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April 26, 2021

File: W2021X0001

Laura Duncan
Tłı̄chq̄ Government
127 Donda Tili
Behchokq̄, NT X0E 0Y0

Sent by email

Dear Laura,

Re: Tłı̄chq̄ Fibre Optic Project– Issuance Package – Land Use Permit W2021X0001 – Highway 3 to Whatı̄, NT

The Wek'èezhii Land and Water Board (Board) met on April 15, 2021 and considered the Application Package from the Tłı̄chq̄ Government for Land Use Permit (Permit) W2021X0001 for the Tłı̄chq̄ Fibre Optic Project in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

Land Use Permit W2021X0001 (attached) has been granted for a term of five years, April 26, 2021 and expiring April 25, 2026, and is supported by the Board's attached Reasons for Decision. These documents are posted to the Board's Public Registry.¹

The Inspectors referred to in the Permit can be contacted at the regional GNWT-Lands offices.²

Permit Processes and Additional Information

Sections 5 and 6 of the Board's *Guide to the Land Use Permitting Process*³ (Guide) contain detailed information on permit enforcement and potential post-issuance processes, such as amendments to conditions, and assignment to another company. Please be familiar with these sections of the Guide and reach out to Board staff with any questions about Board processes related to the Permit.

¹ See WLWB Online Registry (www.wlwb.ca/) for [W2021X0001](#)

² See GNWT-Lands Inspection and Enforcement webpage (<https://www.lands.gov.nt.ca/en/services/inspections-and-enforcement>) for regional contact information.

³ See WLWB Policies and Guidelines webpage for MVLWB [Guide to the Land Use Permitting Process](#) (2020).

Full cooperation of Tłıchq Government is anticipated and appreciated. Please contact Jessica Pacunayen at (867) 765-4591 with any questions or concerns regarding this letter.

Yours sincerely,



Joseph Mackenzie
Chair, Wek'èezhìi Land and Water Board

BCC'd to: Wek'èezhìi Distribution List
 Clint Ambrose – Inspector, GNWT-Lands
 Charlene Coe, GNWT-Lands

Attached: Land Use Permit
 Reasons for Decision



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LAND USE PERMIT

Permit Class A	Permit No W2021X0001	Amendment No
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Subject to the Mackenzie Valley Land Use Regulations and the terms and conditions in this Permit, authority is hereby granted to:

Tłıchq Government

Permittee

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

Signature Laura Duncan	Date March 2, 2021
Type of Land use Operation Miscellaneous - Fibre Optic Project	
Location Highway 3 to Whatì via the Tłıchq All-Season Road	

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

Dated at Yellowknife this 26th day of April, 2021

Signature Chair

Signature Witness

Effective Date

Expiry Date

April 26, 2021

April 25, 2026

Attention

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



**Conditions Annexed to and Forming Part of
Land Use Permit # W2021X0001**

Part A: Scope of Permit

1. This Permit entitles the Permittee to conduct the following land-use operation:
 - a) Installation of a fibre optic cable;
 - b) the use of motorized earth-drilling machinery;
 - c) Use of fuel;
 - d) the use of self-propelled earth-moving equipment, and vehicles and machines over 10 tons;
 - e) Clearing of vegetation as required in the Right of Way;
 - f) Ongoing operation and maintenance.
2. This Permit is issued subject to the conditions contained herein with respect to the use of land for the activities and area identified in Part A, item 1 of this Permit.
3. Compliance with the terms and conditions of this Permit does not excuse the Permittee from its obligation to comply with the requirements of any applicable Federal, Territorial, Tłı̨chǫ, or Municipal laws.

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

Act - the *Mackenzie Valley Resource Management Act*.

Board - the Wek'èezhì Land and Water Board established under Part 3 of the Act.

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

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

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

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

Engagement Plan - a document, developed in accordance with the Board's *Engagement and Consultation Policy* and the *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use*

Permits, that clearly describes how, when, and which engagement activities will occur with an affected party during the life of the project.

Flowing Artesian Well - a well in which water:

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

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

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

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

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

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

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

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

Permittee - the holder of this permit.

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

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

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

Sewage - all toilet wastes and Greywater.

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

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

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

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

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

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

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

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

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

Condition

26(1)(a) Location and Area

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| 1. | The Permittee shall only conduct this land-use operation on lands designated in the application. | LOCATION OF ACTIVITIES |
| 2. | The Permittee shall use an existing campsite, as described in the complete application. | USE EXISTING CAMP |
| 3. | Prior to the commencement of drilling, the Permittee shall submit the target areas and final drill hole locations on a 1:50,000-scale map with coordinates and map datum to the Board and an Inspector. | DRILL LOCATIONS |

26(1)(b) Time

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| 4. | At least 48 hours prior to the initial commencement of the land-use operation, the Permittee's Field Supervisor shall notify the Board and contact an Inspector at (867) 767-9188. | INITIAL NOTIFICATION – CONTACT INSPECTOR |
| 5. | At least 48 hours prior to commencement of the land-use operation, the Permittee shall provide the following information, in writing, to the Board and an Inspector:
a) the name(s) of the person(s) in charge of the field operation;
b) alternates; and
c) all methods for contacting the above person(s). | IDENTIFY AGENT |
| 6. | At least ten days prior to the completion of the land-use operation, the Permittee shall advise an Inspector of:
a) the plan for removal or storage of equipment and materials;
b) when final cleanup and reclamation of the land used will be completed; and
c) when the Final Plan will be submitted. | REPORTS BEFORE FINAL REMOVAL |

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

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| 7. | The Permittee shall only use equipment of a similar type, size, and number to that listed in the complete application. | USE APPROVED EQUIPMENT |
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26(1)(d) Methods and Techniques

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

8. The Permittee shall ensure that the land use area is kept clean at all times. **CLEAN WORK AREA**

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

9. The Permittee shall insulate the ground surface beneath all structures associated with this land-use operation to prevent: **PERMAFROST PROTECTION**
- a) any vegetation present from being removed;
 - b) the melting of Permafrost; and
 - c) the ground settling and/or eroding.
10. The land-use operation shall not cause obstruction to any natural drainage. **NATURAL DRAINAGE**
11. The Permittee shall install and maintain suitable erosion control structures as the land-use operation progresses. **PROGRESSIVE EROSION CONTROL**
12. The Permittee shall apply appropriate mitigation at the first sign of erosion. **REPAIR EROSION**
13. The Permittee shall, where flowing water from a Borehole is encountered: **FLOWING ARTESIAN WELL**
- a) plug the Borehole in such a manner as to permanently prevent any further outflow of water; and
 - b) immediately report the occurrence to the Board and an Inspector.
14. During winter operations, the Permittee shall only conduct off-road vehicle travel on snow-covered surfaces. **OFF-ROAD VEHICLE TRAVEL**
15. The Permittee shall prepare the site in such a manner as to prevent rutting or gouging of the ground surface. **PREVENTION OF RUTTING**
16. The Permittee shall suspend overland travel of equipment or vehicles at the first sign of rutting or gouging. **SUSPEND OVERLAND TRAVEL**
17. The Permittee shall not move any equipment or vehicles unless the ground surface is in a state capable of fully supporting the equipment or vehicles without rutting or gouging. **VEHICLE MOVEMENT FREEZE-UP**

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

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| 18. | At least seven days prior to the use of any chemicals that were not identified in the complete application, the Safety Data Sheets must be provided to the Board and an Inspector. | CHEMICALS |
| 19. | When drilling within 100 metres of the Ordinary High-Water Mark of any Watercourse, and when drilling on ice, the Permittee shall contain all drill water and Drilling Waste in a closed circuit system for reuse, off-site disposal, or deposit into a land-based Sump or natural depression. | DRILLING NEAR WATER OR ON ICE |
| 20. | The Permittee may deposit Drilling Waste that does not contain Toxic Material in a Sump. Any Sumps or natural depressions used to deposit Drilling Waste must be located at least 100 metres from the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | DRILLING WASTE |
| 21. | The Permittee shall remove all Drilling Waste containing Toxic Material to an approved disposal facility. | DRILLING WASTE DISPOSAL |
| 22. | The Permittee shall not allow any Drilling Waste to spread to the surrounding lands or Watercourses. | DRILLING WASTE CONTAINMENT |
| 23. | The Permittee shall dispose of all Toxic Material as described in the approved Waste Management Plan. | WASTE CHEMICAL DISPOSAL |
| 24. | The Permittee shall dispose of all combustible Waste petroleum products by removal to an approved disposal facility. | WASTE PETROLEUM DISPOSAL |

26(1)(h) Wildlife and Fish Habitat

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| 25. | The Permittee shall take all reasonable measures to prevent damage to wildlife and fish Habitat during this land-use operation. | HABITAT DAMAGE |
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26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage

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| 26. | The Permittee shall dispose of all Waste as described in the Waste Management Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | WASTE MANAGEMENT |
| 27. | The Permittee shall keep all garbage and debris in a secure container until disposal. | GARBAGE CONTAINER |

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| 28. | The Permittee shall dispose of all Sewage and Greywater as described in the approved Waste Management Plan. | SEWAGE DISPOSAL -
PLAN |
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26(1)(j) Protection of Historical, Archaeological, and Burial Sites

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| 29. | The Permittee shall not operate any vehicle or equipment within at least 30 metres of a known or suspected historical or archaeological site or burial ground. Where possible, the Permittee shall maintain a 150 metres of a known or suspected historical or archaeological site or burial ground. | ARCHAEOLOGICAL
BUFFER |
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| 30. | The Permittee shall not knowingly remove, disturb, or displace any archaeological specimen or site. | SITE DISTURBANCE |
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| 31. | The Permittee shall, where a suspected archaeological or historical site, or burial ground is discovered: | SITE DISCOVERY AND
NOTIFICATION |
| | a) immediately suspend operations on the site; and | |
| | b) notify the Board at (867) 765-4592 or an Inspector at (867) 767-9188, and the Prince of Wales Northern Heritage Centre at 767-9347 ext. 71251 or ext. 71255. | |

26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value

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26(1)(l) Security Deposit

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| 32. | All costs to remediate the area under this Permit are the responsibility of the Permittee. | RESPONSIBILITY FOR
REMEDIAATION COSTS |
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26(1)(m) Fuel Storage

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| 33. | The Permittee shall set up all refueling points with Secondary Containment. | SECONDARY
CONTAINMENT -
REFUELING |
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| 34. | The Permittee shall not allow petroleum products to spread to surrounding lands or Watercourses. | FUEL CONTAINMENT |
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| 35. | The Permittee shall comply with the Spill Contingency Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | SPILL CONTINGENCY
PLAN |
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| 36. | Prior to commencement of the land-use operation the Permittee shall ensure that spill-response equipment is in place to respond to any potential spills. | SPILL RESPONSE |
| 37. | All equipment that may be parked for two hours or more, shall have a haz-mat/drip tray under it or be sufficiently diapered. Leaky equipment shall be repaired immediately. | DRIP TRAYS |
| 38. | The Permittee shall clean up all leaks, spills, and contaminated material immediately | CLEAN UP SPILLS |
| 39. | During the period of this Permit, if a spill occurs or is foreseeable, the Permittee shall: <ul style="list-style-type: none"> a) implement the approved Spill Contingency Plan; b) report it-immediately using the NU-NT Spill Report Form by one of the following methods: <ul style="list-style-type: none"> • Telephone: (867) 920-8130 • Fax: (867) 873-6924 • E-mail: spills@gov.nt.ca • <u>Online: Spill Reporting and Tracking Database</u> c) within 24 hours, notify the Board and an Inspector; and d) within 30 days of initially reporting the incident, submit a detailed report to the Board and an Inspector, including descriptions of causes, response actions, and any changes to procedures to prevent similar occurrences in the future. Any updates to this report shall be provided to the Board and an Inspector in writing as changes occur. | REPORT SPILLS |

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

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| 40. | The Permittee shall progressively dispose of all brush and trees; all disposal shall be completed prior to the end of this land use operation | BRUSH DISPOSAL/
TIME |
| 41. | The Permittee shall not clear areas larger than identified in the complete application. | MINIMIZE AREA
CLEARED |

26(1)(o) Restoration of the Lands

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| 42. | Prior to the end of the land-use operation, the Permittee shall complete all cleanup and restoration of the lands used. | FINAL CLEANUP AND
RESTORATION |
| 43. | Prior to the end of the land-use operation, the Permittee shall prepare the site in such a manner as to facilitate natural revegetation. | NATURAL
VEGETATION |
| 44. | The Permittee shall carry out Progressive Reclamation of disturbed areas as soon as it is practical to do so. | PROGRESSIVE
RECLAMATION |

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

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

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

46. If nesting areas are encountered during the course of operations, the Permittee shall minimize all activity so as to not disturb them. **MIGRATORY BIRD NEST DISTURBANCE**

47. If any plan is not approved by the Board, the Permittee shall revise the plan according to the Board's direction and re-submit it to the Board for approval. **RESUBMIT PLAN**

48. The Permittee shall comply with the **Engagement Plan**, once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. **ENGAGEMENT PLAN**

49. All revised plans submitted to the Board shall include a brief summary of the changes made to the plan. **SUMMARY OF CHANGES**



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Preliminary Screener:	WLWB
Reference/File Number:	W2021X0001 (Type "A" Land Use Permit)
Permittee:	Tłıchq Government
Subject:	Type A Land Use Permit Application for the Tłıchq Fibre Optic Project

Decision from the Wek'èezhìi Land and Water Board Meeting of April 15, 2021

1.0 Decision

On April 15, 2021, the Wek'èezhìi Land and Water Board (WLWB or the Board) met to consider an application from the Tłıchq Government (TG) for a Type A Land Use Permit (W2021X0001) to conduct a Fibre Optic Project from Highway 3 to Whatì via the Tłıchq All-Season Road.

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.

No notice of referral was received, therefore the Board has decided to issue Type A Land Use Permit W2021X0001 for the Tłıchq Fibre Optic Project. The Board's reasons are described below.

2.0 Background

The WLWB received a Land Use Permit Application from the TG on March 2, 2021.¹ The purpose of the Application is to install approximately 115 kilometres of transport fibre from Highway 3 along the Tłıchq All-Season Road (TASR) route to Whatì to connect Whatì to NorthwesTel's fibre line. TG plans to use the existing workforce, equipment (except cable plow attachment on bulldozer), camp facilities, and environmental protection measures (including the adoption of management plans) for the TASR project (W2016E0004) to support the Fibre Line Project.

¹ See WLWB (www.wlwb.ca) Online Registry for [Tlıcho Fibre Optic Project – Land Use Permit Application – Mar 2 21](#)

The Application, supporting materials, and a draft Permit were distributed for public review on March 5, 2021. Parties were invited to provide comments and recommendations using the Online Review System (ORS) by March 26, 2021. In the Item for Review, Parties were encouraged to provide comments and recommendations (e.g., on impacts and mitigation measures) to assist with the completion of the preliminary screening. Responses to reviewer comments were due April 1, 2021.

Comments and recommendations were received from Fisheries and Oceans Canada (DFO), Government of the Northwest Territories Department of Lands (GNWT-Lands)-Inspector, and Wek'èezhii Renewable Resources Board (WRRB). Additionally, a letter from GNWT-Lands was received indicating there was no active mineral tenure in the area. Board staff also submitted comments. Reviewer recommendations and Proponent responses are available on the WLWB Online Registry.²

3.0 Reasons for Decision

3.1 Eligibility

As per section 18 of the Mackenzie Valley Land Use Regulations (MVLUR), eligibility must be determined before the Board can issue a permit. As part of its Application, the TG obtained a letter from the Community Government of Whatì and the GNWT in support of this Project.³ Based on the supporting information provided, the Board believes that eligibility requirements under section 18 of the MVLUR has been satisfied.

3.2 Preliminary Screening

In accordance with subsection 124(1) of the MVRMA, the Board must conduct a preliminary screening. As per section 125(2.1) of the MVRMA, the Board distributed the Preliminary Screening Determination to the Review Board and the Wek'èezhii Distribution List on April 15, 2021.⁴

The Board did not receive a referral to Environmental Assessment during the 10-day pause period; therefore, as discussed in Section 3.3 of this Reasons for Decision, the Board is issuing W2021X0001.

3.3 Land Use Permit

A draft Permit was included in the Item for Review for distribution and developed using the Mackenzie Valley Land and Water Board (2020) *Standard Land Use Permit Conditions Template Version 2.3* (Standard List). The draft Permit was also prepared based on related Permits, including a fibre optic cable Permit MV2019X0027 with the Mackenzie Valley Land and Water Board, and the TASR Permit W2016E0004.^{5,6}

² See WLWB Online Registry for [Tlichó Fibre Optic Project – Land Use Permit Application – Review Summary and Attachments – Apr 1 21](#)

³ See WLWB Online Registry for [Tlichó Fibre Optic Project – Land Use Permit Application – Additional Information – Support Letters – Mar 2 21](#)

⁴ See WLWB Online Registry for [Tlichó Fibre Optic Project – Preliminary Screening Determination and RFD – Apr 15 21](#)

⁵ See MVLWB Online Registry for [MV2019X0027 – Government of Yukon – Issuance – Amended Land Use Permit – Nov27 20](#)

⁶ See WLWB Online Registry for [W2016E0004 – TASR – Land Use Permit – Amendment 1 – Additional Fuel – Nov 29 19](#)

3.3.1 Permit Scope

The following scope was included in the draft Permit that underwent public review:

1. This Permit entitles the Permittee to conduct the following land-use operation:

- a) Installation of conduits and fibre optic cable;
- b) Horizontal Directional Drilling;
- c) Use pre-existing camp and staging areas for equipment and materials;
- d) Use and storage of fuel;
- e) the use of self-propelled earth-moving equipment, and vehicles and machines over 10 tons;
- f) Clearing of vegetation as required in the right of way;
- g) Ongoing operation and maintenance.

During the public review, the GNWT Inspector made several recommendations to the scope, recommending removal of land-use operations that are: not triggers under the MVLUR (GNWT-Lands Inspector Comment 1); are too restrictive (GNWT-Lands Inspector comment 2); or are already regulated under the TASR Permit (W2016E0004) (GNWT-Lands Inspector comment 3, 4 and 6).

The Board has updated the scope of the Permit as follows:

1. This Permit entitles the Permittee to conduct the following land-use operation:

- a) Installation of a fibre optic cable;
- b) Use of motorized earth-drilling machinery;
- c) Use of fuel;
- d) The use of self-propelled earth-moving equipment, and vehicles and machines over 10 tons;
- e) Clearing of vegetation as required in the Right of Way; and
- f) Ongoing operation and maintenance.

The Board has kept some of the land use operations in the scope to reflect what was included in the Application. The 'Use of fuel' and 'Clearing of vegetation as required in the Right of Way' were kept to reflect the Application (i.e., additional clearing of vegetation along the RoW of Highway 3) and mitigations proposed in the Permit for these land-use operations (e.g., see conditions #33-#41 of the Permit).

As noted by the GNWT-Lands Inspector, since TG has applied to use TASR's camp and fuel storage (section 13 of the Application), the scope has been changed to eliminate duplication of enforcement of these areas. Subsequently, some of the conditions related to fuel storage have also been removed from the Permit (see next section 3.3.2).

3.3.2 Permit Conditions

During the public review, the GNWT-Lands Inspector submitted several comments regarding the draft permit including recommendations to remove conditions related to winter conditions (GNWT-Lands comment 9 and 10), typical of quarrying activities (GNWT-Lands comment 11), and fuel tank and caches (GNWT-Lands comment 14).

During the public review, Board staff asked about the project timelines and its implications, including whether any activities would occur in the winter (WLWB staff comment 1 and 2). In response to Board

staff comments, the TG indicated that the fibre line will be “installed along the TASR by the onset of winter...[and that] the only potential winter construction activity would occur within the Community of Whatì suspending fibre on utility poles.” The TG also explained that in the event that the Project will continue longer than the availability of the TASR workforce, facilities and equipment, the Environmental Manager would “seek amendments from the WLWB to existing permits/approvals in advance of their expiration to allow time for the resolution of permitting issues.” Although the majority of work is expected to take place in the summer of 2021, in recognizing potential delays due to COVID or otherwise, the Board has kept winter-related conditions in the Permit to ensure maximum flexibility and reduce administrative burden. Condition 14 – “Off-Road Vehicle Travel” has been revised from the standard wording to reflect the flexibility of operations. It now states:

During winter operations, the Permittee shall only conduct off-road vehicle travel on snow-covered surfaces.

As described in the previous section, to eliminate duplication of enforcement on the TASR camp and fuel storage areas, the Board has also removed the conditions related to fuel storage from the Permit. The Board acknowledges TG’s commitment to seek appropriate regulatory approvals should the TASR resources no longer be made available.

Smaller changes have also been made to the Permit as per GNWT-Lands’ recommendations to match wording with the TASR Land Use Permit W2016E0004 (GNWT-Lands comment 13) to reflect the Inspectors’ contact information (GNWT-Lands comment 8 and 12). The Board does not have any issues with removing the condition ‘Display Permit’ from the Permit as recommended by the GNWT-Lands Inspector (GNWT-Lands comment 15) and have removed the condition.

3.4 Management Plans

As part of its Land Use Permit Application, the TG submitted the following:

- Wildlife Management and Monitoring Plan Version 1.0.

The TG also stated in its Application that it will follow TASR’s approved management Plans (i.e., Waste Management Plan, Spill Contingency Plan, and the Closure and Reclamation Plan) under Land Use Permit W2016E0004. There were no comments from Parties with regards to the TG adopting TASR’s Management Plans.

3.4.1 Wildlife Management and Monitoring Plan (WMMP)

The TG submitted Version 1.0 of the WMMP with its Application Package and only the WRRB submitted comments and recommendations on the Plan during the public review. The WRRB stated that the TG is required to submit the WMMP as a management proposal to the WRRB under section 12.5.1 of the Tłıchq Land Claims and Self-Government Agreement (Tłıchq Agreement) and made several recommendations on the WMMP (WRRB comments 2-7). In these recommendations, WRRB included concerns over direct impacts to wildlife by nearby or approaching personnel and vehicles, monitoring of bird nests, and reporting of wildlife sightings.

In response to the WRRB, the TG provided 'Version 2.0' of the WMMP (see response to WRRB comment 2) that addressed two of the five recommendations proposed by WRRB (responses to WRRB comment 6 and 7 regarding monitoring and reporting). With regards to WRRB's remaining recommendations, TG responded that the proposed WMMP "mirrors the approved TASR WMMP" so did not propose revisions to Version 2.0 of the WMMP for the Fibre Line Project or for the TASR WMMP. Instead, in their response, TG provided additional details for how it would mitigate WRRB's concerns with approaching wildlife and committed to suspend operations if proposed methods did not work during sensitive periods (see responses to WRRB comments 3-5).

The Board acknowledges that in addition to TG's proposed WMMP, GNWT-INF has an approved WMMP for the construction and operation of the TASR project.⁷ Given the short duration of the installation, TG has proposed providing details from monitoring related to the Fibre Line Project within the TASR's Annual Report and Weekly Environmental Reports.

The Board has considered TG's responses and proposed mitigations to wildlife and wildlife habitat in the WMMP as part of the Preliminary Screening in Table 1. Given the overlap between the TASR Project WMMP and the Fibre Line WMMPs, as well as the short duration of the project, the Board does not believe a separate WMMP requirement in the Permit is necessary at this time. To ensure the protection of wildlife habitat, the Board has included a standard condition in the Permit (condition 25 – "Habitat Damage") that states:

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

The Board also notes that the GNWT-ENR, who are responsible for the *Wildlife Act*, did not comment on the Application, but may determine that a WMMP approved by the Minister of ENR is necessary at a later date.⁸ In the Engagement Record submitted with the Application, GNWT-ENR was contacted, but no response was received. It is expected that the TG work collaboratively with the Wek'èezhìi Renewable Resources Board and GNWT-ENR on further wildlife management aspects.

- ***Decision #1: The Board directs Tłı̨chǫ Government to work collaboratively with the Wek'èezhìi Renewable Resources Board and GNWT-ENR on Wildlife management aspects.***

3.5 Security

The Boards have the authority to require proponents to post and maintain security under subsection 32(1) of the *Mackenzie Valley Land Use Regulations* (MVLUR). The TG submitted a security worksheet in their Application Package for an amount of \$10,292.05. This value is based on the distance to the closest hub city (i.e., Yellowknife - a city with airbase and land access for waste disposal transport). TG stated in the worksheet that because the Project will be located within the TASR RoW and that the Project will be utilizing the TASR camp, workforce, size/type of equipment, many of the other values are zero. The Board notes that the submitted security worksheet used in the application is a new draft security worksheet and has not yet been formally approved by the Land and Water Boards.

⁷ See WLWB Online Registry for [W2016E0004 – TASR – Wildlife Management and Monitoring Plan – Version 4.2 – Jan 29 21](#)

⁸ https://www.enr.gov.nt.ca/sites/enr/files/resources/wmmp_process_and_content_guidelines_june_2019.pdf

During the public review, Board staff requested clarification on the implications of the Fibre Line Project's ability to use TASR's resources and security if the Project was unable to occur at the same time as the TASR project (i.e., the TASR Project ends before completion of the Fibre Line Project). The TG responded that the plan is to complete the installation along the TASR before November 30, 2021 and that any potential work after this date would be the "suspension of the fiber line from utility poles in the Community of Whatì and the 'last mile' connections to individual households and businesses." No other comments were received by Parties regarding security.

The Board has completed a security estimate based on the TG's application using the Land and Water Boards' currently approved Security Template and determined the security amount to be \$337.50 if the TG uses TASR resources.

Based on TG's response, it is a key feature of this Application that the Fibre Line Project will use TASR's workforce, facilities (including fuel), and equipment. Therefore, using TASR's resources means that the environmental liability of the Fibre Line Project will belong to the GNWT-INF (proponent for the TASR Project). Given that the calculated security for the Fibre Line Project is only \$337.50 based on some minor land disturbance, the Board is not requiring security at this time.

➤ ***Decision #2: The Board does not require security for the Tłı̨ch̨o Government's Fibre Line Project.***

The Board notes that this is the first time the TG has applied with the WLWB. As per section 94 of the MVRMA, both Territorial and Federal Governments are not required to pay security on non-federal lands. It is also Board policy to not require security from community governments; however, the Board maintains discretion in setting security as per the MVLUR.

3.6 Decision


After reviewing the Application, and comments and proponent responses submitted during the public review, the Board has decided to issue the TG's Land Use Permit W2021X0001.

➤ ***Decision #3: Since the Board has not received a notice of referral to environmental assessment by April 25, 2021, the Board is issuing Tłı̨ch̨o Government's Land Use Permit W2021X0001.***

Signed the 26th of April 2021, on behalf of the Wek'èezhìi Land and Water Board



Witness



Joseph Mackenzie
Chair, Wek'èezhìi Land and Water Board