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April 15, 2021

File: W2021X0001

Mark Cliffe-Phillips
Mackenzie Valley Review Board
200 Scotia Centre
Box 938, 5102-50th Avenue
Yellowknife NT X1A 2N7

Sent by email

Dear Mark Cliffe-Phillips,

Re: Tłı̨chǫ Fibre Optic Project – Notice of Preliminary Screening Determination – Application for Land Use Permit – [Highway 3 to Whatì, NT]

The Wek'èezhii Land and Water Board (Board) met on April 15, 2021 and considered the Application from the Tłı̨chǫ Government (TG) for Land Use Permit (Permit) W2021X0001 for the Tłı̨chǫ Fibre Optic Project in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board conducted a preliminary screening based on the public record for the proceeding. Based on the evidence provided, the Board is satisfied the screening has been completed according to section 125 of the MVRMA and has decided **not to refer** the Project to environmental assessment. The Board's Preliminary Screening Determination and Reasons for Decision, as required by section 121 of the MVRMA, is attached.

If the Board does not receive notice of referral to environmental assessment, it can proceed with issuance of Permit W2021X0001 on **April 26, 2021**.

The Board and staff look forward to continued communications throughout the pause period. Please contact Ryan Fequet at (867) 765-4589 with any questions or concerns regarding this letter.

Yours sincerely,



Joseph Mackenzie
Chair, Wek'èezhii Land and Water Board

BCC'd to: Wek'èezhii Distribution List
Laura Duncan, Tłıchq Government

Attached: Preliminary Screening Determination and Reasons for Decision



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Preliminary Screening Determination and Reasons for Decision

File Number	Type A Permit W2021X0001
Company	Tłjchq Government (TG)
Project	Tłjchq Fibre Optic Project
Location	Highway 3 to Whatì along TASR Right of Way, NT
Activity	Miscellaneous – Fibre Optic Installation
Date of Decision	April 15, 2021

1.0 Decision

In accordance with subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA), the Wek'èezhìi Land and Water Board (Board) met on April 15, 2021 to make a preliminary screening determination on the Application from Tłjchq Government (TG) (Applicant) for Land Use Permit W2021X0001 (Permit)¹ for the Tłjchq Fibre Optic Project (Project).²

The Board has decided not to refer the proposed Project to the Mackenzie Valley Environmental Impact Review Board (the Review Board) for Environmental Assessment because, based on the evidence, it is the Board's opinion that the proposed Project will not have a significant adverse impact on the environment or be a cause of public concern.

The Board's determination, including reasons for its decision, are detailed in the sections 3 and 4.

2.0 Background and Scope of Screening

The WLWB received a Land Use Permit Application from the TG on March 2, 2021.³ The purpose of the Application is to install approximately 115 kilometres of transport fibre from Highway 3 along the Tłjchq All-Season Road (TASR) route to Whatì to connect Whatì to NorthwesTel's fibre line. TG plans to use the existing workforce, equipment (except cable plow attachment on bulldozer), camp facilities, and

¹See WLWB (www.wlwb.ca) Online Registry for [Tlıcho Fibre Optic Project – Land Use Permit Application – Mar 2 21](#)

² The Project is the Tłjchq Fibre Optic Project, which is the proposed development, where "development" is defined in Part 5 of the MVRMA as:

"any undertaking, or any part or extension of an undertaking, that is carried out on land or water and includes an acquisition of lands pursuant to the *Historic Sites and Monuments Act* and measures carried out by a department or agency of government leading to the establishment of a park subject to the *Canada National Parks Act* or the establishment of a park under a territorial law."

³ See WLWB Online Registry for [Tlıcho Fibre Optic Project – Land Use Permit Application – Mar 2 21](#)

environmental protection measures (including the adoption of management plans) for the TASR project (W2016E0004) to support the Fibre Line Project.

In accordance with paragraph 125(1)(a) of the MVRMA, the Board must conduct a preliminary screening of the proposed Project to determine and report to the Review Board whether, in its opinion, the proposed Project might have a significant adverse impact on the environment or might be a cause of public concern. The details of the Board's analysis are set out in section 3 below.

Public Record and Regulatory Proceeding

To assist the Board in its preliminary screening determination for the Project, the Board distributed the Application, supporting materials, and a draft Permit for public review on March 5, 2021. Parties were invited to provide comments and recommendations using the Online Review System (ORS) by March 26, 2021. In the Item for Review, Parties were encouraged to provide comments and recommendations (e.g., on impacts and mitigation measures) to assist with the completion of the preliminary screening. Responses to reviewer comments were due April 1, 2021.

Comments and recommendations were received from Fisheries and Oceans Canada (DFO), Government of the Northwest Territories Department of Lands (GNWT-Lands) Inspector, and Wek'èezhii Renewable Resources Board (WRRB). Additionally, a letter from GNWT-Lands was received indicating there was no active mineral tenure in the area. Board staff also submitted comments. Reviewer recommendations and Proponent responses are available on the WLWB Online Registry.⁴

Since there were no requests to extend the reviewer comment deadlines, the Board is satisfied that a reasonable period of notice was given to affected communities and First Nations, as required by subsection 63(2) of the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board is also satisfied that the TG has been consulted in accordance with section 63 of the MVRMA.

3.0 Potential Impacts and Proposed Mitigations

In section 8 of the Application, the TG states that "there are no adverse environmental effects anticipated from the fiber line installation" as the fibre line is planned to be installed within an already cleared Right of Way (RoW). The TG did, however, complete an Impact-Mitigation Table in section 17 of the Application.

The Board has completed a preliminary screening as required by the MVRMA using the information provided during the regulatory proceeding. Table 1 below summarizes:

- the potential impacts and proposed mitigations for the proposed Project;
- the concerns that were identified during the regulatory proceeding and how the Applicant addressed those concerns; and
- the Board's analysis of the potential impacts and proposed mitigations.

⁴ See WLWB Online Registry for [Tl̨ch̨ Fibre Optic Project – Land Use Permit Application – Review Summary and Attachments – Apr 1 21](#)

Table 1: Potential Impacts and Proposed Mitigations for the Proposed Project

Potential Impact	Activity	Proposed Mitigations <i>Description of measures to reduce potential impacts, including consideration of cumulative impacts and climate change.</i>	Board's Analysis and Determination
Soil Contamination	On-site storage or disposal of wastes; transfer, storage, and use of petroleum products and/or chemicals; Use of motorized and heavy equipment	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ The construction of the Fibre line will occur within the already cleared RoW of the TASR. The erosion and sediment control measures that are in place on the TASR will be maintained for this project. As required for the TASR, routine monitoring of erosion and sediment risks as well as control measures will occur. As required, additional ESC measures will be prescribed to address any potential risks encountered during the fibre installation (Section 17 of the Application). ○ TG has stated that it will use the existing Main Camp fuel storage for the TASR and that fuel transfer will occur by trained personnel using a smaller fuel truck that will travel the road to active work sites. All equipment fueling will be done in accordance with the approved TASR fueling procedure (Section 13 and 14 of the Application). ○ TG has stated its intention to adopt the previously approved TASR Waste Management Plan, Spill Contingency Plan, Engagement Plan, Fish and Fish Habitat Protection Plan, Water Management and Monitoring Plan, and Erosion and Sediment control Plan for the Project (Section 8 and 15 of the Application). • The Board has standard conditions which are typically used to mitigate the described impact: <ul style="list-style-type: none"> ○ Natural Drainage ○ Drilling Near Water or on Ice 	Based on the described mitigations, it is the Board's opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern.

		<ul style="list-style-type: none"> ○ Drilling Waste Containment ○ Fuel Containment ○ Clean up Spills 	
Groundwater Impacts (including Water table alteration, infiltration changes, changes in water quality, temperature changes, and other)	On-site storage or disposal of wastes; transfer, storage, and use of petroleum products and/or chemicals; Use of motorized and heavy equipment	<ul style="list-style-type: none"> ● The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ The subsurface or above ground installation of fibre at the depths anticipated will not intersect or affect groundwater (Section 17 of the Application). ● See standard conditions for soil contamination and effects on aquatic habitat which can be used to mitigate the described impact. 	Based on the described mitigations, it is the Board's opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern
Permafrost Impacts (including loss or change in extent, changes in seasonal fluctuations, change in persistence, and other)	Use of motorized and heavy equipment	<ul style="list-style-type: none"> ● The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ Fibre Installation will occur within the cleared RoW and at depths that will not impact permafrost (Section 17 of the Application). ● The Board has a standard condition which is typically used to mitigate the described impact: <ul style="list-style-type: none"> ○ Permafrost Protection 	Based on the described mitigations, it is the Board's opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern
Surface Water Impacts (including water flow or level changes, drainage pattern changes, temperature changes, changes in water quality, wetland impairment, changes to aquatic habitat, and other)	On-site storage or disposal of wastes; transfer, storage, and use of petroleum products and/or chemicals; Use of motorized and heavy equipment	<ul style="list-style-type: none"> ● The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ The TASR Fish and Fish Habitat Protection plan provides details and protections for surface water resources along the TASR RoW and will be carried forward as part of the Fibre Project to ensure surface water remains unimpacted. Significant water crossings will be further protected by attaching the fibre line (through conduit) to the existing structures. Smaller, ephemeral crossings that have flowing water at the time of construction may require the use of a horizontal directional drill (HDD) to further reduce/mitigate risks of surface water impacts. Also, the erosion and sediment control measures that 	Based on the described mitigations, it is the Board's opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern

		<p>are in place on the TASR will be maintained for this project (Section 17 of the Application).</p> <ul style="list-style-type: none"> ○ TG has stated its intention to adopt the previously approved TASR Waste Management Plan, Spill Contingency Plan, Engagement Plan, Fish and Fish Habitat Protection Plan, Water Management and Monitoring Plan, and Erosion and Sediment control Plan for the Project (Section 8 of the Application). ○ See standard conditions for effects on aquatic habitat which can also be used to mitigate the described impact. 	
Air Impacts (including changes in air quality, harm to living things, increased greenhouse gases, and other)	Use of motorized and heavy equipment	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ All equipment complies with federal emissions standards and is well maintained and kept clean (Section 17 of the Application). 	Based on the described mitigations, it is the Board's opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern
Direct loss of vegetation	Clearing vegetation and conducting earthworks	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ Tree clearing will be kept to a minimum as the project remains within the cleared RoW of the TASR. A small (450m long) strip of trees may need to be cleared along highway 3 but the loss will be kept to a minimum and within the highway RoW (Section 17 of the Application). • The Board has standard conditions which are typically used to mitigate the described impact: <ul style="list-style-type: none"> ○ Minimize Area Cleared ○ Natural Vegetation 	Based on the described mitigations, it is the Board's opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern
Direct loss or removal of habitat, dens, or nests	Clearing vegetation and conducting earthworks	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: 	Based on the described mitigations, it is the Board's

		<ul style="list-style-type: none"> ○ No impacts are expected to occur on the previously cleared TASR RoW. The small area of tree clearing that may be needed along Highway 3 will follow the Wildlife Management Plan to mitigate risks (Section 17 of the Application). <p>• The Board has standard conditions which are typically used to mitigate the described impact:</p> <ul style="list-style-type: none"> ○ Habitat Damage ○ Migratory Bird Nest Disturbance 	<p>opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern</p>
Sensory Disturbance	Use of motorized and heavy equipment; conducting earth works	<p>• Concerns and Mitigations Raised during the Public Review: Section 5.2 of the WMMP states that construction will be temporarily suspended when bison, moose, caribou or other wildlife are known to be near the active construction site. WRRB recommended (WRRB comment 3) that to ensure safety of both wildlife and people, a clear minimum distance be defined where work will not occur. In response to WRRB comment 3, TG noted that the WMMP for the Fibre Line Project “mirrors the approved TASR WMMP” but that the Environmental Team would “attend the area to ensure no undue to the animals occurred” if wildlife were spotted within 500m. Additional details were provided to mitigate impacts to wildlife in response to WRRB comments 4 and 5.</p>	<p>Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern</p>
Direct injury or mortality	Use of motorized and heavy equipment; conducting earth works	<p>• The Applicant proposed the following mitigations:</p> <ul style="list-style-type: none"> ○ The project will coincide with the TASR construction season and the fibre installation project will not result in additional risks. Additionally, all mitigation measures provided in the TASR Fiber and TASR Wildlife Management Plans will be adhered to (Section 17 of the Application). <p>• Concerns and Mitigations Raised during the Public Review: Section 5.3 of the WMMP states that bison, caribou or moose located near construction activities will be approached by</p>	<p>Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern</p>

		<p>vehicles to encourage them to leave the area and that operations may be suspended, if they do not leave the area. During the public review, WRRB (WRRB comments 4 and 5) expressed concern over high levels of stress for wildlife (e.g., bison, caribou, or moose) if vehicles and personnel approach wildlife too closely while encouraging them to leave and that there may be a potential to harm calves or separate them from their mothers. The WRRB recommended that a distance be described where vehicles and personnel are not permitted to approach and that during boreal caribou, moose, and bison calving and post-calving periods, work be suspended every time females to leave the area after being “gently encouraged” by the environmental monitors. In response to WRRB comment 4 and 5, the TG provided additional details on how it would prevent high levels of stress for wildlife while approaching wildlife. TG also committed to suspend work if proposed methods do not work during sensitive periods and that this incident would be reported.</p>	
<p>Disturbing to key lifecycle stages: breeding, feeding, nesting, staging</p>	<p>Use of motorized and heavy equipment; conducting earth works</p>	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ Disturbances during sensitive breeding bird periods will be avoided or mitigated following all pertinent regulatory requirements (Section 17 of the Application). • Concerns and Mitigations Raised during the Public Review: During the public review, WRRB (WRRB comment 6) indicated that trenching activities are scheduled during bird nesting season and recommended that bird nest monitoring be added to section 6.0 of the WMMP. In response to WRRB comment 6, TG added a pre-activity bird nest sweep to Version 2.0 of the WMMP, submitted with TG’s responses. 	<p>Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern</p>
<p>Human-wildlife conflicts</p>	<p>Use of motorized and heavy equipment; conducting earth works</p>	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: 	<p>Based on the described mitigations, it is the Board’s opinion that the proposed</p>

		<ul style="list-style-type: none"> ○ Wildlife Management Plan and the Waste Management Plan (Section 17 of the Application). ○ TG has stated its intention to adopt the previously approved TAsR Waste Management Plan, Spill Contingency Plan, Engagement Plan, Fish and Fish Habitat Protection Plan, Water Management and Monitoring Plan, and Erosion and Sediment control Plan for the Project (Section 8 of the Application). 	activities will not have a significant adverse impact on the environment and will not be a cause of public concern
Effects on Aquatic Habitat Health (toxins, metals, sediment, etc.)	On-site storage or disposal of wastes; transfer, storage, and use of petroleum products and/or chemicals;	<p>• The Applicant proposed the following mitigations:</p> <ul style="list-style-type: none"> ○ Spill Contingency Plan (Section 17 of the Application). ○ TG has stated its intention to adopt the previously approved TAsR Waste Management Plan, Spill Contingency Plan, Engagement Plan, Fish and Fish Habitat Protection Plan, Water Management and Monitoring Plan, and Erosion and Sediment control Plan for the Project (Section 8 of the Application). ○ Concerns and Mitigations Raised during the Public Review: During the public review DFO (DFO comment 1) submitted a comment stating that the proposed project was “reviewed to determine whether it is likely to result in the death of fish by means other than fishing or the harmful alteration, disruption or destruction of fish habitat which are prohibited under subsections 34.4(1) and 35(1) of the <i>Fisheries Act</i>; and, effects to listed aquatic species at risk, any part of their critical habitat or the residences of their individuals in a manner which is prohibited under sections 32, 33 and subsection 58(1) of the <i>Species at Risk Act</i> (SARA)” and determined that “provided that your plans are implemented in the manner described, the Fish and Fish Habitat Protection Program (the Program) is of the view that your proposal will not require an authorization under the <i>Fisheries Act</i> or the SARA.” In response to DFO, TG committed to reaching out to DFO to confirm that Authorization is still 	Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern

		<p>not required if plans change or if other information comes to light.</p> <ul style="list-style-type: none"> • The Board has standard conditions which are typically used to mitigate the described impact: <ul style="list-style-type: none"> ○ Natural Drainage ○ Drilling Near Water or on Ice ○ Drilling Waste Containment ○ Habitat Damage ○ Fuel Containment ○ Clean up Spills 	
Cultural Integrity and Heritage Resources Impacts		<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ All work will be completed within the cleared RoW (Section 17 of the Application). • The Board has standard conditions which are typically used to mitigate the described impact: <ul style="list-style-type: none"> ○ Archaeological Buffer (modified to be aligned with TASR Permit W2016E0004) ○ Site Disturbance ○ Site Discovery and Notification 	Based on the described mitigations, it is the Board's opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern
Economic opportunities or losses (employment, training)		<ul style="list-style-type: none"> • The Applicant proposed the following: <ul style="list-style-type: none"> ○ Opportunity: Improved internet access for the community of Whatì may bring a variety of opportunities and benefits (Section 17 of the Application as well as support letters included with the Application). 	Based on the described mitigations, it is the Board's opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern

3.1 Consideration of Potential Impacts

Based on the potential impacts and proposed mitigations identified above in Table 1, the Board needs to consider whether the Project might have a significant adverse impact on the environment. To determine whether a potential adverse impact might be significant, the Board's analysis has considered factors that could affect significance, such as location, project, and impact.

The purpose of this Project is to provide improved internet access for the community of Whatì. As described above, it is TG's plan to use the "same workforce, size/type of equipment (exception of a cable plow attachment on a bulldozer), camp facilities, and environmental protections" (Section 8 of the Application). In addition to the above mitigations, TG plans to conduct the Project concurrently with the TASR 2021 construction along the RoW. The TASR Project has been screened several times and has already undergone Environmental Assessment (EA).⁵ By using the same resources, location, and timing as the TASR, the Board is of the opinion that any adverse impact to the environment would be minimal.

In general, the Board believes that impacts of the Project on the environment can be mitigated through the use of standard permit conditions and/or project-specific conditions established by the Board as per the MVLWB [Standard Process for Creating New Conditions](#). These conditions include requirements for management and monitoring plans that provide detailed information regarding the implementation of mitigation measures and the evaluation of their effectiveness. A draft Permit was circulated for review during the regulatory proceeding, and all Parties were given the opportunity to provide comments and recommendations on the draft conditions. The Board has considered all of the evidence provided through the regulatory proceeding in finalizing the conditions of the Permit.

3.2 Consideration of Public Concern

In addition to considering the potential impacts of the Project, the Board needs to consider whether the Project might be a cause of public concern.

Based on the evidence provided during the regulatory proceeding, the Board did not identify any comments or issues that indicate that the Project is a cause of public concern.

4.0 Conclusion

The Board has reviewed all the evidence received during the regulatory process with respect to the Preliminary Screening of the proposed Project. Based on the evidence, it is the Board's opinion that the proposed Project will not have a significant adverse impact on the environment or be a cause of public concern, as set out in paragraph 125(1)(a) of the MVRMA. The Board has therefore decided not to refer the proposed Project to Environmental Assessment.

⁵ See Mackenzie Valley Environmental Impact Review Board Public Registry (www.reviewboard.ca) for the [TASR Report of the Environmental Assessment and Reasons for Decision](#)

If the Board does not receive a notice of referral to environmental assessment by April 25, 2021, the Board will issue the Permit on April 26, 2021.

SIGNATURE



Joseph Mackenzie
Chair, Wek'èezhii Land and Water Board

April 15, 2021

Date