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June 2, 2020

File: W2020L8-0001

Ziaur Rahman
Manager of Surface Design and Construction
Department of Infrastructure
Government of the Northwest Territories
P.O Box 1320 Yellowknife, NT X1A 2L9

Sent via email

Dear Ziaur Rahman,

RE: Type A Application – Tlichò All-season Road – Water Use – Incomplete Application

On May 13, 2020, the Wek'èezhìi Land and Water Board (WLWB or the Board) received a Type A Water Licence Application from the Government of the Northwest Territories Department of Infrastructure (GNWT-INF) to increase the daily water use limit for the Tlichò All-season Road (TASR).¹ The TASR Project currently has a Type B Water Licence (W2016L8-00001) allowing for a maximum use of 299 m³/day. Since receipt of the Application, Board staff have worked with the GNWT-INF to acquire additional information in an effort to deem the Application complete. In consideration of the updated Application,² Board staff have determined the engagement required by the Boards' Engagement and Consultation Policy (2018)³ has not yet been completed.

The Boards' Engagement and Consultation Policy (2018)⁴ requires Proponents to initiate dialogue and Engagement planning with affected Parties, particularly affected Aboriginal Organizations/Governments, in advance of an application. The Policy states that "it is the expectation of the Board that a Proponent, prior to submitting an application, makes an effort to seek and understand the full nature of concerns expressed by affected parties, in order to consider opportunities to mitigate potential impacts from the Project." The Boards' Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits (2018) describes that notification letters "should be followed up with emails, phone calls, or subsequent letters to the Affected Party."⁵

¹ See WLWB Online Registry for [W2020L8-0001 – TASR – Type A Water Licence Application – May 13 20](#)

² See WLWB Online Registry for [W2020L8-0001 – TASR – Type A Water Licence Application – Jun 1 20](#)

³ See WLWB [Policies and Guidelines](#) for [MVLWB Engagement and Consultation Policy \(2018\)](#)

⁴ Ibid

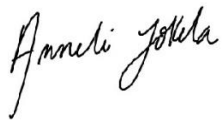
⁵ See WLWB Policies and Guidelines for [MVLWB's Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits \(2018\), p. 17](#)

In the initial submissions,^{6,7} the Engagement Record identified that written notification was provided to affected Parties; however, it was unclear whether the Party received or provided a response to the written notification. In follow-up correspondence,⁸ Board staff requested that the GNWT-INF provide supporting documentation demonstrating that each potentially affected Party received the written notification (e.g., did the Party reply back), and that follow-up was conducted with those Parties that did not respond (e.g., a follow-up phone call or email if no response was received to INF's initial written notification).

In consideration of the updated submission,⁹ the Engagement Record indicates that not all Parties received follow-up correspondence in instances where no response was received to the initial written notification. For some affected Parties,¹⁰ the Engagement Record either had no indication of follow-up or stated that "no follow-up call was made due [to] time constraints to submit application and sufficient time was provided to respond to written notification". In contrast, other Parties had follow-up emails sent as late as May 27, 2020. It remains unclear why follow-up correspondence was completed for some, but not all affected Parties.

In order for the Application to be considered complete and distributed for review, please provide an updated application and engagement record with supporting documentation that demonstrates that each potentially affected party received a follow-up phone call or email.

Sincerely,



Anneli Jokela
Regulatory Manager, Wek'èezhìi Land and Water Board

Copied to: Ziaur Rahman, GNWT-INF
Benjamin Bey, GNWT-INF

⁶ See WLWB Online Registry for [W2020L8-0001 – TASR – Type A Water Licence Application – May 13 20](#)

⁷ See WLWB Online Registry for [W2020L8-0001 – TASR – Type A Water Licence Application May 22 20](#)

⁸ See WLWB Online Registry for [W2020L8-0001 – TASR – WL Application – Correspondence re Engagement – May 25 20](#)

⁹ See WLWB Online Registry for [W2020L8-0001 – TASR – Type A Water Licence Application – Jun 1 20](#)

¹⁰ See WLWB Online Registry for [W2016L8-0001 – TASR – Engagement Plan – Version 1.2 – Oct 2 19](#). Affected parties with unclear follow up include: Fort Resolution Metis Council, Łutsek'e Dene First Nation, Dehcho First Nations, Jean Marie River First Nation, Fort Simpson Metis Local #52, Sambaa K'e First Nation, West Point First Nation, Łıı́ı́ Ku é First Nation, Pehdzeh Ki First Nation, Deh Gah Got'ie First Nation, Fort Providence Metis Council, Ka'a'gee Tu First Nation, Nahanni Butte Dene Band, and Acho Dene Koe First Nation