



Box 32, Wekweètì, NT X0E 1W0
 Tel: 867-713-2500 Fax: 867-713-2502

#1-4905 48th Street, Yellowknife, NT X1A 3S3
 Tel: 867-765-4592 Fax: 867-765-4593
www.wlwb.ca

Reasons for Decision

Preliminary Screener:	WLWB
Reference/File Number:	W2021F0010 (Type “A” Land Use Permit)
Permittee:	Government of the Northwest Territories – Infrastructure (GNWT-INF)
Subject:	Type A Land Use Permit Renewal Application

Decision from the Wek'èezhì Land and Water Board Meeting of December 21, 2021

1.0 Decision

On December 21, 2021, the Wek'èezhì Land and Water Board (WLWB or the Board) met to consider a Land Use Permit Renewal Application from the Government of the Northwest Territories – Infrastructure (GNWT-INF or the Applicant) for Type A Land Use Permit W2021F0010. The purpose of the submissions is to continue activities associated with the construction, operation, and maintenance of the Wekweètì Winter Road occurring from the Gamètì Winter Road Junction to the Community of Wekweètì (the Project).

The Board conducted a preliminary screening based on the application package and the public record for the proceeding. Based on the evidence provided, the Board was satisfied the screening had been completed according to section 125 of the Mackenzie Valley Resource Management Act (MVRMA) and decided not to refer the project to environmental assessment.

In consideration of the Application, reviewer comments and proponent responses, the Board has decided the following:

1. If the Board does not receive a notice of referral to Environmental Assessment by December 31, 2021, it will issue GNWT-INF's Land Use Permit W2021F0010 on January 4, 2022.
2. To approve Version 2.0 the Waste Management Plan;
3. To approve Version 4.0 of the Spill Contingency Plan;

4. To approve Version 3.0 of the Engagement Plan; and
5. To require GNWT-INF to submit Version 3.1 of its Engagement Plan to include the revisions requested in Tłıchǫ Government (TG) comments 1, 2, and 3. Version 3.1 of the Engagement Plan is due within 30 days of the Permit Issuance.¹

2.0 Background

Land use permitting for the annual construction, operation, and maintenance of a winter road from the Gamètì Winter Road Junction to the Community of Wekweètì has occurred since 2002. Permit MV2002F0036 was issued to the GNWT-INF by the Mackenzie Valley Land and Water Board (MVLWB) in 2002.² The Permit has since been renewed twice by the WLWB, first in 2008 (W2007F0003)^{3,4,5} and then in 2014 (W2014F0003).^{6,7}

On November 8, 2021, the WLWB received an application to renew the Permit for a period of five years.⁸ The Application included the same activities outlined in the previous permits, in addition to requests to include approximately 8.0 km of the 2020 Gamètì Winter Road and increase the annual maximum anticipated fuel use for the entire land use area to 70,000 liters (previously 50,000 liters). The current Application also includes drilling activities.

The Application was distributed for public review on November 17, 2021, inviting Parties to provide comments and recommendations using the Online Review System (ORS). A draft Permit was also circulated for review.⁹ All standard land use permit conditions in the original Permit were updated to match wording from MVLWB's current *Standard Land Use Permit Condition Template*.¹⁰ The Application was subject to preliminary screening, as required under subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA). Parties were encouraged to provide comments and recommendations (e.g., on impacts and mitigation measures) to assist with the completion of the preliminary screening. Reviewer comments were due December 8, 2021. Comments and recommendations were received by:

¹ See WLWB Online Registry – [GNWT-INF - Wekweètì Winter Road - Reviewer Comments and Proponent Responses - Dec 10 21](#)

² See WLWB Online Registry for [MV2002F0036 Permit – Oct 2 02](#).

³ See WLWB Online Registry for [W2007F0003 - GNWT DOT - Land Use Permit and Terms and Conditions - Jan 21 08](#)

⁴ See WLWB Online Registry for [W2007F0003 - GNWT DOT - Land Use Permit - 2 Yr Extension - Jan 21 13](#)

⁵ See WLWB Online Registry for [W2007F0003 - GNWT DOT - Land Use Permit - Issuance Documents - Amendment Application - Oct 2 09](#).

⁶ See WLWB Online Registry for [W2014F0003 - GNWT-DOT - Land Use Permit - Dec 19 14](#)

⁷ See WLWB Online Registry for [W2014F0003 - GNWT-INF - Land Use Permit - Dec 19 19](#)

⁸ See WLWB Online Registry for [GNWT-INF - W2021F0010 – Permit Application – Nov 8 21](#).

⁹ See WLWB Online Registry for [GNWT-INF - Wekweètì Winter Road - LUP Application - Draft Permit – Nov 17 21](#).

¹⁰ See WLWB Policies and Resources webpage to access the [MVLWB Standard Land Use Permit Conditions Template Version 2.3 \(2020\)](#).

- the Government of the Northwest Territories Department of Lands North Slave Region (Lands Department and Lands Inspector);
- Wek'èezhii Renewable Resources Board (WRRB);
- Yellowknives Dene First Nation (YKDFN);
- Northwest Territories Power Corporation (NTPC);
- the Government of the Northwest Territories Environment and Natural Resources (GNWT-ENR);
- the Government of the Northwest Territories Environment and Natural Resources – Environmental Assessment and Monitoring (GNWT-ENR-EAM);
- the Government of the Northwest Territories Education, Culture and Employment – Prince of Whales Northern Heritage Centre (GNWT-ECE-PWNHC); and
- Tłıchq Government (TG).

Recommendations on permit conditions were received from the GNWT-Lands North Slave Region Inspector, GNWT-ECE-PWNHC, and the Tłıchq Government. The remaining Parties stated that they had no comment or recommendations regarding the Application and the draft Permit. WLWB staff also submitted questions. The GNWT-INF submitted responses on December 10, 2021. Reviewer recommendations and the proponent responses are available on the WLWB Online Registry.¹¹

Since no concerns regarding timelines were received during the public review and no requests to extend the reviewer comment deadline were received, the Board is satisfied that a reasonable period of notice was given to affected communities and First Nations, as required by subsection 63(2) of the *Mackenzie Valley Resource Management Act (MVRMA)*. The Board is also satisfied that the Tłıchq Government has been consulted in accordance with section 63(3) of the MVRMA.

3.0 Reasons for Decision

3.1 Eligibility

As per section 18 of the Mackenzie Valley Land Use Regulations, eligibility must be determined before the Board can issue a permit. The Board requires evidence from the Applicant that the Applicant holds an appropriate interest or right of access. Included with the renewal Application on November 8, 2021, GNWT-INF provided confirmation from the Tłıchq Government that the *Wekweèti Winter Road Access Law (2006)* allows for access for winter road construction to Wekweèti.¹² Thus, the Board believes eligibility requirements under section 18 of the MVLUR have been satisfied.

3.2 Land Use Plan Conformity

As per section 61 of the MVRMA, where an approved Land Use Plan applies, the Board must confirm conformity with the Land Use Plan before issuing a permit. The Tłıchq Wenek'e (or the Tłıchq Land Use

¹¹ See WLWB Online Registry for [GNWT-INF - Wekweèti Winter Road - Reviewer Comments and Proponent Responses - Dec 10 2](#)

¹² See WLWB Online Registry for [GNWT-INF - Wekweèti Winter Road - LUP Application - Confirmation of Eligibility - Nov 8 21](#).

Plan)¹³ applies in the Project area. Included with the renewal Application on November 8, 2021, GNWT-INF provided confirmation from the Tłıchq Government that the Project conforms with the Tłıchq Land Use Plan.

3.3 Preliminary Screening

In accordance with subsection 124(1) of the MVRMA, the Board must conduct a preliminary screening of the Application. As per paragraph 125(1.1) of the MVRMA, the Board distributed the Preliminary Screening Determination to the Review Board and the Wek'èezhìi Distribution List on December 21, 2021.¹⁴

The Board did not receive a referral to Environmental Assessment during the 10-day pause period; therefore, as discussed in Section 3.4 of this Reasons for Decision, the Board is issuing W2021F0010.

3.4 Land Use Permit

A draft Permit was included in the Item for Review for distribution. The draft Permit was developed based on the existing Permit issued in 2014 and was updated to reflect the Mackenzie Valley Land and Water Board (2020) *Standard Land Use Permit Conditions Template Version 2.3* (Standard List). Conditions from this template were included to account for drilling activities, the proposed fuel use volume, and a non-standard condition (i.e., 'Caribou Disturbance') was included in the draft Permit to reflect a mitigation outlined in previous preliminary screenings.

3.4.1 Scope

A draft Land Use Permit with the following scope was distributed as part of the public review:

This Permit entitles The Government of the Northwest Territories -- Infrastructure to conduct the following land-use operation:

- a) Construction, operation and maintenance of the Wekweèti Winter Road and section of the Gamètì Winter Road from the HWY No. 9 and Gamètì Winter Road Junctions to the Community of Wekweèti

Min 63°14' 38.4" N, 114° 10' 52.3" W & Max 64° 19' 08.9" N, 116°37.29.3" W

The maximum western coordinate was updated from W116° 30' 36" W to 116°37.29.3" in the Permit scope as GNWT-INF included these coordinates in the Application. Wording for a "section of the Gamètì Winter Road from the HWY No. 9" Junction was included to scope of the draft Permit to reflect the inclusion of approximately 8.0 km of the Gamètì Winter Road. Upon finalizing the scope and reviewing maps provided by GNWT-INF, Board staff determined that this wording was included in error, that the 8.0 km Gamètì Winter Road inclusion commences/ends at the Gamètì Winter Road Junction, rather than extending to the HWY No. 9 Junction. GNWT-INF's response to Board staff's comment 7 also stated the

¹³ See WLWB Acts and Regulations webpage to access the [Tłıchq Land Use Plan](#).

¹⁴ See WLWB Online Registry for W2021F0010 – GNWT-ING - Preliminary Screening Determination and Reasons For Decision - Dec 21_21

8.0 km inclusion is no longer the Gamètì Winter Road, but the Wekweètì Winter Road. The Permit will therefore not include references to the HWY No. 9 Junction of the Gamètì Winter Road upon issuance.

During the public review, the GNWT-Lands Inspector (GNWT-Lands comments 5 and 6) recommended several updates be made to the scope. The Inspector recommended (comment 5) that ‘construction’ be removed from the above scope and stated that a Land Use permit is not required for the construction of the Wekweètì Winter Road but rather maintenance and all other prohibited activities detailed in the Land Use Permit Application. The Inspector also recommended inclusion of the following activities in the Permit scope (comment 6):

- b) The use of a vehicle or machine of a weight equaling or exceeding 10 tonnes.
- c) The establishment and use of petroleum fuel storage facilities.
- d) The use of self-propelled motorized machine for moving earth or clearing land.
- e) The use of motorized earth drilling machinery.
- f) The establishment and use of campsites.
- g) Construction of realignments of the Wekweètì Winter Road.
- h) Quarrying.

GNWT-INF did not provide a response to the Inspectors recommendations. Given that construction was referenced with operation and maintenance activities on the Wekweètì Winter Road throughout GNWT-INF’s Application and that construction has also always historically been included in the Permit since the first issuance in 2002, the Board has decided not to remove ‘construction’ from the scope of activities related to the Wekweètì Winter Road.

For the recommendation to include the ‘Construction of realignments outside of the 60 m Right of Way of the Wekweètì Winter Road’, the Board has decided not to include the text ‘outside of the 60 m Right of Way’ because of potential confusion with the 12 m right-of-way included in the ‘Width Right-of Way’ condition (see section 3.4.2 of this Reasons for Decision). In the Board’s Reasons for Decision on the Extension to Permit W2014F0003,¹⁵ it was explained that the proposed realignment work associated with this land use operation would involve work outside of the 60 m alignment of the Wekweètì Winter Road as designated in the *Public Highway Act – Highway Designation and Classification Regulations*. For the purposes of this Permit’s scope – this same understanding applies here.

The Board decided to add all other scope recommendations provided by the Inspector in comment 6. The Board is of the opinion that including these items helps to better reflect the activities included in the Application.

3.4.2 Permit Conditions

Based on the outcome of the public review, some changes were made to conditions that were included in the draft Permit that was distributed for review. These are discussed in the subsections below, along

¹⁵ See WLWB Online Registry for [W2014F0003 - GNWT-INF - Land Use Permit - Extension - Reasons for Decision - Dec 19_19.pdf](#)

with an important clarification regarding the 'Location of Activities' condition. Conditions included for consideration in the draft Permit that did not receive any feedback during the public review and that did not require further clarification have been included in the Permit are not discussed further below.

Location of Activities

GNWT-INF included potential quarrying activities in the Application to construct realignments or improve grades or roadways. Four major realignment projects were proposed along the Winter Road in 2009 through an Amendment Application submitted to the Board.¹⁶ The Board has included construction of realignments of the Wekweètì Winter Road into the scope of the Permit and these realignment activities were determined to be exempt from preliminary screening. The Board notes that should any realignments outside of those proposed in the 2009 Amendment Application be needed an amendment request will be required to include new realignments to the 'Location of Activities' condition and these new realignments would require a preliminary screening.

During the public review, Board staff requested information regarding the location of potential quarry and borrow sites and the impacts and mitigation measures associated with these activities (WLWB staff comment 4). GNWT-INF responded that no quarry sites have been identified at this time, and that once site(s) are identified, the associated impact and mitigation measures would be outlined in a quarry permit application to either the TG or the Department of Lands. As the location of potential quarry and borrow sites were not provided with the Application, the 'Location of Activities' condition in the Permit does not include any of these potential locations. The Board has included quarrying in the scope of the Permit but notes that should any quarrying activities need to take place, an amendment request will be required to include the locations in the Permit. If these quarry sites are ones not previously included or considered in previous Permits for the Project, the amendment request will require a preliminary screening.

Private Property Setback

The 'Private Property Setback' condition was included for consideration in the draft Permit, to account for potential cabins near the Project area. During the public review, Board staff also asked GNWT-INF to indicate whether a 300-meter setback from any potential private property, a commonly used setback for this condition, would be appropriate (WLWB staff comment 5). The GNWT-INF confirmed that 300-meters would be acceptable in their response, and as no other comments were received by Parties regarding this condition, the Board decided to retain the 'Private Property Setback' condition in the Permit with the 300-meter setback.

Width-Right-of-Way

The 'Width-Right-of-Way' standard condition was included for consideration in the draft Permit with a request for input from Parties as to whether the width of the right-of-way should be constrained to 10 meters, which is typical for this condition. No Parties requested the removal of the condition. The GNWT-Lands Inspector commented that other winter roads in the North Salve Region range from 10 to 12 m and recommended that GNWT-INF confirm whether a 12 m road would be required for the Project (comment

¹⁶ See WLWB Online Registry for [W2007F0003 - GNWT DOT - Amendment Application - Wekweètì Winter Road Summer Maintenance - Jul 29 09](#).

4). GNWT-INF confirmed that a 12 m road width is required; thus, the Board has decided to retain this condition in the Permit with the recommended width of 12 meters.

Methods and Techniques for Debris and Brush Disposal & Restoration of the Lands

The GNWT-Lands Inspector recommended inclusion of four standard conditions occurring under Sections *26(1)(n) Methods and Techniques for Debris and Brush Disposal* and *26(1)(o) Restoration of the Lands* of the Permit (GNWT-Lands Inspector comments 1 and 2). Under the first Section, the Inspector recommended including the ‘Minimize Area Cleared’ condition, and under the second Section, recommended including the ‘Disposal of Overburden’, ‘Save and Place Organic Soil’, and ‘Progressive Reclamation’ conditions. The GNWT-INF did not provide a response to the recommended inclusion of the four conditions.

Given that the ‘Minimize Area Cleared’ condition aligns with the GNWT’s Impacts and Mitigations table and Waste Management Plan – which state generally that minimal vegetation clearing is expected during the Project, as it occurs within a previously disturbed area and only the required amount of land will be cleared – the Board agrees that this standard condition is appropriate and has included it in the Permit.

With respect to the recommended inclusion of the ‘Disposal of Overburden’ and the ‘Save and Place Organic Soil’ conditions, the Board is of the opinion that these would support mitigation of potential impacts associated with any potential quarrying that could occur as part of the Project. The ‘Progressive Reclamation’ condition also supports mitigating any potential impacts and disturbances resulting from the Project. For these reasons, the Board agrees that these standard conditions are appropriate and has included them in the Permit.

Protection of Historical, Archaeological, and Burial Sites

The TG (comment 3) and GNWT-ECE-PWNHC (comments 1 and 2) both provided recommendations for section *26(1)(j) Protection of Historical, Archaeological, and Burial Sites* of the Permit. The TG recommended that should any artifacts, heritage sites, or burial sites be discovered, that the GNWT-INF notify the Manager of Research Operations of the Tłıchq Government by phone and email and consult with the Manager prior to moving any artifacts or disturbing any ground within 150 m of a burial site. The GNWT-INF made note of the recommendation and given that the Wekweètì Winter Road is located on Tłıchq Lands, the ‘Site Discovery and Notification’ condition in the Permit was updated to include notifying the Manager of Research Operations of the Tłıchq Government.

The TG further recommended the inclusion of the ‘Archaeological Overview’ condition and that it be updated to include consultation with the TG so that Traditional Knowledge may be incorporated into the identification of areas with high potential for cultural heritage resources or artifacts. Given that GNWT-INF did not object to this recommendation and that there is the potential for new land disturbance should re-alignment activities be necessary, the Board accepted the inclusion of this condition in the Permit. The Board further included the companion ‘AIA – High Potential’ condition should any areas of high potential for archaeological or burial sites be identified by an Archeological Overview.

The GNWT-ECE-PWNHC recommended an update to the sites listed under the 'Archeological Buffer' condition be changed from 'KjPm-2, KkPm-8, LbPI-3, and LbPI-21' to 'LbPI-14, KkPm-8, and KjPm-2', given revisions to site locations since 2014. As GNWT-ECE-PWNHC commented that these sites were not at risk of impact should the winter road route remain the same, this recommendation was accepted.

3.4.3 Overall Permit Decision

After reviewing the Application, as well as all reviewer comments and proponent responses submitted during the public review, the Board has decided to issue Type A Land Use Permit W2021F0010 for a period of five years.

- **Decision #1: If the Board does not receive a notice of referral to environmental assessment by December 31, 2021, the Board will issue Type A Land Use Permit W2021F0010 on January 4, 2022.**

3.5 Security

The GNWT-INF is not required to post security deposits for land use permits as per Part 3, section 94 of the MVRMA.

3.6 Management Plans

As part of the Application, GNWT-INF submitted a Waste Management Plan (WMP), a Spill Contingency Plan (SCP), and an Engagement Plan. It was noted that the GNWT-INF's WMP and SCP did not, nor have they previously been assigned, version numbers. The following version numbers were assigned to the plans submitted with the Application based on the previous plans acquired throughout the lifetime of the Wekweètì Winter Road Project:

- Waste Management Plan (v 2.0)
- Spill Contingency Plan (v 4.0)
- Engagement Plan (v 3.0)

Should future Permit renewal applications, extensions and/or revised plans be submitted for this Project, the Board would like to remind GNWT-INF that version numbers should be assigned in accordance with the *MVLWB Guide to the Land Use Permitting Process*.¹⁷

3.6.1 Waste Management Plan

GNWT-INF submitted Version 2.0 of its Waste Management Plan.¹⁸ Version 2.0 of the WMP included the following updates to the currently approved Version 1.0 of the WMP¹⁹: the addition of greater detail on management, handling, and disposal methods for waste; identification of other potential waste streams generated by the Project; GNWT-INF contact information; confirmation that contractor information will be provided; a list of who the Plan was distributed to; legislation that informed the Plan's development; and definitions of key terms were also new additions to this Plan. No concerns or recommendations from

¹⁷ See [Land and Water Boards of the Mackenzie Valley Guide to the Land Use Permitting Process – Aug 30 21](#), pg. 24.

¹⁸ See WLWB Online Registry for [GNWT-INF - Wekweètì Winter Road - Waste Management Plan - Version 2.0 - Nov 8 21](#).

¹⁹ See WLWB Online Registry for [W2014F0003 - GNWT-DOT - Renewal Application - Waste Management Plan - Nov 6 14](#).

Parties with regards to Version 2.0 of the Waste Management Plan were received; thus, the Board has decided to approve Version 2.0 of the Waste Management Plan.

- **Decision #2: The Board approves Version 2.0 the Waste Management Plan.**

3.6.2 Spill Contingency Plan

GNWT-INF submitted Version 4.0 of its Spill Contingency Plan.²⁰ Version 4.0 included minor updates to the currently approved Version 3.0 of the SCP.²¹ These updates included additional Spill Prevention strategies, inclusion of a spill in water response plan, and updated GNWT-INF contact information.

During the public review, Board staff inquired as to what the worst-case scenario for the Project site would be given the maximum anticipated fuel use increase (WLWB staff comment 2). GNWT-INF responded that the increased fuel volume will not increase the actual volume of fuel that will be stored at site, and that the fuel will be utilized throughout the entirety of the winter road season. GNWT-INF elaborated further that a re-fueling vehicle spill would be a worst-case scenario for the Project. Given the GNWT-INF's strategies outlined in the Spill Contingency Plan address various spill scenarios, no updates are required to the Plan to address this question from Board staff.

There were no concerns or recommendations from Parties with regards to Version 4.0 of the Spill Contingency Plan; thus, the Board has decided to approve Version 4.0 of the SCP.

- **Decision #3: The Board approves Version 4.0 the Spill Contingency Plan.**

3.6.3 Engagement Plan

GNWT-INF submitted Version 3.0 of its Engagement Plan.²² Version 3.0 included minor updates to the currently approved Version 2.0 of the Engagement Plan.²³ These updates elaborated on instances when direct community engagement will not occur (i.e., in the case of minor, temporary, or emergency alignment changes), that community meetings regarding the Winter Road may include any interested community members, and included several new parties to the Affected Parties list.

During the public review, the TG provided several comments and recommendations on the Engagement Plan (TG comments 1, 2, and 4). The TG requested that the Lands Regulatory Department of the Tłı̨chq̨ Government and the community director of Wekweèti be included in any notices related to the Wekweèti Winter Road (TG comment 1). The TG also requested that all references to the "Tłı̨chq̨ Lands Division" be replaced with "Lands Regulatory Division of the Tłı̨chq̨ Government" throughout the Engagement Plan (TG comment 2). The TG further recommended the inclusion of two Engagement Triggers outlined in the Plan (TG comment 4). GNWT-INF did not object to any of TG's recommendations; therefore, the Board requires GNWT-INF to include all updates requested by the TG in Version 3.1 of the Plan.

²⁰ See WLWB Online Registry for [GNWT-INF - Wekweèti Winter Road - Spill Contingency Plan - Version 4.0 - Nov 8 21](#).

²¹ See WLWB Online Registry for [W2014F0003 - GNWT-DOT - Renewal Application - Spill Contingency Plan - Oct 29 14](#).

²² See WLWB Online Registry for [GNWT-INF - Wekweèti Winter Road - Engagement Plan - Version 3.0 - Nov 8 21](#).

²³ See WLWB Online Registry for [W2014F0003 - GNWT-DOT - Engagement Plan - Version 2.0 - Jan 12 15](#).

- **Decision #4: The Board approves Version 3.0 of the Engagement Plan.**
- **Decision #5: The Board requires GNWT-INF to submit Version 3.1 of its Engagement Plan to include the revisions requested in TG comments 1, 2, and 3. Version 3.1 of the Engagement Plan is due within 30 days of the Permit Issuance.**

Signed the 4th Day of January 2022, on behalf of the Wek'èezhìi Land and Water Board



Witness



Mason Mantla
Chair, Wek'èezhìi Land and Water Board