

## **RATIONALE FOR RESPONSIBLE MINISTERS' MODIFICATIONS TO MEASURES FOR THE Tłı̨ch̨q ALL-SEASON ROAD ENVIRONMENTAL ASSESSMENT**

### **Measure 6-1: Implementation of the Recovery Strategy for the Boreal Caribou in the NWT, and required range plans, for boreal caribou affected by the Project**

#### **Measure 6-1, Part 1**

The Mackenzie Valley Environmental Impact Review Board (Review Board) and responsible ministers have reached consensus on the modifications to the first two paragraphs of this measure; that the range plan relate to the North Slave portion of the NT1 range and that the plan will be submitted to the Wek'èezhìi Renewable Resource Board (WRRB) a minimum of 90 days before the Tłı̨ch̨q All-Season Road Project (the Project) is opened for public use.

The responsible ministers proposed changes on June 22, 2018 to the third paragraph of Measure 6-1, Part 1 in order to reflect the shared responsibility for land and habitat management in the North Slave region between the Government of the Northwest Territories (GNWT), the Tłı̨ch̨q Government, and the federal government. Responsible ministers also made changes to reflect that the development and establishment of any threshold for undistributed boreal caribou habitat within the North Slave region must respect established co-management processes and the Tłı̨ch̨q Agreement.

The Review Board did not support the wording proposed by responsible ministers to the third paragraph of Measure 6-1, Part 1 and proposed alternate wording. The responsible ministers believe that the phrase: *"to manage habitat to achieve the habitat disturbance threshold set out in this range plan"* as proposed by the Review Board and accepted by the responsible ministers with the caveat of "to the greatest extent possible" provides protection to boreal caribou habitat and respects the co-management process in place. This final wording represents a GNWT commitment to strive to achieve habitat protection thresholds, excepting variables beyond the GNWT's control.

#### **Measure 6-1, Part 2**

The Review Board, Indigenous government organizations (IGOs) and responsible ministers have reached consensus on the modification to replace "and" by "or" in the first sentence of Part 2 of the measure. This change was made because boreal caribou range plans are intended to focus on the management of natural and human habitat disturbance, whereas the NWT Recovery Strategy for boreal caribou addresses a broader range of issues including boreal caribou population monitoring and research, and management of boreal caribou harvest.

The responsible ministers originally proposed to remove the requirement of Measure 6-1, Part 2 to monitor abundance of boreal caribou. In response to concerns from the Review Board, Yellowknives Dene First Nation, North Slave Métis Alliance and the WRRB, the responsible ministers have accepted the Review Board's August 15, 2018 proposal that monitoring to determine population trends, abundance, and distribution be included in Part 2 of Measure 6-1.

The Review Board and responsible ministers have reached consensus on a modification to the third bullet of Measure 6-1, Part 2 to reflect the changes the Tłı̨ch̨ Government made to Measure 9-1 which clarifies that Aboriginal harvest monitoring and reporting programs will be voluntary, and therefore GNWT-ENR cannot guarantee that harvest monitoring and reporting information required by Measure 6-1, Part 2 will include Aboriginal harvesting. For clarity, responsible ministers interpret "harvest" to be as defined in subsection 1(1) of the *Wildlife Act*.

The seventh bullet of Measure 6-1, Part 2 was modified to reflect that disturbance thresholds will be set on a regional basis and uses language that is consistent with the proposed wording in Measure 6-1, Part 1 to reflect that GNWT will work to manage habitat disturbance within each range planning region to established thresholds to the greatest extent possible, recognizing that GNWT does not have ultimate control over forest fires. Alternative wording to achieve this objective was provided by the Review Board on August 15, 2018, which responsible ministers have accepted with minor adjustments to reflect that the GNWT does not have ultimate control over forest fires.

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

The Review Board, the WRRB, North Slave Métis Alliance and Yellowknives Dene First Nation reviewed modifications proposed by responsible ministers on June 22, 2018 that used established processes under the *Wildlife Act* and the Tłı̨ch̨ Agreement to first determine sustainable harvest levels and then propose management actions, to the greatest extent required, to ensure that harvest remains within sustainable levels. The Review Board, the WRRB, North Slave Métis Alliance and Yellowknives Dene First Nation recommended that the responsible ministers retain the original measure.

Responsible ministers believe that their measure is appropriately precautionary and will prevent significant adverse impacts to boreal caribou. As written by the Review Board, Measure 6-2 requires a no-hunting corridor for boreal caribou to be in place until the *Recovery Strategy* is fully implemented and sustainable harvest levels for the North Slave region of NT1 are determined. There is no requirement within the Measure to determine whether the no-hunting corridor is effectively mitigating project effects and

protecting caribou. There is also no requirement for sustainable harvest levels to be determined, unless the GNWT wishes to remove the no-hunting corridor. The modification by the responsible ministers requires GNWT-ENR to determine, prior to the road opening and management actions being implemented, what the sustainable harvest of boreal caribou is. The determination of sustainable harvest levels will be essential in managing the population of boreal caribou and in determining effective mitigation methods. This upfront determination of sustainable harvest, as set forth by responsible ministers, is more protective of boreal caribou than delaying this determination, as would have been permissible under the Review Board's proposed suite of measures regarding boreal caribou.

With the final modification, management action must be undertaken if, prior to the road opening to the public, current harvest levels are determined to exceed the sustainable level and if harvest levels are observed to increase towards unsustainable levels once the road is open to the public. Management actions could include, but are not limited to, a no-hunting corridor, which is the requirement of the Review Board's original measure.

Reference to the no-hunting corridor remaining in place until the *Recovery Strategy for Boreal Caribou in the Northwest Territories* has been fully implemented has been removed. There are established processes under the *NWT Species at Risk Act* to guide the implementation of the recovery strategy.

### **Measure 6-3: Habitat offset and restoration plan**

In response to modifications proposed by responsible ministers on June 22, 2018 the Review Board proposed alternate wording to Measure 6-3 on August 15, 2018 for the consideration of responsible ministers. The alternate wording required the default offset area to be calculated as specified in the original measure but allowed for the reduction of the calculated area if the GNWT satisfied the WRRB that the reduction is appropriate. The responsible ministers feel that the rationale presented on June 22, 2018 regarding modifications to this measure still applies. The co-management process should be fully respected. The modified measure requires the developer and GNWT-ENR to collaborate with the WRRB and the Tłı̄chǫ Government and consult with Environment and Climate Change Canada, Yellowknives Dene First Nation and the North Slave Métis Alliance in order to develop a habitat offset area that is precautionary without being overly prescriptive, respects the co-management process and does not presuppose its outcome.

Responsible ministers proposed on June 22, 2018 to remove the requirement that a draft plan be required 90 days prior to construction in order to provide more time for the developer to collaborate and consult with required parties on a draft offsetting plan.

Recognizing the Review Board's and the WRRB's recommendation that the WRRB requires time prior to construction to review the draft offsetting plan, responsible ministers have set a requirement that the draft plan be submitted thirty days prior to construction. Responsible ministers believe this should be sufficient since the WRRB will be involved in the drafting of the plan prior to submission.

The reference to review of the draft habitat offset plan under the Tłıchǫ Agreement has been removed, as agreed to by the responsible ministers, Tłıchǫ Government and the Review Board.

### **Consultation with IGOs on measure modifications**

The GNWT and the Government of Canada provided a response to the Yellowknives Dene First Nation and the North Slave Métis Alliance regarding their suggested edits to measures 6-1, 6-2, and 6-3 on September 17, 2018. In the response letters, responsible ministers indicated how the responsible ministers' proposed modifications adequately accommodate the concerns raised by Yellowknives Dene First Nation and North Slave Métis Alliance. The responsible minister also set out why certain suggestions by Yellowknives Dene First Nation and North Slave Métis Alliance were not incorporated. Finally, the response letters note where the suggestions made by the Yellowknives Dene First Nation and North Slave Métis Alliance were incorporated into the final measures.