



August 15, 2018

The Honourable Louis Sebert
Minister of Lands
Government of the Northwest Territories
P.O. Box 1320
Yellowknife, NT X1A 2L9

Via email: Louis_Sebert@gov.nt.ca

Dear Minister Sebert,

Re: Board response to GNWT suggested modifications of Tł'chǫ All-Season Road EA measures

The Mackenzie Valley Environmental Impact Review Board (the Review Board) respectfully submits its response to the Government of the Northwest Territories (GNWT) and Responsible Ministers' proposed modifications to the measures recommended in the Tł'chǫ All-Season Road Project *Report of Environmental Assessment* (EA1617-01). These modifications described in your letter of June 22nd, 2018 and proposed pursuant sub-paragraph 130(1)(b)(ii) of the *Mackenzie Valley Resource Management Act* (MVRMA) were carefully considered by the Review Board. The Review Board has also carefully considered the submissions of the Yellowknives Dene First Nation, the Wek'èezhì Renewable Resources Board, the North Slave Métis Alliance, Environment and Climate Change Canada, the GNWT Department of Infrastructure, and the Tł'chǫ Government.

The objective of the Review Board's analysis was to ensure that each modified measure remains true to the mitigative intention which was the basis for the original measures as set out in the *Report of Environmental Assessment and Reasons for Decision*. Our response also reflects the considerations raised in this consult-to-modify process.

Pursuant to subparagraph 128(1)(b)(ii) of the MVRMA the Review Board recommended that the Tł'chǫ All-Season Road Project development be approved, subject to the mitigative measures set out in its report. A mitigative measure, as defined in the MVRMA, must provide for the control, reduction, or elimination of an adverse impact of a development on the environment. Once the Review Board finds that a significant impact will result from a proposed development, mitigation must occur before the project can proceed.

In the Review Board's view, some of the modifications proposed by the GNWT and Responsible Ministers eliminate the specific mitigation proposed by the Board or would leave the determination of whether mitigation will be required to future wildlife management decisions by the GNWT or the Wek'èezhì Renewable Resources Board. The Review Board respectfully suggests that the MVRMA and specifically subparagraph 130(1)(b)(ii) does not contemplate such an outcome. The Review Board had specific concerns in this regard with the suggested modifications of Measures 6-1, 6-2, and 6-3.

The first attached document provides a detailed measure-by-measure analysis of the Review Board's consideration of all the GNWT and Responsible Ministers' proposed modifications, and sets out specific changes that the Review Board recommends for some of the modified measures. The second attachment to this letter contains "clean" versions of the Review Board's measures, including its recommended revisions.



All other measures, without modifications proposed by the Responsible Ministers or the Tł'chǫ Government, remain recommended as written in the *Report of Environmental Assessment*.

The Review Board looks forward to the timely completion of this process. If you have any questions regarding these recommended revisions please feel free to contact our Executive Director, Mark Cliffe-Phillips, at mcliffephillips@reviewboard.ca or (867) 766-7055.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanne Deneron".

Joanne Deneron,
Chairperson

Attachments:

Review Board Reasons for Decision- GNWT Consult to Modify Process

- cc. Regional Superintendent Michael Conway, GNWT Department of Infrastructure
 Grand Chief George Mackenzie, Tł'chǫ Government
 Deputy Minister Willard Hagen, GNWT Department of Lands
 Assistant Deputy Minister Kate Hearn, GNWT Department of Lands

Reasons for Decision

Government of the Northwest Territories¹

Consult-to-Modify Process

Tłı̨chǫ All-Season Road Project Environmental Assessment

August 15th, 2018

Introduction

This document provides the Review Board's responses to each of the proposed Ministerial modifications to the Review Board's measures of the Tłı̨chǫ All-Season Road Project *Report of Environmental Assessment* (EA1617-01).

In Part A, for each set of suggested modifications, this document shows:

- The Review Board's measure
- The Government of the Northwest Territories (GNWT)'s suggested modifications
- The Review Board's analysis of the suggested modifications
- The revisions the Review Board is recommending in response

All measures are shown in **bold**. GNWT ministerial suggested modifications are shown in **red**. The Review Board's revisions, considering the Minister's suggested modifications and submissions from the parties, are shown in **blue**.

Part B of this document lists measures containing the Review Board's recommended revisions to each of the proposed Ministerial modifications for the Tłı̨chǫ All-Season Road Project *Report of Environmental Assessment*, without mark-up for convenient reference.

Part A

1. Measure 6-1 Part 1

The Board's original measure is:

Measure 6-1: Implementation of the <i>Recovery Strategy for the Boreal Caribou in the NWT</i>, and required range plans, for boreal caribou affected by the Project
6-1, Part 1: Develop and implement range plans
The GNWT-ENR will develop and implement a range plan for boreal caribou (tǫdzi) in the North Slave region, as required by the <i>Recovery Strategy for the Boreal Caribou in the NWT</i>. The GNWT-ENR will also develop and implement a

¹ This attachment addresses the GNWT Minister of Lands and Responsible Ministers' consult-to-modify process. For clarification, this is referred to here throughout as the GNWT's consult-to-modify process.

range plan for any other region where boreal caribou (tədži) 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 GNWT's suggested modifications are included in red below:

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

The GNWT-ENR will develop and implement a range plan for boreal caribou (tədži) in the North Slave **portion of the NT1 range 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 (tədži) 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** The range plan(s) for the **North Slave portion of the NT1 range to the Wek'èezhii Renewable Resources Board for review under section 12.5.1 of the Tłı̨chǫ agreement** **will be completed a minimum of 90 days** before the Project is opened for public use.

The GNWT-ENR will **GNWT will work with the Tłı̨chǫ Government, and other relevant Aboriginal and federal land management authorities to manage, to the greatest extent possible, the amount of undisturbed habitat in the North Slave region** **portion of the NT1 range 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**, following engagement with Environment and Climate Change Canada and consultation with applicable Aboriginal groups, and approved in accordance with chapter 12 of the Tłı̨chǫ agreement.

Analysis and response

Through this measure the Review Board intended to ensure timely implementation of range plans, since boreal caribou do not have adequate protection, as a species listed under the federal

Species at Risk Act, to ensure that population is self-sustaining in the area of the Tłı̨chǫ All-Season Road Project (the Project), or the NT1 range. Full implementation of the recovery strategy and range plans are needed to mitigate Project effects to boreal caribou.

The Review Board accepts that the changes proposed in the first two paragraphs of this part do not alter the intent of the measure. Referring to the “North Slave portion of the NT1 range” is entirely consistent with the Review Board’s intent. Submitting the range plan for this area to the WRRB at least 90 days before the Project is opened is also consistent with the Review Board’s intent. Although the details of the timing of the range plan for this area are slightly changed in the second paragraph, the Review Board is satisfied that this change would still result in a timely range plan. Specific mitigations directly related to impacts of road use, which must be implemented before the road is opened for public use, are addressed sufficiently by other measures, including by the original measure 6-2.

Use the range plan threshold for habitat disturbance

The Review Board’s intent for the third paragraph of this part of the measure was to identify a sufficiently protective threshold for habitat disturbance and manage habitat accordingly. Range planning work that has occurred since the *Report of Environmental Assessment* was issued, and related documents such as the *Framework for Boreal Caribou Range Planning Discussion Document* (PR#315) have been carefully considered by the Review Board. With the replacement of the third paragraph by the sentence below (in blue), the measure will satisfy the Review Board that engagement will occur, and a protective threshold will be identified and implemented in a manner that meets the intent of the original measure.

The Review Board therefore recommends replacing the third paragraph proposed by the GNWT with the last sentence below. It refers to the range plan described in the revised second paragraph (see above). This is intended to maintain biological feasibility of caribou recovery.²

² The National Recovery Strategy for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada (p46) states that “recovery is determined to be biologically feasible under the following circumstances:

- individuals of the wildlife species that are capable of reproduction are available now or in the foreseeable future to sustain the population or improve its abundance;
- sufficient suitable habitat is available to support the species or could be made available through habitat management or restoration; and
- primary threats to the species or its habitat can be avoided or mitigated.”

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

The GNWT-ENR will develop and implement a range plan for boreal caribou (tədži) in the North Slave portion of the NT1 range 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 (tədži) 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~~ The range plan(s) for the North Slave portion of the NT1 range to the Wek'eezhì Renewable Resources Board for review under section 12.5.1 of the Tłı̨chǫ agreement ~~will be completed a minimum of 90 days before the Project is opened for public use.~~

~~The GNWT-ENR will~~ ~~GNWT will work with the Tłı̨chǫ Government, and other relevant Aboriginal and federal land management authorities to manage, to the greatest extent possible, the amount of undisturbed habitat in the North Slave region portion of the NT1 range 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, following engagement with Environment and Climate Change Canada and consultation with applicable Aboriginal groups, and approved in accordance with chapter 12 of the Tłı̨chǫ agreement.~~

The GNWT will work collaboratively with the Tłı̨chǫ Government, and other relevant Aboriginal and federal land management authorities, to the extent of their respective authorities, to manage habitat to achieve the habitat disturbance threshold set out in this range plan.

2. Measure 6-1 Part 2

Part 2 of the Review Board's original measure is as follows:

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 (tədzı) (following guidance in Appendix B).

The GNWT's suggested modifications are included in red below:

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/or 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**
- **an approach to setting and, to the greatest extent possible, managing habitat 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 (tədzı) (following guidance in Appendix B).

Analysis and response

The Review Board has no concerns with replacing the word “and” with the word “or” in the first paragraph.

Abundance is important

The Review Board respectfully suggests that the removal of the word “abundance” is not acceptable. The Review Board understands that boreal caribou abundance is not currently monitored by the GNWT. Abundance is an important characteristic of caribou populations. Determining abundance is an important part of managing caribou and is a necessary part of implementing other measures effectively. The GNWT as developer did not persuade the Review Board that its proposed monitoring, which excluded abundance, would be sufficient or effective, or that it would enable adequate mitigation.

As the Wek’èezhìi Renewable Resource Board (WRRB) and North Slave Métis Alliance (NSMA) have noted, knowing caribou abundance is a part of adaptive management, determining sustainable harvest, determining appropriate offsets, and understanding population resilience. The Yellowknives Dene First Nation (YKDFN) have described caribou abundance as “the principle concern of the YKDFN” in this environmental assessment. The Review Board notes the above support for including abundance from the YKDFN and NSMA as section 35 rights holders and from the co-management board with relevant expertise. There is no evidence before the Review Board to suggest that monitoring population trends without determining abundance is an effective or appropriate basis for mitigation that will deal with immediate threats to a culturally important, traditionally harvested, and listed species.

The Review Board concludes that removing the requirement to monitor abundance from the measure reduces the certainty of the information needed for caribou management and likely the effectiveness of boreal caribou protection. The Review Board respectfully suggests that abundance remain in the bullet and has re-inserted the requirement to monitor abundance in the measure below. It has also added wording to allow more flexibility in how abundance is determined.

Voluntary harvest monitoring

The Review Board accepts the removal of the requirement to include Aboriginal harvesting and non-Aboriginal hunting from the third bullet, provided that the word “harvest” is interpreted as defined in subsection 1(1) of the *Wildlife Act*. The Ministers should include this in their final decision. The intent of this bullet is to require a new systematic effort to inclusively monitor all harvest, even if it includes voluntary elements.³

³ For example, Renewable Resource Councils in the Gwich’in Settlement Area, with the support of the Gwich’in Renewable Resource Board, GNWT-ENR and Gwich’in Tribal Council, have successfully encouraged many harvesters to voluntarily provide harvest information using a variety of methods. These methods should be examined and carefully considered by the Tłı̨chǫ Government and GNWT for use in the Project area.

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 or* range plan(s):

- monitoring to determine of population trends, abundance 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
- an approach to setting disturbance thresholds for critical habitat and, to the greatest extent possible, managing habitat to meet 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 (tədzı) (following guidance in Appendix B).

3. Measure 6-2

The original measure 6-2 was as follows:

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

To mitigate significant adverse impacts from the project on boreal caribou (tədzı), the GNWT-ENR and Tłchǫ Government will submit a wildlife management proposal under section 12.5.1 of the Tłchǫ Agreement to the Wek'èezhì Renewable Resources Board. The proposal will establish a temporary no-hunting corridor to reduce the take of boreal caribou (tədzı) along the Project route. Only individuals exercising section 35 rights will be allowed to harvest boreal caribou (tədzı) 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.

The GNWT's proposed modifications to Measure 6-2 are shown below:

Measure 6-2: ~~Temporary no-hunting corridor for boreal caribou (tədzı)~~
Determine sustainable harvest levels for boreal caribou and implement measures to ensure harvest is sustainable if required

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

~~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.~~

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

If harvest levels are observed to increase beyond sustainable levels once the road is opened to the public, GNWT-ENR and the Tłı̨chǫ Government will submit a wildlife management proposal under section 12.5.1 of the Tłı̨chǫ 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.

Analysis and response

Measure is intended to be precautionary and proactive

The Review Board does not accept that the proposed modification achieves the intent of the original measure. The measure was designed to be preventative, because the Review Board has determined that the status of NT1 boreal caribou is already a conservation concern. This is a culturally important species at risk that requires prompt action to mitigate the significant effects of Project. The measure is intended to implement a precautionary approach, as described in section 4.4 of the *Report of Environmental Assessment*, because of the lack of full scientific certainty in the evidence presented and the risk of serious harm. The Review Board has a legal responsibility under subsection 79(2) of the *Species at Risk Act* to ensure that measures are taken to avoid or lessen adverse effects of the project on boreal caribou (a listed wildlife species) and its critical habitat and to monitor them.

Once the Review Board has determined that significant adverse impacts from the Project are likely, the Review Board may require mitigations to reduce or avoid the impacts. It has done so. It is within the Board's legal authority under the *Mackenzie Valley Resources Management Act* to make such a determination. This measure is intended to immediately mitigate the significant impacts of increased mortality from hunting due to increased access resulting from the all-season road.

Measure prescribed specific and timely action, not further examination

The GNWT's proposed modifications do not take mitigative action, but instead propose further study, with the possibility of inaction or unspecified action to follow. In the Review Board's view, this does not guarantee that this significant impact identified in this proceeding will be mitigated as intended by the original measure. The GNWT's proposed modifications create uncertainty about whether a temporary no-hunting corridor for boreal caribou and hunting restrictions will happen at all.

The federal *Species at Risk Act* specifies that if there are threats of serious or irreversible damage to a wildlife species, cost-effective measures to prevent the reduction or loss of the species should not be postponed for a lack of full scientific certainty.⁴ The Review Board views the proposed modification as such a postponement.

The Review Board respectfully points out that it has already made a finding, based on the evidence in this proceeding, that there is likely to be a significant impact resulting from new access for harvesters. GNWT has identified no new information which would cause the Review Board to alter that determination. Mitigation is therefore required. The Review Board's reading of the modified measure indicates that it is at best a promise that after further study mitigation

⁴ *Species at Risk Act*, S.C. 2002, c. 29. Preamble.

may be proposed. In the Review Board's view such a promise does not constitute a mitigative measure under the MVRMA.

In addition, rather than respond directly to the significant impacts identified by the Review Board, the proposed modifications offer unspecified management actions which would be submitted to and then be subject to the discretion of the WRRB. The WRRB would not have the Review Board's record of evidence before it, may not have the same witnesses or presentations to consider, and does not have the same legal authorities as the Review Board.

The Review Board appreciates the GNWT's commitment to respect the integrity of co-management processes. However, it should be noted that the original measure is the product of a co-management process. The Review Board's proceeding was conducted with the thorough and helpful participation of the WRRB which provided evidence throughout the process and which strongly supports the original measure, as do the YKDFN and NSMA.

Board recommends keeping the original measure

Because this is a substantial change to the intent of the measure, which also does not ensure mitigation of the significant impact identified by the Review Board, and considering parties' views, the Review Board respectfully suggests that the proposed modifications are not acceptable, and instead recommends keeping the original measure.

4. Measure 6-3

The Board's original measure on the habitat offset and restoration plan is as follows:

Measure 6-3: Habitat offset and restoration plan

The developer will offset effective boreal caribou (*tłdzı*) 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 developer will collaborate with Tłı̨chǫ 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'èezhì Renewable Resources Board for review under section 12.5.1 of the Tłı̨chǫ Agreement, a minimum of 90 days prior to commencement of construction. The developer will submit the final habitat offset plan to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the Tłı̨chǫ 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.**

The ministers' suggested modification is as follows:

The developer will offset effective boreal caribou (tədzi) 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 determined and how it** will be achieved. In preparing the plan, the developer will collaborate with Tłchǫ Government and the Wek'èezhì 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'èezhì Renewable Resources Board for review under section 12.5.1 of the Tłchǫ Agreement, ~~a minimum of 90 days prior to commencement of construction~~. The developer will submit the final habitat offset plan to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the Tłchǫ 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.**

Analysis and response

Area for calculating habitat offset

The Review Board specified the original buffer in order to be precautionary. The Board's recommended revision uses improved wording to clarify that the area used as one input to the calculation of the offset may not result in a final offset of an identical sized area.

The Review Board recognizes that if the GNWT produces compelling evidence that the area of reduced habitat effectiveness caused by the Project is smaller, it could result in a smaller but appropriately precautionary habitat offset. This would satisfy the intent of the original measure. With the wording below, the default offset area would be calculated as specified in the original measure, but the reduction of the calculated area is possible if the GNWT satisfies the WRRB that the reduction is appropriate.

Based on comments from the parties, the Review Board believes that having the WRRB (as the co-management board with a mandate to manage wildlife and habitat in the Project area – Wek'eezhii) evaluate the GNWT's offset calculations would objectively and independently ensure a sufficiently precautionary area for the offset of caribou habitat. The recommended revision adds a sentence to ensure that this is done in a participatory manner.

If the revised measure is approved by Ministers, the Review Board expects the Wek'eezhii Land and Water Board to include a requirement mirroring the first two paragraphs of the measure in the Project's Land Use Permit(s), and that amendments to Land Use Permit(s) may be made if the WRRB recommends a reduction to the offset area (based on the third paragraph below).

The Review Board accepts the modification proposed by the Tłı̨chǫ Government to remove the first reference to the Tłı̨chǫ Agreement for review of the draft habitat offset plan.

90 day minimum for WRRB review of draft offset plan

Having considered the comments of the WRRB, the Review Board concludes that the timeline of the original measure ensured that the WRRB would likely have enough time to review the draft plan before construction, but that the timeline described in the GNWT proposed modifications does not. The Review Board agrees with the WRRB that it is important that the draft plan be reviewed before construction begins to permanently alter caribou habitat. Accordingly, the Review Board has reinserted the wording of the original measure with respect to the 90 day minimum requirement for the draft plan.

The developer will offset effective boreal caribou (tədzı) 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.~~

When the GNWT calculates the area of disturbance required to be offset, its calculations will use an area extending 2500 m on each side of the right of way to determine reduced habitat effectiveness. (2500 m on each side of the right of way will not necessarily be the *area of the required habitat offset*, but will be used to calculate the habitat offset).

If the GNWT provides evidence that satisfies Wek'èezhì Renewable Resources Board that an area of less than 2500 m on each side of the right of way is appropriate, the GNWT may proceed to calculate the offset area for the plan on that basis.

When considering any such reduction, the Wek'èezhì Renewable Resources Board will engage with Environment and Climate Change Canada, the Tłı̨chǫ Government, the Yellowknives Dene First Nation and the North Slave Métis Alliance.

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 determined and how it~~ will be achieved, considering the above. In preparing the plan, the developer will collaborate with Tłı̨chǫ Government and the Wek'èezhì 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'èezhì Renewable Resources Board [for review under section 12.5.1 of the Tłı̨chǫ Agreement](#), ~~a minimum of 90 days~~ [a minimum of 90 days](#) prior to commencement of construction. The developer will submit the final habitat offset plan to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the Tłı̨chǫ 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.

Part B - Review Board's Recommended Revisions (without mark-up)

This part lists measures containing the Review Board's recommended revisions to each of the proposed Ministerial modifications for the Tłı̨chǫ All-Season Road Project *Report of Environmental Assessment*, without mark-up.

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

The GNWT-ENR will develop and implement a range plan for boreal caribou (tədzı) 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 (tədzı) 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'èezhìi Renewable Resources Board for review under section 12.5.1 of the Tłı̨chǫ agreement a minimum of 90 days before the Project is opened for public use.

The GNWT will work collaboratively with the Tłı̨chǫ Government, and other relevant Aboriginal and federal land management authorities, to the extent of their respective authorities, to manage habitat to achieve the habitat disturbance threshold set out in this range plan.

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 managing habitat to meet 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 (tłodzı) (following guidance in Appendix B).

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

To mitigate significant adverse impacts from the project on boreal caribou (tłodzı), the GNWT-ENR and Tłchǫ Government will submit a wildlife management proposal under section 12.5.1 of the Tłchǫ Agreement to the Wek'èezhì Renewable Resources Board. The proposal will establish a temporary no-hunting corridor to reduce the take of boreal caribou (tłodzı) along the Project route. Only individuals exercising section 35 rights will be allowed to harvest boreal caribou (tłodzı) 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.

Measure 6-3: Habitat offset and restoration plan

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

When the GNWT calculates the area of disturbance required to be offset, its calculations will use an area extending 2500 m on each side of the right of way to determine reduced habitat effectiveness. (2500 m on each side of the right of way will not necessarily be the *area of the required habitat offset*, but will be used to *calculate the habitat offset*).

If the GNWT provides evidence that satisfies Wek'èezhì Renewable Resources Board that an area of less than 2500 m on each side of the right of way is appropriate, the GNWT may proceed to calculate the offset area for the plan on

that basis.

When considering any such reduction, the Wek'èezhì Renewable Resources Board will engage with Environment and Climate Change Canada, the Tłı̨chǫ Government, the Yellowknives Dene First Nation and the North Slave Métis Alliance.

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 achieved, considering the above. In preparing the plan, the developer will collaborate with Tłı̨chǫ Government and the Wek'èezhì 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'èezhì Renewable Resources Board a minimum of 90 days prior to commencement of construction. The developer will submit the final habitat offset plan to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the Tłı̨chǫ 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.