitat offset area will be determined and how it will be achieved. In preparing the plan, the developer will collaborate with T̥h̥ch̥q̥ Government and the Wek'èezh̥ì Renewable Resources Board, and consult with the following participants to this environmental assessment:

- Environment and Climate Change Canada;
- Yellowknives Dene First Nation; and,
- North Slave Métis Alliance.

The developer will make funding available to the parties to support this consultation and collaboration. The developer will submit a draft and a final plan as described below. Once approved, the developer will operate in accordance with the plan.

The developer will submit a draft plan to the Wek'èezh̥ì Renewable Resources Board a minimum of 30 days prior to commencement of construction. The developer will submit the final habitat offset plan to the Wek'èezh̥ì Renewable Resources Board for review under section 12.5.1 of the T̥h̥ch̥q̥ Agreement, as soon as possible, and no later than 90 days prior to public use of the road. This final plan will include, at a minimum:

- the goals and objectives of the plan;
- a discussion on the expected effectiveness of mitigations and offsets;
- a decision framework to prioritize restoration areas, mitigations, and offsets, including references to the research on which the decision framework was based;
- a discussion of how any proposed mitigations or offsets align with the Recovery Strategy for the Boreal Caribou in the NWT and range plans;
- details of proposed ways to offset habitat disturbance including restoration sites, mitigation measures, offsets, forest fire fighting policies, or habitat management approaches;
- a description of the spatial scale of the proposed offset, the habitat quality and type, site specific restoration activities, and any challenges;
- a timeline for offsetting;
- a quantitative and qualitative assessment of the total area of boreal caribou habitat proposed for restoration and the timeframe required for restoration;

- a summary of consultation feedback that was integrated into the draft and final plans;
- a description of any Traditional Knowledge that was considered in the development of the plan, and how it was incorporated; and,
- a description of any resources provided to Aboriginal groups to support their involvement in the drafting of the final plan, and for any involvement in the implementation of the plan.