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July 9, 2020

File: W2019Q0003

Matthew Miller
Northwest Territories Power Corporation
4 Capital Drive
Hay River, NT X0E 1G2

Sent by email

Dear Matthew Miller,

Re: Northwest Territories Power Corporation's Type A Land Use Permit Amendment

The Wek'èezhìi Land and Water Board (the Board) met on July 9, 2020 and considered Northwest Territories Power Corporation's (NTPC) Request to amend Land Use Permit (Permit) W2019Q0003 to: include two additional quarrying sites from two historical till pits located near the Snare Forks Facility; increase the fuel storage limit from 20,000 litres to 30,000 litres; include an excavator to the list of authorized heavy equipment; and allow for clearing of vegetation around the edges near the historical borrow locations.

The Board has approved the Amendment Request to Land Use Permit W2019Q0003. A copy of this amended Permit is available on the WLWB Online Registry.¹

The Board has approved Versions 2.0 of NTPC's Engagement Plan and Reclamation Plan.

The Board also requires NTPC to submit to the Board and GNWT-ENR-EAM the missing geospatial data for the planned project footprint and all the relevant geospatial data for the realized project footprint as soon as it is available. Please review the Board's attached Reasons for Decision for further details.

Yours sincerely,

– ORIGINAL SIGNED BY –
Alex Nitsiza
Wek'èezhìi Land and Water Board, Acting Chair

Copied to: Wek'èezhìi West Distribution List

Attached: Land Use Permit Amendment Reasons for Decision [W2019Q0003]

¹ See WLWB (www.wlwb.ca) Online Registry for [NTPC – Land Use Permit – Jul 9 20](#)



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Reasons for Decision

Preliminary Screener	WLWB
Reference/File Number:	W2019Q0003 (Type "A" Land Use Permit)
Permittee:	Northwest Territories Power Corporation (NTPC)
Subject:	Land Use Permit Amendment Request

Decision from the Wek'èezhìi Land and Water Board Meeting of July 9, 2020

1.0 Decision

On July 9, 2020, the Wek'èezhìi Land and Water Board (the Board) met and considered an Amendment Request (the Request) from the Northwest Territories Power Corporation's (NTPC). The Request is to amend Land Use Permit W2019Q0003 to: include two additional quarrying sites from two historical till pits located near the Snare Forks Facility; increase the fuel storage limit from 20,000 litres to 30,000 litres; include an excavator to the list of authorized heavy equipment; and to allow for clearing of vegetation around the edges of the historical borrow locations.

The Board has decided the following:

1. The Request submitted by NTPC is exempt from preliminary screening in accordance with the *Exemption List Regulations*;
2. To approve the Amendment Request to Type A Land Use Permit W2019Q0003;
3. To approve Version 2.0 of NTPC's Engagement Plan;
4. To approve Version 2.0 of NTPC's Reclamation Plan; and
5. To require that NTPC submit to the Board and GNWT-ENR-EAM the missing geospatial data for the planned project footprint and all the relevant geospatial data for the realized project footprint as soon as it is available.

2.0 Background

The WLWB issued Land Use Permit W2012Q0004 for a period of one year commencing on January 18, 2013 and expiring January 17, 2014. This Permit was for the use of quarries, construction and maintenance of a winter road, and petroleum storage activities in the Strutt Lake area. On January 17, 2014, the Board approved a two-year extension to this Permit, extending the Permit to January 17, 2016. The Board approved Final Clearance for Land Use Permit W2012Q0004 on November 23, 2015 and granted Discontinuance on December 15, 2015.

On November 7, 2019, NTPC submitted a Type A Land Use Permit to reinstate their expired Land Use Permit W2012Q0004. The renewal application (W2019Q0003) was to obtain material to resurface a section of the Snare Hydro all-season road and to operate three existing gravel quarries and an 8 km historic winter road near Strutt Lake, NT. The WLWB issued Land Use Permit W2019Q0003 on December 19, 2019, for a period of five years, expiring December 18, 2024.¹ This Permit is for the use of quarries, construction and maintenance of a winter road, and petroleum storage activities in the Strutt Lake area.

On May 28, 2020, NTPC submitted a complete Request to amend its Type A Land Use Permit (W2019Q0003).^{2,3,4,5} NTPC's Request is to include two additional quarrying sites from two historical till pits located near the Snare Forks Facility; the material will be used to repair one of the adjacent dams that requires resurfacing and reprofiling to ensure stability. NTPC is also requesting to increase the fuel storage limit from 20,000 litres to 30,000 litres; to include an excavator to the list of authorized heavy equipment; and to allow for clearing of vegetation around the edges near the historical borrow locations. As specified in NTPC's Request, the amendment would not require revisions to the wording of any Permit conditions but would have an impact on the scope and reference documents related to the following conditions:

- Condition 1: The Permittee shall only conduct this land-use operation on lands designated in the application. [**Location of Activities**]
- Condition 9: The Permittee shall only use equipment of a similar type, size, and number to that listed in the complete application [**Use Approved Equipment**]; and
- Condition 44: The Permittee shall not clear areas larger than identified in the complete application [**Minimize Area Cleared**].

The Amendment Request was distributed for public review on May 29, 2020. No draft Permit was circulated for review because the Amendment Request did not include any proposed wording changes to Permit conditions. In its cover letter, NTPC indicated its view that the Request should be exempt from

¹ See WLWB Online Registry for [NTPC – Land Use Permit – Dec 19 19](#)

² See WLWB Online Registry for [NTPC – Strutt Lake – Land Use Permit Amendment Request – May 28 20](#)

³ See WLWB Online Registry for [NTPC – Strutt Lake – Land Use Permit Amendment Request – Engagement Log – May 28 20](#)

⁴ See WLWB Online Registry for [NTPC – Strutt Lake – Land Use Permit Amendment Request – Snare Hydro and Snare Forks Till Pits Figures – May 28 20](#)

⁵ See WLWB Online Registry for [NTPC – Strutt Lake – Land Use Permit Amendment Request – Ticho Quarry Permit and Access Agreement – May 28 20](#)

preliminary screening because “these are historic borrow locations and all activities proposed have already been subject to Part 5 of the [*Mackenzie Valley Resource Management Act (MVRMA)*] through previous approvals.” In the Item for Review, WLWB staff indicated they agreed the Request may be exempt from preliminary screening in accordance with the Preliminary Screening Exemption List Regulations. Reviewers were encouraged to provide comments and recommendations on the possible exemption along with associated rationale. Reviewer comments were due June 19, 2020; comments were received from the Government of the Northwest Territories Environment and Natural Resources – Environmental Assessment and Monitoring Department (GNWT-ENR-EAM) and the Tlicho Government (TG). The GNWT-Department of Lands (Lands)- Inspector indicated it supported the land use permit amendment and noted that the current operating conditions in the permit will satisfactorily mitigate the potential for environmental concerns to arise. Proponent responses were submitted by the deadline of June 26, 2020. Reviewer comments and recommendations, as well as the proponent responses are available on the WLWB Online Registry.⁶

3.0 Reasons for Decision

3.1 Exemption from Preliminary Screening

In accordance with section 124(1) of the MVRMA, the Board must conduct a preliminary screening of the Request. A preliminary screening of Land Use Permit W2012Q0004 was completed on October 19, 2005. It was determined that there was no likelihood that the proposed development might have a significant adverse impact on the environment or might be a cause of public concern. Preliminary screenings for Land Use Permits MV2003F0029⁷ and W2008F0017⁸ were also reviewed; in both cases it was determined that there was no likelihood that the proposed development might have a significant adverse impact on the environment or might be a cause of public concern.

Schedule 1 (section 2), Part 1, paragraph 2(b) of the MVRMA *Exemption List Regulations* states that an application/request can be exempt from preliminary screening if:

A development, or a part thereof, for which renewal of a permit, licence or authorizations is requested that (a) has not been modified; and (b) has fulfilled the requirements of the environmental assessment process established by the *Mackenzie Valley Resources Management Act*, the *Canadian Environmental Assessment Act* or the Environmental Assessment Review Process Guidelines Order.

Following a review of the previous preliminary screenings and associated applications, the Board has confirmed that the activities and the area previously screened remain the same and thus agree that this Request should be exempt from preliminary screening. No reviewers provided comments with respect to the preliminary screening as part of the public review.

⁶ See WLWB Online Registry for [NTPC - Strutt Lake - Land Use Permit Amendment Request - Review Summary and Attachments - Jun 26 20](#)

⁷ See WLWB Online Registry for [MV2003F0029 – Fax Letter Regarding LUP Amendment – Preliminary Screening – Feb 4 08](#)

⁸ See WLWB Online Registry for [W2008F0017 – NTPC – Land Use Permit – Preliminary Screening – Feb 23 09](#)

- ***Decision #1: The Board determines that the Request submitted by the Northwest Territories Power Corporation is exempt from preliminary screening in accordance with the Exemption List Regulations.***

3.2 Eligibility

As per section 18 of the *Mackenzie Valley Land Use Regulations* (MVLUR), eligibility must be determined before the Board can issue a permit. The proposed activities are to take place in the Strutt Lake area, which are within Tlicho Lands. As part of its Request, NTPC submitted a document that includes the following: (1) a copy of the Tlicho Quarry Permit signed by the Tlicho Government – Department of Culture and Lands Protection; and (2) a copy of an Access Agreement signed by the Tlicho Government and NTPC for a term of one (1) year commencing May 20, 2020 and terminating May 20, 2021.⁹ The Board has thus confirmed that eligibility under Paragraph 18(b) of the MVLUR has been satisfied.

3.3 Land Use Permit Amendment Request

As mentioned above, no draft Permit was circulated for review because the Amendment Request did not include any proposed wording changes to Permit conditions.

As indicated in its Request, NTPC would like to amend the lands designated in the original application for this Permit to include two historic till pits as outlined in the Snare Hydro and Snare Forks Till Pits Figures and Tlicho Quarry permit.^{10,11} NTPC's request to amend the lands designated in the original Permit application is related to Condition #1 of the Permit that states: "The Permittee shall only conduct this land-use operation on lands designated in the application." No concerns were noted by reviewers with regards to the inclusion of the two historic till pits. The Board believes that there are no concerns that would prohibit the inclusion of the two till pits.

As indicated in its Request, NTPC would also like to amend the list of approved heavy equipment from the one included in the original Permit application; NTPC is requesting the addition of an excavator. NTPC's request to amend the list of approved equipment is related to Condition #9 that states: "The Permittee shall only use equipment of a similar type, size, and number to that listed in the complete application." No concerns were noted by reviewers with regards to the inclusion of the heavy equipment. The Board believes that there are no concerns that would prohibit the inclusion of an excavator to the list of approved heavy equipment.

As indicated in its Request, NTPC would also like to amend the area needed to be cleared of vegetation as identified in NTPC's original Permit application to include the two historical till pits. NTPC explained that minor clearing around the edges may be required. This request is related to Condition #44 that

⁹ See WLWB Online Registry for [NTPC – Strutt Lake – Land Use Permit Amendment Request – Tlicho Quarry Permit and Access Agreement – May 28 20](#)

¹⁰ See WLWB Online Registry for [NTPC – Strutt Lake – Land Use Permit Amendment Request – Snare Hydro and Snare Forks Till Pits Figures – May 28 20](#)

¹¹ See WLWB Online Registry for [NTPC – Strutt Lake – Land Use Permit Amendment Request – Tlicho Quarry Permit and Access Agreement – May 28 20](#)

states: “The Permittee shall not clear areas larger than identified in the complete application.” No concerns were noted by reviewers with regards to the area around the two till pits that may need to be cleared of vegetation. The Board believes that there are no concerns that would prohibit the minor clearing of the area, which has been previously disturbed.

Finally, NTPC’s Request indicated that it would like to increase the fuel storage limit from 20,000 litres to 30,000 litres. The Board believes this fuel storage limit increase is acceptable because: Part A, 1(c) of the Permit scope includes the establishment of a petroleum fuel storage; NTPC’s previous Land Use Permit W2012Q0004 had been screened to store up to 30,000 L of fuel; the Permit includes Conditions related to the safe storage and handling of fuel (i.e., Conditions 31 – 42); and no concerns were noted by reviewers during the public review.

During the public review, the GNWT-Department of Lands commented that the Inspector supported the Amendment Request and that the current operating conditions in the Permit will satisfactorily mitigate the potential for environmental concerns to arise (GNWT-Lands Inspector comment 1).

During the public review, the GNWT-ENR-EAM submitted a comment related to species at risk and potential impacts to wildlife habitat (GNWT-ENR-EAM comment 1). The GNWT-ENR-EAM stated in their recommendation that although the project overlaps with the range(s) of the Barren-ground Caribou (excluding the Porcupine herd) and the Little Brown Myotis (bat), “ENR is of the opinion that the location, nature, scale and timing of the proposed project activities are such that the likelihood of impacts to NWT-listed or pre-listed species listed can be avoided or minimized if ENR’s wildlife recommendations in this letter are implemented.” NTPC responded that they supported the recommendation from GNWT-ENR-EAM. The Board also notes that the Permit includes a standard condition (i.e., Condition #24 in the Permit – ‘Habitat Damage’) which mitigates potential impacts to wildlife habitat.

GNWT-ENR-EAM submitted a comment related to vegetation clearing and recommended that prior to conducting any new vegetation clearing during the winter, that the Proponent evaluate whether there is any potential suitable habitat for bat hibernacula that might be affected (GNWT-ENR-EAM comment 3). GNWT-ENR-EAM also stated that if NTPC should identify such habitat that NTPC contact GNWT-ENR-EAM for advice on how to assess whether hibernating bats may be present. NTPC responded that it did not believe that there is any potential hibernacula habitat in the project area. NTPC explained that the “Project is in Canadian Shield bedrock which does not typically have such underground caves, and no such features have been documented in the area.” NTPC further stated that any bat roosting habitat would be identified as part of the wildlife survey that will be completed prior to earthworks. The Board believes that NTPC’s response addresses GNWT-ENR-EAM’s recommendation, and as discussed above, the Permit includes a standard condition which would help mitigate any potential impacts to wildlife habitat.

After reviewing the Request, as well as all reviewer comments and proponent responses submitted during the public review, the Board approves the Amendment Request to Land Use Permit W2019Q0003.

- **Decision #2: The Board approves the Amendment Request to Type A Land Use Permit W2019Q0003.**

3.4 Management Plans

Along with the Amendment Request, NTPC submitted the following management plans:

- Engagement Plan – Version 2.0;¹² and
- Reclamation Plan – Version 2.0.¹³

3.4.1 Engagement Plan

There were no concerns or recommendations from reviewers with regards to Version 2.0 of the Engagement Plan. The Board confirms that the changes to Version 2.0 of NTPC's Engagement Plan were made to reflect the additions of the two till pits. NTPC also incorporated Tlichó Government's Mines Liaison Coordinator and Lands Regulation as organizations to engage with. The Board is satisfied that the submitted Plan is in accordance with the MVLWB (2019) *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*.

- **Decision #3: The Board approves Version 2.0 of NTPC's Engagement Plan.**

3.4.2 Reclamation Plan

During the public review, the Tlichó Government commented that the Reclamation Plan included a sentence within Section 1.0 [Introduction] which states 'These are existing borrow locations and there will be minimal clearing of vegetation or land so minimal reclamation will be required' (Tlichó Government comment 1). The Tlichó Government stated that 'Minimal' did not adequately describe the extent or type of reclamation that will be expected in the area after the excavation of materials and recommended that NTPC provide additional information on the revegetation and surface treatment plans of the disturbed area and other proposed reclamation work which will be helpful in understanding the Reclamation Plan. NTPC responded that:

Specific reclamation processes are outlined in Section 3.0 of the Strutt Lake Aggregate and Till Pit Reclamation Plan and include [regrading] to ensure slopes are stable in the area and [regrading] to ensure proper drainage. These borrow locations are on a historical airstrip and have been used as a borrow location in the past. Minimal disturbance to the vegetative cover and top soil is required as it has already been removed in the past. [Regrading] will take place to ensure stability of the area after the proposed use and natural revegetation may occur. This borrow

¹² See WLWB Online Registry for [NTPC – Strutt Lake – Engagement Plan – Version 2.0 – May 28 20](#)

¹³ See WLWB Online Registry for [NTPC – Strutt Lake – Reclamation Plan – Version 2.0 – May 28 20](#)

location may be required again in the future so artificial revegetation is not proposed.

The Board is of the opinion that NTPC's response adequately addresses the Tlicho Government's recommendation.

- **Decision #4: The Board approves Version 2.0 of NTPC's Reclamation Plan.**

3.5 Cumulative Effects Tracking

GNWT-ENR-EAM submitted a recommendation to NTPC that "the Proponent should submit geospatial data to ENR depicting the planned and realized project footprint, in order to keep track of cumulative habitat disturbance within the Bathurst Caribou ranges" (GNWT-ENR-EAM comment 2). NTPC responded that "Mapping figures and GIS information was provided with the amendment application". The Board notes that NTPC had included the Snare Hydro and Snare Forks Till Pits Figures with their Amendment Request and in response to the recommendation stated they had included the GIS Information. The Board notes however, that the GIS Information was not included as part of the Amendment Request. The Board also notes that the geospatial information (i.e., figures and GIS data) for the realized project footprint will not be available until the land-use operation is completed. Therefore, the Board requires NTPC to submit to the Board and GNWT-ENR-EAM the missing geospatial data for the planned project footprint and all the relevant geospatial data for the realized footprint as soon as it is available.

- **Decision #5: The Board requires NTPC to submit to the Board and GNWT-ENR-EAM the missing geospatial data for the planned project footprint and all the relevant geospatial data for the realized project footprint as soon as it is available.**

Signed the 9th Day of July, 2020, on behalf of the Wek'èezhìi Land and Water Board



Witness

– ORIGINAL SIGNED BY –

Alex Nitsiza
Acting Chair, Wek'èezhìi Land and Water Board