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November 18, 2019

File: W2016E0004

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

Sent by email

Dear Mr. Cliffe-Phillips,

Re: Notice of Preliminary Screening Determination – Amendment Application #1 for Land Use Permit W2016E0004 – [Tłı̄chq̄ All-Season Road, NT]

The Wek'èezhìi Land and Water Board (Board) met on November 18, 2019 and considered the Application from the Government of the Northwest Territories Department of Infrastructure (GNWT-INF) to amend its Type A Land Use Permit (Permit) [W2016E0004] for the Tłı̄chq̄ All-Season Road (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 reasons for decision, as required by section 121 of the MVRMA, are provided below.

If the Board does not receive notice of referral to environmental assessment, it will proceed with issuance of the amended Permit W2016E0004 on Friday, November 29, 2019.

Our Board and staff look forward to continued communications throughout the pause period. If you have any questions or concerns regarding this letter, please contact Ryan Fequet at (867) 765-4589 or email rfequet@wlwb.ca.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Mike Nitsiza".

Mike Nitsiza
A/Chair, Wek'èezhìi Land and Water Board

Copied to: TASR Distribution List
Ziaur Rahman, GNWT-INF



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Reasons for Decision

Reference/File Number:	W2016E0004 (Type A Land Use Permit)
Permittee:	Government of the Northwest Territories Department of Infrastructure (GNWT-INF)
Subject:	Land Use Permit Amendment Application – Additional Fuel

Decision from the Wek'èezhìi Land and Water Board Meeting of November 18, 2019

1.0 Decision

The Wek'èezhìi Land and Water Board (the Board) met on November 18, 2019 and considered an Amendment Application from the Government of the Northwest Territories Department of Infrastructure (GNWT-INF) for the Tłjchq All-Season Road (TASR Project). The application requested Condition #74 of Land Use Permit W2016E0004 be amended to increase the maximum amount of fuel on site. The Board conducted a preliminary screening of this Amendment Application based on the public record for the proceeding. Based on the evidence provided, the Board is satisfied the screening has been completed according to subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA) and has decided that, in its opinion, there is no reasonable likelihood that the proposed application might have a significant adverse impact on the environment and that the proposed application is not a cause for public concern as set out in paragraph 125(1)(a) of the MVRMA.

The Board has therefore decided the following:

1. **not to refer** the Project to Environmental Assessment;
2. to approve the GNWT-INF's Amendment Application for additional fuel on site; and
3. if no referral to environmental assessment is received by November 28, 2019, it will issue the amended W2016E0004 Permit on November 29, 2019 and approve Version 2.0 of the Spill Contingency Plan.

2.0 Background

The TASR Project is a 97 km-long dual-lane gravel highway running from KM 196 on Highway 3 near Behchokq, to Whatì, consisting of a 60 metre (m) right-of-way and 16 water crossings that require culverts or bridges. In addition to the Construction, operation, and maintenance of the road and Water

crossings, this project also requires the operation of camps. The Main Camp is located at km 19 of the TASR and houses up to 170 workers. The TASR Project has already undergone Environmental Assessment.¹ On May 30, 2019, a subsequent preliminary screening was conducted to include changes since the initial March 30, 2016 Application and the Environmental Assessment² and the Board issued a Type A Land Use Permit W2016E0004 and Type B Water Licence W2016L8-0001.^{3,4,5}

On November 1, 2019, the Board received an Amendment Application to increase the maximum fuel on site.⁶ Condition #74 of the Permit currently requires that:

The Permittee shall have a maximum 106,000 litres of fuel stored on the land use area at any time, unless authorized in writing by the Board.

GNWT-INF proposes to double (2x) the amount of fuel currently allowed on site from 106,000 litres (L) to 235,099 L to support the Main Camp. The fuel includes diesel, gasoline, and propane and will be stored at the Main Camp at km 19 of the TASR on Territorial Lands. In the cover letter, the GNWT-INF indicated that it expects to increase the fuel storage by November 8, 2019. In support of the Application, GNWT-INF also submitted a revised Spill Contingency Plan (Version 2.0).

The preliminary screening identifies potential impacts and mitigations for the proposed activities. In accordance with section 125 of the MVRMA, the Board must conduct a preliminary screening of the Amendment Application to determine whether the project might have a significant adverse impact on the environment or might be a cause for public concern.⁷

To assist the Board in completing a Preliminary Screening of this Amendment Application, the Board distributed the Amendment Application for public review on November 1, 2019 inviting Parties to provide comments and recommendations (e.g., on impacts and mitigation measures) using the Online Review System (ORS).⁸ Comments were due November 15, 2019 with responses due November 16, 2019. The Board received comments from the Government of the Northwest Territories Department of Lands' (GNWT-Lands) Inspector indicating their support for the increase in fuel on site; the Wek'èezhii Renewable Resources Board (WRRB) indicated it had no comments or recommendations.⁹ No additional comments or concerns were raised by reviewers from the public review.

Since no concerns were raised during the public review and no requests to extend reviewer comment deadline were received, 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 MVRMA. The Board is also satisfied that the Tłı̨chq Government has been consulted in accordance with section 63 of the MVRMA.

¹ See Mackenzie Valley Environmental Impact Review Board Public Registry for the [TASR Report of the Environmental Assessment and Reasons for Decision](#).

² See WLWB Online Registry (www.wlwb.ca) for [W2016E0004 – TASR – Preliminary Screening – May 30 19](#)

³ See WLWB Online Registry for [W2016E0004 – TASR – Land Use Permit – May 30 19](#)

⁴ See WLWB Online Registry for [W2016L8-0001 – TASR – Water Licence – May 30 19](#)

⁵ See WLWB Online Registry for [W2016L8-0001 – TASR – Land Use Permit and Water Licence Applications – Reasons for Decision – May 30 19](#)

⁶ See WLWB Online Registry (www.wlwb.ca) for [W2016E0004 – TASR – LUP Amendment Application – Nov 1 19](#)

⁷ See the Mackenzie Valley Environmental Impact Review Board (www.reviewboard.ca) for the [Environmental Impact Assessment Guidelines](#), 2004.

⁸ See WLWB Online Review System ([ORS](#))

⁹ See WLWB Online Registry for [W2016E0004 – TASR – Amendment 1 – Review Summary and Attachments – Nov 16 19](#)

3.0 Reasons for Decision

3.1 Preliminary Screening

The Board completed a preliminary screening of the Amendment Application in accordance with subsection 124(1) of the MVRMA. In the Amendment Application, GNWT-INF has not proposed any changes to impacts or mitigations as a result of this Amendment Application. The Board conducted its own analysis of potential impacts and proposed mitigations summarized below (See Table 1).

Table 1: Summary of Potential Impacts of the proposed Amendment Application and proposed Mitigations

Potential Impact	Activity <i>Use an "x" to indicate which apply</i>	Proposed Mitigations <i>Describe measures you intend to apply to reduce potential impact. Cumulative impacts and climate change must be considered.</i>
Loss, direct injury, and/or mortality of wildlife	Storage and use of petroleum products X	<ul style="list-style-type: none"> • Concerns: Wildlife may be attracted to waste or fuel stored on site, resulting in potentially lethal human-wildlife conflicts. • Mitigations: The Permit requires GNWT-INF to comply with the Wildlife Management and Monitoring Plan once approved (Condition #53 of the Permit) • Board Analysis and Determination: The Wildlife Management and Monitoring Plan states that camps and buildings are designed with appropriate storage of petroleum products to prevent wildlife interactions; appropriate deterrents such as temporary fencing and noise makers will be used to reduce exposure of wildlife to contaminants; and that GNWT-INF has protocols to contact territorial and federal authorities to determine the next appropriate course of action in case wildlife are exposed to contaminants. No wildlife incidents or mortalities have been reported since Construction has commenced. The Board does not believe additional fuel stored at the Main Camp might have a significant adverse impact on the environment or be a cause of public concern with regards to potential impacts to wildlife.
Contamination	Transfer and use of petroleum products X	<ul style="list-style-type: none"> • Concerns: Spilled fuel may impact surrounding environment: including soils, waterbodies, which may have subsequent impacts to water quality, fish, and fish habitat. • Mitigations: <ul style="list-style-type: none"> ○ The Permit includes standard fuel storage, handling, and spill contingency conditions (Conditions #66 - #80). <ul style="list-style-type: none"> ▪ The Permit requires GNWT-INF to comply with the Spill Contingency Plan once approved (Condition #77 of the Permit) ▪ The Permit requires GNWT-INF to ensure all fuel storage containers have adequate secondary containment (Condition #68 of the Permit) and readily-available spill-response equipment (Condition #78) ○ GNWT-INF stated in the Amendment Application that fuel will be stored in accordance with both the Permit Conditions and the Spill Contingency Plan. • Board Analysis and Determination: The Board notes that in the most recent Land Use Inspection Report from October 31, 2019, there were no concerns noted with fuel stored at the Main Camp.¹⁰ The Inspectors noted that propane tanks are bermed and spill kits are located at shop entrance and in other areas readily available. The Board does not believe additional fuel stored on site, and especially at the Main Camp, might have a significant adverse impact on the environment or be a cause of public concern with regards to potential impacts to water quality, fish, or fish habitat.
Introduction of deleterious substances	Storage and use of petroleum X	<ul style="list-style-type: none"> • Concerns: See Concerns for Potential Impact 'Contamination' • Mitigations: See Mitigations for Potential Impact 'Contamination' • Board Analysis and Determination: See Board Analysis and Determination for Potential Impact 'Contamination'

¹⁰ See WLWB Online Registry for [W2016E0004 - TASR - Land Use Inspection Report - October 31 2019 - Nov 4 19](#)

Based on the information provided in the application and the public review, it is the Board's view that there is not enough evidence to suggest that the proposed activities for the additional fuel on site might have a significant adverse impact on the environment or might be a cause of public concern and therefore, has decided not to refer the Project to Environmental Assessment.

3.2 Amendment Application and Supporting Plan

The Board is satisfied that there are no outstanding concerns with respect to additional fuel on site because:

- a) Parties were provided the opportunity to provide comments and recommendations on the potential impacts and mitigation related to the proposed application;
- b) The Board believes the Permit and Spill Contingency Plan include adequate mitigations to address any potential impacts and concerns as a result of increased fuel; and
- c) The Inspection Reports have not identified any issues with fuel storage at the Main Camp.

Therefore, the Board approves the GNWT-INF's Land Use Permit Application for additional fuel on site.

As mentioned previously, GNWT-INF submitted Version 2.0 of its Spill Contingency Plan to support its Amendment Application and reflect the proposed change in the amount of fuel on site.¹¹ No comments or concerns were raised regarding Version 2.0 of the Spill Contingency Plan.

If the Board does not receive a notice of referral to environmental assessment by November 28, 2019, it will issue the amendment Permit, W2016E0004, on November 29, 2019 and approve the changes included in Version 2.0 of the Spill Contingency Plan.

Signed the 18th Day of November, 2019, on behalf of the Wek'èezhii Land and Water Board



Witness



Mike Nitsiza
A/Chair, Wek'èezhii Land and Water Board

¹¹ See WLWB Online Registry for [W2016E0004 – TASR – Spill Contingency Plan – Version 2.0 – Nov 1 19](#)