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October 26, 2018

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,

Request for Information: Water Licence and Land Use Permit Applications for the Tlicho All-Season Road

The Mackenzie Valley Environmental Impact Review Board (MVEIRB or the Review Board) released its Report of Environmental Assessment (REA) EA1617-01 for the Tlicho All-Season Road (TASR) on March 29, 2018.¹ The Government of the Northwest Territories (GNWT) Minister of Lands provided his approval of the REA including the final wording of the recommended measures on October 25, 2018.² The Wek'èezhìi Land and Water Board (WLWB or the Board) also recognizes that the Tlicho Government has made a separate, concurrent decision on the Review Board's REA and modified measures.³

In order to re-commence the water licensing and land use permitting processes, the WLWB requires the GNWT Department of Infrastructure (GNWT-INF) to submit a *Post-Environmental Assessment (EA) Information Package* to the Board. The WLWB requests this information in accordance with subsection 34(2) of the *Waters Act* and subsection 19(2) of the *Mackenzie Valley Land Use Regulations*.^{4, 5} The *Post-EA*

¹ See MVEIRB's Online Registry at www.reviewboard.ca for [TASR Report of Environmental Assessment](#)

² See WLWB (www.wlwb.ca) Online Registry for the [Minister's Final Wording and Reasons for Decision for the GNWT TASR Project](#)

³ See WLWB Online Registry for the [W2016E0004 - TASR - Tlicho Government Final Decision on the REA for the GNWT TASR Project - Oct 25 18](#)

⁴ See www.justice.gov.nt.ca for the *Waters Act*

⁵ See www.aadnc-aandc.gc.ca for the *Mackenzie Valley Land Use Regulations*

Information Package must include updated Land Use Permit and Water Licence Applications, an updated project description (UPD), select management plans, and other supporting information as listed below.

Should the GNWT-INF wish that the Board consider specific management and/or design plans for approval as a part of the licensing and permitting process, the GNWT-INF is to indicate this and provide the appropriate level of detail in those submissions.

In its *Post-EA Information Package*, the GNWT-INF is to submit at minimum, the following items. Refer to the attached *Tlicho All-Season Road Post-Environmental Assessment (EA) Information Package - Required Information* for detailed descriptions on each requirement.

Project Information

1. Updated Water Licence and Land Use Permit Applications;
2. Updated Project Description;
3. Design Plans related to Construction;
4. Quarry Operations Plan;

Management of Wastes

5. Waste Management Plan;
6. Updated Waste Disposal Authorizations;
7. Spill Contingency Plan;

Water and Water Quality

8. Description of water management;
9. Surveillance Network Program;
10. Erosion and Sedimentation Plan;
11. Geochemical Characterization and Management Plan;

Management of Fish and Wildlife

12. Wildlife Management and Monitoring Plan;
13. Fish and Fish Habitat Protection Plan;
14. Fisheries Management Plan;

Closure and Reclamation

15. Closure and Reclamation Plan;

Engagement

16. Engagement Record;
17. Engagement Plan;

Other Documents

18. Emergency Response Plan;
19. Archaeological Site Chance Find Protocol;
20. Permafrost Management Plan; and
21. Any other reports, including data, that support the predictions and assumptions listed in the preceding documents.

The GNWT-INF may submit additional information as deemed necessary. A conformity table must be included to indicate how the requirements listed above have been satisfied. Should the GNWT-INF be unable to include any of the information requested, please provide rationale. In addition, the WLWB recommends that all submissions describe how the REA measures and commitments relevant to land and water use will be satisfied. While the above-noted information is being requested, if GNWT-INF has suggestions on how to satisfy the information requirements in a different and/or more efficient way, please contact Board staff to discuss further.

The WLWB encourages the GNWT-INF to submit draft Water Licence and Land Use Permit conditions in the *Post-EA Information Package*. After hearing all the evidence, the Board will make the final decision as to which specific conditions and submissions (e.g., management plans, design plans) will be required in the Water Licence and/or Land Use Permit. The Board will determine the timeline for each submission (e.g., 90 days prior to Construction); however, the GNWT-INF is encouraged to propose appropriate timelines for each submission.

Please note that the nine-month timeline for the Board to process the Water Licence Application (subsections 72.18(1) and 72.19 of the *Mackenzie Valley Resource Management Act* [MVRMA], and subsections 47.1(1) and 48(1) of the *Waters Act*)⁶ will not recommence until the *Post-EA Information Package* is received by the Board, and the response is deemed to satisfy the information request (subsection 72.22(1) of the MVRMA and section 50 of the *Waters Act*).

Please contact Ryan Fequet, Executive Director at (867) 765-4598 or by email at rfequet@wlwb.ca, should you have any questions in review of this information package.

Sincerely,



Ryan Fequet
Executive Director, Wek'èezhii Land and Water Board

Attachment #1: *Tlichó All-Season Road Post-Environmental Assessment (EA) Information Package - Required Information*

Copied to: Wek'èezhii West Distribution List

⁶ NB: The WLWB will decide whether a public hearing is required following the public review process.

Attachment #1 – Tlicho All-Season Road Post-Environmental Assessment (EA) Information Package - Required Information

1. Updated Water Licence and Land Use Permit Applications

Provide updated Applications for the Water Licence and the Land Use Permit requested. Refer to the Mackenzie Valley Land and Water Board (MVLWB) (2003) *Guide to Completing Water Licence Applications* and the MVLWB (2013) *Guide to the Land Use Permitting Process* for guidance.^{7,8}

2. Updated Project Description

The updated project description (UPD) is intended to be a stand-alone document that provides an overview of the proposed Tlicho All-Season Road (TASR) in its entirety. The UPD should provide enough detail to allow the Wek'èzhìi Land and Water Board (WLWB or the Board) and reviewers to understand key aspects of the Project, as well as how the TASR will be constructed, operated, and maintained. Where details have been provided elsewhere within the *Post-Environmental Assessment (EA) Information Package* (e.g., descriptions for specific Project components included in management plans, etc.), the Proponent should summarize the information and then provide the reference to the more detailed information.

The UPD is to include at minimum the information outlined below, however the Proponent may choose to format this information in a different manner. The UPD should incorporate changes made to the Project design during the EA process, as well as changes made to address relevant measures and commitments.

A. Provide a summary of the TASR.

Summarize, with appropriate maps or diagrams, the proposed activities, infrastructure, and timelines for the TASR. Please include at minimum:

- i. project history;
- ii. regulatory history (e.g., previous exploration programs and associated permits/licences, EA/impact review etc.);
- iii. TASR Project schedule, identifying potential activities that could influence the anticipated schedule; include timelines for construction, operation, and maintenance of the road;
- iv. description of the receiving environment; and
- v. description of the geology and geochemical characterization and hydrogeology along the alignment.

B. Describe the Project components.

Describe the proposed components of the TASR and include drawings, maps, and supporting documentation, as necessary. This should identify any existing infrastructure that may be used in the TASR. Examples of typical project components are listed below; please include a summary description of only those components that apply to the TASR. Should an appropriate description of a Project component

⁷ See MVLWB [Guide to Completing Water Licence Applications](#), 2003

⁸ See MVLWB [Guide to the Land Use Permitting Process](#), 2013

already be included elsewhere within the *Post-EA Information Package*, it may be summarized and referenced appropriately.

- i. Route selection
- ii. Design parameters for the proposed TASR
- iii. Quarries and borrow sources
- iv. Equipment
- v. Camps and related infrastructure
- vi. Fuel and oil storage
- vii. Power

C. Describe how Traditional Knowledge will be incorporated into the Project.

In accordance with MVEIRB's *Guidelines for Incorporating Traditional Knowledge in Environmental Impact Assessment*,⁹ Traditional Knowledge was a key focus of the Report of Environmental Assessment (REA). The REA requires GNWT-INF to consider all Traditional Knowledge that was made available and incorporate it into the project design, mitigation, monitoring, and adaptive management of the TASR (see Measure 9-3 for more details). The UPD should identify how Traditional Knowledge will be utilized as described in Measure 9-3 of the REA and should include reference to applicable sections of the *Post-EA Information Package* and relevant REA measures and commitments. GNWT-INF is to specifically identify how it will address REA measures that use Traditional Knowledge.

D. Identify management plans.

List all plans required to mitigate potential effects or adaptively manage the development, identifying specifically which plans will be submitted to the WLWB and which will be submitted to other regulatory bodies.

E. Describe the predicted environmental effects and proposed mitigations.

Identify all potential environmental effects and the action(s) proposed or commitment(s) made (see Part F), to mitigate potential environmental effects. At a minimum these are to include:

- i. a summary of potential environmental effects on valued ecosystem components (VECs) relevant to the Board's water licence and land use permitting process, with respect to magnitude, direction, duration, and reversibility;¹⁰ and
- ii. a description of mitigations to minimize environmental effects. This may include reference to management plans, contingency plans, best practices, and any other commitments made during the EA process that will be employed (e.g., caribou offset and mitigation, dust mitigation, road mitigations, etc., as they relate to land use and water use).

⁹ See MVEIRB's [Guidelines for Incorporating Traditional Knowledge in Environmental Impact Assessment](#), 2005

¹⁰ VECs included in the REA relevant to the WLWB include: surface hydrology, water quality, fish and fish habitat, terrain, permafrost and soils, vegetation, caribou habitat, traditional use, cultural and heritage resources.

F. Identify all commitments made throughout the EA process.

List all commitments relevant to the Board’s water licence and land use permitting process, which have been made by the Government of the Northwest Territories Department of Infrastructure (GNWT-INF) throughout the EA process. Please identify the status of each commitment (i.e., outstanding or complete). If the status is ‘outstanding’ indicate how the Proponent proposes to meet the commitment. The WLWB encourages the GNWT-INF to present its commitments in a table similar to that shown below.

e.g., Table 1

EA Stage Commitment was Made	Description of Commitment	Status (outstanding/complete)	Proposed Action

G. Identify all relevant studies undertaken.

Include a description of all TASR studies relevant to the licensing and permitting process, undertaken to date. This should include all information, reports, and investigations completed in support of the information provided with the *Post-EA Information Package*. Complete references should be included and links to any documents available online; all reports must be available upon request. Please note that raw data (e.g., data in Excel spreadsheets) may also be requested by the Board. The WLWB encourages the GNWT-INF to present its commitments in a table similar to that shown below.

e.g., Table 2

Title of Study	Description	Status (superseded/current/requires updates)	Reference (hyperlink if available)

3. Design Plans Related to Construction

At this stage in the regulatory process, the Board expects that the Proponent has design reports or plans for the TASR, road structures, such as culverts and bridges, laydown areas, and borrow sources, with at least the level of detail that would normally be required for a feasibility study. Please submit design plans for key structures identified in the TASR plan.

Road specifications and estimated construction material quantities must be included, as well as any considerations for fish passage and wildlife crossings. If design plans for any structures are not yet at that level of detail, please provide as much detail as possible, and describe when the design plans will reach the level of detail found in a feasibility study. Any uncertainties associated with the design plan should be identified, as well as any steps that would be necessary before the Proponent can provide additional details on the plan. The Board’s intent in reviewing design plans is not to decide how the Proponent is to build components, but to ensure that the Proponent’s plans are feasible and comply with best practices.

4. Quarry Operations Plan(s)

Provide a Site-specific Quarry Operations Plan (QOP) that follows current best practices. The QOP should include details of any camps that will be located at quarry sites, as well as the details pertaining to explosives management. The site-specific QOP(s) should also describe closure and reclamation of borrow sources, focusing on the restoration of natural drainage patterns, slope grading, capping with organics/vegetation (from pre-stripping stockpiles) and revegetation with native plant species, or appropriately reference the plan that covers closure and reclamation of borrow sources. If closure and reclamation of quarry sites is described in detail in another plan, that plan must be referenced appropriately.

5. Waste Management Plan

A Waste Management Plan is a central document describing general waste management practices and the management of several specific waste streams. MVLWB's (2011) *Guidelines for Developing a Waste Management Plan* describes the Board's expectations for this plan.¹¹ The Waste Management Plan may also act as a central document summarizing other waste streams and related infrastructure with references to separate additional plans if necessary. Please provide the necessary Plans that describe how the waste related to the TASR (e.g., sewage, wastewater, hydrocarbon-contaminated soils, solid waste, and hazardous waste, incinerated wastes, etc.) is managed.

6. Updated Waste Disposal Authorizations

The Waste Management Plan must include all waste disposal authorizations from Whatì, Behchoko, and any other proposed communities.

7. Spill Contingency Plan

Provide a Spill Contingency Plan for the TASR. The Plan shall be developed in accordance with Aboriginal Affairs and Northern Development Canada's (2007) *Spill Contingency Guidelines*,¹² and must include a description of procedures for fueling equipment and handling petroleum during all phases of the Project.

8. Description of Water Management

Provide a description of water use during each phase of the Project, describing the water sources, purposes of water use, and quantity of water use anticipated. Proposed limits for Total Suspended Solids (TSS) should be included, as well as proposed action levels and management actions (e.g., more frequent monitoring, installation of additional silt curtains, cessation of construction, etc.) that will be taken to ensure proposed TSS limits will not be exceeded.

9. Surveillance Network Program

The SNP is an Annex to the Water Licence that details the site-wide water quality and quantity monitoring program that the Licensee must implement to monitor water before it enters the receiving environment. The SNP for the TASR will identify monitoring locations and parameters; sampling frequency and duration;

¹¹ See MVLWB [Guidelines for Developing a Waste Management Plan](#), 2011

¹² See AANDC [Spill Contingency Guidelines](#), 2007

analytical requirements (e.g., proposed levels of TSS); quality assurance and quality control; and reporting requirements. Typically, SNP requirements are based on proposed water management for the Project.

Although the Board will make the determination on the final SNP, the Proponent is asked to propose a program for the TASR based on its knowledge of the Project. Note that it is common for the initial SNP to be very comprehensive because of the inherent uncertainties associated with the pre-construction phase. Over time, the SNP requirements tend to be reduced and become more focused as knowledge of the Project increases, and uncertainties of water control or collection are identified and addressed in the SNP.

10. Erosion and Sedimentation Management Plan

Provide an Erosion and Sedimentation Management Plan which details plans for implementing erosion and sediment control measures for road construction and operation. In addition, provide measures for potential thermal erosion events and relevant lessons learned from other northern road projects (e.g., Inuvik to Tuktoyaktuk Highway) with respect to sediment and erosion control.

11. Geochemical Characterization and Management Plan

Provide a Geochemical Characterization and Management Plan that addresses potential acid-rock drainage and metal-leaching issues associated with road construction and operation. The Plan must outline how the Proponent will ensure that materials used within the proposed TASR corridor are not susceptible to acid-rock drainage and/or metal leaching. The Plan must include a description of the characterization, testing, monitoring, and management of rock with acid rock drainage and/or metal leaching potential to prevent impacts associated with quarrying and road construction on water quality.

Management of Fish and Wildlife

Fish and wildlife management plans are required for this project. The fish and wildlife plans described in numbers 12, 13 and 14 are to be submitted to the Wek'èezhii Renewable Resources Board (WRRB) and GNWT Department of Environment and Natural Resources (GNWT-ENR) for approval as per the REA. While the management of fish and wildlife is out of the scope of the WLWB's mandate, fish and wildlife habitat is regulated by the Board. The Board therefore requires a description of the plans for management of wildlife, bird, and fish habitat.

12. Wildlife Management and Monitoring Plan

Provide a Wildlife Management and Monitoring Plan for the TASR. Include information specific to the management and protection of boreal and barren ground caribou and caribou habitat according to measures 6-1, 6-2, and 6-3 of the REA; and measures 7-1 and 7-2 of the REA, respectively. In addition, include a description of the management and protection of migratory birds and bird species at risk, providing a description of potential habitat (e.g., borrow sources, nesting areas etc.) and its protection. Any relevant monitoring plans should be referenced.

13. Fish and Fish Habitat Protection Plan

Provide a Fish and Fish Habitat Protection Plan for the TASR. Include a description of how fish and fish habitat (i.e., watercourses) will be managed regarding water quality for the project, and specifically at the

proposed water crossings. This could include a description of the potential pathways of fish habitat degradation (e.g., use of explosives, blasting residue, sediment release, spills) and the plans for mitigation of fish habitat degradation and protection.

14. Fisheries Management Plan

Provide a Fisheries Management Plan for fisheries in the TASR Project area. According to Measure 8-1 of the REA, the Plan must be developed by Fisheries and Oceans Canada (DFO) and the Tłıchǵ Government, with the support of the developer. In designing the plan, DFO must engage the Tłıchǵ Government, WRRB, the Community of Whatì and other affected Aboriginal groups. DFO and the Tłıchǵ Government will submit the plan to the WRRB for review under section 12.5.1 of the Tłıchǵ Agreement. As part of this plan, the following work is to be completed by DFO, with involvement from the Tłıchǵ Government, should it choose to participate:

- a) Complete work to understand baseline fishery and harvest conditions;
- b) Design and implement, with support of the developer, mitigation to prevent or manage project impacts (which may include a regulatory and compliance plan);
- c) Design and implement monitoring plans; and
- d) Design and implement an adaptive management plan.

15. Closure and Reclamation Plan

Submit a Closure and Reclamation Plan for the Project. A comprehensive Closure and Reclamation Plan (CRP) is a necessary and integral element of all undertakings requiring a water licence and/or land use permit. The CRP must explain how camps, temporary access roads, borrow locations, and other temporary structures will be reclaimed once construction has been completed.

Engagement

In accordance with the MVLWB *Engagement and Consultation Policy* (2013) (Engagement Policy) and supported in part by the MVLWB *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits* (2013) (Engagement Guidelines),^{13, 14} the WLWB requires proponents to engage with potentially affected parties prior to and during the operation of a project.

16. Engagement Record

Submit an Engagement Record for the TASR. This record is to be prepared in accordance with the Engagement Guidelines.¹⁵ As described in the Engagement Guidelines, this must include a Project-specific:

- i. Engagement Summary; and
- ii. Engagement Log.

¹³ See MVLWB [Engagement and Consultation Policy](#), 2013

¹⁴ See MVLWB [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#), 2013

¹⁵ See MVLWB [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#), 2013

17. Engagement Plan

In addition to the information described in the Engagement Policy and Engagement Guidelines referred to above, the Proponent must submit an Engagement Plan for the TASR. The Engagement Plan must outline the Proponent’s community grievance mechanism, as per MVEIRB’s REA Measure 5-5. This measure also requires the Proponent to hold public engagement sessions with the communities of Whati and Behchoko to discuss project-related concerns before the start of construction. The Engagement Plan must describe when these sessions, and other proposed engagement activities, will take place.

18. Permafrost Management Plan

Permafrost was identified during the EA as a component that may experience significant adverse effects as a result of construction and operation of the Project. REA Measure 11-1 requires that the Proponent develop a Permafrost Management Plan for submission to the WLWB for approval. The Permafrost Management Plan should be developed to include recommendations from Natural Resources Canada (NRCan) and the Project working group and should include the measures for monitoring and adaptive management of permafrost. The Permafrost Management Plan may be included as part of another plan, which should be submitted along with, or incorporated into, the design plans. If the Permafrost Management Plan is submitted as part of another plan, it should be referenced appropriately.

19. Emergency Response Plan

Provide an Emergency Response Plan (ERP) for the TASR. The Plan must include details of how emergency situations such as a fire, vehicle or mobile equipment incidents, serious medical incidents, camp evacuation, and wildlife encounters will be handled.

20. Archaeological Site Chance Find Protocol

Provide an Archaeological Site Chance Find Protocol. This must describe the protocol that will be used by employees and contractors conducting ground disturbing operations, with regard to archeological resources. It must include the measures that will be taken to avoid disturbance of cultural heritage resources, as well as the steps to be taken when a suspected archaeological site is encountered.

21. Any other reports

Provide any other reports, including data, that support the predictions and assumptions listed in the preceding documents.