



105 Veterans Way,
P.O. Box 2018, Inuvik, NT X0E 0T0

Tel: 867-777-4954 Fax: 867-777-2304
www.glwb.com

June 29, 2021

File: G21E001

Mosiul Alam
GNWT Department of Infrastructure
Bag Service #1
INUVIK, NT X0E 0T0

sent via email

Dear Mr. Alam:

Re: Issuance of Type A Land Use Permit for Dempster Highway O/M

The Gwich'in Land and Water Board (GLWB) met on June 28, 2021 to consider the application from GNWT Department of Infrastructure for Land Use Permit G21QE001 for the operation and maintenance of the Dempster Highway #8, in Accordance with the Mackenzie Valley Resource Management Act (MVRMA).

Land Use Permit G21E001 has been approved for a period of five (5) years, effective June 28, 2021 and expiring February June 27, 2026.

Permit Conditions

Please read all conditions carefully. For the purpose of submitting plans in accordance with this Permit, the date of this letter, February 21, 2020, is the date of commencement.

Engagement Plan – Resubmission Required

The Board requires that GNWT INF conduct additional engagement and the resubmit the Engagement Record and Engagement Plan for Board approval, in order to address the items identified during this proceeding, including, but not limited to:

- A system for the notification prior to the commencement of non-routine activities (such as geotech, camp placement, culvert replacement etc.) so that appropriate assessment of cultural and Heritage resources can occur.
- Meetings with communities so to develop appropriate mitigations that prevent impacts to traditional land use activities
- The Development of appropriate pit management plans and archaeological site management strategies

Discontinuance

Should you wish to discontinue your land-use operation at any time prior to the expiry date set out in the Permit, a written notice of discontinuance is required as per section 37 of the MVLUR, in addition to the submission of a final plan.

Public Registry

A copy of this Permit and all related correspondence and documents has been filed on the [Public Registry](#) at the GLWB office. Please be advised that this letter, with its attached procedures, inspection reports, and related correspondence is part of the Public Registry and is intended to keep all interested parties informed of the manner in which the Permit requirements are being met. All Public Registry material will be considered if an amendment to the Permit is requested.

The full cooperation of GNWT Department of Infrastructure is anticipated and appreciated. If you have any questions or concerns, please contact AlecSandra Macdonald at (867) 777-4954.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Wright', with a stylized flourish at the end.

Elizabeth Wright,
Chair, Gwich'in Land and Water Board

Copied to: GLWB Distribution List

Attached: Land Use Permit G21E001
Reasons for Decision



105 Veterans Way,
P.O. Box 2018, Inuvik, NT X0E 0T0

Tel: 867-777-4954 Fax: 867-777-2304
www.glwb.com

LAND USE PERMIT

Permit Class	Permit No	Amendment No
A	G21E001	-

Subject to the Mackenzie Valley Resource Management Act, the Mackenzie Valley Land Use Regulations and the terms and conditions in this Permit, authority is hereby granted to:

Government of the Northwest Territories – Dept of Infrastructure

(Permittee)

to proceed with the land use operation described in application of:

Signature Mosiul Alam	Date March 18, 2021
Type of Land use Operation Operation, maintenance and construction of Dempster Highway and winter roads, and supporting activities	
Location Km 0 – 251, Dempster Highway #8, NT	

This permit may be assigned, extended, discontinued, suspended or cancelled pursuant to the Mackenzie Valley Land Use Regulations.

Dated at _____ Inuvik _____ this _____ 28 _____ day of _____ June _____, _____ 2021 _____

Chair – Elizabeth Wright

Witness – Leonard DeBastien

Commencement Date

June 28, 2021

Expiry Date

June 27, 2026

Note: It is a condition of this Permit that the Permittee comply with the provisions of the *Mackenzie Valley Resource Management Act* and Regulations and the terms and conditions set out herein. A failure to comply may result in suspension or cancellation of this Permit.

Part A: Scope of Permit

1. This Permit entitles the Permittee to conduct the following land-use operation:
 - a) Operation, maintenance, and reconstruction of Dempster Highway, NWT Highway #8, (approx. 67.047328°/-136.208490° to 68.314489°/-133.383674°);
 - b) Quarrying (Extraction, temporary stockpiling and hauling of granular material) at:
 - i. km 23.9 (SW 464160.0476mE 7451082.914mN),
 - ii. km 28.8 (SW 468894.0835mE 7451265.620mN),
 - iii. km 141 (SW 552180.1839mE 7480715.414mN),
 - iv. km 166.3 (8W 548989.5809mE 7504795.308mN),
 - v. km 173.8 (SW 547357.0127mE 7512292.173mN),
 - vi. km 178.1 (8W 548474.9023mE 7516029.694mN),
 - vii. km 193.7 (SW 556904.2045mE 7528311.803mN),
 - viii. km 211.2 (SW 564129.3076mE 7544156.048mN),
 - ix. km 230.2 (SW 565459.7797mE 7562995.457mN),
 - x. km 235 (SW 565966.7133mE 7566137.630mN), and
 - xi. km 251(SW 568971.8812mE 7578052.761mN)
 - c) Stockpiling granular material at km 6 (SW 450999.7837mE 7442574.709mN);
 - d) Construction, operation, and maintenance of a winter access road between Dempster Highway and the Arctic Red River (near Tsiigehtchic, approx. 67.446598°/-133.759932° to 67.444508°/-133.750538°);
 - e) Placement and use of temporary work camps; and
 - f) The use of equipment, vehicles, machines, and drills to support operations.
2. This Permit is issued subject to the conditions contained herein with respect to the use of land for the activities and area identified in Part A, item 1 of this Permit.
3. Compliance with the terms and conditions of this Permit does not excuse the Permittee from its obligation to comply with the requirements of any applicable Federal, Territorial or Municipal laws.

Part B: Definitions (defined terms are capitalized throughout the Permit)

Act - the *Mackenzie Valley Resource Management Act*.

Archaeological Impact Assessment - archaeological research as defined by the Prince of Wales Northern Heritage Centre *Guidelines for Developers for the Protection of Archaeological Sites in the Northwest Territories*.

Archaeological Overview - a study of archaeological sites as defined by the Prince of Wales Northern Heritage Centre *Guidelines for Developers for the Protection of Archaeological Sites in the Northwest Territories*.

Board - the Gwich'in Land and Water Board established under Part 3 of the Act.

Borehole - a hole that is made in the surface of the ground by drilling or boring.

Closure and Reclamation - the process and activities that facilitate the return of areas affected by the Project to viable and, wherever practicable, self-sustaining ecosystems that are compatible with a healthy environment, human activities, and the surrounding environment.

Dogleg - the clearing of a line, trail, or right-of-way that is curved sufficiently so that no part of the clearing beyond the curve is visible when approached from either direction.

Drilling Fluid - any liquid mixture of water, sediment, drilling muds, chemical additives or other wastes that are pumped down hole while drilling and are specifically related to drilling activity.

Drilling Waste - all materials or chemicals, solid or liquid, associated with drilling, including drill cuttings and Drilling Fluids.

Durable Land - land that is able to withstand repeated use, such as gravel or sand with minimal vegetative cover.

Engagement Plan - a document, developed in accordance with the Board's *Engagement and Consultation Policy* and the *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*, that clearly describes how, when, and which engagement activities will occur with an affected party during the life of the project.

Flowing Artesian Well - a well in which water:

- a) Naturally rises above the ground surface or the top of any casing; and
- b) Flows naturally, either intermittently or continuously.

Fuel Storage Container - a container for the storage of petroleum or allied petroleum products with a capacity of less than 230 litres.

Fuel Storage Tank - a closed container for the storage of petroleum or allied petroleum products with a capacity of more than 230 litres.

Greywater - all liquid wastes from showers, baths, sinks, kitchens, and domestic washing facilities but not including toilet wastes.

Habitat - the area or type of site where a species or an individual of a species of wildlife naturally occurs or on which it depends, directly or indirectly, to carry out its life processes.

Inspector - an Inspector designated by the Minister under the Act.

Minister - the Minister of Indian Affairs and Northern Development Canada or the Minister of the Government of the Northwest Territories – Department of Lands, as the case may be.

Ordinary High-Water Mark - the usual or average level to which a body of water rises at its highest point and remains for sufficient time so as to change the characteristics of the land. In flowing waters (rivers, streams) this refers to the “active channel/bank-full level” which is often the 1:2 year flood flow return level. In inland lakes, wetlands, or marine environments, it refers to those parts of the Watercourse bed and banks that are frequently flooded by water so as to leave a mark on the land and where the natural vegetation changes from predominately aquatic vegetation to terrestrial vegetation (excepting water tolerant species). For reservoirs, this refers to normal high operating levels (full supply level).

Permittee - the holder of this permit.

Permafrost - ground (soil or rock) that remains at or below 0°C for at least two consecutive years.

Progressive Reclamation - Closure and Reclamation activities conducted during the operating phase of the project.

Secondary Containment - containment that prevents liquids that leak from Fuel Storage Tanks or containers from reaching outside the containment area and includes double-walled Tanks, piping, liners, and impermeable barriers.

Sewage - all toilet wastes and Greywater.

Spill Contingency Plan - a document, developed in accordance with Aboriginal Affairs and Northern Development Canada’s *Guidelines for Spill Contingency Planning* that describes the set of procedures to be implemented to minimize the effects of a spill.

Spring Break-up - April 15 each year, for the purpose of this operation.

Safety Data Sheet - a technical document, typically written by the manufacturer or supplier of a chemical, that provides information about the hazards associated with the product, advice about safe handling and storage, and emergency response procedures.

Sump - a human-made pit or natural depression in the earth's surface used for the purpose of depositing Waste that does not contain Toxic Material, such as non-toxic Drilling Waste or Sewage, therein.

Toxic Material - any substance that enters or may enter the environment in a quantity or concentration or under conditions such that it:

- a) Has or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- b) Constitutes or may constitute a danger to the environment on which life depends; or
- c) Constitutes or may constitute a danger in Canada to human life or health.

Waste - any garbage, debris, chemical, or Toxic Material to be used, stored, disposed of, or handled on land, and also as defined in section 51 of the Act.

Waste Management Plan - a document, developed in accordance with the Board's Guidelines for Developing a Waste Management Plan, that describes the methods of Waste management from Waste generation to final disposal.

Watercourse - a natural body of flowing or standing water or an area occupied by water during part of the year, and includes streams, springs, swamps and gulches but does not include groundwater.

Part C: Conditions Applying to All Activities (headings correspond to subsection 26(1) of the Mackenzie Valley Land Use Regulations)

26(1)(a) Location and Area

- | | | |
|----|---|---------------------------------|
| 1. | The Permittee shall only conduct this land-use operation on lands designated in the application. | LOCATION OF ACTIVITIES |
| 2. | The Permittee shall not conduct any part of the land-use operation within 300 metres of any privately owned or leased land or structures, including cabins used for traditional activities, unless otherwise approved by the Board. | PRIVATE PROPERTY SETBACK |
| 3. | The Permittee shall locate all camps on Durable Land or previously cleared areas, and a minimum of 100 metres from the Ordinary High-Water Mark. | CAMP SETBACK |
| 4. | A minimum of 30 days prior to the commencement of drilling, the Permittee shall submit the target drill hole locations on a 1:50,000-scale map with coordinates and map datum to the Gwich'in Tribal Council Department of Cultural Heritage, the Board and an Inspector. | DRILL LOCATIONS |
| 5. | The Permittee shall not conduct a drilling operation or construct an adit or drill site within 100 metres of the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | DRILLING/ADIT SETBACK |
| 6. | The Permittee shall not locate any Sump within 100 metres of the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | SUMP SETBACK |
| 7. | The Permittee shall not conduct a quarry operation within 100 metres of the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | QUARRY SETBACK |
| 8. | Prior to the commencement of the land-use operation, the Permittee shall mark each corner of the land-use area. | MARK AREA |
| 9. | The Permittee shall maintain the corner markings until the area is reclaimed. | CORNER POSTS |

26(1)(b) Time

- | | | |
|-----|---|-------------------------------------|
| 10. | At least 48 hours prior to the initial commencement of the land-use operation, the Permittee's Field Supervisor shall notify the Board and contact an Inspector at (867)777-8900 | INITIAL- CONTACT INSPECTOR |
| 11. | At least 48 hours prior to returning to the worksite following a seasonal Shut Down Period, the Permittee's Field Supervisor shall notify the Board and contact an Inspector at (867) 777-8900. | SEASONAL- CONTACT INSPECTOR |
| 12. | At least 48 hours prior to commencement of the land-use operation, the Permittee shall provide the following information, in writing, to the Board and an Inspector:

a) the name(s) of the person(s) in charge of the field operation;
b) alternates; and
c) all methods for contacting the above person(s). | IDENTIFY AGENT |
| 13. | At least ten days prior to the completion of the land-use operation, the Permittee shall advise an Inspector of:

a) the plan for removal or storage of equipment and materials;
b) when final cleanup and reclamation of the land used will be completed; and
c) when the Final Plan will be submitted. | REPORTS BEFORE FINAL REMOVAL |

26(1)(c) Type and Size of Equipment

- | | | |
|-----|--|-------------------------------|
| 14. | The Permittee shall only use equipment of a similar type, size, and number to that listed in the complete application. | USE APPROVED EQUIPMENT |
|-----|--|-------------------------------|

26(1)(d) Methods and Techniques

- | | | |
|-----|--|-----------------------|
| 15. | The Permittee shall construct and maintain the overland portion of winter roads with a minimum of 10 cm of packed snow and/or ice at all times during this land-use operation. | WINTER ROADS |
| 16. | The Permittee shall not erect camps or store material, other than that required for immediate use, on the ice surface of a Watercourse. | STORAGE ON ICE |

26(1)(e) Type, Location, Capacity, and Operation of All Facilities

- | | | |
|-----|---|------------------------|
| 17. | The Permittee shall ensure that the land use area is kept clean at all times. | CLEAN WORK AREA |
|-----|---|------------------------|

26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land

- | | | |
|-----|--|--|
| 18. | The Permittee shall install and maintain culverts such that scouring does not occur. | CULVERT SIZE |
| 19. | The land-use operation shall not cause obstruction to any natural drainage. | NATURAL DRAINAGE |
| 20. | The Permittee shall install and maintain suitable erosion control structures as the land-use operation progresses. | PROGRESSIVE EROSION CONTROL |
| 21. | The Permittee shall apply appropriate mitigation at the first sign of erosion. | REPAIR EROSION |
| 22. | The Permittee shall, where flowing water from a Borehole is encountered:
a) plug the Borehole in such a manner as to permanently prevent any further outflow of water; and
b) immediately report the occurrence to the Board and an Inspector. | FLOWING ARTESIAN WELL |
| 23. | The Permittee shall suspend overland travel of equipment or vehicles at the first sign of rutting or gouging. | SUSPEND OVERLAND TRAVEL |
| 24. | The Permittee shall not move any equipment or vehicles unless the ground surface is in a state capable of fully supporting the equipment or vehicles without rutting or gouging. | VEHICLE MOVEMENT FREEZE-UP |
| 25. | The Permittee shall only use clean water and snow in the construction of ice bridges and snow fills. | CONSTRUCT ICE BRIDGES SNOWFILLS |
| 26. | Prior to Spring Break-up or completion of the land-use operation, the Permittee shall clean up and either remove or v-notch all ice bridges and snowfills from stream crossings, unless otherwise authorized in writing by an Inspector. | REMOVE ICE BRIDGES/ SNOWFILLS |
| 27. | The Permittee shall slope the sides of Waste material piles, excavations, and embankments — except in solid rock — to a minimum ratio of 2:1 vertical, unless otherwise authorized in writing by an Inspector. | EXCAVATION AND EMBANKMENTS |
| 28. | The Permittee shall not remove vegetation or operate heavy equipment within 100 metres of the Ordinary High-Water Mark of any Watercourse. | EQUIPMENT: WATERCOURSE BUFFER |
| 29. | The Permittee shall not excavate land within 100 metres of the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | EXCAVATION SETBACK |

26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material

- | | | |
|-----|--|--------------------------------------|
| 30. | When drilling within 100 metres of the Ordinary High-Water Mark of any Watercourse, and when drilling on ice, the Permittee shall contain all drill water and Drilling Waste in a closed circuit system for reuse, off-site disposal, or deposit into a land-based Sump or natural depression. | DRILLING NEAR WATER OR ON ICE |
| 31. | The Permittee may deposit Drilling Waste that does not contain Toxic Material in a Sump. Any Sumps or natural depressions used to deposit Drilling Waste must be located at least 100 metres from the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | DRILLING WASTE |
| 32. | The Permittee shall remove all Drilling Waste containing Toxic Material to an approved disposal facility. | DRILLING WASTE DISPOSAL |
| 33. | The Permittee shall not allow any Drilling Waste to spread to the surrounding lands or Watercourses. | DRILLING WASTE CONTAINMENT |
| 34. | Prior to the expiry date of this Permit or the end of the land-use operation whichever comes first, the Permittee shall backfill and restore all Sumps, unless otherwise authorized in writing by an Inspector. | RECLAIM NON-OIL AND GAS SUMPS |
| 35. | The Permittee shall dispose of all Toxic Material as described in the approved Waste Management Plan. | WASTE CHEMICAL DISPOSAL |
| 36. | The Permittee shall dispose of all combustible Waste petroleum products by removal to an approved disposal facility. | WASTE PETROLEUM DISPOSAL |

26(1)(h) Wildlife and Fish Habitat

- | | | |
|-----|---|-----------------------|
| 37. | The Permittee shall take all reasonable measures to prevent damage to wildlife and fish Habitat during this land-use operation. | HABITAT DAMAGE |
|-----|---|-----------------------|

26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage

- | | | |
|-----|--|-------------------------|
| 38. | The Permittee shall dispose of all Waste as described in the Waste Management Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | WASTE MANAGEMENT |
|-----|--|-------------------------|

39.	The Permittee shall keep all garbage and debris in a secure container until disposal.	GARBAGE CONTAINER
40.	The Permittee shall dispose of all Sewage and Greywater as described in the approved Waste Management Plan.	SEWAGE DISPOSAL - PLAN
26(1)(j) Protection of Historical, Archaeological, and Burial Sites		
41.	The Permittee shall not operate any vehicle or equipment within 150 metres of a known or suspected historical or archaeological site or burial ground.	ARCHAEOLOGICAL BUFFER
42.	The Permittee shall not knowingly remove, disturb, or displace any archaeological specimen or site.	SITE DISTURBANCE
43.	The Permittee shall, where a suspected archaeological or historical site, or burial ground is discovered:	SITE DISCOVERY AND NOTIFICATION
	a) immediately suspend operations on the site; and	
	b) notify the Board at (867) 777-4954 or an Inspector at (867) 777-8900, and the Prince of Wales Northern Heritage Centre at 767-9347 ext. 71251 or ext. 71255.	
44.	At least 60 days prior to any new land disturbance, including new drill sites, the Permittee shall conduct an Archaeological Overview to identify areas of high and low potential for archaeological and burial sites and shall submit a summary report to the Board, the Gwich'in Tribal Council Department of Cultural Heritage, and the Prince of Wales Northern Heritage Centre.	ARCHAEOLOGICAL OVERVIEW
45.	Prior to disturbance in areas of high potential for archaeological or burial sites identified in the Archaeological Overview, the Permittee shall conduct an Archaeological Impact Assessment of the sites where disturbance is planned and shall submit a summary report to the Board and the Prince of Wales Northern Heritage Centre.	AIA – HIGH POTENTIAL
46.	26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value	
47.	The Permittee shall take all reasonable precautions to prevent impacts to traditional harvesting activities.	TRADITIONAL USE
26(1)(l) Security Deposit		
48.	All costs to remediate the area under this Permit are the responsibility of the Permittee.	RESPONSIBILITY FOR REMEDIATION COSTS

26(1)(m) Fuel Storage

- | | |
|--|--|
| 49. The Permittee shall: | REPAIR LEAKS |
| a) examine all Fuel Storage Containers and Tank for leaks; and | |
| b) repair all leaks immediately. | |
| 50. The Permittee shall place Fuel Storage Containers and or Tanks a minimum of 100 metres from the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | FUEL STORAGE
SETBACK |
| 51. The Permittee shall set up all refueling points with Secondary Containment. | SECONDARY
CONTAINMENT -
REFUELING |
| 52. The Permittee shall not allow petroleum products to spread to surrounding lands or Watercourses. | FUEL
CONTAINMENT |
| 53. The Permittee shall comply with the Spill Contingency Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | SPILL
CONTINGENCY
PLAN |
| 54. Prior to commencement of the land-use operation the Permittee shall ensure that spill-response equipment is in place to respond to any potential spills. | SPILL RESPONSE |
| 55. All equipment that may be parked for two hours or more, shall have a hazmat/drip tray under it or be sufficiently diapered. Leaky equipment shall be repaired immediately. | DRIP TRAYS |
| 56. The Permittee shall clean up all leaks, spills, and contaminated material immediately | CLEAN UP SPILLS |
| 57. During the period of this Permit, if a spill occurs or is foreseeable, the Permittee shall: | REPORT SPILLS |
| a) implement the approved Spill Contingency Plan; | |
| b) report it-immediately using the NU-NT Spill Report Form by one of the following methods: | |
| • Telephone: (867) 920-8130 | |
| • Fax: (867) 873-6924 | |
| • E-mail: spills@gov.nt.ca | |
| • <u>Online: Spill Reporting and Tracking Database</u> | |
| c) within 24 hours, notify the Board and an Inspector; and | |
| d) within 30 days of initially reporting the incident, submit a detailed report to the Board and an Inspector, including descriptions of causes, response actions, and any changes to procedures to prevent similar occurrences in the future. Any updates to this | |

report shall be provided to the Board and an Inspector in writing as changes occur.

26(1)(n) Methods and Techniques for Debris and Brush Disposal

- | | | |
|-----|---|----------------------------------|
| 58. | The Permittee shall not clear areas larger than identified in the complete application. | MINIMIZE AREA
CLEARED |
|-----|---|----------------------------------|

26(1)(o) Restoration of the Lands

- | | | |
|-----|--|--|
| 59. | All outstanding liabilities and obligations of the Permittee in relation to work performed or required to be performed under Land Use Permit G14E002 are fully incorporated into and subsumed under this Permit, and the Permittee must therefore complete the restoration and other obligations set out in or incurred under Permit G14E002 as well as such further obligations as may be set out in or incurred under this Permit. | TRANSFER OF
LIABILITIES |
| 60. | Prior to the end of the land-use operation, the Permittee shall level all stockpiles of granular material located within the land use area. | LEVEL STOCKPILES |
| 61. | Prior to the end of the land-use operation, the Permittee shall complete all cleanup and restoration of the lands used. | FINAL CLEANUP
AND RESTORATION |
| 62. | The Permittee shall carry out Progressive Reclamation of disturbed areas as soon as it is practical to do so. | PROGRESSIVE
RECLAMATION |

26(1)(p) Display of Permits and Permit Numbers

- | | | |
|-----|---|-----------------------|
| 63. | The Permittee shall keep a copy of this Permit on hand at all times during this land-use operation. | COPY OF PERMIT |
|-----|---|-----------------------|

26(1)(q) Biological and Physical Protection of the Land

- | | | |
|-----|---|--|
| 64. | The permittee shall not commence drilling or blasting or move any equipment within 500 meters of one or more caribou. | CARIBOU
DISTURBANCE |
| 65. | If nesting areas are encountered during the course of operations, the Permittee shall minimize all activity so as to not disturb them. | MIGRATORY BIRD
NEST
DISTURBANCE |
| 66. | The Permittee shall comply with the Engagement Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | ENGAGEMENT
PLAN |



105 Veterans Way,
P.O. Box 2018, Inuvik, NT X0E 0T0

Tel: 867-777-4954 Fax: 867-777-2304
www.glwb.com

Reasons for Decision

File Number:	G21E001
Applicant:	GNWT Department of Infrastructure
Project:	Dempster Highway Maintenance Operations and Maintenance
Subject:	Type "A" Land Use Permit Application
Meeting Date:	June 28, 2021

Issued pursuant to paragraph 40(2)(c) of the Mackenzie Valley Land Use Regulations (MVLUR) and Sections 72.25 and 121 of the *Mackenzie Valley Resource Management Act (MVRMA)*

1. Decision

On June 28, 2021 the Gwich'in Land and Water Board (GLWB or the Board) met and considered a Land Use Permit Application made by GNWT Department of Infrastructure (GNWT INF) for a renewal of Land Use Permit [G14E002](#) for operation and maintenance of the Dempster Highway #8.

The Board has decided:

- To issue Type A Land Use Permit G21E001 for a period of five years;
- To approve Version 1.0 of the Waste Management Plan;
- To approve Version 1.0 of the Spill Contingency Plan;
- To approve Version 1.0 of the Engagement Plan as an interim submission, and to require re-submission, for Board approval.

2. Summary of Application

GNWT INF applied to the GLWB for a Type 'A' Land Use Permit for the purpose of:

- a) Operation, maintenance, and reconstruction of Dempster Highway, NWT Highway #8, (approx. 67.047328°/-136.208490° to 68.314489°/-133.383674°)
- b) Quarrying at
 - i. km 23.9 (SW 464160.0476mE 7451082.914mN),
 - ii. km 28.8 (SW 468894.0835mE 7451265.620mN),
 - iii. km 141 (SW 552180.1839mE 7480715.414mN),
 - iv. km 166.3 (8W 548989.5809mE 7504795.308mN),
 - v. km 173.8 (SW 547357.0127mE 7512292.173mN),
 - vi. km 178.1 (8W 548474.9023mE 7516029.694mN),
 - vii. km 193.7 (SW 556904.2045mE 7528311.803mN),
 - viii. km 211.2 (SW 564129.3076mE 7544156.048mN),
 - ix. km 230.2 (SW 565459.7797mE 7562995.457mN),

- x. km 235 (SW 565966.7133mE 7566137.630mN), and
- xi. km 251(SW 568971.8812mE 7578052.761mN)

- c) Stockpiling granular material at km 6 (SW 450999.7837mE 7442574.709mN)
- d) Construction, operation, and maintenance of a winter access road between Dempster Highway and the Arctic Red River (near Tsiigehtchic, approx. 67.446598°/-133.759932° to 67.444508°/-133.750538°)
- e) Placement and use of temporary work camps
- f) The use of equipment, vehicles, machines, and drills to support operations.

The proposed activities are a renewal of those previously authorized under G14E002 and G07E006.

3. Regulatory Process

Table 1 Presents a tabular summary of the Regulatory Process for Applications G21E001. Table 2 Identifies the distribution list for the proceeding.

Table 1 – Regulatory Process Overview for G21E001

Date	Step in Proceeding
April 23, 2021	Application received
June 4, 2021	Application deemed complete Applications circulated for public review Draft Permit circulated for public review
June 23, 2021	Reviewer comments due and received
June 28, 2021	Applicant comments due and received
June 28, 2021	Application presented to the Board for decision.

Table 2 – Distribution List for G21E001

Aklavik Indian Band
Canadian Northern Economic Development Agency
Charter Community of Tsiigehtchic
Ehdiitat Gwich'in Renewable Resources Council (Aklavik)
Ehdiitat Gwich'in Council (Aklavik)
Environment and Climate Change Canada
Fisheries and Oceans Canada
GNWT Department of Environment and Natural Resources
GNWT Department of Executive and Indigenous Affairs
GNWT Department of Health and Social Services
GNWT Department of Infrastructure
GNWT Department of Lands
GNWT Department of Municipal and Community Affairs
GNWT Prince of Wales Northern Heritage Centre
Government of Canada – Department of Infrastructure

Gwich'in Tribal Council
Gwich'in Tribal Council – Department of Cultural Heritage
Gwich'in Land Use Planning Board
Gwich'in Renewable Resources Board
Gwichya Gwich'in Band (Tsiigehtchic)
Gwichya Gwich'in Council (Tsiigehtchic)
Gwichya Gwich'in Renewable Resources Council (Tsiigehtchic)
Hamlet of Aklavik
Hamlet of Fort McPherson
Inuvik Native Band
Mackenzie Valley Environmental Impact Review Board
National Energy Board
Nihtat Gwich'in Council (Inuvik)
Nihtat Gwich'in Renewable Resources Council (Inuvik)
Tetlit Gwich'in Band
Tetlit Gwich'in Council (Fort McPherson)
Tetlit Gwich'in Council (Fort McPherson)
Tetlit Gwich'in Renewable Resource Council (Fort McPherson)
Town of Inuvik
Transport Canada

Public Review

By the end of the public review period, the GLWB received comments from the GTC Department of Lands and Resources, GTC Department of Cultural Heritage, Government of the Northwest Territories, Prince of Wales Northern Heritage Centre and Gwich'in Renewable Resources Board. Reviewer recommendations are available on the Public Registry¹, and are summarized below.

- Archaeological resources
 - Both POWNHC and GTC commented that the project footprints were not well defined within the application and that it was unclear if the quarrying and or proposed geotechnical activities would be taking place within the existing disturbances or expanding into undisturbed ground, making it difficult to assess the potential for impacts to heritage and archaeological resources.
 - INF has confirmed that no quarry expansions are proposed, with the exception of the quarry at km 235. GTC DCH has confirmed that an AIA has already taken place at this location.
 - Board staff included conditions 44 and 45 to the draft permit, reflecting the requirement for Archaeological work prior to opening up any new areas, and conditions 41-43 which required the stoppage of work and notification should any new archeological resources be discovered. Board staff also included the Drill Locations condition in the draft permit. The Board decided to modify the condition to require submission of the drill target a minimum 30 days prior to the commencement drilling, and to include the GTC DCH so that appropriate assessment of heritage resources could take place prior to disturbance.

- Long term management strategies.
 - GTC L&R commented that cumulative impacts were difficult to assess as some sites did not delineate the areas of activity. GTC L&R recommended that pit management plans be developed for all pits along the Dempster Highway, while GTC DCH recommended that an archeological site management plan be developed Hwy #8. DCH also requested information on a Dempster Highway Management plan that was

¹ See GLWB Public Registry for G21E001 Reviewer Comment Summary Table

slated to be developed at the time of the last renewal application in 2014. GTC L&R strongly recommended the use of drone imagery to capture before and after conditions for each component of development so that impacts to the landscape can be captured over time.

- GNWT INF has committed to additional engagement in support of these activities, and the Board supports this and suggests that further engagement would be beneficial.

- **Wildlife**
 - GRRB provided general recommendations regarding species at risk in the area. GRRB recommended that nest surveys be performed in advance of clearing taking place in nesting season. GRRB recommended mitigation to prevent the spread of weeds and invasive species. GTC DCH provided detailed inventories of species present at each of the quarry site locations, and recommendations
 - The Board notes the inclusion of condition 65, prohibiting the disturbance of bird nests or habitat, as well as condition 65, which requires work stoppage in the event of caribou within 500 m of active work areas.

- **Engagement**
 - GTC DCH recommended additional engagement with traditional land users to develop appropriate mitigation methods to prevent impacts to traditional land uses such as hunting and berry picking. GTC DCH also requested that they be contacted prior to initiating proposed activities that were not clearly defined in the application (such as culvert replacement, geotechnical work, camp placement etc)
 - The Board concurs that additional engagement should be undertaken, and that the Engagement record be revised and re-submitted to include a mutually developed procedure for notification of these types of activities.

4. Legislative Requirements

4.1 General

The proposed Project is on non-federal land and is of a nature contemplated by the MVRMA.

4.2 Gwich'in Land Use Plan

The Board's referral obligations to the Gwich'in and Use Planning Board are outlined in section 61 of the MVRMA.

The Board has determined that the conformity requirements of the Gwich'in Land Use Plan have been satisfied.

The proposed activities take place within the "Transportation Special Management Zone (TSMZ)" of the Gwich'in Land Use Plan. The goal of the TSMZ is to allow for transportation-related activities within a two km wide buffer along the Dempster Highway (1,000 metres on either side of the Highway), while protecting the resource values of the area.

Further, the operations and maintenance of the highway is exempt from the Gwich'in land use plan as per section 4.2.3.

4.3 Eligibility

As per section 18 of the MVLUR, eligibility must be determined before the Board can issue a permit.

The lands proposed for use are on territorial land, within the Dempster Highway right of Way (as defined by the Highways Act) and on GNWT-managed quarries. The GNWT INF holds Quarry Permits 2021QP0017 and 2019QP0035, which allows for the removal of granular material at the proposed quarry sites.

4.4 Fees

No application fees or land use fees were collected, as GNWT is exempt from associated fees.

4.5 Consultation and Engagement

In exercising its authority under the MVRMA, generally, the Board must ensure that the importance of conservation to the well-being and way of life of Aboriginal peoples of Canada, as per paragraph 60.1(a) of the MVRMA. The Board works with applicants, affected parties (including Indigenous organizations/governments), and other parties (such as other boards and regulators) to ensure that potential impacts of proposed projects are understood and carefully considered before decisions are made with respect to the issuance of Permits and Licences.

The Board's Engagement and Consultation Policy (Engagement Policy) has three objectives:²

1. To require proponents to initiate dialogue and engagement planning with affected parties, particularly affected Indigenous organizations/governments, in advance of an application with the goal of:
 - explaining the project;
 - identifying concerns and potential environmental impacts (including any potential for impacts to Aboriginal and treaty rights);
 - addressing concerns raised; and
 - ensuring appropriate levels and types of engagement are carried out over the life of an authorization or project.
2. To apply consultative approaches throughout a proceeding, which assists affected parties to contribute meaningfully towards the assessment of impacts on the environment and the establishment of appropriate mitigations in order for the Boards to meet statutory responsibilities pursuant to the MVRMA and the Waters Act and their regulations.
3. To assess and rule on, if necessary, the adequacy of Crown consultation before making a final decision or recommendation, taking into account information gathered during proponent engagement and through its consultative processes.

Regarding the first objective of proactive engagement, the Board has determined that the level of engagement by GNWT INF met the basic requirements: In accordance with the Engagement Policy and the Engagement Guidelines, GNWT INF initiated dialogue with affected organizations and governments starting in January 2021 through March 2021, by emailing and following up with phone calls. The Board notes that there were no responses to the requests for engagement. As such, it was difficult to determine if the Engagement Plan reflected mutually-agreed upon measures that GNWT INF will take to continue engagement with affected parties over the life of the Project. The Board also notes that no comments on the application were submitted by any of the Gwich'in DGOs or from communities impacted by highway operations, so it is recommended that further discussion with these groups be carried out. The Board has required that GNWT INF conduct additional engagement, and develop a revised Engagement Plan which shall be submitted to the Board for approval.

²S See www.glwb.com → Resources → Policies and Guidelines: [Engagement and Consultation Policy](#)

Regarding the second objective of the Engagement Policy, namely facilitating the effective contribution of all parties in the process, the Board has determined its process was sufficiently robust. The regulatory process provided opportunities for review of the Application materials and draft Permit. During the public review of the applications, parties were given the opportunity to comment on the adequacy of the engagement record and engagement plan. Gwich'in Tribal Council Department of Cultural Heritage recommended that additional engagement should take place, specifically with traditional land users who use the area to exercise their harvesting rights, and this recommendation has been reflected in the Permit by the requirement to revise and re-submit the Engagement Record and Plan.

No public hearing held, as no parties requested a hearing, and the Board determined that the concerns that were brought forward during the proceeding were mitigable through developer commitments, standard Permit and conditions, and life-of-project engagement.

Regarding the final policy objective, namely the adequacy of Crown consultation, the Board has determined that the duty to consult in relation to matters within its jurisdiction has been satisfied. Affected parties were given the opportunity to contribute meaningfully towards the assessment of impacts on the environment and the establishment of appropriate mitigations. No issues were raised by potentially impacted Aboriginal organization/governments, and no motions were filed for a ruling on the adequacy of Crown consultation.

4.6 Preliminary Screening

Preliminary Screening is the first level of Environmental Impact Assessment in the Mackenzie Valley; it is an initial examination of a proposed development's potential to cause significant adverse impacts on the environment and/or public concern. Section 125 of the MVRMA governs how a preliminary screener makes decisions. In most cases, the preliminary screener must "determine and report to the Review Board whether, in its opinion, the development might have a significant adverse impact on the environment or might be a cause of public concern."³ Proposed developments that might cause a significant adverse impact on the environment – or might cause significant public concern, and which cannot be mitigated through further studies or public hearings – must be referred to the Mackenzie Valley Environmental Review Board for an Environmental Assessment.

The GLWB may not issue a licence or permit for the carrying out of a proposed development unless the requirements of Part 5 of the MVRMA have been met.⁴ As a screener, the Board must ensure that the concerns of Aboriginal people and the general public are taken into account, and must consider the protection of the social, cultural, and economic well-being of residents of the Mackenzie Valley. In exercising its powers, the Board must also consider the importance of conservation to the well-being and way of life of the Aboriginal peoples of Canada to whom section 35 of the Constitution Act, 1982 applies⁵.

In accordance with the Exemption List Regulations, a development, or a part thereof, for which renewal of a permit, licence or authorization is requested is exempt from additional screening provided it (a) has not been modified; and (b) has fulfilled the requirements of the environmental assessment process established by the Mackenzie Valley Resource Management Act, the Canadian Environmental Assessment Act or the Environmental Assessment Review Process Guidelines Order.

³ See [125\(1\)\(a\) of the MVRMA](#)

⁴ See [62, 114\(c\), and 115\(b\) and \(c\) of the MVRMA](#)

⁵ See [60.1 of the MVRMA](#)

A preliminary screening report was issued by the GLWB on June 15, 2007. The Board has determined that the scope of the operations have not been modified since this report was issued, and that the application is exempt from further screening. The Board notes that should the applicant propose the expansion of any of the quarry sites beyond the disturbance footprint that was screened in 2007, that a permit amendment and additional screening will be required.

4.7 Security

No requirement for Reclamation Security was included in Permit G21E001. The territorial government is not required to post security, as per section 71 of the MVRMA.

5. Reasons for Decision

- The Board is satisfied that it has satisfied all legislative requirements with respect to this proceeding.
- The operation will likely contribute to the socio-economic well-being and economic development of the region.
- The Board has reviewed the information contained in the June 15, 2007 Preliminary Screening Report regarding environmental impacts and/or public concerns. The Board is satisfied that the screening report reflects the scope and scale of the proposed activities and that the project is exempt from further screening in accordance with Schedule 1, Paragraph 2.1 of the Exemption List Regulations of the MVRMA.
- The scope of the Permit ensures GNWT Department of Infrastructure is entitled to conduct activities which have been applied for and screened by the Board. In setting the scope, the Board endeavored to provide enough detail to identify and describe the authorized activities without being unduly restrictive or prescriptive, and to allow for project flexibility throughout the life of the Permit.
- The conditions set forth in the Permit have been imposed to address the Board's statutory responsibilities and ensure the land-use operation is conducted in a manner which ensures impacts to surrounding lands and waters are minimized.
- The definitions and conditions in the Permit are from the MVLWB's *Standard Land Use Permit Conditions Template* (Standard Template) and are not discussed in detail in these reasons as no comments or suggested revisions were submitted during the public review period.
- The Permit term has been set at the maximum 5 years. GNWT INF's proposed activities are anticipated to be ongoing and permanent.
- The Engagement Plan is approved as an interim submission only. It should be revised and re-submitted prior to the start of relevant land use activities. The updated plan shall reflect the scope of the proposed activities, commitments made during the public review, and conform to applicable guidelines.

6. Conclusion

Subject to the scopes, definitions, conditions, and terms set out in the Permit, and for the reasons expressed herein, the GLWB is of the opinion that the land-use activities associated with the proposed Project can be completed by GNWT Department of Infrastructure while providing for the conservation, development, and utilization of resources in a manner that will provide the optimum benefit for all Canadians and in particular for the residents of the Mackenzie Valley's Gwich'in Settlement Area.

Land Use Permit G21E001 contains provisions that the Board deems necessary to ensure and monitor compliance with the MVRMA and the Regulations made thereunder, and to provide appropriate safeguards in respect of GNWT INF's use of the land affected by the Permit.

SIGNATURE



Elizabeth Wright,
Chair, Gwich'in Land and Water Board

June 28, 2021

Date