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August 23, 2019

File: W2016E0004/W2016L8-0001

Mr. Michael Conway  
Regional Superintendent  
Department of Infrastructure  
Government of the Northwest Territories  
P.O. Box 1320  
Yellowknife, NT X1A 2L9

Dear Mr. Conway,

**RE: BOARD DECISIONS ON MANAGEMENT PLANS AND DETAILED DESIGN REPORT**

The Wek'èezhìi Land and Water Board (the WLWB or the Board) met on August 22, 2019 and considered the various management plans and the Detailed Design Report for the Road submitted by the Government of the Northwest Territories – Department of Infrastructure (GNWT-INF). The Board considered the following:

- Version 3.3 of the Wildlife Management and Monitoring Plan (WMMP);
- Version 1.1 of the Engagement Plan and Engagement Record;
- Version 1.1 of the Waste Management Plan;
- Version 1.1 of the Fish and Fish Habitat Protection Plan;
- Version 1.1 of the Water Monitoring Plan; and
- The Detailed Design Report for the Road.

**The Board has approved Version 3.3 of the WMMP, Version 1.1 of the Engagement, Waste Management, and Fish and Fish Habitat Protection Plans. The Board has not approved Version 1.1 of the Water Monitoring Plan, however, has determined that this Plan is required to be approved prior to the commencement of any in-water construction activities. The Board will provide further direction on revisions to the Water Monitoring Plan following its October meeting.**

**The Board requires Version 3.4 of the WMMP and Version 1.2 of the Engagement Plan be revised in accordance with the direction in the Reasons for Decision. The revised WMMP must be submitted prior to Construction, while the revised Engagement Plan must be submitted within 30 days. Please review the Board's attached Reasons for Decision for further details.**

The Board recognizes the scale, complexity, and importance of the Tlicho All-season Road (TASR). This GNWT project must nonetheless be subject to the same rigorous review and approval process applied to private sector projects, such as major mines.

On a number of occasions during its regulatory process, the Board has had to accommodate difficulties resulting from poor planning and ineffective communications by GNWT-INF. Within the limits inherent in its role as an objective and independent regulator, the Board will continue to make every effort to respond to the regulatory requirements of this project. While the effectiveness of this process can still be improved, the Board believes that its deliberations have balanced the benefit of the Tlicho All-Season Road with its duty to satisfy Measures from the Report of Environmental Assessment, its obligations under the *Mackenzie Valley Resource Management Act*, the Tlicho Land Claim and Self Government Agreement, and other applicable legislation.

The Board and its staff will continue to address those matters raised by GNWT-INF in a timely manner as the department works to satisfy the requirements of the Permit and Licence, once construction begins on September 2<sup>nd</sup>.

The Board also notes the difficulties related to the finalization of the WMMP. The Measures set out in the Report of Environmental Assessment, which were approved by the GNWT, specifically required the involvement of the Board in the development and implementation of the WMMP. That Environmental Assessment Report was written before the GNWT-ENR Guidelines and regulations for the WMMP were finalized. In addition, the Board has clear authority in relation to the protection of wildlife habitat.

The Board recognized the distinct process and decisions required by the *Wildlife Act's* WMMP provisions and process and expedited its decision-making process, demonstrating considerable flexibility in its attempt to accommodate GNWT-INF's concerns about regulatory approvals and timelines.<sup>1</sup> In addition, the Board attempted to integrate its role in WMMP development and approval with that of GNWT-ENR.

In this regard, the Board notes the GNWT-INF's failure to adequately address the Board's May 30, 2019 direction related to the WMMP. It is disappointing that the department did not make the required revisions since they were supported by GNWT-ENR on June 3, 2019,<sup>2</sup> and the Report of Environmental Assessment requires that GNWT involve others agencies with wildlife expertise in the development of the WMMP.<sup>3</sup> This GNWT-INF decision contributed to further delays in the approvals process.

Further, the Board's effort to expedite and harmonize its WMMP approvals process with GNWT processes was not matched by the GNWT-INF and the GNWT-ENR. Despite changes made to Board process to ensure harmonization of the WMMPs to be approved by the Minister of GNWT-ENR and the Board, ENR waited until two days before the Board's August 22<sup>nd</sup> meeting to advise that they would not be providing a final version of the WMMP for Board consideration.<sup>4</sup> This occurred notwithstanding ample notice of the Board's approach and timing to the GNWT and the adjustments made to the Board's process to facilitate these arrangements.<sup>5</sup> As a consequence, Version 3.4 of the WMMP and the version to be approved by the Minister of ENR may be different.

Finally, the Report of Environmental Assessment also set out clear requirements for adaptive management of impacts during construction and operations.<sup>6</sup> The Board's system for managing the

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<sup>1</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Wildlife Monitoring and Management Plan - Version 3.3 - Jun 28 19.pdf](#)

<sup>2</sup> See WLWB Online Registry for [W2016E0004 - TASR - Letter from GNWT-ENR direction to GNWT-INF re. WMMP- Jun 3 16.pdf](#)

<sup>3</sup> See MVEIRB's Online Registry at [www.reviewboard.ca](http://www.reviewboard.ca) for [TASR Report of Environmental Assessment](#)

<sup>4</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - ENR and WLWB correspondence re. WMMP approval - Aug 21 19.pdf](#)

<sup>5</sup> See WLWB Online Registry for [W2016E0004 - TASR - WMMP Submission Response Letter - Jul 16 19.pdf](#)

<sup>6</sup> See MVEIRB's Online Registry for [TASR Report of Environmental Assessment](#)

content, as well as the implementation of plans required by permits and licences is well established, transparent and based on a track record of adaptive management. It is not clear, however, how the GNWT-ENR version of the WMMP, once approved by the Minister, will continue to adapt to meet the requirements of the TASR Measures.

The Board is concerned that the Board and GNWT-ENR versions of the WMMP may diverge further in the future. This would create difficulties for GNWT-INF having to implement both WMMPs and may cause confusion for those responsible for implementation of the WMMP on the ground. The Board suggests that further discussion of the need to harmonize the WMMP is required and that GNWT-ENR and the Board should address this as a top priority.

In closing, the full cooperation of GNWT-INF is anticipated and appreciated in response to these decisions. If you have any questions or concerns, please contact Ryan Fequet at (867) 765-4589 or email at [rfequet@wlwb.ca](mailto:rfequet@wlwb.ca).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Joe Mackenzie', with a stylized flourish at the end.

Joe Mackenzie  
Chair, Wek'èezhii Land and Water Board

Attachments:

- Reasons for Decision

Copied:

- Wek'èezhii West Distribution List
- George Mackenzie, Grand Chief; Laura Duncan, Tlicho Executive Officer, Tlicho Government
- Joe Dragon, Deputy Minister of Environment and Natural Resources
- Joseph Judas, Chair of the Wek'èezhii Renewable Resource Board
- JoAnne Deneron, Chair of the Mackenzie Valley Impact Review Board



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## Reasons for Decision

<b>Reference/File Number:</b>	Type A Land Use Permit W2016E0004 and Type B Water Licence W2016L8-0001
<b>Licensee:</b>	Government of the Northwest Territories – Department of Infrastructure (GNWT-INF)
<b>Subject:</b>	Management Plans and Detailed Design Report for the Road

## Decision from the Wek'èezhì Land and Water Board Meeting of August 22, 2019

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## **1.0 Decision**

On August 22, 2019, the Wek'èezhii Land and Water Board (WLWB or the Board) met to consider various Management Plans and the Detailed Design Report submitted by the Government of the Northwest Territories Department of Infrastructure's (GNWT-INF), as required by Land Use Permit W2016E0004 and Water Licence W2016L8-0001 for the Tlicho All-Season Road (TASR) Project. The Board has decided to:

1. Approve Version 3.3 of the WMMP;
2. Direct GNWT-INF to submit Version 3.4 of the WMPP prior to Construction, with the revisions identified in Table 1 and Table 2 of the Board's decision;
3. Revise Schedule 1, Condition 1(n) of Water Licence W2016L8-0001, to include reports of activities/studies conducted in accordance with the WMMP (including traffic monitoring results) in the Annual Report;
4. Approve Version 1.1 of the Engagement Plan and Engagement Record;
5. Direct GNWT-INF to submit Version 1.2 of the Engagement Plan within 30 days of the Board's decision, which must include the engagement triggers identified in Table 1, 2, and 3 of the Board's decision;
6. Communicate that the Board does not consider the impacts of on-site sewage treatment to have been contemplated as the primary method of treatment at the main camps in the Preliminary Screening and Licensing for TASR Construction;
7. Communicate that the Board has not delegated its authority to the Inspector for the construction and operation of a sewage lagoon at the main camps as primary treatment in the Licence;
8. Requires GNWT-INF to remove the statement "The design, location and operational details of the sewage disposal lagoon will be in accordance with the written authorization of the Inspector" from its Waste Management Plan during the preparation of the next Version.
9. At this time, not approve on-site sewage treatment as the primary option for the main camps, as described in Version 1.1. of the Waste Management Plan. The Board will consider an Amendment application, once filed, to address the design, construction, operation, and closure of a treatment facility at the main camp(s);
10. Approve Version 1.1 of the Waste Management Plan;
11. Revise the Schedule 4, Condition 2(e) to replace "provide passage for all fish" with "provide passage for all fish that are subject to commercial, recreational, and Aboriginal fisheries";
12. Approve Version 1.1 of the FFHPP, noting that GNWT-INF is expected to design culverts to provide passage for all CRA fisheries;
13. Clarify that Part H, Condition 1 should be interpreted to mean 'prior to the commencement of in-water Construction'; and
14. Approve the Detailed Design Report for the Road.

## **2.0 Background**

The WLWB issued a Type A Land Use Permit W2016E0004<sup>1</sup> and Type B Water Licence W2016L8-0001<sup>2</sup> on May 30, 2019.<sup>3</sup> The TASR Project involves the construction, maintenance and operation of a 97 km long dual-lane gravel highway running from km #196 on Highway 3, near Behchokò, to the community of Whatì.

With the Application submitted by GNWT-INF on January 8, 2019, GNWT-INF also submitted various Management Plans. In the Board's May 30, 2019 Reasons for Decision, the Board required GNWT-INF to submit:

- Version 1.1 of the Archaeological Site Chance Find Protocol;
- Version 1.1 of the Permafrost Management Plan;
- Version 1.1 of the Quarry Operations Plan;
- Version 1.1 of the Erosion and Sediment Control Plan;
- Version 3.3 of the Wildlife Management and Monitoring Plan (WMMP);
- Version 1.1 of the Engagement Plan and Engagement Record;
- Version 1.1 of the Waste Management Plan and to incorporate the Incinerator Management Plan as an appendix;
- Version 1.1 of the Fish and Fish Habitat Protection Plan (FFHPP); and
- Version 1.1 of the Water Monitoring Plan (WMP).

The Board approved the Archaeological Site Chance Find Protocol, Permafrost Management Plan, Quarry Operations Plan, and Erosion and Sediment Control Plan on July 16, 2019.<sup>4</sup> GNWT-INF has since submitted the remaining plans.

## **3.0 Reasons for Decision**

### **3.1 Wildlife Management and Monitoring Plan**

The WMMP addresses the proposed monitoring, mitigation, and adaptive management for managing effects of the TASR project on wildlife and wildlife habitat, and is a requirement of the TASR Licence and Permit.

The Board's review of the WMMP on May 30, 2019 resulted in instructions for the submission of Version 3.3 of the WMMP. The Board's Reasons for Decision outlined that:

The Board has decided that Version 3.2 is not considered to be approved, and it is expected that Version 3.3 will include all revisions and commitments outlined in these

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<sup>1</sup> See WLWB ([www.wlwb.ca](http://www.wlwb.ca)) Online Registry for [W2016E0004 - TASR - Land Use Permit - May 30 19.pdf](#)

<sup>2</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Water Licence - May 30 19.pdf](#)

<sup>3</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>4</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Management Plans - Decision Letter - Jul 16 19.pdf](#)

Reasons for Decision (Table 2), to be submitted to the WLWB for approval, following approval by the Minister, and at least 90 days prior to Construction. (p. 14)

Version 3.3 was submitted on June 28, 2019. The cover letter indicated that the GNWT-INF had “significant schedule and regulatory process concerns for the Tlicho All-season Road Project” and identified that construction is currently scheduled to begin on September 2, 2019. The Board responded to GNWT-INF concerns about the regulatory process and construction start dates by indicating that it could shorten its process by relying on the results of the public review of the WMMP conducted by the Wek’èezhìi Renewable Resources Board (WRRB).<sup>5</sup> The Board also changed the timing of its meeting to August 22<sup>nd</sup> to allow the Government of the Northwest Territories – Department of Environment and Natural Resources (GNWT-ENR) to consider and respond to the WRRB comments on the WMMP before the Board addressed the approval of Version 3.3 of the Plan.

The WLWB received a letter from the WRRB regarding their decision on Version 3.3 on August 19, 2019.<sup>6</sup> The letter also identified a list of outstanding issues to be addressed prior to construction. GNWT-INF provided responses to the comments on August 20, 2019.<sup>7</sup> The WRRB sent a follow-up letter to the GNWT-INF on August 22, 2019, expressing its disappointment in how the GNWT-INF has responded to the WRRB’s recommendations.<sup>8</sup>

The Board notes that in the Report of EA, the Mackenzie Valley Environmental Review Board (MVEIRB) found that GNWT departments did not provide all the assistance with wildlife matters required for that proceeding:

*In this EA, the Review Board has had to rely on other organizations outside of the GNWT which tried to step up and provide information on subjects within the mandate of expert GNWT departments. For example, the Wek’èezhìi Renewable Resources Board and North Slave Métis Alliance provided particularly useful evidence on wildlife that, in effect, helped to partially address the void left by the lack of direct participation of the Department of Environment and Natural Resources as a party to the EA.*

Measure 10-2 (Part 2) of the Report of Environmental Assessment (EA) requires that GNWT involve others agencies with wildlife expertise in the development of the WMMP:

*During permitting, the developer will involve Environment and Climate Change Canada, GNWT-ENR, Wek’èezhìi Renewable Resources Board, Tłı̨chǫ Government and Aboriginal groups that harvest [wildlife] in the area, in developing an updated Wildlife Management and Monitoring Plan.*

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<sup>5</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - WMMP Submission Response Letter - Jul 16 19.pdf](#)

<sup>6</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Letter from WRRB to GNWT-INF re. WMMP - Aug 19 19.pdf](#)

<sup>7</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Letter from GNWT-INF to WRRB re. WMMP V3.3 recommendations - Aug 20 19.pdf](#)

<sup>8</sup> See WLWB Online Registry for [W2016L8-0001 – TASR – WMMP – Letter from WRRB to GNWT-INF – Aug 22 19](#)

Furthermore, during the EA, GNWT-INF itself committed (commitment no. 100)<sup>9</sup> that, in regard to the WMMP, “the expertise and advice of the WRRB will also be sought in the design of the program”.

The WLWB acknowledges and emphasizes the central role of the WRRB in renewable resource and especially wildlife management in the Wek’èezhìi Management Area set out in Chapters 12, 13, 14, and 16 of the Tìchq Agreement. In addition, subsection 12.5.1 of the Agreement requires that:

*A Party shall, before taking any action for management of wildlife in Wek’èezhìi, including such actions as set out in a management plan, submit its proposals to the Wek’èezhìi Renewable Resources Board for review under 12.5.4. These proposals may include provisions respecting such matters as protection or enhancement of habitat, research, identification and reporting requirements, monitoring, total allowable harvest levels, limitations on methods of harvesting and other limitations on harvesting activities, allocations of any total allowable harvest levels, designation of species or stocks at risk and identification of lands where harvesting or access for harvesting is prohibited for safety purposes. The Board may identify types of actions that need not be sent to it for review. In preparing any proposal, a Party shall consult with any other Party or other body with powers to manage any aspect of the proposal.*

Despite advice and support from the GNWT-ENR<sup>10</sup> and from others with wildlife expertise (Environment and Climate Change Canada (ECCC), WRRB, North Slave Métis Alliance (NSMA), Tlichò Government), GNWT-INF seems unwilling to approach the finalization of the WMMP in a collaborative manner.

The Reasons below set out an explanation of the Board’s approach to the approval of Version 3.3 of the WMMP for purposes of the Licence and Permit. Despite its decision to approve, the Board finds, however, that not all of the direction in its May 30<sup>th</sup> Reasons has been satisfied and that the WRRB concerns have not been adequately addressed. The detailed findings of the Board in relation to Version 3.3 are set out in Table 1 and 2 below.

Where the Board has found that GNWT-INF satisfied the requirements outlined in the May 30<sup>th</sup> Reasons for Decision, those items have not been included in Table 1 because it is the Board’s view that, based on the record in this proceeding, that no additional explanation is required. In addition to the revisions identified in Table 1 in bold text, the WLWB requires that the GNWT-INF revise the WMMP to reflect the recommendations made by the WRRB in Version 3.4 of the WMMP. These revisions have been detailed in Table 2.

The Board was unable to consider any potential changes to Version 3.3 made by the Minister of ENR in its decision. Shortly before the Board’s August 22 meeting, GNWT-ENR advised that it would not be providing a final version of the WMMP in time to assist the Board with this decision.<sup>11</sup> The Board acknowledges the separate GNWT-ENR decision-making process for the WMMP and the importance of the *Wildlife Act* framework for requiring a WMMP and enforcing such plans, once approved by the Minister of ENR. Unfortunately, the result of the GNWT-ENR decision not to provide a final version of

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<sup>9</sup> See MVEIRB’s Online Registry at [www.reviewboard.ca](http://www.reviewboard.ca) for [TASR Report of Environmental Assessment](#)

<sup>10</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Letter from GNWT-ENR direction to GNWT-INF re. WMMP- Jun 3 16.pdf](#)

<sup>11</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - ENR and WLWB correspondence re. WMMP approval - Aug 21 19.pdf](#)

the WMMP to the Board is that the version addressed by the Board in these Reasons and the version which may be approved by the Minister of ENR could vary. This has implications for GNWT-INF and the contractors who will construct the road.

The Board required the WMMP as a condition of the Licence and Permit “because of the Boards’ jurisdiction regarding wildlife habitat” and detailed that “a shared responsibility for review and approval of the WMMP will be required to ensure that the WLWB fulfils its obligations regarding the protection of wildlife habitat, and to ensure that the content of the WMMP does not conflict with the Permit or Licence conditions”.<sup>12</sup> A letter from WLWB to GNWT-INF on July 16, 2019 explains that:

*Because of the Boards’ jurisdiction regarding wildlife habitat, as well as the requirement for it to consider wildlife issues in its role as a preliminary screener, a shared responsibility for review and approval of the WMMP is required to ensure that the WLWB fulfils its obligations and to ensure that the content of the WMMP does not conflict with the Permit or Licence conditions. Each of the approving authorities exercises its own independent process and discretion, including the WLWB. The Board is, however, committed to meeting its legal obligations while contributing to the benefits which the project offers to Wek’èezhì and the NWT as a whole.*

The WMMP was submitted to be considered by the WLWB as part of the project’s proposed mitigations in GNWT-INF’s Application.<sup>13</sup> The Report of EA requires the WLWB to thoughtfully consider the WMMP in its process. For example, Measure 9-3 requires that: “The GNWT-ENR and Wek’èezhì Land and Water Board will consider these findings in the Wildlife Management and Monitoring Plan and in permitting”.

It is unfortunate that the GNWT-ENR’s finds itself unable to participate in the collaborative process set out by the Board on May 30<sup>th</sup>, committed to by the GNWT-ENR on June 3, 2019, and restated by the Board in its letter of July 16<sup>th</sup>.<sup>14</sup> It is nonetheless necessary for the Board to consider and decide on Version 3.3 of the WMMP.

On balance, the Board has decided that the changes made in Version 3.3 of the WMMP are sufficient to enable overall approval of the Plan. Where the Board’s review did not result in a conclusion that the changes made to the WMMP were sufficient or acceptable, GNWT-INF is expected to make further revisions to the WMMP. GNWT-INF is to submit Version 3.4 of the WMMP prior to Construction, with the revisions outlined in Table 1 and Table 2. Table 1 and Table 2 also contain required revisions to the Engagement Plan as a result of the adequacy of Version 3.3 of the WMMP, which are identified with an asterisk (\*).

- **Decision #1: The Board approves Version 3.3 of the WMMP.**
- **Decision #2: The Board directs GNWT-INF to submit Version 3.4 of the WMMP prior to Construction, incorporating the revisions as described in Table 1 and Table 2 of its Reasons for Decision.**

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<sup>12</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>13</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - WL Application - Jan 8 19.pdf](#)

<sup>14</sup> See WLWB Online Registry for [W2016E0004 - TASR - WMMP Submission Response Letter - Jul 16 19.pdf](#)

- ***Decision #3: The Board has revised Schedule 1, Condition 1(n) of Water Licence W2016L8-0001, to include reports of activities/studies conducted in accordance with the WMMP (including traffic monitoring results) in the Annual Report.***

Table 1: Board’s May 30th Directives and Revisions to the WMMP

The Board’s direction for the WMMP as per the WLWB’s May 30 Reasons for Decision	Revisions in Version 3.3 of the Wildlife Management and Monitoring Plan	Board Direction for Further Revision
<p>To include “Findings of the program that uses Tłıchǫ harvesters’ traditional knowledge and methods to monitor the state of barren-ground caribou (ᐃᑭᓄᓱ) winter habitat, during and after the construction of the Project while the WMMP is in place, as per measure 7-1(c) of the Report of EA” as a requirement of Schedule 1, Condition 2. (RFD pg. 16)</p>	<p>A report of the barren-ground caribou (ᐃᑭᓄᓱ) winter habitat study is not yet available. Section 6.1.2 and 6.1.3 include commitments to summarize and include traditional knowledge in the WMMP Annual Report. Section 6.2.3 added to the WMMP, lists the items that may trigger a WMMP update.</p>	<p>GNWT-INF has referred to “wildlife information in the Water Licence Annual Report” (see above) and “the WMMP Annual Report” here. Measure 10-2 of the Report of EA specifies WMMP reporting. The Board recognizes the EA requirement for reporting of wildlife-related issues may have some overlap and/or a strong relationship with information reported on in the Water Licence Annual Report.</p> <p><b>GNWT-INF must submit the WMMP Annual Report referred to in their response as a component of the Water Licence Annual Report in order to: maximize efficiency for all parties (e.g., no redundancy in reporting for the proponent, one report for reviewers to review), and decrease the chance of misaligned information. The Board has revised Schedule 1 (Annual Report Requirements) of Water Licence W2016L8-0001.</b></p>
<p>The Board requires that the following text: “determine the abundance, distribution and habitat use of avian species at risk in the TASR study area before road construction”, be added as a primary objective in Section 5.2 of the WMMP. (RFD pg. 17)</p>	<p>This objective was added to Section 5.2, including a summary of the avian species at risk baseline study in a new Section 5.2.8.</p>	<p>Information requests were sent to both ECCC and GNWT-ENR (as both need to be consulted as per Measure 10-1) to confirm their acceptance of the baseline study.<sup>15</sup> Both parties confirmed acceptance.<sup>16</sup></p>

<sup>15</sup> See WLWB online registry at [www.wlwb.ca](http://www.wlwb.ca) for [W2016L8-0001 - TASR - WMMP - Version 3.3 - IR to ECCC and GNWT-ENR from the WLWB - Jul 23 19](#)

<sup>16</sup> See WLWB online registry for [W2016L8-0001 - TASR - WMMP - Version 3.3 - GNWT-ENR Response to WLWB IR July 23 2019 - Jul 31 19](#) and [W2016L8-0001 - TASR - WMMP - Version 3.3 - ECCC Response to WLWB IR July 23 2019 - Aug 7 19](#)

<p>ECCC 9 - recommended that the Proponent revise Table 1 and Appendix A to reflect that prohibitions under s.32 and s.33 apply everywhere for listed migratory birds, regardless of land tenure.</p>	<p>Table 1 of Section 2.3 has been updated to correct the prohibitions under SARA s. 32 and s.33. Appendix A did not contain the error.</p>	<p>GNWT-INF are correct that Appendix A did not require a correction, however it would be informative and clearer if the information were specified in the table.</p> <p><b>To ensure clarity, revise Appendix A to indicate that for listed migratory birds and bird species protected under the Migratory Birds Convention Act, these prohibitions apply everywhere, regardless of land tenure (see s.35 (2)(a) of SARA).</b></p>
<p>ECCC 12 - recommended that relevant sections of the WMMP be revised to clarify that the use of deterrents to prevent nesting of birds on infrastructure will be applied “after the nesting period and prior to the arrival of birds in the spring”.</p>	<p>Section 2.5.1 references lessons learned on a previous project and therefore no changes were made to section 2.5.1. Section 4.1.1 text was revised to address ECCC recommendation.</p>	<p>Correct that 2.5.1 references lessons learned, however, it could be easy for an operator reading the plan to not know the restrictions regarding when deterrents can be used.</p> <p><b>The following text “physical deterrents, if required, will be applied after the nesting period and prior to the arrival of birds in the spring” must be added to this section.</b></p>
<p>ECCC 13 - ECCC recommended that this section be revised by removing “proposed” from the Wood Bison Recovery Strategy. ECCC recommends that the Proponent ensure that measures in the WMMP are consistent with all existing recovery strategies for species listed on the Species At Risk Act found in the project area.</p>	<p>Table 2 text was updated to address ECCC recommendation. Note: the relevant detail regarding bison and vehicle collisions did not change in the final version of the Recovery Strategy (Table 5 page 31). The proponent did not note in their revision summary, nor in the document, that they ensured that measures in the WMMP are consistent with all existing recovery strategies for species listed on the Species At Risk Act found in the project area.</p>	<p>An Information Request was sent to GNWT-INF to confirm consistency. GNWT-INF confirmed that they have reviewed the Recovery Strategies (and Action Plans where available) for the species at risk that overlap with the Project, where available. This includes Boreal Caribou, Wood Bison, Little Brown Myotis, Common Nighthawk, Olive Sided Flycatcher (five species)<sup>17</sup>.</p> <p><b>The statement “measures in the WMMP do not conflict with any existing recovery strategy for species listed on the Species At Risk Act found in the</b></p>

<sup>17</sup> See WLWB Online Registry for [W2016L8-0001 – TASR – WMMP – Version 3.3 – Letter from WLWB to GNWT-INF and GNWT-INF response – Jul 30 19](#)

		<b>project area” must be added to Section 2.8.2 of the WMMP.”</b>
<p>ECCC 16 - ECCC noted several discrepancies in Table 5 such as where it indicates bird nesting monitoring will be conducted for wolverine, and that no pre-clearing surveys will be conducted for bats or bird species despite this being mentioned in various sections of the WMMP. Baseline surveys to document avian Species at Risk as per Measure 10-1, Part 1 of the Report of EA is also missing from Table 5.</p>	<p>Table 5 text was revised to indicate that bird nest surveys are not required for wolverine. Pre-clearing surveys are intended for large mammals, so the terminology has been updated to differentiate between pre-clearing surveys for nests and preclearing surveys for wildlife. Baseline surveys for migratory birds are not monitoring, and so were not added to the table.</p>	<p>The Board believes it is acceptable that baseline surveys were not added to this table.</p> <p>Text of Table 5 being changed to “pre-clearing wildlife surveys” does not address the issue raised by ECCC. In many places, the WMMP describes pre-clearing surveys for birds/bats under certain circumstance, so it is confusing that Table 5 would exclude these (they are also considered wildlife).</p> <p><b>Given that the term “wildlife” also includes birds/bats, Table 5 must be revised to have the word “wildlife” removed from column four (4) and clearly indicate that nests are to be included in pre-clearing surveys if it’s taking place during the nesting period.</b></p>
<p>ECCC 17 - ECCC recommended that the Proponent:  - consolidate information on pre-clearing bird surveys and develop survey protocols in a new section of the WMMP. - Refer to GoC (see <a href="https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html#toc5">https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html#toc5</a>) for appropriate considerations when establishing buffer zones. - include the survey results in the annual report.</p>	<p>Section 5.1.4 text has been revised to clarify terminology between pre-clearing surveys for nests and pre-clearing surveys for wildlife. Added reference to the ECCC Guidelines to reduce risk to migratory birds. The Guidelines state that preclearing bird surveys should consider the available bird habitats, the migratory bird species likely to be encountered in such habitats, and the time periods when they would likely be present. GNWT-INF has stated that all required information will be available should clearing of vegetation need to take place during the nesting season.</p> <p>The following was added to Version 3.3:  However, there may be instances where</p>	<p>ECCC has pointed out that there are no details about pre-clearing surveys for birds despite it being a mitigation for destruction of nests which is a primary effects pathway. ECCC wants to see details about methods for pre-clearing surveys of bird nests in a chapter in the WMMP.</p> <p>The Review Board was very concerned with bird species at risk and migratory birds and determined that it was a significant impact. Examples from the REA:</p> <ul style="list-style-type: none"> <li>• “While the Review Board acknowledges that this inherent conflict requires a compromise within the territorial government, it is disappointed in the developer’s apparent disregard for the threats to bird species at</li> </ul>

	<p>vegetation removal is required during this period due to schedule changes or unforeseen circumstances. In these cases, non-intrusive preclearing surveys are required. This includes:</p> <ul style="list-style-type: none"><li>• Qualified biologists taking into consideration the type of habitat and species that are likely to be present during the specific time period.</li><li>• Searching for evidence of nesting by the presence of birds through observation of singing birds, alarm calls and distraction displays.</li><li>• Use of “point counts” to locate singing territorial males in the case of songbirds.</li></ul> <p>Plans will be developed case-by-case in consultation with ECCC and ENR, following the Guidelines (ECCC 2018b). The information collected will have relevance to Measure 10-1 of the Report of Environmental Assessment (MVEIRB 2018). Any nest found will be protected with a buffer zone determined by a setback distance appropriate to the species, the level of the disturbance and the landscape context, until the young have permanently left the vicinity of the nest.</p>	<p>risk. The Review Board refers to the preamble to the Northwest Territories Species at Risk Act, which states that “...the conservation of species at risk is part of a larger commitment to maintain the biological diversity of the Northwest Territories, and all residents have a shared responsibility for the protection and conservation of species”.<sup>1</sup> In the opinion of the Review Board, this promise to the people of the Northwest Territories needs to be upheld.”</p> <ul style="list-style-type: none"><li>• “The Review Board is concerned that the fate of some bird species at risk may be extirpation if nothing is done to reverse the declining population trend for those species. In the opinion of the Review Board, it is important that a higher level of care is taken to protect bird species at risk. For these reasons, the Review Board views any potentially adverse impact from the Project to a bird species at risk as a significant impact.”</li><li>• “The Review Board finds that without the following measures, construction and operation of the Project is likely to cause significant adverse impacts to bird species at risk. These measures build on the developer’s commitments to mitigate impacts to bird species at risk and strengthen the WMMP.</li></ul>
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		<p>Measure 10-1, Part 1 requires pre-construction bird surveys. Measure 10-1, Part 2 (Mitigation) requires:</p> <p>“The developer will use the results from surveys in 10-1 Part 1 to inform mitigations. The mitigations will help protect bird species at risk and migratory birds and ensure habitats and nesting sites are protected. For all project-related infrastructure and activities during the construction and operations phase, the developer will:</p> <ul style="list-style-type: none"><li>a) use the information from the survey(s) to inform and adjust proposed mitigations;</li><li>b) implement mitigations as described in its commitments table and its Wildlife Management and Monitoring Plan;</li><li>c) implement additional mitigations to eliminate or reduce impacts, if warranted based on surveys;</li><li>d) halt all disruptive activities, in consultation with ECCC, in an area if nests or young are discovered; and;</li><li>e) determine and implement, in consultation with ECCC and GNWT-ENR, appropriate species-specific buffer zones or setbacks, until the young have naturally and permanently left the vicinity of the nest taking into consideration the intensity of the disturbance and the surrounding habitat.”<p>GNWT-INF has proposed to do the latter on a case-by-case basis as needed when they come across the situation in the field. The timelines are concerning as the project would likely not shutdown while consultation meetings/plans are made.</p></li></ul>
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		<p>The Board agrees with ECCC for the need to be proactive since they have said there is a possibility that they will be clearing outside of the nesting periods. Developing plans on a case-by-case basis as they have proposed during construction is concerning and unacceptable.</p> <p><b>The Board requires that the GNWT-INF not clear vegetation during the nesting season of migratory birds until such time that vegetation-clearing protocols (for each potential species as recommended by ECCC) have been approved in a subsequent Version of the WMMP.</b></p> <p><b>If vegetation clearing will not occur during any nesting period for migratory birds in 2019, this revision is not required in Version 3.4 of the WMMP.</b></p> <p>The Board notes that Schedule 1, Part 1(o) requires that results of any pre-clearing surveys are reported on in the Annual Report, therefore no changes to the Water Licence reporting requirements are needed.</p>
<p>ECCC 19 - ECCC recommended that actions outlined in Measure 10-1, Part 1 and Part 2 of the TASR report of EA be fully incorporated into section 5.2 of the WMMP.</p>	<p>A new monitoring objective was added to the WMMP in Section 5.2, as required by the WLWB Reasons for Decision Section 6.2.4.</p>	<p>GNWT-INF only addressed the addition of the new monitoring objective and did not confirm/comment on the other actions outlined in Measure 10-1. For example, Measure 10-1 Part 2(d) (in regard to bird species at risk and migratory birds) specifies to “halt all disruptive activities, in consultation with ECCC, in an area if nests or young are discovered” do not appear in the WMMP.</p> <p><b>The following text “halt all disruptive activities, in consultation with ECCC, in an area if nests or young are discovered” must be added to the WMMP.</b></p>

<p>ECCC 20 - ECCC recommended that it be made clear for staff responsible for implementing the WMMP that ECCC be notified for all wildlife incidents and contacted for advice related to migratory birds in all sections of the WMMP. Wildlife Enforcement Division can be reached at ec.dalfnord-wednorth.ec@canada.ca and the Environmental Protection Operations Division and the Canadian Wildlife Service can be contacted at ec.eenordrpntno-eanorthpnrnwt.ec@canada.ca.</p>	<p>ECCC contact information added to Appendix F for the Bird Nesting Activity Procedure and the Wildlife Incident Reporting Procedure.</p>	<p><b>The Board believes it is important that staff responsible for implementing the WMMP understand that ECCC should be contacted for advice in all situations related to migratory birds, and that all incidents involving migratory birds are reported to ECCC. It is also important that the appropriate contact information is available to these staff depending on the situation (i.e., enforcement vs. protection). This must be made clear in all relevant sections and appendices of the WMMP.</b></p>
<p>NSMA 6 - The NSMA requested the GNWT update the WMMP in the following ways: 1. Update the document to reflect the commitment to add a second harvest check station, rather than moving the existing station. 2. At both stations, post officers with the authority to pull vehicles over for harvest checks. 3. Extend the harvest check station hours of operation to address hunters who avoid checks by passing by at night (noted to occur already with other check stations). 4. If a second station will not be added immediately, include provisions for doing so within the adaptive management section of the WMMP, and describe the monitoring and measurements that will be used to trigger the need for the second station.</p>	<p>Response provided in the Proponent Response to comments on 14 March 2019. Additional detail from the Proponent Response was added to Section 5.2.2 to clarify GNWT’s approach to decisions around the implementation of check stations. In Section 5.2.2 ‘Access and Harvesting Monitoring’ the following text was added: “Decisions around the operation of the harvest check stations, including staffing and hours of operation, will need to meet operational needs and include flexibility. Such decisions will be based on harvest pressure, human resource capacity, animal locations and competing requirements.”</p>	<p>GNWT-INF did not commit to an additional 2nd checkpoint (EA PR #274 pdf pg. 36). Measure 9-1 of the REA requires GNWT-INF to “report on wildlife harvesting numbers and trends from monitoring checkpoints and/or other harvest monitoring methods annually to the Tłı̨chǫ Government, Wek’èezhì Renewable Resources Board, GNWT-ENR and other wildlife co-management partners”.</p> <p><b>The Engagement Plan must be revised to specify that engagement with the TASR Corridor Working Group on the topic of the effectiveness of check stations be discussed annually. *</b></p>
<p>NSMA 7 - The NSMA requested the GNWT update the WMMP in the following ways: 1. Commit to monitoring boreal caribou for a minimum of 10 years. Amend wording in WMMP to reduce ambiguity. 2. Develop and integrate wildlife management strategies into the WMMP to allow</p>	<p>No revisions made in response to this comment.</p>	<p>GNWT-INF did not provide rationale for why the recommendations have not been taken.</p> <p><b>The Engagement Plan must be revised to specify that engagement with the NSMA take place to discuss these concerns, and any proposed revisions to the</b></p>

<p>for quicker implementation should boreal caribou populations be observed to be declining due to predation or apparent competition. 3. Discuss wildlife management strategies with the co-management team now, rather than waiting for boreal caribou declines to trigger actions. 4. If wildlife management strategies cannot be included in the WMMP, provide reasons as to why, and additional details regarding the formal adaptive co-management processes with the WRRB, such as thresholds for caribou population size/trend, and a timeline for actions.</p>		<p><b>WMMP resulting from this discussion be submitted to the Board for approval. *</b></p>
<p>NSMA 8 - The NSMA requested the GNWT update the WMMP in the following ways 1. Provide provisions for conducting ground-based wildlife surveys prior to all vegetation clearing, blasting, and other construction activities, to avoid the limitations of using collar data to trigger mitigation. 2. Include an amendment to the WMMP, Section 5.1.6, on Pre-clearing Surveys, to specify a survey distance of 500 m ahead of clearing activities. 3. Include possible solutions for improving wildlife detectability in low light conditions and dense vegetation.</p>	<p>In section 6.2.2 ‘Response Framework’ the following text was added: “Initiate a pilot study to determine if thermal imaging devices can improve detection of large mammals. If the pilot study indicates that detection is improved, monitoring protocols will be updated to include this technology (see Appendix F: Pre-Blast Surveys and Thermal Imaging Pilot Study).” Appendix F ‘Monitoring Protocols and Data Sheets’ (Pre-Blast Surveys Procedure) was also updated.</p> <p>No changes were made to Appendix D ‘Operating Procedure for Use of Boreal Caribou Collar Data to Mitigate Impacts from Construction’.</p>	<p>GNWT-INF did not provide rationale as to why they have not included a survey distance of 500m ahead of clearing activities for Section 5.1.6 (despite 500 m being specified for caribou in Appendix D, Table 1).</p> <p><b>The Board requires GNWT-INF to revise Section 5.1.6 (specifies survey distance of 500m ahead of clearing activities) to align with Appendix D, Table 1.</b></p>
<p>NSMA 9 - The NSMA requested the GNWT update the WMMP in the following ways: 1. Include protocols for conducting visual scans for wildlife within a 500 m radius prior to blasting, even if the</p>	<p>Appendix F ‘Monitoring Protocols and Data Sheets’ (Pre-Blast Surveys Procedure) was updated to include the pilot thermal study. Further details are to be provided in the Blast</p>	<p>The main reason provided by GNWT-INF for not including a survey distance of 500m ahead of blasting activities was personnel safety concerns, however, these were not detailed nor were potentially</p>

<p>danger zone is determined to be smaller. 2. Apply adaptive mitigation (e.g., increase zone of influence) if wildlife exhibit disturbed responses to blasting. 3. Provide additional details regarding the use of air horns as a wildlife deterrent.</p>	<p>Plans.</p>	<p>solutions to this provided. In their response to the recommendation, GNWT-INF noted that “adaptive mitigation will be applied if observations show disturbed responses from wildlife” and that further details will be provided in Blast Plans. Currently, the cautionary zone for caribou for blasting from Jul-Mar “the danger zone of the blast area, as determined by the blast manager”. Blast Plans have not been provided and are not for public review/approval. GNWT-INF did not address NSMA’s concerns about air horns as a wildlife deterrent.</p> <p><b>The WMMP must be revised to include details regarding protocols for conducting visual scans for wildlife prior to blasting, and adaptive mitigation (e.g. increase zone of influence) if wildlife exhibit disturbed responses to blasting.</b></p> <p><b>The Engagement Plan must be revised to indicate that: the use and success of air horns as a wildlife deterrent will be discussed with the TASR Corridor Working Group at its next meeting, and that if wildlife exhibit disturbed responses to blasting that be included in the Weekly Reports, or a similarly frequent communication avenue. *</b></p>
<p>NSMA 10 - The NSMA requested the GNWT update the WMMP in the following ways: 1. Please provide an explanation for why the NSMA’s recommendations regarding helicopter data loggers and an annual audit of flight paths and altitudes were not included in WMMP V3.2 (this may be provided outside of a formal WMMP update). 2. Apply 2000 ft minimum flight altitude</p>	<p>No revisions were made in response to this comment.</p>	<p>GNWT-INF did not provide rationale on why they have not accepted the recommendation for the 2000ft minimum flight altitude during sensitive seasons for caribou or recommendations for adaptive management using helicopter data and caribou collar data. They noted that frequent helicopter use is not anticipated for the construction of the project but that there may instances where chartered aircraft is</p>

<p>during sensitive seasons for caribou, as recommended in the Government of Yukon's guidelines.</p>		<p>used to access remote sections of the alignment or for site tours and surveillance.</p> <p><b>The Engagement Plan must be revised to specify that engagement with the TASR Corridor Working Group about helicopter use and caribou data, and potential changes to the WMMP (e.g. flight altitudes) be discussed based on relevant information. *</b></p>
<p>NSMA 11 - The NSMA requested the GNWT update the WMMP in the following ways: 1. Please include stoppage distances for construction vehicles when wildlife are on or near the road. 2. Consider including a "caribou decision tree" or similar flowchart for wildlife traffic mitigation. 3. Please ensure that Project staff understand that speed limits will be reduced within 2 km of caribou sightings/collar locations, rather than 1 km for other big game species. 4. Please use stronger wording in Section 4.4.1: "speed limits will be lowered to 30 km/h..." 5. Please install traffic warning signs at the same time as salt application on the TASR, rather than waiting for reports of wildlife observations and/or collisions.</p>	<p>Sections 4.3.1 'Construction', 4.4.1 'Construction', and 4.6 'Caribou Mitigation' have had speed limit reductions added. Section 4.4.1 'Construction' has been revised to include a 100m stopping distance. GNWT-INF stated a flowchart for wildlife traffic mitigation would be considered for later versions of the WMMP once the procedures have been field tested.</p>	<p><b>The Engagement Plan must be revised to specify that engagement with the TASR Corridor Working Group occur to discuss the addition of a flowchart for wildlife traffic mitigation to the WMMP. *</b></p>
<p>NSMA 12 - The NSMA requested that the GNST provide the following information to assist them in their review of the updated WMMP: 1. An explanation about why the duration for wildlife to naturally clear the area was not extended past 15 min in the V3.2 update of the WMMP. 2. Clarification as to how the WMMP's adaptive management framework will evaluate the appropriateness of the proposed 15 min window</p>	<p>Conformance table states additional information was added to section 4.4.1 'Construction' in response to this comment, but it is not clear how NSMA's comment is addressed.</p>	<p>GNWT-INF did not provide rationale on why they have not accepted the recommendation to allow 2 hours for wildlife to clear and the appropriateness of the 15 min. window.</p> <p><b>The Engagement Plan must be revised to specify that engagement with the TASR Corridor Working Group occurs regarding wildlife incident results. Any proposed revisions to the WMMP resulting from this</b></p>

<p>for wildlife to naturally clear the area.</p>		<p><b>discussion be submitted to the Board for approval. *</b></p>
<p>NSMA 13 - The NSMA requested the following from the GNWT: 1. Please set traffic counters to collect data by the minute, if possible. 2. Please retain minute-by-minute or hourly traffic data for analysis, rather than summarizing monthly averages. 3. Please install multiple traffic counters along the TASR.</p>	<p>GNWT-INF noted that traffic counters document the time of each vehicle pass, and the raw data will be available for analysis. A traffic counter will be located within 2.5 km of the mid-point of the road. The traffic counters counts traffic at one-hour intervals. The counters cannot give a breakdown by vehicle type or direction of travel. In the 5-Year ITS Implementation Plan, there are plans to install a traffic counter in combination with a web camera on the TASR. The traffic counter would be able to count and classify traffic by vehicle type in addition to giving total counts by hour and data would be transmitted by satellite, cellular or other means so that no one has to go on site to download data. The exact location along the TASR is to be determined. No revisions were made in response to this comment.</p>	<p>Given that GNWT-INF plans to install traffic counters, <b>the Engagement Plan must be revised to specify that engagement with the TASR Corridor Working Group occur regarding the specifics around traffic counters and potential changes to the WMMP. *</b></p>
<p>NSMA 14 - The NSMA requested the following from the GNWT: 1. Please provide information on whether or not a more appropriate study area for boreal caribou been identified, based on collar data. 2. Please include the NSMA during ongoing discussions and review of the information used to define the new boreal caribou study area.</p>	<p>Section 5.2.3 'Boreal Caribou' (Proposed Approach) had the following text added: "The study area for the Tłıchq ASR WMMP boreal caribou monitoring program was initially based on trying to get a sample of collared females that use areas close to the Tłıchq ASR alignment, and collared females that use areas far from the Tłıchq ASR alignment which would be unlikely to interact with the road to serve as a "control" sample. The initial study area boundary which delineated the area within</p>	<p>The GNWT-INF noted that "NSMA will be included in future discussions and review of study area boundaries through the TASR corridor working group".</p> <p><b>The Engagement Plan must be revised to specify that engagement with the TASR Corridor Working Group about the specifics around boreal caribou study occurs. Any proposed revisions to the WMMP resulting from this discussion be submitted to the Board for approval. *</b></p>

	<p>which ENR searched for boreal caribou to deploy collars on has since been expanded to encapsulate the movements of those collared females, and will likely continue to evolve as new collars are added to the study area”</p>	
<p>NSMA 15 - The NSMA requested the following addition to the WMMP: 1. Please add a monitoring questions to section 5.2.5 of the WMMP about whether the relative abundance of wolves changes over time, and ensure that the answers reached via this monitoring objective feed back into considerations about bison (and caribou).</p>	<p>GNWT-INF noted that: “As stated in Section 5.2.7 of the WMMP, GNWT will undertake monitoring specific to estimating predator densities, movements and predation rates and the methods for these surveys will be defined in a future version of the WMMP, likely based on an analysis of different potential approaches that will be undertaken in summer 2019 (See response to WRRB comment #23).” No revisions were made in response to this comment.</p>	<p>The Review Board noted the following in the Report of EA: “In its Adequacy Statement Response, the developer acknowledged the role of wolves and stated “[p]redation, primarily by wolves, is considered to be the main factor limiting caribou populations, and increased predation by wolves and possibly other predators is facilitated by underlying landscape changes through apparent competition”. <b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about the findings of the 2019 approaches analysis and the potential resulting changes (e.g. wolf monitoring questions) to the WMMP. *</b></p>
<p>NSMA 16 - The NSMA requested the following updated to the WMMP: 1. Please update the text of the WMMP (Section 4.3.1), as was suggested in the GNWT response, to be more specific that extra caution is expected of the environmental monitor in the case of large groups. 2. Please update the WMMP to be more specific about increasing levels of caution needed for various group sizes of bison. 3. Please operationalize the practice of animals having the right of way by recommending that construction vehicles stop when groups of bison (5 or more) are encountered in the right of way.</p>	<p>Section 4.3.1 ‘Construction’ has had the following text added:</p> <p>“Project staff will be provided with awareness training prior to working on the site as outlined in Section 4.7.1. This training will include the various procedures and protocols that are included in this section.”</p> <p>“Project staff will communicate, via radio, relevant observations of wildlife to the NSI Environmental Manager or designate. The NSI Environmental Manager will then relay this</p>	<p>Version 3.3 did not contain the amount of detail that NSMA recommended nor that GNWT-INF provided in their response. Furthermore, in their response, GNWT-INF noted that “Right-of-way requirements for wildlife will be reinforced with personnel in awareness training and clear direction given on when to slow down, stop and when to safely proceed where large animals such as bison, caribou or moose are in the right-of-way. This will be operationalized similar to the caribou tree decision tree recommendation in comment ID # 11. The Board believes that their decision in relation to NSMA-11 addresses the</p>

	<p>information to Site Supervisors and equipment operators working in the area. Any such observations should be included in the Wildlife Sightings Log.”</p> <p>(In regards to bison) “Any such observations should be included in the Wildlife Sightings Log.”</p>	<p>concern.</p>
<p>NSMA 17 - The NSMA made the following requests and recommendations to the GNWT for the next updated version of the WMMP: 1. A preliminary blast sound effect threshold at 90 decibels. A distance threshold may then be devised based on noise modelling or testing of blast noises received at different distances. If the current blast distance of 500 m does not exceed 90 decibels, then 500 m, is acceptable. 2. A commitment to use wildlife monitors to survey 500 m ahead of vegetation clearing operations and blasting, to confirm whether wood bison are present during the calving period. 3. The NSMA recognises that such surveys over the entire length of the road may be difficult, but conducting them during the bison calving season, and within high quality bison habitats as determined by mapping, may be logistically possible. 4. Survey methods using drones or infrared cameras are other options which may make these surveys more practical; as noted in comment (NSMA-WMMP-4) there are likely ways of overcoming limitations of using UAVs due to Line of Sight rules from Transport Canada.</p>	<p>Conformance table states that further details on procedures and mitigation will be included in individual blast plans, and that preclearing wildlife surveys are included in section 5.1.6 and Appendix F.</p> <p>Section 6.2 ‘Response Framework’ and Appendix F ‘Monitoring Protocols and Data Sheets’ (Pre-Blast Surveys Procedure) have been updated to include pilot thermal study.</p>	<p>When referring to habitat loss (with regard to caribou, however, a general statement), the Review Board (page 121 of the REA) stated that habitat can have a diminished ecological value due to factors such as sensory disturbance. As noted in the REA, the developer itself provided that sensory disturbance (dust, smell, light, noise, human activity) can change wildlife habitat availability, use and connectivity (movement and behavior), which can lead to changes in wildlife abundance and distribution. Despite this, in their response, GNWT-INF stated that “there is limited value to providing mitigation to reduce sensory disturbance during construction”, however, GNWT-INF has not provided rationale as to why NSMA’s specific recommendations (e.g. 500m) are not accepted. They have noted that further details on procedures and mitigation for blasting will be included in individual Blast Plans, as details are finalized for when and where blasting may be required, however, these plans have not been provided. The Board believes that their decision in relation to NSMA-9 addresses the concern.</p> <p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor</b></p>

		<b>Working Group about the findings of the thermal study and the potential resulting changes to the WMMP. *</b>
<p>NSMA 19 - The NSMA requested the following updates be made to the WMMP: 1. Please use wildlife monitors to survey 250 m ahead of blasting to confirm whether or not moose are present during the calving period (May). We recognise that surveys over the entire length of the road may be difficult, but at least conducting them during the moose calving season, and in high quality moose habitats (as determined by mapping) is preferred and likely to be logistically feasible. Survey methods using drones or infrared cameras are other options that may make these surveys more practical. Further, surveys may also be combined with similar surveys for bison (Mar 1 – Jul 15) and caribou (April 5 to July 15) as there is some overlap between the sensitive seasons of these species.</p>	<p>Conformance table states: The requested monitoring is already included in Appendix F ‘Monitoring Protocols and Data Sheets’. Section 6.2 ‘Response Framework’ and Appendix F ‘Monitoring Protocols and Data Sheets’ (Pre-Blast Surveys Procedure) have been updated to include pilot thermal study. Further details will be in individual blast plans. Appendix F ‘Monitoring Protocols and Data Sheets’ (Pre-Clearing Survey Procedure) has had the following specific text added: “Any other wildlife sightings during the survey will also be recorded.”</p>	<p>The Board believes that their decision in relation to NSMA-9 addresses the concern.</p>
<p>NSMA 20 - The NSMA requested the following updates be added to the next version of the WMMP: 1. Please clarify how wetlands, an important moose habitat, will be surveyed for; and, use appropriate 30m setbacks from these areas. 2. Please indicate an appropriate setback from rare plants which would be used in the event they are located by the qualified botanist in herbaceous surveys.</p>	<p>Conformance table states the rare and exotic plant survey will be provided to the public registry. No revisions were made in response to this comment. Wetlands not addressed.</p>	<p><b>The rare and exotic plant survey must be provided as soon as available for the public registry.</b> <b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about the extent of wetlands (potential moose habitat) as well as options for mitigations in lieu of setbacks considering that the alignment has been established. *</b></p>
<p>TG 4 - The TG recommended to have additions brought into Section 5.2.2 regarding Access and</p>	<p>GNWT-INF noted that updates to the WMMP may be implemented following further</p>	<p>Tlicho Government noted that a harvest study should have a solid technical design and be based in</p>

<p>Harvest Monitoring. First, the TG recommended that the approach to the harvest study is based in traditional knowledge, brought forward from the Tlicho Government. Secondly, that the harvest study needs to have solid technical design associated with it.</p>	<p>discussion with the Tlicho Government and when more traditional knowledge is available. Section 6.1 outlines the commitment to include traditional knowledge in the annual reports by the addition of the following: “Traditional knowledge provided by the Tłı̨chǫ Government”.</p>	<p>Traditional Knowledge and that input should come from the TG. TK being provided in Annual Reports is not relevant to a harvest study design. As noted by GNWT-INF in the WMMP, harvest monitoring is linked to Measures 6-1 and 9-1 of the REA.</p> <p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about the harvest study design, the incorporation of TK into it, and the potential resulting changes to the WMMP. *</b></p> <p><b>Details of the harvest study design must be added to the WMMP.</b></p>
<p>TG 5 – noted that there is a strong dependence on collaring in specific species - to identify the impacts of road on wildlife. The intent is to use collars in the region, however there may be some alternative technical study designs that assist with respect to monitoring different species. TG recommended that alternative approaches that do not rely on radio-collars be used to monitor wildlife and test for road effects over time. Study designs using camera traps and/or acoustic recorders would provide additional insights into possible mechanisms for road effects and on non-ungulate species that are not radio-collared. TG expected that these alternative approaches might be reviewed and considered along with appropriate study designs, that may also be integrated with traditional knowledge.</p>	<p>GNWT-INF responded that while there are other alternatives to the proposed GPS collars, there is no other available method that collects as much data with so many applications as GPS collars. Remote cameras have been used with some success to document caribou road crossing at Ekati, but the effectiveness of this approach would be limited in a boreal environment. Further, a camera only collects data when a caribou happens to walk in front of it, and provides no information on what occurred before or after the photo. GPS collars, by contrast, provide information on caribou movements throughout their range, delineate the range, identify calving areas, provide estimates of survival, habitat use preferences and evidence of avoidance of development. Acoustic recorders would similarly have limited value, as they would require a caribou to be</p>	<p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about the alternative study designs and the potential resulting changes to the WMMP. *</b></p> <p><b>A commitment to continue exploring alternative study designs must be added to the WMMP.</b></p>

	<p>within earshot of the recorder and to make a distinctive sound that could only be ascribed to a caribou. Acoustic recorders are typically only used for frogs and birds during the breeding season, and bats using echolocation. GNWT noted willingness to discuss alternative information collection methods with the Tlicho Government. No updates were made to the WMMP.</p>	
<p>TG 6 – noted that traditional knowledge monitoring will be collected, as per Measure 10-2. The TG also notes that the current draft of the WMMP does not include an approach and method for integration of Traditional Knowledge. This is understood, given this is early in the process. The TG looks forward to ensuring that TK is drawn into every aspect of this plan. The TG expects to give this direction and will provide guidance on a clear process for integration.</p>	<p>GNWT-INF stated that “No changes were requested. The Proponent looks forward to working with the Tlicho Government to incorporate traditional knowledge into the WMMP. Section 6.1 outlines the commitment to include traditional knowledge in the annual reports”.</p>	<p>Measure 6-1 notes the requirements for information and adaptive management. In the Board’s view, solely including TK in the annual report does not fully satisfy the requirements.</p> <p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about the approach and method by which TK will be integrated into the WMMP. *</b></p>
<p>TG 7 – noted that Table 4 (Project Effects Pathways) has no details on how Traditional Knowledge was used to identify project effects pathways or incorporated in to monitoring (for example for sensory disturbance from noise and dust). TG recommended that Traditional Knowledge monitoring data as well as alternative technical approaches (e.g., camera traps or acoustic recorders) be integrated to ensure that traditional knowledge is integrated into the data sets.</p>	<p>GNWT-INF noted that “Section 6.1.2 highlights that any traditional knowledge studies completed in the area should be mentioned in the Annual Report and should include any traditional knowledge provided by the TG”.</p>	<p>Measure 6-1 includes the requirements for information and adaptive management. In the Board’s view, these are not solely reporting requirements (e.g. annual report).</p> <p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about how alternative technical approaches may be integrated to ensure that traditional knowledge is integrated into the data sets. *</b></p> <p><b>The WMMP must be revised to detail how</b></p>

		<b>Traditional Knowledge was used to identify project effects pathways or incorporated in to monitoring (for example for sensory disturbance from noise and dust).</b>
<p>TG 8 – currently Table 4 (Project Effects Pathways) includes no pathways, and no TK knowledge integration. This is a primary place where TK will inform both the pathways and the plan. For example, harvesters observations of dust, and the impact on berries and medicinal plants should be noted. As well sound and disturbances to animals, particularly caribou, will be another pathway that harvesters will both contribute ideas on, and TK will be brought to bear for both how the construction is managed and how the mitigations are designed. We expect TK to inform adaptive management on an ongoing basis.</p>	<p>GNWT-INF response was that the pathways presented in Table 4 incorporated the valuable Tliche harvester’s input during the scoping session, and the TK report prepared for the Project. As Table 4 is intended to show the linkages from the environmental assessment to wildlife monitoring, these pathways need not be altered to further integrate TK into wildlife monitoring.</p>	<p>Measure 9-3 requires that:</p> <p>To mitigate impacts from the Project to culture and harvesting, the developer will incorporate Traditional Knowledge into the Project design and management from all Aboriginal groups that traditionally use the area. The developer will: a) support the collection of Traditional Knowledge related to traditional use, and compile it with information already acquired; b) thoroughly consider any Traditional Knowledge that is made available, and, where applicable, incorporate Traditional Knowledge into Project design, mitigations, monitoring and adaptive management; and, c) do this in a culturally-appropriate way that respects applicable Traditional Knowledge policies and protocols. The GNWT-ENR and Wek’èezhìi Land and Water Board will consider these findings in the Wildlife Management and Monitoring Plan and in permitting.</p> <p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about how traditional knowledge may be integrated into the pathways and the plan. *</b></p> <p><b>The WMMP must be revised to detail how Traditional Knowledge will be used to inform adaptive management on an ongoing basis.</b></p>
<p>TG 9 – Questioned why does this section (Section</p>	<p>GNWT-INF responded that, during construction,</p>	<p>The Review Board stated that “Managing effects of</p>

<p>4.3) only refer to sensory disturbance for construction? Please identify if sensory disturbances for operation should be similarly identified.</p>	<p>the dominant source of sensory disturbance will be the construction activities. Once the Tliche ASR is opened to the public, the dominant source of sensory disturbance will be public traffic, which is not subject to the same level of control. The environmental assessment explicitly identified sensory disturbance as a permanent impact that will result from the road.</p>	<p>the road on boreal caribou (t̄qdzı) habitat is extremely important given how sensitive boreal caribou (t̄qdzı) are to sensory disturbances from potential barrier effects of the road from noises, sights and smells” and that “The Review Board is of the view that managing effects of the Project to boreal caribou (t̄qdzı) habitat will require a long-term management approach”. The Review Board also noted that “because boreal caribou (t̄qdzı) are already at risk, the Review Board finds that any additional adverse impacts on them are likely significant” and that “Considering the lack of baseline information [on boreal caribou] and the risk of serious harm, the Review Board concludes that a precautionary approach is appropriate”. The Board is of the opinion that because the project will result in a permanent impact, that does not mean that the level of damage cannot be mitigated.</p> <p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about mitigation for sensory disturbance during the operation phase. *</b></p> <p><b>The WMMP must be revised to detail mitigations for sensory disturbance during operation.</b></p>
<p>TG 11 - The TG noted that gentle approaches may not suffice with respect to encouraging bison movement. There may need to be more aggressive conditioning or lethal removals both of which would require trained personnel. The TG recommends there be discussion of this further. Strategies for managing bison movements and distribution along the TASR should be consistent</p>	<p>GNWT-INF responded that “each instance of bison deterrence will be documented in an incident report, and the WMMP can be updated to accommodate any learnings that result”. Version 3.3 stated that instances of bison deterrence, if ever required, will be documented as Incidents as per Appendix F.</p>	<p>GNWT-INF did not detail future engagement and plans for updating in the WMMP, nor whether the management of bison is consistent with the Mackenzie Bison Management Plan.</p> <p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about strategies for bison</b></p>

<p>with broader goals and objectives established in the Mackenzie Bison Management Plan. There may also need to be monitoring and adaptive management through the Road Corridor Working Group.</p>		<p><b>management. *</b></p> <p><b>The WMMP must be revised to reflect monitoring and adaptive management discussions of the Road Corridor Working Group, and a statement confirming the WMMP's consistency with the Mackenzie Bison Management Plan.</b></p>
<p>TG 13 – noted that Annual Reports requires an adaptive management process and a collaborative process and recommended that there needs to be information provided by the Tlicho Government for the Annual Report. This should be referred to in this section. TK is a vital input, and the TG expects that as collaborators, we will be contributing data (for example, harvester or TK monitoring inputs). The TG requests that acknowledgement of these TK input be made.</p>	<p>Change made to Section 6.1.2 to reflect that TG may provide traditional knowledge for incorporation.</p>	<p><b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about input into monitoring and adaptive management. *</b></p>
<p>TG 14 - recommended that, in regard to blasting protocols, Traditional Knowledge be considered with respect to sensitive disturbance periods that occur throughout the year.</p>	<p>GNWT-INF noted that the dates already include traditional knowledge collected through caribou range planning and recovery strategies.</p>	<p><b>The Engagement Plan must be revised to specify that continued engagement will occur with the TASR Corridor Working Group about ongoing performance of the protocols. *</b></p>
<p>TG 15 – noted that the maps that are used do not integrate harvester knowledge about caribou habitat and movement. The TG refers ENR to materials provided in Working Group meetings.</p>	<p>GNWT-INF responded that the maps are intended to show project layout only.</p>	<p>It is unclear whether the TG wishes for harvester knowledge maps to be included and the rationale. <b>The Engagement Plan must be revised to specify that engagement will occur with the TASR Corridor Working Group about potential inclusion of harvester knowledge maps. *</b></p>
<p>WRRB 2 - recommended wording in Section 2.8.1 be updated to reflect that undisturbed habitat in the Wek'èezhìi portion of the NWT boreal caribou</p>	<p>The change requested by the WRRB made to Section 2.8.1 reads: "Undisturbed habitat in the Wek'èezhìi region may be limiting, as it is</p>	<p><b>The WMMP be revised with the following text:</b></p> <p><b>"Undisturbed habitat in the Wek'èezhìi region may</b></p>

<p>population may be limiting, as it is already above or near the 35% disturbance threshold before the TASR was constructed.</p>	<p>already above at or below the 65% disturbance Threshold". The text is grammatically incorrect and requires clarity.</p>	<p><b>be limiting, as it is already near or above the 35% disturbance threshold".</b></p>
<p>WRRB 3 – noted that the Board is concerned that no specific dust suppression techniques, dust thresholds which trigger dust suppression, or length of road to be targeted are listed and recommended section 4.2.1 describe potential dust suppression techniques which may be used on the TASR, as well as at what thresholds these techniques may be used and where.</p>	<p>The following information was added to Section 4.2.1:</p> <ul style="list-style-type: none"> <li>-Visual cues (e.g. low visibility during driving, observed dust on vegetation at limits of work areas) would be the primary trigger for dust suppression.</li> <li>-Spot checks will be conducted using portable particulate meters. If levels are approaching the GNWT Ambient Air Quality Standards for Total Suspended Particulate dust suppression measures will be implemented.</li> <li>-Dust suppression will involve the application of water and/or Inspector approved chemical products such as calcium chloride using tanker trucks.</li> <li>-Trucks will apply water and/or products as needed to roads in use and producing dust. Only water will be used within 100 m of a water body.</li> <li>-Use of gravel construction entrances/exits where construction access meets public highways to avoid tracking material onto paved surfaces."</li> </ul>	<p>The WLWB thanks GNWT-INF for the additional information to address WRRB's comment. The Board notes that in their August 19 letter, the WRRB requests that "methods and dust suppression techniques used throughout construction" are provided to them as it becomes available. The Board believes that the Weekly Reports referred to by the GNWT-INF (e.g. in response to WRRB-25) would serve to keep parties updated and has decided that:</p> <p><b>The WMMP must be revised to specify that methods and dust suppression techniques used throughout construction will be included in the Weekly Reports.</b></p>
<p>WRRB 7 - Section 4.4.1 states that if wildlife do not leave the area within 15 minutes, they may be gently encouraged to move away from construction activities. This contradicts the earlier statement made by INF that wildlife will have the</p>	<p>In their response, GNWT-INF noted that the principle of providing wildlife the right of way is the first course of action. Section 4.4.1 describes the option to encourage wildlife to move away from construction activities only in</p>	<p><b>The Engagement Plan must be revised to specify that engagement with the TASR Corridor Working Group occurs regarding wildlife incident results and potential changes to the right-of-way protocols. Any proposed revisions to the WMMP resulting from this</b></p>

<p>right of way during construction. The WRRB recommended that either non-dangerous wildlife be left alone, regardless of length of time in the area, or that the wildlife right of way be expanded on further, detailing that they only have the right of way in areas where construction is not occurring (completed segments of road).</p>	<p>the event that there is an imminent risk to the safety of the wildlife or workers. This contingency is anticipated to be a rare occurrence, if ever required at all, and will be documented with an incident report. However the need for this contingency was illustrated in the example of the Deh Cho Bridge construction, where bison would often bed down in construction areas and laydown areas. To re-iterate, wildlife will be left alone if they do not pose a risk to human safety or if there is no imminent risk to the wildlife. The procedure for moving animals away from risk is described in the WMMP in broad terms only, so as not to oblige the use of any techniques that they are not comfortable with. All such efforts to move wildlife, if ever required, will be documented in an Incident Report, which will be included in the Weekly Reports. The wording of Section 4.4.1 was revised to better reflect the intent of the wildlife right of way as applying to general traffic and equipment operations in active construction areas.</p>	<p><b>discussion be submitted to the Board for approval. *</b></p>
<p>WRRB 13 - Section 5.1 describes Mitigation and Monitoring activities that will take place to protect wildlife and wildlife habitat. The surveys outlined in this section mirror the monitoring protocols and datasheets found in Appendix F. However, details such as frequency of survey, reporting procedures, and specific methods differ between Appendix F and Section 5.1. The WRRB recommended Section 5.1 and Appendix F be updated to match each</p>	<p>Section 5.1 and Appendix F updated for consistency. All monitoring details were moved to Appendix F and out of Section 5.1. No details were deleted or changed.</p>	<p>Note: the level of detail in the response is appreciated.</p>

<p>other to avoid confusion and ambiguity.</p>		
<p>WRRB 18 – Noted that if INF cannot confirm vegetation clearing will not occur in the migratory bird nesting season, the WRRB requests that a list of non-intrusive pre-clearing survey methods be established prior to construction.</p>	<p>Section 5.1.4 text has been revised to include general information on non-intrusive surveys included.</p>	<p>See Board decision in relation to ECCC-17.</p>
<p>WRRB 19 – noted that the Pre-Blast survey is intended to protect large mammals from injury and impacts from blasting during TASR construction. A minimum distance for wildlife to be from blasting is not stated in the monitoring protocols, only that wildlife should be outside of the blast radius. The WRRB appreciates the use of boreal caribou collar data to mitigate impacts from the construction of the TASR (Appendix E); however, as there are very few collars on boreal caribou in the NWT, a minimum distance for wildlife to be from the blast should be stated to ensure that if wildlife are observed, they will be protected. If wildlife are observed within this distance, blasting will not occur. The WRRB recommended a 1km buffer be established, where blasting does not occur when wildlife are observed within it. Additionally, the Board recommends the buffer be expanded to 2km for caribou from 05 April – 15 July, which is when boreal caribou calve. Blasting should not commence until the caribou have naturally left the exclusion zone. These visual surveys are to take place in addition to the use of boreal caribou collar data, as outlined in Appendix D.</p>	<p>GNWT-INF responded that blasting will be one component of the near continual noise and activities associated with quarries, and will not necessarily be any louder than other noises from the quarry. Blasting will be used infrequently and can be a means of mitigating disturbance as it reduces reliance on heavy equipment for excavation. The focus is thus on avoiding harm to wildlife. The safe radius surrounding a blast will be specific to the blast. In some cases, this distance may be measured in tens of metres. The safe area around the blast will be the same for wildlife and humans. A commitment to an exclusion area extending 1 or 2 km into the forest could not be reliably implemented, as the dense forest in the area limits visibility to tens of metres. Appendix E outlines a very cautious approach for the calving season in that vegetation clearing or blasting would be suspended if collar data indicates that boreal caribou are within 3 km. Collar data would be re-evaluated every 24 hours to determine if they move out of this cautionary zone, at which point activities could resume.</p>	<p>See Board decision in relation to NSMA-9 for revision to WMMP for Pre-Blast details.</p>

	<p>However, Pre-Blasting Surveys have been updated in Appendix F to include a pilot study for thermal imaging technology.</p>	
<p>WRRB 20 – recommended the methods for Pre-Clearing surveys be updated to ensure the surveys happen within 48 hours of pre-clearing activities to ensure information gathered is able to fulfil the purpose of the survey.</p>	<p>The requested change was made to clarify that Pre-Clearing ground surveys will occur no more than 48 hours before clearing.</p>	<p>The Board notes that, Appendix F of Version 3.2 stated “Clearing is scheduled to occur between September and April in 2019/2020, and 2020/2021. While clearing is timed to avoid the migratory bird season, other wildlife will be present and active.” However, both Version 3.2. and 3.3 states to “avoid disturbance or destruction of bird nests and eggs by clearing land outside of the bird nesting and fledging season (May to mid-August); however, if vegetation clearing is required within this time, non-intrusive pre-clearing nest surveys will be completed and no-work zones will be observed where there is evidence of nesting. Through consultation with GNWT-ENR and ECCC, bird nests will be protected by a buffer that protects the nest while allowing construction to continue, and will be monitored. Details of nests identified and the mitigation will be included in the weekly wildlife monitoring reports” (Section 4.1.1). Considering that there is a chance that clearing could potentially occur during nesting season, recommend that the WMMP explicitly state the timelines associated with nest pre-clearing as well. It is not know whether 48 hours is sufficient in this case.</p> <p><b>The Engagement Plan must be revised to detail engagement with the TASR Corridor Working Group about nest pre-clearing timelines for the possible scenario where vegetation clearing may happen during the nesting period and the resulting</b></p>

		necessary revisions to the WMMP.*
<p>WRRB 21 - recommended section 5.1.7 Wildlife Incidents, as well as the Wildlife Incident Reporting Monitoring Protocol, be updated to include wildlife incidents and mortalities which need to be reported to ECCC as per the Migratory Birds Convention Act. This should include updating Section 3. Who to Contact of the Monitoring Protocol.</p>	<p>GNWT-INF noted that “Section 5.1.7 was revised to include incidents related to migratory birds. Includes damage or disturbance to nests or eggs”, however the Board notes that the only addition to the section is “Incidental take of migratory birds”.</p> <p>ECCC was added to the wildlife reporting form, however, only an email address is listed.</p>	<p><b>The WMMP’s Section 5.1.7 must explicitly include “incidents related to migratory birds. Includes damage or disturbance to nests or eggs, or bird mortalities”.</b></p>
<p>WRRB 22 - Traffic monitoring, as outlined in Section 5.2.1, is intended to occur indefinitely through the operational phase of the TASR and will be used to monitor if levels are staying within 50% of the maximum annual average predicted for the TASR. If vehicles numbers are above the 50% increase over a three-year period, program changes within the WMMP may need to be considered. Page 5-38 of the WMMP Version 3.2 states the predicated annual average daily traffic levels were 20-40 vehicles/day, and that a 50% increase in these levels is 40-80 vehicles/day. This amounts to a 100% increase. WRRB would like INF to update this section, to specify that a 50% increase to traffic levels from 20-40 vehicles a day to 30-60 vehicles a day will trigger review of WMMP programs (not 40-80 vehicles/day).</p>	<p>GNWT-INF noted that this section of the WMMP should have referred to a 100% increase predicted traffic levels, i.e. from 20-40 vehicles per day to 40-80 vehicles per day. Section 5.2.1 and Section 6.2 was revised.</p>	<p>EA conclusions were based on the prediction that traffic on the proposed road is estimated to be approximately 20-40 vehicles per day, however there were concerns with this estimate (e.g. from the REA: “the Review Board believes that the project’s contribution to climate change is likely not significant, partly because of the Project’s low predicted traffic levels. If the project’s emissions were predicted to be a much larger portion of the Northwest Territories’ total emissions, the Review Board may have reached other conclusions” and “parties are concerned that effects from traffic may have been underestimated by the developer”). It is unclear whether triggering review of WMMP at 100% is adequate.</p> <p><b>The Engagement Plan must be revised to detail engagement with the TASR Corridor Working Group that should a 50% increase in traffic levels from 20-40 vehicles a day to 30-60 vehicles a day occur revisions to any WMMP programs will be discussed.*</b></p> <p><b>GNWT must highlight this specific change from</b></p>

		previous text in the cover letter of the next version of the WMMP so that parties may consider it during the public review. Report traffic monitoring results in the Annual Report, as per therevised Schedule 1 (Annual Report Requirements) of Water Licence W2016L8-0001.
WRRB 23 – noted that the Proposed Approach and Temporal Scope for Section 5.2.2, Item iv) states that “GNWT-ENR will work with the Tli?cho? Government and WRRB to develop and implement a non-mandatory Aboriginal harvest monitoring and reporting program”. No timeline for the development or implementation of this plan, or a temporal scope of the program was stated. The WRRB recommended INF state a timeline for the development and implementation of this plan, as well as a temporal scope for the monitoring.	GNWT-INF noted that Section 5.2.2 updated to indicate that GNWT-ENR will continue to work with its co-management partners to develop the required monitoring and reporting program prior to the opening of the road. No timeline or temporal scope were provided.	<b>The Engagement Plan must be revised to specify discussions with the TASR Corridor Working Group about timelines and temporal scope for the development and implementation of a non-mandatory Aboriginal harvest monitoring and reporting program. *</b>
WRRB 25 - Weekly reports during the construction phase are listed as being submitted to “the GNWT, the NSI Environmental Manager, the Tli?cho? Government, the WLWB, ECCC, and other interested parties.” These reports will include pertinent wildlife information, including wildlife incidents, review or changes to WMMP mitigation, observations of Species of Concern or Species at Risk and wildlife mortalities. The WRRB requests its inclusion in the distribution list for the weekly reports.	WRRB has been added to distribution list for the weekly reports.	<b>WMMP must be revised to include WRRB in the distribution list for the Weekly Reports.</b>
WRRB 26 - One item listed in Section 6.2.2 which will trigger an immediate review of the WMMP	Section 6.2.2 was updated to define disturbance as "any activity that causes wildlife	The Board cannot confirm the adequacy of the added content but have confidence in WRRB and GNWT to

<p>mitigation is “destruction or disturbance of one bird nest, one roost site or hibernaculum, or one mammal den” during construction. Disturbance in this case is not specifically defined, and it is unclear if this would include the permitted movement of an active nest, or abandonment of an active nest by adult birds. The WRRB recommended INF update this section to clearly outline what kinds of disturbances to nests will trigger review of the WMMP mitigation.</p>	<p>to abandon or defend their nest, eggs, den or young other than those authorized by a regulatory agency.”</p>	<p>flag any issues in their final reviews.</p>
<p>WRRB 27 - The WRRB recommended Appendix C be updated to include contact information for ECCC as a regulator who will enforce the Migratory Birds Convention Act.</p>	<p>Appendix was not updated, as the Responsibility Hierarchy is specific to the Proponent, as per the WMMP Guidelines (in this case ENR is both a regulator and a proponent, but no other regulators are included).</p>	<p>The Appendix contains references to GNWT Renewable Resources Officer “regulator” to “enforce the Wildlife Act”. Therefore, this responsibility hierarchy is not only specific to the proponent.</p> <p><b>The contact info in the WMMP clearly differentiates the various parties, and must include any parties (e.g. wildlife regulators) that may need to be contacted.</b></p>
<p>WRRB 28 – noted that in Appendix D: Operating Procedure for Use of Boreal Caribou Collar Data to Mitigate Impacts from Construction outlines protections for collared boreal caribou while they are within the region. However, the vast majority of Boreal caribou in the NWT are not collared. The Use of Boreal Caribou Collar Data to Mitigate Impacts from The Construction of the TASR, as well as the Pre-Clearing Survey do not provide adequate protection for non-collared caribou. The Pre-clearing survey occurs 2 or more days prior to clearing. More than two days allows for a substantial amount of unobserved caribou</p>	<p>No changes were made. GNWT-INF noted that “the road, once in operation, will be a continual source of sensory disturbance to wildlife. Likewise, the road cannot be constructed without leading to some sensory disturbance. Wildlife quickly habituate to this, as evidenced by the frequency that bison are observed on Highway 3. This sensory disturbance will provide wildlife with ample warning as they approach the road, so they will not be surprised when they encounter it. The primary objective is to reduce the risk of harm to wildlife, and the proposed monitoring and mitigation provides a</p>	<p><b>The buffer distances must be included in a revised WMMP as per WRRB recommendation.</b></p>

<p>movement in the area. Additionally, maps are only provided every two days to project staff, which may allow for a great deal of caribou movement and, therefore, uncertainty in their current location. The WRRB recommended that Appendix D be modified so that the buffer distance around collared boreal caribou be increased to 4km from 2km for the late-winter period and to 6km from 3km for the calving period, which will provide residual protection to non-collared caribou by the collared animals, as well as protect collared caribou who may have moved.</p>	<p>precautionary approach to doing so.”</p>	
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Table 2. Revisions required to address WRRB’s August 19 Recommendations

WRRB Recommendation (August 19)	GNWT-INF Response (August 20)	WLWB Decision
<p>1. GNWT-INF provide confirmation that the following information detailed in the WMMP will be provided to the WRRB as it becomes available:</p> <ul style="list-style-type: none"> <li>i. Methods and dust suppression techniques used throughout construction (Section 4.2.1);</li> <li>ii. Results of the modelling of impacts from construction and operation of the TASR on ṫdzı (Section 5.2.3);</li> <li>iii. Methods for determining ṫdzı abundance in the NT1 range (Section 5.2.3);</li> <li>iv. Information on the “wildlife watch program” once it is developed (Section 5.2.6);</li> <li>v. Methods to assess predator population densities, movements, and predation rates (Section 5.2.7);</li> <li>vi. Results of the thermal imaging pilot study (Section 6.2.2);</li> <li>vii. Ṫdzı collar updates according to the schedule outlines in Table 1 of Appendix D. Additionally, collar maps should be provided on a weekly basis during the “less sensitive periods” (Appendix D); and,</li> <li>viii. Weekly updates from the Project Company regarding location and types of activities taking place during construction (Appendix D).</li> </ul>	<ul style="list-style-type: none"> <li>i. Methods and triggers for dust suppression are provided in Section 4.2.1 of the WMMP.</li> <li>ii. This information will be shared with WRRB when it is available.</li> <li>iii. Methods will be provided to the WRRB when they are developed, and the WRRB will have the opportunity to review the associated wildlife research permit applications.</li> <li>iv. The outcome of the GNWT inter-departmental working group for the wildlife collision and sighting reporting system for GNWT will be shared with the WRRB when it is available.</li> <li>v. This information will be provided to WRRB when it is available, and the WRRB will have the opportunity to review the associated wildlife research permit applications.</li> <li>vi. Appendix F page F-26 clarifies that a summary of all surveys completed will be included in the Annual Report which will be provided to the WRRB, with a recommendation for the continued use of thermal imaging devices.</li> <li>vii. Collar maps can be requested from the GNWT Department of Environment and Natural Resources.</li> <li>viii. A schedule of construction activities was provided to the WLWB public registry for W2016L8-0001 on 29 July 2019. Section 6.1.1 of the WMMP confirms that construction and monitoring activities for the upcoming week will be provided in the WMMP Weekly Reports.</li> </ul>	<p><b>The WMMP be revised to specify that each of these topics (1i-viii) will be included in the Weekly Reports once information becomes available.</b></p> <p><b>The Engagement Plan be revised to specify that each of these topics (1i-viii) will be discussed with the TASR Corridor Working Group. *</b></p>
<p>2. The WRRB recommends the Engagement Plan be revised to include the following items</p>	<ul style="list-style-type: none"> <li>i. Wildlife incidents are already included as a trigger for engagement in the Engagement Plan. Further, incident</li> </ul>	<p><b>The Engagement Plan be revised to specify that each of these topics (2i-</b></p>

<p>which are to be brought to the Corridor Working Group in order to discuss revisions to the WMMP to ensure that wildlife is being adaptively managed:</p> <ul style="list-style-type: none"> <li>i. Any wildlife incidents that may occur, including any information regarding nest pre-clearing timelines;</li> <li>ii. Traffic levels exceeding the threshold of 50%, i.e. 20-40 vehicles a day to 30-60 vehicles a day occur; and,</li> <li>iii. Timelines and temporal scope for the development and implementation of a non-mandatory Aboriginal harvest monitoring and reporting program.</li> </ul>	<p>reports will be provided to all parties to the Corridor Working Group through the Weekly Reports. It will be up to the Corridor Working Group to decide upon the agenda for each meeting, but this information can be made available. Regardless, reporting of nest pre-clearing timelines will be similarly considered for the next revision of the Engagement Plan.</p> <ul style="list-style-type: none"> <li>ii. This information will be provided in the WMMP Annual Report. It will be up to the Corridor Working Group to decide upon the agenda for each meeting, but this information can be provided. Regardless, this suggestion will be considered for the next revision of the Engagement Plan.</li> <li>iii. This information will be brought to the Corridor Working Group, but may not be appropriate content for the Engagement Plan as the primary responsibility for this task lies with the Tlicho Government.</li> </ul>	<p><b>iii) will be discussed with the TASR Corridor Working Group. *</b></p> <p>The Board notes in response to GNWT-INF's comment: "It will be up to the Corridor Working Group to decide upon the agenda for each meeting", that compliance with the Engagement Plan is required, and as such, it is expected that any of the topics added as triggers for discussion are required to be addressed.</p>
<p>3. Throughout the WMMP t̄qdz̄i, ded̄i, and ej̄e are consistently listed as the large mammals of concern. The WRRB would like this list updated to include <i>Sah Dez̄q̄</i> (black bear), <i>D̄iga</i> (wolf) and <i>N̄q̄gha</i> (wolverine). It should be noted that these large mammals and furbearers are not the only species of concern. All species contribute to a healthy and functioning ecosystem.</p>	<p>These species were identified through consultation and confirmed through the environmental assessment and all WMMP review to date. The WMMP does not exclude any wildlife from monitoring, but these species were highlighted through engagement as the species most likely to be observed and to require a response through the WMMP. This clarification will be included in the next revision of the WMMP.</p>	<p><b>The WMMP be revised to clarify that the WMMP does not exclude any wildlife from monitoring.</b></p> <p><b>The Engagement Plan be revised to specify this topic will be discussed with the TASR Corridor Working Group at its next meeting. *</b></p>
<p>4. The WRRB requests that wording regarding undisturbed habitat in Wek'èezh̄i as a limiting factor read: "Undisturbed habitat in the Wek'èezh̄i region may be limiting, as it is already above or near the 35% disturbance threshold" (Section 2.8.1).</p>	<p>The most recent analysis indicates that disturbance within the Wek'èezh̄i area of the NT1 range is approximately 34%. The specific wording of this section will be reviewed in the next revision of the WMMP.</p>	<p><b>The WMMP be revised with the following text:</b></p> <p><b>"Undisturbed habitat in the Wek'èezh̄i region may be limiting, as it is already near or above the 35% disturbance threshold".</b></p>

<p>5. Training should be provided to workers on preventing white nose syndrome in bats. White nose syndrome has not yet been documented in the Northwest Territories, however the Board requests that all precautions be taken to ensure this remains the case (Section 4.1.1).</p>	<p>The Draft Management Plan for Bats in the NWT suggests that the most effective mitigation is to manage human access to hibernacula. Access should only be permitted with a Wildlife Research Permit, and proper decontamination procedures should be followed. While hibernacula locations are not published to ensure their protection, there are no known bat hibernacula in the North Slave region, and the Tlichio Road area does not contain the karst habitat used by bats for hibernacula. In the unlikely event that a hibernacula is discovered near the Tlichio Road, the area will be reported to ENR and appropriate protection will be implemented. This reporting to ENR will be added to the next version of the WMMP. Training of staff will not offer further protection to bats, as staff training is already extensive and this information is unlikely to be retained, particularly if there are no known hibernacula in the area and any discovered will be protected by an appropriate buffer and the location will not be published.</p>	<p><b>The WMMP be revised to specify that if a bat hibernaculum is discovered, its discovery will be reported in the Weekly Reports and the WMMP be revised to detail plans for future precautions.</b></p>
<p>6. Related to migratory birds, the bullet point should be revised to read, "Incidents related to migratory birds including, damage or disturbance to nests or eggs, or bird mortalities (Section 5.1.7).</p>	<p>This suggested change is an improvement to the current text. This change will be made in the next revision of the WMMP.</p>	<p><b>The WMMP's Section 5.1.7 must explicitly include "incidents related to migratory birds. Includes damage or disturbance to nests or eggs, or bird mortalities".</b></p>
<p>7. The WRRB requests that the results of the traffic monitoring be included in the WMMP annual report (Section 5.2.1).</p>	<p>This will be added to the content of the WMMP annual report (Section 6.1.2).</p>	<p><b>As described in response to WRRB-22 (Table 1), GNWT-INF is to report traffic monitoring results in the Annual Report, as per the revised Schedule 1 (Annual Report Requirements) of Water Licence W2016L8-0001.</b></p>
<p>8. To ensure that Appendix C is complete, all wildlife regulators should be listed; therefore, contact information for ECCC, who will enforce the Migratory Birds Convention Act, should be</p>	<p>Regulators have responsibilities to enforce their legislation, but are not responsible for Project implementation. The next revision of the WMMP will include a revised Responsibility Hierarchy that reflects the requirements of the Wildlife</p>	<p><b>The WMMP be revised to include updated contact information.</b></p>

included (Appendix C).	Management and Monitoring Plan Guidelines, including updated contact information.	
9. An oversight committee is mentioned; the WRRB would like more information on this committee, who is involved, and its role and mandate (Appendix D).	The oversight committee referred to is the Corridor Working Group, and this will be clarified in the next revision of Appendix D	<b>The WMMP be revised so any instances of the “oversight committee” are changed to the “TASR Corridor Working Group”.</b>
10. It is the WRRB’s understanding that Appendix D describes actions to be taken based on ṫqḋż collar data during all construction activities, and that these actions are complementary to monitoring protocols outlined in Appendix F. The Board acknowledges that access to collar data could simplify construction activity decisions but would like to emphasize that the vast majority of ṫqḋż in the Northwest Territories are not collared, and that collared ṫqḋż are often indicative of other individuals in an area. As the monitoring protocols, outlined in Appendix F, do not cover the entirety of the cautionary zones identified in Appendix D, the collar data and monitoring protocols do not provide adequate consideration for noncollared ṫqḋż. Additionally, uncertainty is added to the protocols outlined in Appendix D given that collar maps are only provided to project staff every 48 hours and ṫqḋż can move substantially in this timeframe. Specific to blasting, the Board understands that, as outlined in Appendix D, blasting will be delayed if “within the last 48 hours collared ṫqḋż are within 2 km of an area where blasting will occur, and fresh signs of ṫqḋż are found within 500 m of the blast site. Blasting is to proceed once no caribou are found or seen within 500 m.” Based on our understanding of the above,	<ul style="list-style-type: none"> <li>i. This will be confirmed in the next revision of Appendix D.</li> <li>ii. The buffers of 2 km for the late-winter period and 3 km for the calving period are considered conservative buffers for limiting effects from human disturbance on boreal caribou based on the following information. Environment Canada (2011) demonstrated that boreal caribou avoidance is captured within a 500 m buffer around anthropogenic features. Dyer et al. (2001) noted that boreal caribou had maximum avoidance distances of 1,000 m from oil and gas wells and 250 m from roads. Similarly, Leblond et al. (2011) noted that boreal caribou avoided active roads by 1.25 km and Johnson et al. (2015) noted an avoidance distance of 1.8 km from roads. Polfus et al. (2011) also note that caribou avoid high use roads by approximately 2 km. The WRRB should note also the updated Pre-Clearing Wildlife Survey (Section 5.1.6), which confirms that a survey for wildlife will precede vegetation clearing by 48 hours (similar to the Late-Winter protocol). This revision made to Version 3.3 of the WMMP should provide the WRRB with confidence that construction methods will be respectful of caribou.</li> <li>iii. The change to the Pre-Clearing Wildlife Surveys mentioned above already provides late-winter level protection to boreal caribou during the summer, fall, and early to mid-winter seasons. While it is agreed that</li> </ul>	<b>The Board recognizes the importance of the Traditional Knowledge that has supported the WRRB’s recommendations, and requires the WMMP be revised to reflect WRRB recommendations.</b>

<p>the WRRB recommends for all construction activities:</p> <ul style="list-style-type: none"> <li>i. It be made clear that activities identified in Table 1 are to be completed in addition to all other surveys, visual or otherwise, being conducted as part of the WMMP (Appendix D);</li> <li>ii. The cautionary (buffer) zone around collared t̄qdz̄i be increased to 4km from 2km for the late-winter period, and to 6km from 3km for the calving period, which should provide residual protection to non-collared t̄qdz̄i by the collared animals, as well as protect collared t̄qdz̄i who may have moved (Appendix D);</li> <li>iii. As per the Board's T̄iç̄ h̄q̄ Knowledge study on <i>T̄qdz̄i and the State of Their Habitat</i>, all habitat is important for the health of t̄qdz̄i. As such, the precautions set out in late winter should also be taken during the summer, fall, and early to mid-winter seasons (Appendix D);</li> <li>iv. As collar data cannot be relied upon to identify all calving t̄qdz̄i, visual surveys should occur during calving season, and be identified in Table 1 (Appendix D); and,</li> <li>v. Specific to blasting, a 500m survey, looking for fresh signs of t̄qdz̄i and all other large mammals, should <i>always</i> be conducted prior to blasting (Appendix D and Appendix F).</li> </ul>	<p>all habitat is important to the health of caribou., the sensitive seasons were defined based on daily movement rates in the Status Report for Boreal Caribou (Species at Risk Committee 2012) and considering that it is easier for caribou to move away from disturbance during the summer, fall, and early to mid-winter seasons. Furthermore, Measure 10-2, Part 2 requires that construction activities consider sensitive periods for wildlife. Considering this requirement and the consensus that this approach has gained through the environmental assessment and recent review through the Wek'èezhìi Land and Water Board, any changes to Appendix D would require more justification and consultation with other parties.</p> <ul style="list-style-type: none"> <li>iv. The Wildlife Pre-Clearing Survey (Section 5.1.6 and Appendix F page F-20) already require visual surveys prior to any vegetation clearing. The Pre-Blasting Survey (Section 5.1.5 and Appendix F page F-16) already requires visual surveys for wildlife before blasting.</li> <li>v. This request would require that an area of 78.5 hectares would have to be searched on foot for sign prior to each blast. Blasts are highly controlled to avoid flyrock (as the blasted material is highly valuable) and are preceded by days of drilling and heavy equipment activity that will deter wildlife away prior to the blast. As described in the responses to the recent review by of the WMMP by the WLWB, blasting is not necessarily louder than drilling, is of a very short duration, and helps reduce overall disturbance by reducing the need for excavation. GNWT-INF proposes that the recent update to the Pre-Blast Survey procedure, which includes use of thermal imaging devices and a pilot study to test their usefulness to detect caribou may</li> </ul>	
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	<p>help to improve detection of animals. The WRRB is invited by GNWT-INF for a tour of drilling and blasting operations, either on the Tlicho All-Season Road or at other GNWT-INF locations. We are confident that this tour will address WRRB concerns regarding the impacts of blasting.</p>	
<p>11. ECCC has provided 2 contact emails through their comment #20. So far, only one of those emails have been added. The WRRB asks that the Environmental Protection Operations Division and the Canadian Wildlife Service (<a href="mailto:ec.eenordrpntnoeanorthpnrnwt.ec@canada.ca">ec.eenordrpntnoeanorthpnrnwt.ec@canada.ca</a>) be included (Appendix F).</p>	<p>The Project prefers to have a single point of contact for ECCC.</p>	<p><b>It is essential that staff responsible for implementing the WMMP understand that ECCC should be contacted for advice in all situations related to migratory birds, and that all incidents involving migratory birds are reported to ECCC. It is also important that the appropriate contact information is available to these staff depending on the situation (i.e., enforcement vs. protection). This must be made clear in all relevant sections and appendices of the WMMP.</b></p> <p><b>Given that the Federal Department with the responsibility for wildlife has requested contact for different Divisions at two email addresses, the WLWB requires the WMMP be revised to include the two email addresses provided by ECCC.</b></p>
<p>12. It is not appropriate for the WRRB to be involved in pre-selecting a potential hunter to harvest bear(s) from their den. The Board asks that this task be left to Tlicho Government but would like to be notified if</p>	<p>This change will be made in the next revision of the WMMP.</p>	<p><b>The WMMP be revised to specify that the Tlicho Government will be involved in pre-selecting a potential hunter to harvest bear(s), that the notification of this activity, and</b></p>

this activity occurs, and the mitigation measures that were attempted up to that point in time (Appendix F).		<b>mitigation measures attempted up to that point in time, be provided in the Weekly Reports.</b>
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### 3.2 Engagement Plan and Engagement Record

The Engagement Plan identifies the potentially affected Parties, the methods that GNWT-INF uses to engage, and how GNWT-INF will engage over the course of the project. In the Board's May 30, 2019 Reasons for Decision, the Board did not approve Version 1.0 of the Engagement Plan and required GNWT-INF to submit Version 1.1 of the Engagement Plan, along with an updated Engagement Record, for Board approval 90 days prior to Construction.<sup>18</sup> On July 15, 2019, GNWT-INF submitted Version 1.1 of the Engagement Plan. On July 23, 2019, Board staff advised GNWT-INF that the Engagement Plan did not conform with the Board's May 30<sup>th</sup> direction. On August 13, 2019, GNWT-INF submitted a revised Version 1.1 of the Engagement Plan and an Engagement Record.<sup>19</sup> The Board has approved the Engagement Plan.

➤ ***Decision #4: The Board approves Version 1.1 of the Engagement Plan and Engagement Record.***

While the GNWT-INF have submitted an Engagement Plan that satisfies the Board's previous direction, there are many triggers in different locations throughout the Plan that will make it difficult to track what engagement is upcoming and what engagement should have been completed. Table 3 identifies revisions that GNWT-INF has made in Version 1.1 that must be added as engagement triggers in Version 1.2 of the Engagement Plan. Where the Board has found that GNWT-INF satisfied the requirements outlined in the May 30<sup>th</sup> Reasons for Decision, those items have not been included in Table 3 because it is the Board's view that, based on the record in this proceeding, that no additional explanation is required.

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<sup>18</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>19</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Engagement Plan - Version 1.1 - Aug 12 19.pdf](#)

Table 3: Board’s May 30th Directives and Revisions to the Engagement Plan

<p><b>The Board’s direction as per the WLWB’s May 30 Reasons for Decision</b></p>	<p><b>Revisions in Version 1.1 of the Engagement Plan that must be added as engagement triggers in Version 1.2 of the Engagement Plan</b></p>
<p>The Board required the GNWT-INF to include the commitments included in Table 1 (pg.12 of the Reasons for Decision) in Version 1.1 of the Engagement Plan:</p> <p>Update the Engagement Plan to reflect the parties invited to participate in the Tlicho All-Season Road Corridor Working Group, and that funding for participation in the Tlicho ASR Corridor Working Group will be finalized in the Tlicho ASR Corridor Working Group Terms of Reference. (NSMA comment 1)</p> <p>Details regarding how GNWT-INF will engage on the Camp 2 location, water crossings, and cultural heritage issues. (TG comment 26)</p> <p>Details regarding engagement to ensure local people are able to recover harvested trees during construction. (TG comment 27)</p> <p>Details regarding engagement with the TG – DCLP for inspection of the proposed land use area. (TG comment 30)</p> <p>Details regarding engagement with the TG – DCLP, CGB, and CGW prior to the commencement of the land use operation. (TG comment 31)</p> <p>Details regarding engagement with the TG – DCLP, prior to the completion of the land-use operation, to discuss: (a) the plan for removal or storage of equipment and materials; and (b) when final cleanup and reclamation of the land used will be completed. (TG</p>	<p>Section 3.2.4 ‘Workshops and the Tlicho ASR Corridor Working Group’ has had text added to reflect the establishment of the Tlicho All-season road corridor working group.</p> <p>The following text was added to section 3.2.5 ‘Tlicho Government Engagement’:</p> <p>“NSI will meet with TG to discuss the Camp 2 location and water sources of the as part of initial mobilization and confirmation of site conditions.”</p> <p>Section 3.2.5 ‘Tlicho Government Engagement’ has been added to the Plan which addresses this comment.</p> <p>Section 3.2.5 ‘Tlicho Government Engagement’ has been added to the Plan which addresses this comment.</p> <p>Section 3.2.5 ‘Tlicho Government Engagement’ has been added to the Plan which addresses this comment.</p> <p>Section 3.2.5 ‘Tlicho Government Engagement’ has been added to the Plan which addresses this comment.</p>

<p>comment 32)</p> <p>Details regarding engagement with the TG – DCLP when a suspected archaeological or historical site, or burial ground is discovered. (TG comment 33)</p> <p>Details regarding engagement with the TG – DCLP prior to any new land disturbance, to identify if an Archaeological Impact Assessment of the sites where disturbance is planned. (TG comment 34)</p>	<p>Section 3.2.5 ‘Tlicho Government Engagement’ has been added to the Plan which addresses this comment.</p> <p>Section 3.2.5 ‘Tlicho Government Engagement’ has been added to the Plan which addresses this comment.</p>
<p>The Board requires that the GNWT-INF include details of planned discussions with the Tlicho Government regarding closure of access roads, prior to site reclamation, in their Engagement Plan.</p>	<p>The following text was included in section 4.1 ‘Planned Engagement’:</p> <p>“NSI is working with Zabey Nevitt and the Director of the Department of Culture and Lands Protection to agree on an effective communication plan that will be used to address triggers such as road closures, camp access issues, community info bulletins, information sessions, etc. Once finalized, TG will share the communication plan with community members. Appendix D provides a copy of a timeline and implantation strategy.”</p>
<p>The Board requires that the GNWT-INF include details of planned discussions with the Tlicho Government regarding quarries on Tlicho Lands, in their Engagement Plan.</p>	<p>Appendix B contains engagement between GNWT and the TG regarding the Tlicho quarries. The following text was added to section 3.2.5 ‘Tlicho Government Engagement’:</p> <p>“The Tlicho Government will be engaged in terms of the Tlicho Quarries. Any engagement will be documented in the Engagement Record (see Appendix B).”</p>

During the review of the Wildlife Monitoring and Management Plan, the Board also identified several required revisions to the Engagement Plan, as identified in section 3.1 of the Reasons for Decision. The WRRB's recommendations also identify required revisions to the Engagement Plan. The Board requires the GNWT-INF to incorporate the engagement triggers identified in Table 1, Table 2, and Table 3, into Version 1.2 of its Engagement Plan and submit this revised version to the Board within 30 days following this decision.

- ***Decision #5: The Board directs GNWT-INF to submit Version 1.2 of the Engagement Plan to the Board within 30 days of the Board's decision, which must include the engagement triggers identified in Tables 1, 2, and 3 of the Board's decision.***

### **3.3 Waste Management Plan and Incinerator Management Plan**

The Waste Management Plan provides an overview of waste types, waste management facilities, and how waste is managed as part of the TASR project. In the Board's May 30, 2019 Reasons for Decision, the Board did not approve Version 1.0 of the Waste Management Plan and required GNWT-INF to submit Version 1.1 of the Waste Management Plan 90 days prior to Construction.<sup>20</sup> On July 15, 2019, GNWT-INF submitted Version 1.1 of the Waste Management Plan. On July 23, 2019, Board staff communicated with GNWT-INF that the Waste Management Plan did not conform with the Board's May 30<sup>th</sup> direction. On August 13, 2019, GNWT-INF submitted a revised Version 1.1 of the Waste Management Plan.<sup>21</sup>

#### **3.3.1 On-site Disposal at Main Camps as Primary Sewage Management Option**

Version 1.1 of the Waste Management Plan states that "Sewage waste generated from camp facilities and onsite portable washrooms will be hauled to Behchokò for the initial months of construction and then managed on site with a sewage lagoon constructed near the camp site. The design, location and operational details of the sewage disposal lagoon will be in accordance with the written authorization of the Inspector". This is a marked departure from the original plan for sewage from the TASR construction to be transported to community sewage disposal facilities.

For example, the following excerpts from the Report of EA<sup>22</sup>:

- On page 9: "Sewage and greywater from the camps will either be: collected in sewage holding tanks and transported to Behchokò or Whatì for appropriate disposal; deposited into sumps<sup>2</sup> (pending approval by an Inspector); or, for the smaller camps, deposited onto the land (pending approval by an Inspector).

<sup>2</sup>All sewage from larger camps will be collected in holding tanks and transported to a community for disposal."

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<sup>20</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>21</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Waste Management Plan - Version 1.1 - Aug 12 19.pdf](#)

<sup>22</sup> See Mackenzie Valley Review Board Public Registry for [Report of Environmental Assessment and Reasons for Decision](#)

- On pg. 84: “The developer originally anticipated that it would have a single 150-person camp in operation at any given time. However, the developer later stated that depending on the P3 operator, the preference may be to have multiple, smaller camps. It is not expected that these camps will be on Community Government of Whatì lands (PR#110 p1-10). The developer also said that depending on the status of the sewage updates in Whatì, as well as the P3 operator’s chosen location and configuration of camps during the construction phase, sewage from larger camps may be diverted to the sewage treatment facility in Whatì. Greywater and sewage from smaller camps may be deposited into sumps or onto the land (pending on Inspector approval), and greywater from larger camps may use sumps (pending on Inspector approval)”.
- Appendix D, GNWT Commitment #6: “Sewage waste generated from large camp construction/use will be stored in a leak-free container before being transported to an approved disposal facility to avoid impacting fish and fish habitat”

Regarding the differentiation between “large camp” and “small camp”. The Report of EA states that (pg. 8):

*The developer expects that two or three large temporary camps will be located along the Project route and that at most two camps would be operational at any one time (PR#7 pii; PR#110 p1-10). These 150-person camps would be located at borrow source locations to reduce the Project’s disturbance footprint. In its Adequacy Statement Response, the developer indicated that the number and type of camps may change depending on the contractor used for road construction. There is the possibility that camps may be located on Th̄chq̄ lands (PR#110 p1-10). 1 In addition to the large camps, smaller camps may also be needed during construction. These would also be located in existing disturbed areas, for example, in borrow sources or in the road right-of-way.*

The post-EA Water Licence Application<sup>23</sup> to the WLWB, stated the following:

*Sewage will be transported off site by means of a tandem or off road LGP vacuum truck to a licenced facility. Sewage from camps will be collected in a sewage lift station fitted with floats, switches and then transferred with a macerating pump to a larger holding tank that will be heated and insulated. Tanks on the transport vehicles will be watertight, baffled tanks and will be maintained to the manufacturer’s specifications to ensure dependable performance. On-site Sewage lagoons or treatment systems may also be used as a contingency. Details are included in the Waste Management Plan provided with this application.*

While the Waste Management Plan (Section 6.2.2)<sup>24</sup> submitted with the Water Licence Application added that:

*...Sewage from camps will be transported to municipal lagoons, such as Behchok̄ or Whatì if capacity in their systems is available. Other options may include the use of onsite lagoons or site specific treatment systems, such as leaching field, pending approval from an Inspector. In all*

<sup>23</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - WL Application - Jan 8 19.pdf](#)

<sup>24</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Waste Management Plan - Jan 8 19.pdf](#)

cases, NSI will ensure camp sewage is managed according to applicable regulations and guidelines subject to permitting. The Community Government of Behchokò has indicated that they are able to perform sewage removal services (GNWT-INF 2016 Appendix O). Any licensed carrier may be used. NSI will ensure that heated, insulated and bermed effluent watertight storage tanks are installed within the temporary construction camps located within a borrow source. Up to three camps will be installed over the course of the Project. One at the start of the road alignment, another at the mid-way point and one at the end of the alignment. Each camp will have a sufficient number of tanks to store sewage generated -for up to 5 days in the event of adverse weather conditions. The tanks will be situated in low traffic areas or be provided with collision protection. The tanks must be located at least 30 m away from water bodies. It is estimated that 675 m<sup>3</sup> of sewage will be produced monthly based on full camp capacity.

In licensing, the Board considered the general statement that GNWT-INF made in their Application Cover Letter<sup>25</sup> that “various options for sewage disposal are under consideration, including removal to a community sewage lagoon, on-site lagoons or sewage treatment plants”, as described in Section 6.7.5 of the Board’s Reasons for Decision that state:

*The Waste Management Plan states that Sewage may be disposed of in “onsite lagoons or site-specific treatment systems, such as a leaching field, pending approval from an Inspector.” ECCC commented that any onsite disposal of sewage should be planned and implemented in such a way as to prevent the deposit or potential deposit of any deleterious substances to waters frequented by fish (ECCC comment 5). Decision: The Board require the GNWT-INF to include their response to ECCC comment 5 in the appropriate section of Version 1.1 of the Waste Management Plan: “Sewage, including greywater, management will be such that no material is deposited within 100 m of a water body or to a drainage area that leads to a waterbody. Onsite lagoons or site-specific treatment systems will be monitored daily to ensure they are functioning correctly. A vendor review will be completed for any waste haulers to ensure equipment and training requirements are adequate. Vendor performance will be monitored on a regular basis.” Decision: In consideration of GNWT-INF’s response to ECCC comment 5, the Board also requires the GNWT-INF to remove “pending approval from an Inspector” to the sentence in Section 6.2.2, paragraph 2 of the Waste Management Plan and add, “any onsite sewage disposal facilities will be located in accordance with written authorization from an Inspector” to clarify that authorization must be obtained in writing.*

While the Board’s Preliminary Screening Report Form<sup>26</sup> did note the addition of the concept that “Sewage disposal may now include removal to community sewage lagoon, on-site lagoons, or treatment plants” to the Project Description, on-site sewage treatment at the main camps was not considered given that the Application and Waste Management Plan detailed that disposal in the communities was

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<sup>25</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - WL Application - Cover Letter - Jan 8 19.pdf](#)

<sup>26</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Preliminary Screening - May 30 19.pdf](#)

the primary method with onsite disposal as a contingency option. Because of this, no conditions were included in the Licence or Permit regarding the construction or operation of a sewage lagoon.

- ***Decision #6: The Board does not consider the impacts of on-site sewage treatment to have been contemplated as the primary method of treatment at the main camps in the Preliminary Screening and Licensing for TASR Construction.***

Typically, Water Licences would contain conditions regarding the design, construction, and operations for waste management facilities such as a sewage lagoon. For example, all four of the Tlicho Water Licences (Behchoko,<sup>27</sup> Gameti,<sup>28</sup> Wekweeti,<sup>29</sup> and Whati<sup>30</sup>) contain a definition for “Sewage Disposal Facility” which “comprises the areas and engineered structures designed to contain Sewage”, and have associated conditions for the design, construction, operation, and closure of those facilities. The authority of the Board to regulate such an activity is not ordinarily delegated to the Inspector, nor was it the Board’s intention to do so in this case. The condition of the Licence that authorized sewage disposal based on written authorization from an Inspector, was included to allow the construction and use of sumps. The Board acknowledges that its Reasons for Decision and the Licence could have included additional clarity that an on-site sewage lagoon at the larger camp(s) has not been authorized.

- ***Decision #7: The Board has not delegated its authority to the Inspector for the construction and operation of a sewage lagoon at the main camps as primary treatment in the Licence.***
- ***Decision #8: The Board requires GNWT-INF to remove the statement “The design, location and operational details of the sewage disposal lagoon will be in accordance with the written authorization of the Inspector” from its Waste Management Plan during the preparation of the next Version.***

In a meeting between Board staff, GNWT-INF staff, North Star Infrastructure (NSI) staff, and Inspectors on June 12, 2019, GNWT-INF explained that they were contemplating a change in sewage management at the main camps from community disposal to on-site treatment. Board staff advised that it was their understanding that the Licence did not authorize on-site sewage treatment at the main camps as the primary option and informed GNWT-INF that further discussions should occur if this were the eventual chosen method. Follow-up discussions with the TASR project team confirmed the intention to treat on site, and Board staff advised that a Water Licence Amendment would be required to ensure the appropriate public review took place and any necessary conditions could be included in the Water Licence.

The Board emphasizes that, in this case, the issue of uncertainty regarding whether an on-site sewage lagoon at the main camps is authorized is a result of the GNWT-INF’s decision following issuance of the Licence to change their sewage management for the TASR project.

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<sup>27</sup> See WLWB Online Registry for [W2014L3-0002 - Behchoko - Water Licence - Rectification of Clerical Errors - Jul 24 15.pdf](#)

<sup>28</sup> See WLWB Online Registry for [Gameti - Type B Water Licence - Dec 21 18.pdf](#)

<sup>29</sup> See WLWB Online Registry for [Wekweeti - Type B Water Licence Renewal - Water Licence and SNP - Sep 22 17.pdf](#)

<sup>30</sup> See WLWB Online Registry for [W2017L3-0002 - Whati - Type B Water Licence Renewal - Water Licence and SNP - Sep 22 17.pdf](#)

The Board has received written confirmation that submission of a Water Licence Amendment Application is imminent.<sup>31</sup>

- ***Decision #9: The Board is, not at this time, approving on-site sewage treatment as the primary option for the main camps, as described in Version 1.1. of the Waste Management Plan. The Board will consider an Amendment application, once filed, to address the design, construction, operation, and closure of a treatment facility at the main camp(s).***

### **3.3.2 Incineration Management Plan**

In the Board's May 30, 2019 Reasons for Decision, the Board approved the Incinerator Management Plan, and directed GNWT-INF to revise the Plan and to submit it as an appendix or chapter in Version 1.1 of the Waste Management Plan.<sup>32</sup>

- ***Decision #10: The Board approves Version 1.1 of the Waste Management Plan.***

### **3.4 Fish and Fish Habitat Protection Plan**

The FFHP) describes how GNWT-INF intends to manage fish and fish habitat, particularly in regards to water quality and proposed water crossings. In the Board's May 30, 2019 Reasons for Decision, the Board did not approve Version 1.0 of the FFHPP and included Part H, Condition 3 in the Water Licence, requiring GNWT-INF to submit the FFHPP to the Board for approval at least 90 days before Construction.<sup>33</sup> Board, GNWT-INF, Fisheries and Oceans Canada (DFO), and NSI staff had several phone calls to discuss this submission prior to receiving Version 1.1 of the FFHPP, which GNWT-INF submitted on August 13, 2019.<sup>34</sup>

The TASR Project's road alignment crosses 17 water bodies, 12 of which have ephemeral or intermittent flow, and five with permanent flow. In the public review for the GNWT-INF's authorizations for TASR, DFO stated (in regard to the FFHPP) that Watercourse crossings (specifically culverts) need to be designed to pass all fishes that use the Watercourse. The Board subsequently included a requirement in Schedule 4, Condition 2(e), for GNWT-INF to provide the baseline data and calculations used to inform the sizing of culverts that will be constructed in fish-bearing streams, to ensure that they provide passage for all fish.<sup>35</sup>

DFO submitted a letter to Board staff on August 13, 2019, correcting information they had previously provided, and to request the Board change the above condition from the Board's May 30<sup>th</sup> directives.<sup>36</sup> DFO noted that GNWT-INF's assessment of fish presence suggests that providing passage to all fish does

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<sup>31</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Letter from GNWT-INF Confirming Forthcoming WL Amendment- Aug 21 19](#)

<sup>32</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>33</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>34</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Fish and Fish Habitat Protection Plan - Version 1.1 - Aug 13 19.pdf](#)

<sup>35</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>36</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Notification - DFO Request to Amend one Condition - Aug 13 19.pdf](#)

not provide additional benefits to fish and fish habitats, as the species in question are those that do not require passage (i.e. migration) to complete their lifecycle. DFO stated they were of the opinion that there will be no effect on the populations of small-bodied fish if the requirement for passage of all fish species at the 12 crossings (those with intermittent flow), is changed to specify all CRA fish.

DFO stated that they hoped the Board would be able to adjust their previous decision, as the Licence Condition puts “undue hardship on the Proponent in terms of the cost and design, and delay(s) the construction without any tangible benefit to the fish and fish habitat”. DFO further stated that “exponential increase of the cost of the crossings on the intermittent and ephemeral watercourses would possibly make this Project economically unfeasible”. DFO requested that the Board reconsider its decision and change the condition to “provide passage for all fish that are subject to commercial, recreational and aboriginal fisheries”, rather than “provide passage for all fish”. DFO also provided a supporting table, highlighting the considerable increase in culverts required to provide passage for all fish compared with only sport fish species.

The FFHPP also contained a letter from DFO, stating that as there are no *Species at Risk Act* (SARA) species or their habitats identified in the project area, no additional approvals under SARA will be required. DFO also identified mitigation measures for GNWT-INF to follow to avoid the potential for serious harm to fish:

- Maintain 100% of downstream flows at all times during the project, if applicable;
- No in-water works can be undertaken until fish are removed from the instream work area, if applicable. Measures must be taken to ensure that fish cannot re-enter the work area. Any breaching of an isolated work area where fish have been removed will require an additional fish salvage/rescue; and
- Fish rescue activities should be undertaken by qualified professionals using appropriate techniques and gear suited to the site conditions present at the time of rescue.

DFO stated that provided GNWT-INF implement the required mitigation measures and follow DFO guidance, DFO was of the view that the proposed activities should not result in serious harm to fish or contravene SARA.

The Board’s previous decision was in part based on DFO’s recommendation that culverts allow passage for all fish. Understanding that DFO has clarified their intent, and considering that construction of culverts based on all fish species in all seasons in a variety of flow scenarios would result in an unnecessary increase in the number of culverts required, the Board believes that it is appropriate for GNWT-INF to be expected to provide passage for all fish subject to commercial, recreational, and Aboriginal (CRA) fisheries, rather than all fish species.

- ***Decision #11: The Board has revised the Schedule 4, Condition 2(e) to replace “provide passage for all fish” with “provide passage for all fish that are subject to commercial, recreational, and Aboriginal fisheries”.***

The Board approves Version 1.1 of the FFHPP.

- **Decision #12: The Board approves Version 1.1 of the FFHPP, noting that GNWT-INF is expected to design culverts to provide passage for all CRA fisheries.**

### 3.5 Water Monitoring Plan

In the Board's May 30, 2019 Reasons for Decision, the Board did not approve Version 1.0 of the WMP and required GNWT-INF to submit Version 1.1, 90 days prior to Construction.<sup>37</sup> On July 16, 2019, GNWT-INF submitted Version 1.1 of the WMP. On July 22, 2019, Board staff communicated with GNWT-INF to indicate it was unclear how one of the requirements from the Board's May 30, 2019 Reasons for Decision was addressed (i.e., Addition of Part B, Condition 16). An updated copy of Version 1.1 of the WMP was received on July 26, 2019.<sup>38</sup>

The WMP proposes water management and monitoring for potential effects of in-water Construction on suspended sediments. The WMP includes a list of water sampling locations and a plan to monitor total suspended solids (TSS) and the specific triggers and actions to be taken in response to TSS results above background levels.

In the Board's May 30, 2019 Reasons for Decision, the Board determined that a compliance limit for TSS for in-water Construction was appropriate (i.e., Part G, Condition 14). The Board also stated that an approved frequency of TSS monitoring is required to ensure compliance with TSS is maintained. GNWT-INF was thus required to update the WMP to propose the specific frequency by which TSS monitoring will occur (i.e., to address Schedule 4, Condition 1(f)).

Part H, Condition 1 of the TASR Water Licence states:

A minimum of 90 days prior to the commencement of Construction, the Licensee shall submit to the Board for approval a **Water Monitoring Plan**. The Plan shall be in accordance with Schedule 4, Condition 1. The Licensee shall comply with the **Water Monitoring Plan**, once approved.

Version 1.1 of the WMP was distributed for public review on July 26, 2019. Reviewers were asked to provide recommendations by August 16, 2019, with the proponent providing a response by August 19, 2019.

The Board understands that GNWT-INF is planning to begin Construction in early September. According to the Schedule of Activities,<sup>39</sup> in-water Construction activities are not scheduled to begin until summer of 2020. In considering the purpose of the WMP, the question about whether this plan requires approval prior to Construction versus prior to in-water Construction has come up. Because the primary purpose of the WMP is to monitor TSS generated by Construction activities in water (i.e., total suspended solids are only generated in water, the Board believes it is reasonable and appropriate to interpret Part H, Condition 1 to mean 'prior to the commencement of in-water Construction'.

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<sup>37</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>38</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Water Monitoring Plan - Version 1.1 - Jul 26 19.pdf](#)

<sup>39</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Schedule of Activities - Jul 29 19.pdf](#)

- **Decision #13: The Board clarifies that Part H, Condition 1 should be interpreted to mean ‘prior to the commencement of in-water Construction activities’.**

### 3.6 Detailed Design Report for the Road

Part E, Condition 3 of the Water Licence requires a Detailed Design Report to be submitted at least 90 days before the Construction of any Engineered Structure (e.g. bridges, culverts).<sup>40</sup> GNWT-INF submitted the Detailed Design Report on July 9, 2019.<sup>41</sup> On August 9, 2019, Board staff distributed an email to affected Parties, stating that a public review wasn’t being initiated for the Detailed Design Report at that time, in consideration of:

- Discussions throughout the environmental assessment and licensing process;
- The various management plans required to mitigate potential impacts of the road;
- The requirement for the final drawings to be stamped by a Professional Engineer; and
- The short time frame leading up to the anticipated start of Construction.

Board staff indicated that the email was intended to provide Parties with an opportunity to provide comments and/or indicate whether they believed a public review was necessary. Board staff did not receive any comments or requests for a public review.

The Board approves the Detailed Design Report for the Road.

- **Decision #14: The Board approves the Detailed Design Report for the Road.**

**Signed the August 23, 2019, on behalf of the Wek’èezhii Land and Water Board**



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Witness



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Joe Mackenzie  
Chair, Wek’èezhii Land and Water Board

<sup>40</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Land Use Permit and Water Licence Applications - Reasons for Decision - May 30 19.pdf](#)

<sup>41</sup> See WLWB Online Registry for [W2016L8-0001 - TASR - Detailed Design Report - July 9 19.pdf](#)