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## Reasons for Decision

Issued pursuant to paragraphs 22(2)(a) and 40(2)(c) of the Mackenzie Valley Land Use Regulations (MVLUR).

Land Use Permit Application	
File Number	W2022X0002
Company	Tłıchq Government
Project	Whatì Falls Improvement Project
Location	Whatì, NT
Activity	Miscellaneous
Date of Decision	April 18, 2022

### 1.0 Decision

On April 7, 2022, the Wek'èezhì Land and Water Board (WLWB or Board) met and considered the Application made by Tłıchq Government (TG or the Applicant) to the Board on March 17, 2022 for Land Use Permit (Permit) W2022X0002. The purpose of the Application is for the Whatì Falls Improvement Project (the Project) in Whatì, NT.

The Board conducted a preliminary screening of the Application according to subsection 125(1) of the *Mackenzie Valley Resource Management Act* (MVRMA). Based on the evidence provided, the Board was satisfied the screening had been completed according to section 125 of the MVRMA and decided not to refer the Project to environmental assessment.

After reviewing the Application and the evidence gathered during the regulatory proceeding, the Board has made the following decisions:

- 1) To issue Land Use Permit W2022X0002 for a term of 5 years;
- 2) To approve Version 1.0 of the Engagement Plan;

- 3) Clarify that Section 11 of the TG’s Application is understood as the Waste Management Plan, Version 1.0 for this Permit;
- 4) Approve the Waste Management Plan described in Section 11 of the Land Use Permit application;
- 5) Require the Permittee to submit written confirmation from a community authorizing the receipt of the sewage waste from the Project to the Board prior to the commencement of the land-use operation;
- 6) To approve Version 1.0 of the Spill Contingency Plan;
- 7) Requires the submission of Version 1.1 of the Spill Contingency Plan that incorporates the required revisions within 30 days of the effective date of the Permit for a conformity confirmation; and
- 8) To approve Version 1.0 of the Closure and Reclamation Plan.

## 2.0 List of Defined Terms and Acronyms

Applicant/Permittee	Tłı̨chq̓ Government
Application	The complete application package submitted by the Applicant for Land Use Permit W2022X0002.
CRP	Closure and Reclamation Plan
DFO	Department of Fisheries and Oceans
Distribution List	The list of individuals and organizations to whom materials from this regulatory proceeding were circulated. <sup>1</sup>
EA	Environmental Assessment
ECCC	Environment and Climate Change Canada
GNWT	Government of the Northwest Territories
GNWT-ENR	Government of the Northwest Territories – Environment and Natural Resources
Inspector	An Inspector designated under subsection 84(1) of the <a href="#">Mackenzie Valley Resource Management Act</a>
LWBs	Land and Water Boards of the Mackenzie Valley
MVEIRB	Mackenzie Valley Environmental Impact Review Board
MVLUR	<a href="#">Mackenzie Valley Land Use Regulations</a>
MVLWB or Board	Mackenzie Valley Land and Water Board
MVRMA	<a href="#">Mackenzie Valley Resource Management Act</a>
Minister	Minister of the Government of the Northwest Territories (GNWT) – Lands
ORS	Online Review System ( <a href="https://new.onlinereviewsystem.ca/reviews">https://new.onlinereviewsystem.ca/reviews</a> )
Party	As per the MVLWB <a href="#">Rules of Procedures</a> , an applicant, a person, or an organization participating in this regulatory process.
Permit	Land Use Permit W2022X0002
Project	Whatì Falls Improvement Project, the undertaking as described in Part A of the Permit.
Review Board	Mackenzie Valley Environmental Impact Review Board
SCP	Spill Contingency Plan

<sup>1</sup> To access the Distribution List, see the LWBs’ Online Review System for [Tłı̨chq̓ Government – Whatì Falls Campground Permit Application – March 18 22](#).

Standard Permit Conditions	MVLWB <a href="#">Standard Land Use Permit Conditions Template</a>
TG	Tł̄chq̄ Government
WLWB or Board	Wek'èezhii Land and Water Board
WMP	Waste Management Plan
WMMP	Wildlife Monitoring and Management Plan

### 3.0 **Summary of Application**

On March 17, 2022, the Applicant submitted an application for a new Permit W2022X0002 (the Application).<sup>2,3,4,5,6,7,8,9</sup> The Application is to conduct road upgrades to develop infrastructure and improve roads to Nàìl̄l̄ (Whatì Falls). The activities include: construction, maintenance, and operation of an all-season road to access Whatì Waterfalls; construction, maintenance, and operation of tourism and recreational facilities near the Whatì Waterfalls; use of stationary, power-driven machinery; use of power-driven, earth drilling machinery; use of vehicles and equipment for quarrying, crushing, and stockpiling of granular material; use of equipment; establishment of a petroleum fuel storage facility; and use of a temporary campsite that will be set up at a previously disturbed area off the Whatì Access Road. The Project/footprint is approximately 15 to 20 hectares. These activities are located within the Wek'èezhii Resource Management Area on Tł̄chq̄ Lands near the community boundary of Whatì, NT.

In making its decision and preparing these Reasons for Decision, the Board has reviewed and considered:

- 1) The Permit Application as submitted by the Applicant for the Project;
- 2) The evidence and submissions received by the Board from the Applicant in relation to the Permit; and
- 3) The comments and recommendations, evidence, and submissions received by the Board from Parties during this regulatory proceeding.

### 4.0 **Regulatory Process**

On February 21, 2022, the Applicant submitted the Application for a new Permit W2022X0002. The Application was deemed incomplete on March 3, 2022.<sup>10</sup> On March 17, 2022, additional information was received, the Application was subsequently deemed complete and circulated to the Distribution List for

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<sup>2</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - Cover Letter - Mar 17 22](#)

<sup>3</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - Mar 17 22](#)

<sup>4</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - Project Description - Mar 17 22](#)

<sup>5</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - Project Overview - Mar 17 22](#)

<sup>6</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - Support Letters - Mar 17 22](#)

<sup>7</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - Additional Maps - Mar 17 22](#)

<sup>8</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - NSMA Letter to Support Expedite the Review Process - Mar 15 22](#)

<sup>9</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - Engagement Record - Mar 17 22](#)

<sup>10</sup> See WLWB Online Registry for [Whatì Falls Project - LUP Application - Incomplete Letter - Mar 3 22](#).

public review on the Online Review System (ORS).<sup>11</sup> As part of the public review, Board staff asked questions to assist with the Board’s preliminary screening determination.

The Applicant requested the Project be expedited to start its geotechnical investigations process. The WLWB agreed to a shorter review period than normal because: the Project proposed would take place on Tłıchq private Land and the Tłıchq Government is the Applicant; the only other potentially affected Party is North Slave Métis Alliance (NSMA), which provided a letter of support for the Project; and no timelines from Interim Measures Agreements apply to the proposed Project. The Reviewers were given a one-week review period and responses from the Proponent due by the end of the next day.

To assist the Board in making its decision on the Permit, Board staff also circulated a draft Permit for review with the Application to allow all Parties the opportunity to comment on the specific wording of the draft conditions.<sup>12</sup>

By March 28, 2022, the Board received comments and recommendations regarding the Application and the draft Permit from the following Parties: the Government of the Northwest Territories Department of Lands (GNWT-Lands) Inspector; the Government of the Northwest Territories Department of Education, Culture and Employment Prince of Wales Northern Heritage Centre (GNWT-ECE PWNHC). The Government of the Northwest Territories Environment and Natural Resources Environmental Assessment and Monitoring Section and the Wek’èezhìi Renewable Resources Board stated they had no comments and/or recommendations at this time. Board staff also submitted questions of clarification. On March 29, 2022, the Applicant responded to the Parties’ comments and recommendations.

Fisheries and Oceans Canada (DFO) submitted a general comment after the review period. The late comment was submitted on March 30, 2022. DFO commented that the proposal was reviewed and stated that, provided the “plans are implemented in the manner described, the Fish and Fish Habitat Protection Program is of the view that the proposal will not require an authorization under the *Fisheries Act* or the *Species at Risk Act*”. DFO indicated that the proponent is responsible to notify the DFO if the Project causes or is about to cause the death of fish by means other than fishing and the harmful alteration, disruption or destruction of fish habitat, which are prohibited under the *Fisheries Act*.

On April 7, 2022, the Board met and made its preliminary screening determination for the Project<sup>13</sup> and other decisions regarding the Application. These decisions and related reasons are described in sections [5.0](#) and [6.0](#) below.

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<sup>11</sup> See WLWB Online Review System for [Whati Falls Campground - Permit Application](#).

<sup>12</sup> See WLWB Online Registry for [Whati Falls Project - Draft Permit - Mar 18 22](#)

<sup>13</sup> See WLWB Online Registry for [Whati Falls Improvement Project - Preliminary Screening Determination and RFD - Apr 7 22](#).

#### **4.1 Eligibility for Land Use Permit**

As per section 18 of the MVLUR, eligibility must be determined before the Board can issue a permit. The Applicant stated that the proposed project will be carried out by the Tłıchq Government who is the landowner, and therefore eligibility is demonstrated under paragraph 18(b). No issues were raised regarding eligibility during this proceeding. Based on the supporting information provided, the Board believes that eligibility requirements under section 18 of the MVLUR have been satisfied.

#### **4.2 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 or licence. No approved Land Use Plans apply in the Project area.

#### **4.3 Land Use Fees**

The Project is located wholly outside of federal areas, so no land-use fees apply.

#### **4.4 Environmental Review (Part 5 of the MVRMA)**

##### **4.4.1 Preliminary Screening**

On April 7, 2022, the Board met and reviewed all the evidence received during the regulatory process with respect to the Preliminary Screening of the proposed Project. Based on the evidence, it is the Board's opinion that the proposed Project is not likely to have a significant adverse impact on the environment and will not be a cause of public concern, as set out in paragraph 125(1)(a) of the MVRMA. The Board has therefore decided not to refer the proposed Project to Environmental Assessment. If the Board does not receive a notice of referral to environmental assessment by April 17, 2022, the Board can issue the Permit on April 18, 2022.<sup>14</sup>

In accordance with section 125 of the [MVRMA](#), the Board notified the Review Board of its preliminary screening determination, and in the ten days following the Board's preliminary screening determination notification to the Review Board, the Board did not receive notice of referral to environmental assessment (EA). Subsequently, the Board proceeded with issuing the Permit.

#### **5.0 Decision – Land Use Permit W2022X0002**

Having due regard to the facts, circumstances, and the merits of the submissions made to it, and to the purpose, scope, and intent of the [MVRMA](#), the Board has determined that Permit W2022X0002 should be issued, subject to the scope, definitions, conditions, and term contained therein. The Board's determinations and reasons for this decision are set out below.

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<sup>14</sup> See WLWB Online Registry for [Whati Falls Improvement Project - Preliminary Screening Determination and RFD - Apr 7 22](#).

The Permit has been developed to address the Board's statutory responsibilities, to protect the receiving environment, and to address issues within the Board's jurisdiction that were identified and investigated during this regulatory proceeding.

In developing the Permit, the Board considered the MVLWB [Standard Land Use Permit Conditions Template](#) (Standard Permit Conditions) and included a number of these standard conditions that are relevant to the Project. The Standard Permit Conditions have been established by the LWBs based on information from LWB policies and guidelines, other applicable guidelines and best practices, meetings with Inspectors, input from LWB staff, and feedback from a public review. Each standard condition has been evaluated against the following characteristics of an ideal condition:

- Clearly part of LWBs' authority;
- Has a clear purpose and rationale;
- Is practical and enforceable;
- Matches the scale of the project; and
- Does not conflict with existing legislation (i.e., is not less stringent).

As noted in [section 4.0](#), Board staff circulated a draft Permit for review to allow Parties to provide specific input to the Board on possible conditions, and the Board considered these review comments and recommendations in making its determination on the Permit conditions. The Standard Permit Conditions include general rationale for each standard condition, and as such, the language of any standard condition included in the Permit is only discussed in detail in the following sections of these Reasons for Decision when it specifically relates to concerns or recommendations raised during the regulatory proceeding. The Board's reasons for developing and including project-specific conditions, including discussion of any concerns and recommendations raised regarding these conditions, are detailed in the relevant sections below.

### **5.1 Term of Permit**

The Applicant has applied for a term of 5 years for the Permit. Subsection 26(5) of the [MVLUR](#) allows for a Permit term of not more than five years. There were no concerns raised by Parties during the public review regarding the term of the Permit. After reviewing the submissions made during this regulatory proceeding, the Board has determined an appropriate term for the Permit is 5 years.

### **5.2 Part A: Scope of Permit**

The scope of the Permit ensures the Permittee is entitled to conduct activities that have been applied for and which have been subject to Part 5 of the [MVRMA](#). In setting out the scope of the Permit, the Board endeavoured to provide enough detail to identify and describe the authorized activities, without being unduly restrictive or prescriptive, and to allow for project flexibility, as contemplated in the Application, throughout the life of the Permit.

Based on the activities described in the Permit Application and on the scope outlined in the Standard Permit Conditions, Board staff included a draft scope in the draft Permit that was circulated for public review. The Board did not receive any comments or recommendations regarding the draft scope during the proceeding, so the Board accepted it as the scope of the Permit.

### **5.3 Part B: Definitions**

All definitions included in the draft Permit have been carried forward with the exception of the 'Engineered Structure' definition. No conditions in the Permit are associated with the term 'Engineered Structure', thus, the definition 'Engineered Structure' was removed. No other Parties raised concerns regarding the inclusion or removal of definitions from the draft Permit; therefore, the Board has retained the remaining definitions in the Permit.

### **5.4 Part C: Conditions Applying to All Activities**

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 public review. These are discussed in the subsections below. 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 and are not discussed further below.

The subheadings below correspond to the headings in the conditions section of the Permit, as outlined in subsection 26(1) of the [MVLUR](#).

#### 26(1)(a) Location and Area

The 'Private Property Setback' condition was included for consideration in the draft Permit. The GNWT-Lands Inspector commented that although this condition is not required for this land-use operation, the standard setback distance should suffice and recommended 300 metres be used for this operating condition. The Applicant did not object to the Inspectors recommendation. Therefore, the Board updated 'Private Property Setback' condition to include 300 metres.

The 'Drilling/Adit Setback' condition was included for consideration in the draft Permit. The GNWT-Lands Inspector commented that this condition is not required for this land-use operation and recommended this condition be removed. The Applicant did not object to the Inspectors recommendation. Therefore, the Board has removed 'Drilling/Adit Setback' condition from the Permit.

#### 26(1)(b) Time

The 'Initial Notification - Contact Inspector' condition was included for consideration in the draft Permit. The GNWT-Lands Inspector noted that the phone number for the North Slave Regional Inspector be updated to (867) 767-9188. The Applicant did not object to the Inspectors recommendation. Therefore, the Board updated the condition with the Inspectors phone number.

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

The 'Fire-Fighting Equipment' condition was included for consideration in the draft Permit. Board staff requested confirmation on when the Applicant proposed trees/brush burning will take place during the land-use operations and the Applicant stated that organic brush cutting waste will be stacked up and burned in the fall when the forest fire season has finished. Therefore, the Board has retained the 'Fire-Fighting Equipment' condition in the Permit.

#### 26(1)(d) Methods and Techniques

GNWT-Lands Inspector commented that geotechnical investigations may be completed with an excavator and recommended this standard condition 'Excavated Material Test Pits' be included (Condition 33 from the Standard Land Use Permit Conditions Template Version 2.3) (GNWT-Lands comment 5). The Applicant did not object to the inclusion of this standard condition. Therefore, the Board has included 'Excavated Material Test Pits' to the Permit.

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

The 'Off-Road Vehicle Travel' condition was included for consideration in the draft Permit. The GNWT-Lands Inspector indicated that the majority of the land-use operation will be conducted during snow free conditions and this condition would hamper operations (GNWT-Lands comment 4). The Application did not object the Inspectors recommendation. The 'Off-Road Vehicle Travel' condition provides protection to the land and vegetation during winter or summer, and enables the Inspector to enforce limitations to vehicle travel. Therefore, the Board is of the opinion that the 'Off-Road Vehicle Travel' provides additional protection and decided to retained the condition in the Permit.

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

The GNWT-Lands Inspector recommended that a Standard Condition 'Chemicals' be included to the Permit (Condition 57 from the Standard Land Use Permit Conditions Template Version 2.3) (GNWT-Lands comment 3). The Applicant did not object the inclusion of the condition. Therefore, the Board has included 'Chemicals' to the Permit.

#### 26(1)(h) Wildlife and Fish Habitat

The [MVLUR](#) includes provisions related to the protection of wildlife habitat; however, requirements for Wildlife Management and Monitoring Plans (WMMPs) are under the jurisdiction of the GNWT through the *Wildlife Act*. Accordingly, all applicants are directed to contact the GNWT-ENR to determine whether a WMMP, which details mitigations to reduce or eliminate impacts to applicable wildlife and wildlife habitat, is required for the Project and should be submitted to the Board with a permit and/or licence application.

The Permittee included a WMMP in the Application. There were no comments and/or recommendations received during the public review with regards to the TG's Wildlife Monitoring and Management Plan.

The Board included the 'HABITAT DAMAGE' condition in the Permit, which requires the Permittee to prevent damage to wildlife and fish habitat. This is a condition from the Board's Standard Permit Conditions and is intended to ensure the Permittee conducts their land-use operation in such a way as to minimize disturbance to wildlife habitat.

#### 26(1)(j) Protection of Historical, Archaeological, and Burial Sites

The 'Site Discovery and Notification' condition was included for consideration in the draft Permit, GNWT-Lands commented to update the phone number for the North Slave Regional Inspector for the aforementioned condition with (867) 767-9188. The Applicant did not object to the Inspectors recommendation. Therefore, the Board updated the condition with the Inspectors phone number.

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

This section was intentionally left blank, because the Board did not require conditions in this section to satisfy its mandate and did not receive any recommendations related to this section during the review of the draft Permit.

#### 26(1)(l) Security Deposit

This section sets out the Permittee's responsibility for all costs associated with remediation of the Project area. The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions.

The Board did not include security requirements in the Permit because the Applicant is the Tłı̄chǫ Government. As per section 94 of the [MVRMA](#), territorial and federal governments are not required to post security for permits; although this exemption does not apply to Indigenous governments, it has been Board practice to not require security for a permit when the applicant is an Indigenous government. The RESPONSIBILITY FOR REMEDIATION COSTS condition establishes the Permittee's responsibility for all costs to remediate the Permit area, so the Board is satisfied that the Permittee will be accountable for carrying out closure and reclamation even though a security deposit is not required.

The Board is satisfied that the security requirements it has imposed ensure that sufficient financial resources will be in place in advance of any liabilities that will be incurred.

#### 26(1)(m) Fuel Storage

The 'Fuel on Land' condition was included for consideration in the draft Permit. The GNWT-Lands Inspector commented that this condition did not pertain to the proposed land-use operations since there are no winter roads in the land use area and recommended removing this condition. Since the Applicant did not object to the removal of the condition and operations will not take place on ice-covered Watercourses, the Board has decided to remove the condition 'Fuel on Land' from the Permit as recommended by the GNWT-Lands Inspector (GNWT-Lands comment 4).

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

The 'Clearing Sensitive Area' condition was included for consideration in the draft Permit. The GNWT-Lands Inspector indicated that the distance detailed in the standard condition template is acceptable and recommended updating the condition to include 10 metres (GNWT-Lands comment 2). The Applicant did not object to the inclusion of the distance set out by the Inspector. Therefore, the Board has updated the condition to include '10 metres' as proposed by the Inspector to the Permit.

#### 26(1)(o) Restoration of the Lands

The Standard Condition 'Final Cleanup and Restoration' was included for consideration in the draft Permit and requires that prior to the end of the land-use operation, the Permittee shall complete all cleanup and restoration of the lands used. As part of the Application, TG submitted a Closure and Reclamation Plan for the activities related to the Land Use Permit. There was no requirement for a Closure and Reclamation Plan in the draft Permit that was distributed for public review. The Board has updated this condition to require final cleanup and restoration to be conducted "as outlined in the approved Closure and Reclamation Plan", to ensure the cleanup activities proposed in the Plan and consideration by Parties are implemented.

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

The 'Submit Revised Plan' condition was included for consideration in the draft Permit. The GNWT-Lands Inspector recommended revisions be made to the Spill Contingency Plan (SCP) (GNWT-Lands comment 12). Section 5.5.3 of this Reasons for Decision further explains that the Board approved Version 1.0 of TG's SCP and directed TG to submit Version 1.1 of its SCP to include the Reportable Quantities for NT-NU Spills; update Communication Plan on Page 8 of the document with the Inspectors contact information (867) 767-9188; Include the Spill Report form in the SCP; and since the Applicant is proposing the storage of fuel volumes greater than 70,000 Litres, this information and scenarios must be included in the plan as per INAC's *Guidelines for Spill Contingency Planning*. The Applicant stated that the details will be incorporated into the revised Plan. Thus, the Board has updated this condition to reflect the Inspectors recommendations.

The GNWT-Lands Inspector recommended revisions be made to the Waste Management Plan and that confirmation that waste will be accepted by a community be provided to the Inspector (GNWT-Lands comment 11). The LUP Application indicated that the Whatì Community Government is considering allowing the use of the sewage lagoon for the Project but has not confirmed. Thus, the Board included a condition that written confirmation from a community is required prior to the commencement of land-use operation to ensure that an approved sewage waste facility is acceptable to receiving sewage waste that will be generated under this Project.

**SEWAGE WASTE DISPOSAL AUTHORIZATION:** Prior to the commencement of land-use operation, the Permittee shall submit written confirmation from a community authorizing the receipt of the sewage waste from the Project to the Board.

### **5.4.1 Overall Permit Decision**

After reviewing the Application, as well as all reviewer comments and proponent responses submitted during the public review, the Board has decision to issue a type A Land Use Permit W2022X0002 for a period of five years.

- **Decision #1: If the Board does not receive a notice of referral to environmental assessment by April 17, 2022, the Board will issue Type A Land Use Permit W2022X0002 on April 18, 2022.**

### **5.5 Management Plans**

As part of the Application, Tłıchq Government submitted an Engagement Plan, a Waste Management Plan, a Spill Contingency Plan, and a Conceptual Closure and Reclamation Plan. The following version numbers were assigned to the plans submitted with the Application:

- Engagement Plan Version 1.0
- Waste Management Plan Version 1.0
- Spill Contingency Plan Version 1.0
- Conceptual Closure and Reclamation Plan Version 1.0

Should future Permit renewal applications, extensions and/or revised plans be submitted for this Project, the Board requires that Tłıchq Government assign version numbers to their plans in accordance with the *MVLWB Guide to the Land Use Permitting Process*.<sup>15</sup>

#### **5.5.1 Engagement Plan**

The Board assesses engagement adequacy through the MVLWB [Engagement and Consultation Policy](#) and [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#), and an Engagement Plan is a standard requirement for land use permits issued by the Board. This Plan is intended to ensure adequate and effective engagement with potentially affected parties has occurred prior to the submission of the Application (in the form of the Engagement Record) and is planned for throughout the life of the Project.

In accordance with the Policy and Guidelines, the Applicant included an Engagement Record and Plan in the Application,<sup>16</sup> and these documents were distributed for public review with the Application. The Board considered the Plan as part of the Application Package.

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<sup>15</sup> See [Land and Water Boards of the Mackenzie Valley Guide to the Land Use Permitting Process - Aug 30 21](#). Pg. 24

<sup>16</sup> See WLWB Online Registry for [Whati Falls Project – Engagement Plan Version 1.0 – Mar 17 22](#) and [Whati Falls Project – LUP Application - Engagement Record – Mar 17 22](#).

There were no comments and/or recommendations with regards to the Engagement Plan. The Board has approved the Engagement Plan, Version 1.0 because it meets the requirements of the Guidelines and is appropriate for the proposed activities.

➤ **Decision #2: The Board has approved Version 1.0 of the Engagement Plan.**

### **5.5.2 Waste Management Plan**

All applicants must submit detailed waste management information, identifying all types of waste that will be produced by the project (including quantity and quality) and describing the disposal methods that are proposed for each type of waste. For most applicants, this will be in the form of a Waste Management Plan, developed in accordance with the MVLWB [Guidelines for Developing a Waste Management Plan](#), and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board. The Guidelines can be applied to a wide range of projects and are intended to ensure that all waste management activities are carried out in a way that is consistent with best practices and applicable guidelines to minimize waste released from a project.

Due to the small scale of the Project, in lieu of submitting a stand-alone Waste Management Plan, the Permittee described the proposed waste management activities in the Application Form (Section 11 of the Application). In this case, the Board considered this information equivalent to a Waste Management Plan, and the Board's decision on the Plan is set out below.

The Waste Management Plan (Section 11 of the Application) detailed TG's proposed management to the proposed waste and the waste disposal methods for the Project.

The Board has approved the Waste Management Plan, Version 1.0 because it meets the requirements of the Guidelines and is appropriate for the proposed activities.

The GNWT-Lands Inspector recommended that the following proposed revisions be included in the next revisions to the Plan (GNWT-Lands comment 11):

- Provide disposal methods for the camp domestic wastewater (grey and black water); and
- If disposal is to occur in Whati, confirmation from the Hamlet that this waste stream will be accepted must be provided to Inspectors.

The Board notes that Section 11 of the Application includes disposal methods for the Project. The letter from the Community of Whati included that the community will be considering accepting waste for the Whati Falls Improvement Project. Because the letter included text that the community of Whati will be 'considering' accepting waste generated under this Project, the Board requires TG to submit a letter from a community that it will be accepting sewage waste generated under this Project prior to the commencement of its operations.

- **Decision #3: The Board clarifies that Section 11 of the TG’s Application is understood as the Waste Management Plan, Version 1.0 for this Permit.**
- **Decision #4: The Board approves the Waste Management Plan described in Section 11 of the Land Use Permit Application.**
- **Decision #5: The Board requires the Permittee to submit written confirmation from a community authorizing the receipt of the sewage waste from the Project to the Board prior to the commencement of land-use operation.**

### **5.5.3 Spill Contingency Plan**

All applicants must describe spill contingency planning. For most applicants, this will be in the form of a Spill Contingency Plan, developed in accordance with the INAC [Guidelines for Spill Contingency Planning](#), and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board. The Plan is intended to ensure that an action plan for responses to spills and unauthorized discharges has been established to effectively control and clean up spills and unauthorized discharges, with the goal of preventing or limiting damage to the receiving environment.

As required, the Permittee included a Spill Contingency Plan in the Application.<sup>17</sup> The Spill Contingency Plan included site description, potential contaminants, action plans, reporting procedures, spill training. The Board considered the Plan as part of the Application Package, and its decision on the Plan is set out below.

The Board has approved the Spill Contingency Plan, Version 1.0 because it meets the requirements of the Guidelines and is appropriate for the proposed activities. The SPILL CONTINGENCY PLAN condition requires the Permittee to comply with the approved Plan.

The GNWT-Lands Inspector recommended that the proposed revisions be included in the next revisions to the Plan (GNWT-Lands comment 12). The Board requires that the Permittee revise the Plan and submit Version 1.1, within 30 days of the effective date of the Permit, to reflect updates as agreed to during this regulatory proceeding, to reflect the proposed activities, to meet the applicable guidelines, and to include the following:

- Include the Reportable Quantities for NT-NU Spills;
- Update Communication Plan on Page 8 of the document with the Inspectors contact information (867) 767-9188;
- Include the Spill Report form in the SCP; and
- Since the Applicant is proposing the storage of fuel volumes greater than 70,000 Litres, this information and scenarios must be included in the plan as per INAC’s Guidelines for Spill Contingency Planning.

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<sup>17</sup> See WLWB Online Registry for [Whati Falls Project – Spill Contingency Plan Version 1.0 – Mar 17 22](#).

Given the Applicant's responses, and receipt of no concerns or recommendations from parties with regards to Version 1.0 of the Spill Contingency Plan, the Board requests that the Plan be updated to reflect the response from GNWT-Lands Inspector comment 12.

- ***Decision #6: The Board has approved Version 1.0 of the Spill Contingency Plan;***
- ***Decision #7: The Board requires the submission of Version 1.1 of the Spill Contingency Plan that incorporates the required revisions within 30 days of the effective date of the Permit for a conformity confirmation.***

#### **5.5.4 Closure and Reclamation Plan**

All applicants must describe closure and reclamation planning. For most applicants, this will be in the form of a Closure and Reclamation Plan (CRP), and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board.

As required, the Permittee included a CRP in the Application.<sup>18</sup> The Board considered this Plan as part of the Application Package, and its decision on the Plan is set out below.

Given that there were no concerns or recommendations from parties with regards to Version 1.0 of the Closure and Reclamation Plan, the Board approved Version 1.0 because it is appropriate for the proposed activities.

- ***Decision #8: The Board has approved Version 1.0 of the Closure and Reclamation Plan.***

## **6.0 Conclusion**

Subject to the scope, definitions, conditions, and term set out in the Permit, and for the reasons expressed herein, the WLWB is of the opinion that the activities and land use associated with the Project can be completed by Tłıchq Government while providing for the conservation, development, and utilization of waters in a manner that will provide the optimum benefit for all Canadians and in particular for the residents of the Mackenzie Valley.

Land Use Permit W2022X0002 contains provisions that the Board deems necessary to ensure and monitor compliance with the MVRMA and the Regulations made thereunder, and to provide appropriate safeguards in respect of Tłıchq Government's use of the land as authorized by the Permit.

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<sup>18</sup> See WLWB Online Registry for [Whati Falls Project – Conceptual Closure and Reclamation Plan - Version 1.0 – Mar 17 22](#).  
W2022X0002 – Tłıchq Government – Whatı Falls Improvement Project

SIGNATURE



April 18, 2022

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**Mason Mantla, Chair**  
**Wek'èezhii Land and Water Board**

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**Date**