

#### **Tł**<sub>1</sub>cho Government

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October 25th, 2018

VIA EMAIL

Joanne Deneron Chairperson Mackenzie Valley Environmental Impact Review Board PO Box 938, 5202 – 50<sup>th</sup> Avenue Yellowknife, NT X1A 2N7

Dear Ms. Deneron:

# <u>Tłicho Government Final Decision on the Report of Environmental Assessment for the proposed Tłicho All Season Road (EA1617-01)</u>

As the Grand Chief of the Tłıcho Government, with jurisdiction related to the proposed Tłıcho All Season Road ("the Project"), I am writing to convey that we have completed our review of the Report of Environmental Assessment and Reasons for Decision for the Project dated March 29, 2018 (the "Report").

As described in the Report, the Mackenzie Valley Environmental Impact Review Board (the "Review Board") has recommended, pursuant to subparagraph 128 (1)(b)(ii) of the *Mackenzie Valley Resource Management Act* (the "Act"), that the Project be approved subject to the imposition of measures and proponent commitments necessary to mitigate significant adverse impacts on the environment.

The Tłıcho Government has decision-making authority for the proposed Project under section 131.1 of the Act. The Tłıcho Government has consulted with Responsible Ministers throughout the decision period and arrived at an agreed upon path forward. Tłıcho Government has recommended modifications to certain measures contained in the Report, pursuant to section 131.1(1)(b) of the Act. The modifications were developed following consultation with the Review Board. The final measures are attached.

Tłįchǫ Government will continue to work with members of our communities, the Government of the Northwest Territories, Tłįchǫ Community Governments and the Tłįchǫ Community Services Agency as well as other agencies and departments of Government to ensure impacts are effectively mitigated and the project brings benefits to Tłįchǫ people.

We thank the Review Board for the work they have done on this important project for Tącho people.

In Tł<sub>1</sub>ch<sub>0</sub> Unity,

Grand Chief George Mackenzie

Tłıcho Government

To wante

#### Enclosure

c.c.: The Honourable Louis Sebert, Minister of Lands

The Honourable Robert C. McLeod, Minister of Environment and Natural Resources

The Honourable Carolyn Bennett, Minister of Crown-Indigenous Relations Canada The Honourable Dominic Leblanc, Minister of Intergovernmental and Northern Affairs and Internal Trade

The Honourable Amarjeet Sohi, Minister of Natural Resources Canada

The Honourable Wally Schumann, Minister of Infrastructure

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

Joe Mackenzie, Chair, Wek'èezhìi Land and Water Board

Measure #5-2 (Parts 1,2,3) Original Wording	Final Approved Wording
Measure 5-2: Tłįchǫ monitoring, engagement and reporting of adverse health and well-being impacts	Measure 5-2: Tłįchǫ monitoring, engagement and reporting of adverse health and well-being impacts
5-2, Part 1: Tłįchǫ monitoring of adverse health and well-being impacts	5-2, Part 1: Tłįchǫ monitoring of adverse health and well-being impacts
The Tłįchǫ Government and Community Government of Whatì, with the support of the developer, and in collaboration with the Tłįchǫ Community Services Agency, will establish and implement a framework to monitor and evaluate health and well-being impacts associated with the road, and will adaptively manage health and well-being impacts as described in Measure 5-1 and following guidance in Appendices B and C, for each year of construction and for a minimum of ten years of operations.	The Tłįchǫ Government, Government of the Northwest Territories, Tłįchǫ Community Services Agency and Community Government of Whatì, with the support of the developer, will establish and implement a framework to monitor and evaluate health and well-being impacts associated with the road, and will adaptively manage health and well-being impacts as described in Measure 5-1 and following guidance in Appendices B and C, for each year of construction and for a minimum of ten years of operations.
Following ten years of Project operations, the Community Government of Whatì and Tłįchǫ Government in collaboration with the developer, will re-evaluate the need for, and frequency of, monitoring, engagement, reporting and adaptive management.	Following ten years of Project operations, the Community Government of Whatì, Government of the Northwest Territories, Tłącho Community Services Agency and Tłącho Government in collaboration with the developer, will re-evaluate the need for, and frequency of, monitoring, engagement, reporting and adaptive management.
If the monitoring of harvest success rates and availability of country foods in Whatì (in Measure 5-1, Part 1, above) indicates a declining trend in harvest success and the consumption of country foods, the Tłąchǫ Government and the Community Government of Whatì will develop and implement a strategy to improve availability of country foods for those most affected.	If the monitoring of harvest success rates and availability of country foods in Whatì (in Measure 5-1, Part 1, above) indicates a declining trend in harvest success and the consumption of country foods, the Tłįchǫ Government and the Community Government of Whatì will develop and implement a strategy to address the decline in the availability of country foods for those most affected.
5-2, Part 2: Public engagement The Tłįcho Government and Community Government	5-2, Part 2: Public engagement The Tłįcho Government, Government of the Northwest

of Whatì, with the participation of the

Territories, Tł<sub>1</sub>ch<sub>2</sub> Community Services

developer, the P3 operator and the Tłįchǫ Community Services Agency, will meet with the residents of Whatì at least once per year to discuss:

- a) priority health and well-being impacts at the individual, family and community level related to the Project;
- b) the effectiveness of programs or mitigations used to address these impacts; and,
- c) the need to adjust programs or implement additional mitigations.

Agency and Community Government of Whatì, with the participation of the developer, and the P3 operator, will meet with the residents of Whatì at least once per year to discuss:

- a) priority health and well-being impacts at the individual, family and community level related to the Project;
- b) the effectiveness of programs or mitigations used to address these impacts; and,
- c) the need to adjust programs or implement additional mitigations

#### 5-2, Part 3: Reporting

The Tłįchǫ Government and Community Government of Whatì, with the support of the developer, will prepare and make publicly available an annual progress report on their efforts to mitigate impacts on health and well-being to the Community of Whatì. The report will describe engagement, current management and plans for future adaptive management.

The findings of the report will be presented to the residents of Whatì, provided to the Whatì Inter-Agency Committee and provided to the Tłıcho All-Season Road Corridor Working Group (see Measure 14-3).

## 5-2, Part 3: Reporting

The Tłıcho Government, Government of the Northwest Territories, Tłıcho Community Services Agency and Community Government of Whati, with the support of the developer, will prepare and make publicly available an annual progress report on their efforts to mitigate impacts on health and well-being to the Community of Whati. The report will describe engagement, current management and plans for future adaptive management.

The findings of the report will be presented to the residents of Whatì, provided to the Whatì Inter-Agency Committee and provided to the Tłącho All-Season Road Corridor Working Group (see Measure 14-3).

## Measure #5-6 Original Wording

# Measure 5-6 Include Behchokò in accident response planning

The Government of the Northwest
Territories will develop and implement an
effective ground ambulance and highway
rescue action plan along the road that will
be designed in collaboration with the
Thicho Government, Community

## **Final Approved Wording**

## Measure 5-6: Include Behchokò in accident response planning

The Government of the Northwest
Territories will develop and implement an
effective ground ambulance and highway
rescue action plan along the road that will
be designed in collaboration with the Tłįcho
Government, Tłįcho Community Services

Government of Whatì, and Community	Agency, Community Government of Whatì,
Government of Behchokò.	and Community Government of Behchokò.
Measure #6-1 Original Wording	Final Approved Wording
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: Implementation of the Recovery Strategy for the Boreal Caribou in the NWT, and required range plans, for boreal caribou affected by the Project
6-1, Part 1: Develop and implement range plans	6-1, Part 1: Develop and implement range plans
The GNWT-ENR will develop and implement a range plan for boreal caribou (todzi) in the North Slave region, 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 (todzi) may experience impacts related to the Project.	The GNWT-ENR will develop and implement a range plan for boreal caribou (todzi) in the North Slave portion of the NT1 range, as required by the <i>Recovery Strategy for the Boreal Caribou in the NWT</i> . The GNWT-ENR will also develop and implement a range plan for any other region where boreal caribou (todzi) may experience impacts related to the Project.
The range plan(s) will be developed collaboratively with Aboriginal groups and co-management partners. The range plan(s) will be completed before the Project is opened for public use.  The GNWT-ENR will manage the amount of undisturbed habitat in the North Slave region to achieve the National Recovery Strategy recommended threshold for critical habitat, or a threshold proposed by the GNWT-ENR and approved by Environment and Climate Change Canada.	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'èezhìı Renewable Resources Board for review under section 12.5.1 of the Tłıcho Agreement a minimum of 90 days before the Project is opened for public use.  The GNWT will work collaboratively with the Tłıcho 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	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 and range plan(s):

- monitoring of population trends, abundance and distribution;
- determination of population thresholds and triggers to inform adaptive management;
- harvest monitoring and reporting including Aboriginal harvesting and non- Aboriginal hunting;
- determining sustainable harvest levels;
- identifying critical habitat;
- ongoing habitat disturbance monitoring;
- setting and meeting critical habitat objectives for each range; and,
- monitoring predator populations including densities, movements and predation rates.

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

### 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 (todzi) (following guidance in Appendix B).

### Measure #6-2 Original Wording

# Measure 6-2: Temporary no-hunting corridor for boreal caribou (todzı)

### **Final Approved Wording**

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

To mitigate significant adverse impacts from the project on boreal caribou (todzi), the GNWT-ENR and Thcho Government

To mitigate significant adverse impacts from the project on boreal caribou (todzi), the GNWT-ENR in collaboration with Aboriginal will submit a wildlife management proposal under section 12.5.1 of the Tłįchǫ Agreement to the Wek'èezhìı Renewable Resources Board. The proposal will establish a temporary no-hunting corridor to reduce the take of boreal caribou (tǫdzı) along the Project route. Only individuals exercising section 35 rights will be allowed to harvest boreal caribou (tǫdzı) in this corridor.

The corridor will be established prior to the road being opened to the public. At a minimum, this hunting restriction will remain in place until the Recovery Strategy for Boreal Caribou in the Northwest Territories is fully implemented in the area of the range plan(s) required by measure 6-1, and sustainable harvest levels for the North Slave region are determined.

groups and in accordance with the requirements of the Tłıcho 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 Thcho Government.

If harvest levels are observed to increase towards unsustainable levels once the road is opened to the public, GNWT-ENR and the Tłįcho Government will submit a wildlife management proposal under section 12.5.1 of the Tłįcho Agreement to the Wek'èezhìi 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 Original Wording**

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

The developer will offset effective boreal caribou (todzi) habitat lost because of disturbance from the Project. The offset calculation will, at a minimum, be based on the area of the right of way with a 2500 m buffer on each side.

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 (calculated as set out above) will be achieved. In preparing the plan, the

## **Final Approved Wording**

# Measure 6-3: Habitat offset and restoration plan

The developer will offset effective boreal caribou (todzı) 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 Tłąchǫ Government and the Wek'èezhìı Renewable Resources Board, and consult with the following participants

developer will collaborate with Tłįchǫ Government and the Wek'èezhìi 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'èezhìi Renewable Resources Board for review under section 12.5.1 of the Tłįchǫ Agreement, a minimum of 90 days prior to commencement of construction. The developer will submit the final habitat offset plan to the Wek'èezhìi Renewable Resources Board for review under section 12.5.1 of the Tłįchǫ 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

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'èezhìi 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'èezhìi Renewable Resources Board for review under section 12.5.1 of the Tłįcho 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

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.

- 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.

## Measure #8-1 Original Wording

## Measure 8-1: Integrated Fisheries Management Plan

Fisheries and Oceans Canada and the Tłıcho Government, with the support of the developer, will develop and implement an Integrated Fisheries Management Plan for fisheries in the project area. This will prevent significant adverse impacts from additional fishing pressure that will likely result from increased access via the Project. In designing the plan, Fisheries and Oceans Canada and the Tłıcho Government will

### **Final Approved Wording**

## Measure 8-1: Fisheries Management Plan

Fisheries and Oceans Canada and the Tłįchǫ Government, with the support of the developer, will develop and implement Fisheries Management Plan for fisheries in the project area. This will prevent significant adverse impacts from additional fishing pressure that will likely result from increased access via the Project. In designing the plan, Fisheries and Oceans Canada will engage with the Tlicho

engage the Wek'èezhìi Renewable
Resources Board, the Community of Whatì
and other affected Aboriginal groups.
Fisheries and Oceans Canada and the
Tłącho Government will submit the plan to
the Wek'èezhìi Renewable Resources Board
for review under section 12.5.1 of the
Tłącho Agreement.

As part of this plan, Fisheries and Oceans Canada and the Tłącho Government, along with the above organizations, will complete the following work:

a) Complete work to understand baseline fishery and harvest conditions. This work will include, at a minimum:

i. assessing yield and harvest;ii. identifying managementissues;iii. establishing fisheriesobjectives; and,iv. clarifying management and

stewardship arrangements.

- b) Design and implement, with support of the developer, mitigation to prevent or manage project impacts (which may include a regulatory and compliance plan).
- c) Design and implement monitoring plans, meeting the requirements of Appendix C.
- d) Design and implement an adaptive management plan (following guidance in Appendix B).

Fisheries and Oceans Canada and the Tłıcho Government will provide opportunity for the working group (required by Measure 14-3) and other interested parties to review and comment

Government, the Wek'èezhìı Renewable Resources Board, the Community of Whatì and other affected Aboriginal groups. Fisheries and Oceans Canada and the Tłıcho Government will submit the plan to the Wek'èezhìı Renewable Resources Board for review under section 12.5.1 of the Tłıcho Agreement.

As part of this plan, the following work will be by completed Fisheries and Oceans Canada, and Tlicho Government:

a) Complete work to understand baseline fishery and harvest conditions. This work will include, at a minimum:

i. assessing yield and harvest;ii.identifying management issues;iii. establishing fisheries objectives;and,

iv.clarifying management and stewardship arrangements.

- b) Design and implement, with support of the developer, mitigation to prevent or manage project impacts (which may include a regulatory and compliance plan).
- c) Design and implement monitoring plans, meeting the requirements of Appendix C.
- d) Design and implement an adaptive management plan (following guidance in Appendix B).

Fisheries and Oceans Canada and the Tłącho Government will provide opportunity for the working group (required by Measure 14-3) and other interested parties to review and comment on this plan.

on this plan.	
Measure #9-1 Original Wording	Final Approved Wording
Measure 9-1: Monitoring harvest and managing wildlife to maintain successful harvest	Measure 9-1: Monitoring harvest and managing wildlife to maintain successful harvest
9-1, Part 1: Aboriginal harvest monitoring and reporting program	9-1, Part 1: Aboriginal harvest monitoring and reporting program
To mitigate impacts on Aboriginal harvesters and to effectively inform management of wildlife populations in the area of the Project, GNWT-ENR will work together with the Tłıcho Government and Wek'èezhii Renewable Resources Board to develop and implement an Aboriginal harvest monitoring and reporting program.	To mitigate impacts on Aboriginal harvesters and to effectively inform management of wildlife populations in the area of the Project, GNWT-ENR will work together with the Tłıcho Government and Wek'èezhiı Renewable Resources Board to develop and implement a non-mandatory Aboriginal harvest monitoring and reporting program.
The harvest monitoring and reporting program will:	The harvest monitoring and reporting program will:
a) focus on boreal caribou, barren-ground caribou and moose population trends in areas accessed by winter roads and trails from the Project;	a) focus on boreal caribou, barren-ground caribou and moose population trends in areas accessed by winter roads and trails from the Project;
b) be community-based and involve collaboration between Tłıcho Government and the developer;	b) be community-based and involve collaboration between Tłįchǫ Government and the developer;
c) involve Traditional Knowledge holders and harvesters in monitoring wildlife harvesting trends; and,	c) involve Traditional Knowledge holders and harvesters in monitoring wildlife harvesting trends; and,
d) report on wildlife harvesting numbers and trends from monitoring checkpoints and/or other harvest monitoring methods annually to the Tłįchǫ Government, Wek'èezhìı Renewable Resources Board, GNWT-ENR and other wildlife comanagement partners.  The developer will fund this harvest monitoring and reporting related to the project. The harvest monitoring will meet	d) report on wildlife harvesting numbers and trends from monitoring checkpoints and/or other harvest monitoring methods annually to the Tłįcho Government, Wek'èezhìı Renewable Resources Board, GNWT-ENR and other wildlife comanagement partners.  The developer will fund this harvest monitoring and reporting related to the project. The harvest monitoring will meet

#### the requirements of Appendix C.

# 9-1, Part 2: Use monitoring to inform management

GNWT-ENR, in collaboration with the Tłįchǫ Government and Wek'èezhìı Renewable Resources Board, will consider wildlife management actions and mitigations based on the results of the monitoring above and the information collected by the GNWT's existing Resident Hunting Reporting Program, to help ensure sustainable Aboriginal harvesting of wildlife and report on monitoring results and management actions in the annual reviews of the Wildlife Management and Monitoring Plan.

## Measure #9-2 Original Wording

## Measure 9-2: Cultural sensitivity in work camps and communities

To mitigate the Project's impact on Tłąchǫ culture and well-being of Tłąchǫ residents, the developer will require that the P3 operator has culturally appropriate and specific policies in accordance with those set out by the Tłąchǫ Government, GNWT departments and federal government. The P3 operator will have policies and programs in place for employee cultural orientation, developed by the Tłąchǫ Government, for all non-Tłąchǫ residents, including awareness of special cultural norms and practices.

#### the requirements of Appendix C.

# 9-1, Part 2: Use monitoring to inform management

GNWT-ENR, in collaboration with the Tłįchǫ Government and Wek'èezhìı Renewable Resources Board, will consider wildlife management actions and mitigations based on the results of the monitoring above and the information collected by the GNWT's existing Resident Hunting Reporting Program, to help ensure sustainable Aboriginal harvesting of wildlife and report on monitoring results and management actions in the annual reviews of the Wildlife Management and Monitoring Plan.

### **Final Approved Wording**

## Measure 9-2: Cultural sensitivity in work camps and communities

To mitigate the Project's impact on Tłącho culture and well-being of Tłącho residents, the developer will require that the P3 operator has culturally appropriate and specific policies in accordance with those set out by the Tłącho Government, GNWT departments and federal government. The P3 operator will have policies and programs in place for employee cultural orientation, approved by the Tłącho Government, for all non-Tłącho workers, including awareness of special cultural norms and practices.