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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	W2023C0001
Company	Fortune Minerals Limited
Project	NICO Project
Location	Hislop and Lou Lake, NT
Activity	Mineral Exploration
Date of Decision	March 9, 2023

Table of Contents

1.0	List of Defined Terms and Acronyms.....	3
2.0	Summary of Application.....	4
3.0	Issues Raised During the Regulatory Proceeding	4
4.0	Regulatory Process.....	5
5.0	Legislative Requirements Related to Permit Issuance.....	6
5.1	Consultation, Engagement, and Public Notice.....	6
5.2	Eligibility for Land Use Permit.....	7
5.3	Land Use Plan Conformity.....	7
5.4	Land Use Fees	8
5.5	Environmental Review (Part 5 of the MVRMA)	8
5.5.1	Preliminary Screening	8
6.0	Decision – Land Use Permit W2023C0001	8
6.1	Term of Permit	9

6.2	Part A: Scope of Permit	9
6.3	Part B: Definitions	11
6.4	Part C: Conditions Applying to All Activities	12
	26(1)(a) Location and Area	12
	26(1)(b) Time	12
	26(1)(c) Type and Size of Equipment.....	13
	26(1)(d) Methods and Techniques	13
	26(1)(e) Type, Location, Operation of All Facilities	13
	26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land.....	13
	26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material.....	13
	26(1)(h) Wildlife and Fish Habitat.....	13
	26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage	14
	26(1)(j) Protection of Historical, Archaeological, and Burial Sites.....	15
	26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value.....	16
	26(1)(l) Security Deposit	16
	26(1)(m) Fuel Storage	19
	26(1)(n) Methods and Techniques for Debris and Brush Disposal.....	21
	26(1)(o) Restoration of the Lands.....	21
	26(1)(p) Display of Permits and Permit Numbers	22
	26(1)(q) Biological and Physical Protection of the Land.....	23
7.0	Conclusion	24

On March 9, 2023, the Wek'èezhì Land and Water Board (WLWB or Board) met and considered the Application made by Fortune Minerals Limited (Fortune) (Applicant) to the Board on January 26, 2023 for Land Use Permit (Permit) W2023C0001 for the NICO Project (the Project) in Hislop and Lou Lake, NT. 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 W2023C0001 for a term of 5 years;
- 2) To require Fortune to submit Version 2.0 of the Waste Management Plan to reflect the Board's decision from the issuance of W2016C0002. Version 2.0 is required no later than one year from the effective date of the Permit or as part of any forthcoming applications from Fortune regarding the NPAR should this occur sooner;
- 3) To require Fortune to submit Version 2.0 of the Spill Contingency Plan to reflect the Board's decision from the issuance of W2016C0002. Version 2.0 is required no later than one year from the effective date of the Permit or as part of any forthcoming applications from Fortune regarding the NPAR should this occur sooner; and
- 4) To require Fortune to submit Version 3.0 of its Engagement Plan to reflect outstanding direction from the Board's decision on Version 2.0 of the Engagement Plan, the Tłıchq Government Engagement Guidelines, and other recommendations received from the Tłıchq Government. Version 3.0 is to be

submitted no later than one year from the effective date of the Permit or as part of any forthcoming applications from Fortune regarding the NPAR should this occur sooner.

These Reasons for Decision set out the Board’s regulatory process for the Application and rationale for decisions regarding the Permit. A summary of the Application and the main issues identified during the proceeding is provided in sections [2.0](#) and [3.0](#) below, followed by an outline of the regulatory process for the Application in [section 4.0](#). [Section 5.0](#) describes how the applicable legislative requirements have been met. The Board’s decisions and supporting rationale regarding the Permit are set out in [section 6.0](#).

1.0 List of Defined Terms and Acronyms

Applicant	Fortune Minerals Limited
Application	The complete application package submitted by the Applicant for Land Use Permit W2023C0001.
CRP	Closure and Reclamation Plan
Distribution List	The list of individuals and organizations to whom materials from this regulatory proceeding were circulated. ¹
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 Mackenzie Valley Resource Management Act
LWBs	Land and Water Boards of the Mackenzie Valley
MVLUR	Mackenzie Valley Land Use Regulations
MVRMA	Mackenzie Valley Resource Management Act
Minister	Minister of the Government of the Northwest Territories (GNWT) – Lands
ORS	Online Review System (https://new.onlinereviewsystem.ca/reviews)
Party	As per the LWBs’ Rules of Procedures , an applicant, a person, or an organization participating in this regulatory process.
Permit	Land Use Permit W2023C0001
Project	NICO Project, the undertaking as described in Part A of the Permit.
Review Board	Mackenzie Valley Environmental Impact Review Board
SCP	Spill Contingency Plan
Standard Permit Conditions	LWBs’ Standard Land Use Permit Conditions Template
TG	Tłı̨chǫ Government
WLWB or Board	Wek’èezhìi Land and Water Board
WMP	Waste Management Plan

¹ To access the Distribution List, see the LWBs’ Online Review System for [Fortune Minerals Limited – NICO Project - Land Use Permit Renewal Application – January 26, 2023](#).

2.0 Summary of Application

On January 17, 2023, the Applicant submitted an application for a new Permit W2023C0001 (the Application). Following a completeness check, additional information was provided by the Applicant and the Application was deemed complete on January 26, 2023.² The Application is to conduct Care and Maintenance of the NICO Advanced Mineral, JBG and Sue-Dianne Exploration Properties to include the following activities: geotechnical drilling; quarrying; fuel storage; operation of a camp; winter road; and, upgrade of all-weather trails in the Lou Lake area. These activities are located within the Wek'èezhì Resource Management Area. The WLWB had issued Land Use Permit W2016C0002 on March 24, 2016, for a period of five years for the NICO Project. On March 18, 2021, the Board approved an extension to the Permit (W2016C0002) for a period of two years. The purpose of this Application (W2023C0001) is to continue the Care and Maintenance of the NICO Advanced Mineral, JBG, and Sue-Dianne Exploration Properties. This Permit (W2016C0002) is set to expire on March 23, 2023.

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.

3.0 Issues Raised During the Regulatory Proceeding

These Reasons for Decision focus primarily on the following key issues raised during this regulatory proceeding:

- 1) Clarifications regarding the scope of the Permit and construction and use of a winter road outside of the current mineral leases;
- 2) Mitigations of impacts to wildlife;
- 3) Inclusion of standard conditions related to the protection of historical, archaeological, and burial sites;
- 4) Fuel volumes on site and the associated security estimate;
- 5) Closure and reclamation of potential future mining activities; and
- 6) Revisions to the Waste Management Plan, the Spill Contingency Plan, and the Engagement Plan.

Issues that were resolved by Parties to the Board's satisfaction during the proceeding are not addressed in detail in these Reasons.

² See WLWB Online Registry for [Fortune - NICO Project - LUP Application - Jan 26 23](#).

4.0 Regulatory Process

On January 17, 2023, the Applicant submitted the application for a new Permit W2023C0001 (the Application). Following a completeness check, additional information was provided by the Applicant and the application was deemed complete on January 26, 2023, and circulated to the NICO Distribution List for public review on the Online Review System (ORS).^{3,4} In the cover letter of the Application, Fortune requested an exemption from preliminary screening because the Project has either not been modified or falls under section 157.1 of the MVRMA. In the Item for Review, Board staff indicated they agreed the Application may be exempt from Preliminary Screening in accordance with the Preliminary Screening Exemption List Regulations. Reviewers were encouraged to provide comments and recommendations on the possible exemption along with associated rationale (e.g., on impacts and mitigation measures) to assist with the Board's preliminary screening determination.

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.

On January 30, 2023, the review period was extended due to a technical issue with the ORS that affected the initial distribution of this Item for Review on January 26, 2023. At this time, the comment deadline was adjusted to February 20, 2023, and the proponent response time was adjusted to February 27, 2023. By February 20, 2023, the Board received comments and recommendations regarding the Application and the draft Permit from the following Parties: Government of the Northwest Territories Education, Culture and Employment - Prince of Wales Northern Heritage Centre (GNWT-ECE-PWNHC); Government of the Northwest Territories - Lands - North Slave Region (GNWT-Lands-NSR); Tłıchǫ Government (TG); Government of the Northwest Territories - Environment and Natural Resources - Environmental Assessment and Monitoring (GNWT-ENR-EAM); Government of the Northwest Territories - Lands Department; and Board staff also provided questions. The Wek'èezhì Renewable Resources Board (WRRB) indicated they had no comments at the time.

On March 9, 2023, the Board met and made its preliminary screening determination for the Project.⁵

On March 9, 2023, the Board met to make decisions regarding the Application. These decisions and related reasons are described in sections [5.0](#) and [6.0](#) below.

³ See WLWB Online Registry for [Fortune - NICO Project - LUP Application - Jan 26 23](#).

⁴ See WLWB Online Review System for [Fortune Minerals Limited - NICO Project - Land Use Permit Renewal Application - January 26, 2023](#).

⁵ See WLWB Online Registry for [Fortune - NICO Project - Notice of Preliminary Screening Determination - Mar 9 23](#).

5.0 Legislative Requirements Related to Permit Issuance

The Project is subject to the [MVRMA](#) and the [MVLUR](#). As per the [MVLUR](#), the proposed use of land for the Project requires a permit. Accordingly, the Board has jurisdiction to issue the Permit as per subsection 59(1) and section 102 of the [MVRMA](#).

In conducting its regulatory process for the Application (as described in sections [3.0](#) and [4.0](#) above), the Board has ensured that section 62 of the [MVRMA](#) and all applicable legislative requirements have been satisfied as outlined in the subsections below. The Board has considered the people and users of the land and water in the Mackenzie Valley, and any Traditional Knowledge and scientific information that was made available to the Board during the regulatory proceeding, as per section 60.1 of the [MVRMA](#). The consideration of information provided to the Board is discussed in detail below and in section [6.0](#).

5.1 Consultation, Engagement, and Public Notice

As per paragraph 60.1(a) of the [MVRMA](#), in exercising its authority, the Board must consider the importance of conservation to the well-being and way of life of Indigenous peoples of Canada, specifically those to whom section 35 of the *Constitution Act*, 1982, applies and who use an area of the Mackenzie Valley. Accordingly, the Board works with applicants, affected parties (including Indigenous governments and organizations), and other parties (such as other boards and regulators) to ensure that potential impacts of proposed projects, including impacts on rights under section 35, are understood and carefully considered before decisions are made with respect to the issuance of permits and licences.

The Board's requirements for engagement are set out in the LWBs' [Engagement and Consultation Policy](#) and [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#). The Policy and Guidelines were developed to ensure that the Board's obligations for achieving meaningful consultation (as set out by land claims and applicable legislation) with all affected parties, including Indigenous groups in the Mackenzie Valley, are met and engagement and consultation results clearly articulated. In accordance with the Policy and Guidelines, the Applicant's engagement efforts and proposed procedures are detailed in the Engagement Record submitted with the Application.⁶ The Applicant also has an approved Engagement Plan (Version 2.0)⁷ in place under the Licence and did not propose changes to the Plan. The Applicant must continue engagement efforts as outlined in the Engagement Plan.

The Application was posted to the Board's Public Registry and distributed through the ORS. As the Project is located in the Wek'èezhì Resource Management Area, the appropriate organizations, governments, First Nations, and Indigenous organizations were included in the NICO Distribution List.⁸ The NICO

⁶ See WLWB Online Registry for [Fortune - NICO Project - LUP Application - Engagement Record - Jan 26 23](#).

⁷ See WLWB Online Registry for [NICO Mine - Engagement Plan - Version 2.0 - Sep 22 14](#)

⁸ To access the Distribution List, see the LWBs' Online Review System for [Fortune Minerals Limited - NICO Project - Land Use Permit Renewal Application - January 26, 2023](#).

Distribution List was used throughout this proceeding to circulate submissions, information, and updates relevant to the proceeding; the List was updated if needed, and (if requested) individuals with specific interests in the Project were added. More information about the proceeding for the Application is provided above in [section 4.0](#).

In accordance with sections 63 and 64 of the [MVRMA](#), the Board is satisfied that notice of and access to copies of the Application were provided, and that a reasonable amount of time was given to communities, First Nations, and the public to participate in this proceeding and make submissions to the Board.

5.2 Eligibility for Land Use Permit

As per section 18 of the MVLUR, eligibility must be determined before the Board can issue a permit. In section 6 of the Application, the Applicant provided a list of Mineral Leases to demonstrate eligibility under 18(a)(i) of the [MVLUR](#). The Mineral Leases were confirmed to be all in good standing and owned by the Applicant. The Applicant also has an active Quarry Permit (2021QP0016) with the GNWT-Department of Lands that is still in good standing; the Quarry Permit allows the Applicant to utilize 1000 m³ of sand and this Quarry Permit will be expiring May 17, 2024.⁹ No issues regarding eligibility with respect to these Mineral Leases and/or the Quarry Permit were raised during this proceeding.

The proposed route to the NICO Advanced Mineral Property includes access across Tłıchq Land via winter road to Hislop Lake. In the cover letter of the Application, the Applicant indicated that it wishes the Permit to cover the portion of the winter road that is on its mineral leases. The Applicant indicated that should the winter road portion on Tłıchq Land be required in the future, it would apply for an Access Agreement with the Tłıchq Government. During the public review, the Tłıchq Government commented that it looked forward to receiving the Access Agreement application and provided guidance on how best to apply (TG comment 2).

With respect to activities applied for within the boundaries of the mineral leases, the Board has concluded that the eligibility requirements under section 18 of the MVLUR have been satisfied. The Applicant is not currently eligible to construct any portion of the winter road on Tłıchq Land and thus as described in Sections 6.2 and 6.4 of this Reasons for Decision, once an Access Agreement is in place, the Permittee will need to apply to amend the Permit should it wish to construct this portion of the road in the future.

5.3 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 included in the Application.

⁹ See WLWB Online Registry for [W2016C0002 - Fortune - NICO Project - Quarry Permit - May 18 21](#)

5.4 Land Use Fees

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

5.5 Environmental Review (Part 5 of the MVRMA)

5.5.1 Preliminary Screening

On March 9, 2023, the Board met and determined that the Project is exempt from preliminary screening under Part 1, Schedule 1, section 2 of the Exemption List Regulations to the MVRMA.¹⁰

The Board is satisfied that the requirements of Part 5 of the [MVRMA](#) have been met for the Project.

6.0 Decision – Land Use Permit W2023C0001

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 W2023C0001 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.

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 existing Land Use Permit W2016C0002 and the LWBs' [Standard Land Use Permit Conditions Template](#) (Standard Permit Conditions) and included a number of these standard conditions that are relevant to the Project. 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 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

¹⁰ See WLWB Online Registry for [Fortune - NICO Project - Notice of Preliminary Screening Determination - Mar 9 23](#).

- Does not conflict with existing legislation (i.e., is not less stringent).

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.

6.1 Term of Permit

The Applicant has applied for a term of five 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 five years.

6.2 Part A: Scope of Permit

The scope of the Permit ensures the Permittee is entitled to conduct activities which 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.

The scope of Permit W2016C0002 entitles the Permittee to conduct Care and Maintenance of the NICO Advanced Mineral, JGB, and Sue-Diane Exploration Properties; this same wording was included for consideration in the draft Permit. During the public review, GNWT-Lands commented that it was unclear why the scope should include the JGB and Sue-Diane Exploration Properties given that the 10 mineral leases included in the application were for the NICO site (GNWT-Lands comment 4). GNWT-Lands further stated that if Fortune Minerals has no plans to conduct activities in the JGB and Sue-Diane Exploration Properties then those mineral leases should not be retained in the new Land Use Permit and recommended that the Applicant clarify why they should be retained (GNWT-Lands comment 4). The Applicant responded that the JGB mineral leases were allowed to expire and the Sue-Diane mineral lease has already been renewed. The Applicant stated that it understood that the Sue-Diane Property needs to be part of the scope of the new Land Use Permit because it is included in Permit W2016C0002. The Board notes that the Application did not include mineral lease NT-3037 for the Sue-Diane Property thus it is unclear whether Parties would have considered this area to be part of the Application. Furthermore, the cover letter of the Application stated "No further activities are being proposed for the Sue-Diane site at this time and Fortune has already fully reclaimed the site to the satisfaction of the GNWT inspectors." The Board has thus decided to remove the JGB and Sue-Diane Exploration Properties from the scope of the Permit. Should the Permittee wish to recommence exploration activities in these areas in the future, it can apply to amend the Permit accordingly.

The Board received a comment on Part A, Condition 1(a) from the GNWT-Lands-NSR recommending that 'Geotechnical Drilling' be changed to 'Use of drills' because the proponent listed equipment for the intent to pursue both geotechnical drilling and exploration drilling (GNWT-Lands-NLR comment 1). The proponent indicated it agreed with the change. Therefore, the Board has updated Part A, Condition 1(a) accordingly.

The scope of the Permit includes 'winter road' as one of the authorized land-use activities. As discussed in Section 5.2 of this Reasons for Decision, the Permittee is currently only eligible to construct and operate winter roads within the boundary of its mineral leases. While the scope would allow for the construction of a winter road to Hislop Lake should an Access Agreement with the Tłı̨chǫ Government be obtained, the Permittee would need to apply to amend the Permit to include this new area (see Section 6.4 of this Reasons for Decision).

GNWT-Lands commented that the scope includes 'upgrade of all-weather trails in the Lou Lake area' and that based on the W2023C0001 application, it is not clear which trails could be upgraded and what upgrading actually means. GNWT-Lands also states that there is no road design referenced within the application; therefore, upgrading is open to interpretation (GNWT-Lands comment 5). GNWT-Lands recommended that Fortune clarify what is captured and meant by 'upgrade of all-weather trails'. The Applicant responded that the only foreseeable road upgrade for this Application is the one that would see the winter road to Peanut Lake improved to allow summer access should a drill program be undertaken. This response aligns with the information included in the Applicant's cover letter which stated the following:

Drilling programs to follow-up on the 2021 program will require access down to Peanut Lake and/or the Burke Lake Access Road. These roads will need to be improved to allow summer access by the drill rig and support vehicles. Improvements will include the addition of clean mine waste rock and sand and gravel from quarry pits. Culverts may need to be installed to ensure proper water flow.

The Board notes that culvert installation could require a Water Licence and the Permittee should consult the Waters Regulations¹¹ and the *LWB's Guide to the Water Licensing Process*¹² for more information.

During the public review, GNWT-Lands submitted several comments/recommendations related to the anticipated future construction of the NICO Project Access Road (NPAR). These comments appeared aimed at clarifying the scope of the current Permit as it relates to the NPAR and are summarized here:

¹¹ See WLWB (www.wlwb.ca) 'Acts and Regulations' webpage for [Waters Regulations](#)

¹² See WLWB (www.wlwb.ca) 'Policies and Guidelines' webpage for [LWB Guide to the Water Licensing Process](#)

- GNWT-Lands stated that Fortune’s Project location and site layout figure shows an ‘Access Road Early Works’ and it is unclear from the Application what activities under the proposed Land Use Permit are intended along this alignment (GNWT-Lands comment 2). GNWT-Lands further noted that this alignment generally follows the NPAR and that it would be helpful to clarify how any further work on this road would differentiate from the NPAR Project. GNWT-Lands thus recommended that Fortune clarify the scope and purpose of the early works access road (GNWT-Lands comment 2). The Applicant responded that the ‘Access Road Early Works’, also known as the Burke Lake Access Road was permitted under W2013T0008 and that this road has been reclaimed according to directives received from the Inspector. The Applicant also stated that there will be no further work undertaken on this road until the project is ready to proceed to construction.
- In its comment regarding the inclusion of ‘upgrade of all-weather trails in the Lou Lake area’, GNWT-Lands indicated that it was unclear if this included any potential work on the NPAR and recommended that the Applicant clarify if work on the NPAR alignment is included in the scope of “upgrading trails” and if so, how this aligns with the Report of Environmental Assessment EA089-004 for this Project (GNWT-Lands comment 5). The Applicant responded that NPAR is not part of the scope of this Land Use Permit. The Applicant also stated that the initial (northern) portion of the NPAR was pioneered to determine construction conditions the company could anticipate during full construction and that this pioneer road has since been reclaimed and is not part of this LUP application.
- GNWT-Lands also had a recommendation for the Applicant regarding next steps and tenure requirements prior to the commencement of any mining activities or construction of the NPAR (GNWT-Lands comment 6). This was acknowledged by the Applicant, who also confirmed once again that there are no plans to work on the NPAR route as part of this care and maintenance program.

6.3 Part B: Definitions

The Board defined certain terms in the Permit to ensure a common understanding of the conditions, to avoid future differences in interpretation of the Permit, to reflect Project-specific evidence, and to support consistency across licences and permits issued by the LWBs. For the most part, the Board selected applicable definitions relevant to the Project from the Standard Permit Conditions.

During the public review, GNWT-Lands-NSR recommended that the reference to ‘Shut Down Periods’ be removed from the definition section because the activities listed by the proponent may occur year-round and are not subject to shut down periods (GNWT-Lands-NSR comment 2). The Applicant indicated they agreed with the removal of this definition. Therefore, the Board has removed ‘Shut Down Periods’ from the definition section of the Permit.

6.4 Part C: Conditions Applying to All Activities

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

This section of the Permit includes the standard condition LOCATION OF ACTIVITIES. As discussed in Sections 5.2 and 6.2 of this Reasons for Decision, the Permittee is currently only eligible to construct and operate winter roads within the boundary of its mineral leases. While the scope would allow for the construction of a winter road to Hislop Lake should an Access Agreement with the Tłı̨chǫ Government be obtained, the Permittee would need to apply to amend the Permit to include this new area as part of the LOCATION OF ACTIVITIES.

The DRILLING/ADIT SETBACK condition was included for consideration in the draft Permit. GNWT-Lands-NSR recommended removing it because any environmental concerns can be mitigated under the following three conditions DRILLING NEAR WATER OR ON ICE, DRILLING WASTE, and DRILLING WASTE CONTAINMENT (GNWT-Lands-NSR comment 3). The Applicant indicated it agreed with the removal of the condition. While environmental concerns of drilling can be mitigated by the three conditions outlined by GNWT-Lands-NSR, the DRILLING/ADIT SETBACK condition does not allow for a drilling operation to take place within 100 m of the Ordinary High-Water Mark (OHWM), unless authorized by an Inspector; the DRILLING NEAR WATER OR ON ICE includes requirements for when the Permittee conducts drilling within 100 m of the OHWM. At this time, it is unclear whether any drilling activities would need to take place within 100 m of the OHWM; however, the Board notes that Permit W2016C0002 did not include this limitation. Based on this and the mitigations included in the three conditions referenced by GNWT-Lands-NSR, the Board has not included the DRILLING/ADIT SETBACK condition in the Permit.

26(1)(b) Time

The SEASONAL SHUT DOWN condition was included for consideration in the draft Permit. GNWT-Lands-NSR recommended removing this condition from the Permit because the activities under the land use permit may occur year-round (GNWT-Lands-NSR comment 2). The Applicant indicated that it agreed with the removal of this condition. Therefore, the Board did not include the SEASONAL SHUT DOWN condition in the Permit.

The REPORTS BEFORE SEASONAL REMOVAL condition was included for consideration in the draft Permit. GNWT-Lands-NSR recommended removing this condition from the Permit because the activities under the land use permit may occur year-round (GNWT-Lands-NSR comment 4). The Applicant indicated that it agreed with the removal of this condition. Therefore, the Board did not include the REPORTS BEFORE SEASONAL REMOVAL condition in the Permit.

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

The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

26(1)(d) Methods and Techniques

The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

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

The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

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

The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

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

The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

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 did not include a WMMP in the Application. No comments or recommendations were received with regards to requiring a WMMP.

During the public review, GNWT-ENR commented that it understands that no activities are proposed at the NICO exploration site other than care and maintenance until funding for the construction and operation of the NICO mine is obtained. However, ENR also noted that should funding become available, the permit will need to cover both exploration and geotechnical drilling programs, and this may include access to Peanut Lake and/or the Burke Lake Access Road, road improvements, transport of rock, sand, and gravel from quarry pits, and installation of culverts (GNWT-ENR comment 1). GNWT-ENR recommended that since the Project is within the range of Barren-Ground Caribou below the tree-line,

that the following conditions from the conditions annexed to and forming part of Land Use Permit MV2002C0002 be included in the Permit (i.e., NO WILDLIFE HARASSMENT, HABITAT DAMAGE, MINIMIZE ACTIVITY, CARIBOU HARASSMENT, and RESTRICTIONS DURING CARIBOU MIGRATION). The Applicant agreed to the inclusion of these non-standard conditions.

The Board notes that Permit MV2002C0002 was renewed in 2009 and none of these conditions, with the exception of CARIBOU HARASSMENT, were carried forward into Permit W2009C0001.¹³ The Permit was renewed again in 2016 without the CARIBOU HARASSMENT condition being carried forward into Permit W2016C0002. Since issuance of Permit MC2002C0002, the Boards have developed standard conditions meant to address potential impacts to wildlife habitat and that reflect aspects of wildlife that fall within the Board's jurisdiction. The Board notes that the Permit includes two conditions similar to those referenced in GNWT-ENR's comment (i.e., HABITAT DAMAGE and MIGRATORY BIRD NEST DISTURBANCE). For these reasons, the Board did not include the recommended non-standard conditions in the Permit.

26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage

The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

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 LWBs' [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.

In the Application, Fortune referenced the Waste Management Plan (WMP) that has been approved under its main Water Licence W2008L2-0004 (i.e., Version 1.0);¹⁴ however, the hyperlink provided in the Application was to a revised Version (i.e., Version 2.0) that was submitted in response to comments during the public review of the Application for Land Use Permit W2016C0002.¹⁵ In its decision to issue W2016C0002, the Board directed the Company to submit Version 2.0 of its WMP 60 days prior to commencement of operations under Fortune's main Water Licence (i.e., W2008L2-0004; the Licence).¹⁶

¹³ See WLWB Online Registry for [W2009C0001 - Fortune - Land Use Permit - Mar 30 09](#)

¹⁴ See WLWB Online Registry for [NICO Mine - Waste Management Plan - Oct 11 13.pdf](#)

¹⁵ See WLWB Online Registry for [W2016C0002 - Fortune - NICO Project - Waste Management Plan - Version 2.0 - Mar 3 16.pdf](#)

¹⁶ See WLWB Online Registry for [W2016C0002 - Fortune - NICO Project - Land Use Permit - Reasons for Decision - Mar 23 16.pdf](#)

It was expected that this WMP be inclusive of all activities undertaken within the NICO Project, including land use permit operations, to be easily reviewed moving forward. During the public review of the W2016C0002 Application, it was recommended that the WMP be updated to reflect the appropriate references to the Inspector and to include updated spill-related documents which have changed since devolution.¹⁷ Operations under the Licence have not begun, and it is unclear at this time when the mining phase of the Project may move forward. As a result, Version 2.0 of the WMP has not been reviewed and considered by the Board. Although no comments or recommendations were received regarding the WMP during the public review of this Permit Application, it has been identified that the currently approved Plan (i.e., Version 1.0) is outdated. The Board requires that the Permittee submit Version 2.0 to reflect the Board's decision from the issuance of W2016C0002. Version 2.0 is required no later than one year from the effective date of the Permit or as part of any forthcoming applications from Fortune regarding the NPAR should this occur sooner.

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

The ARCHAEOLOGICAL OVERVIEW, AIA-HIGH POTENTIAL, and AIA standard conditions were included for consideration in the draft Permit. During the public review, WLWB staff commented that it was unclear whether the NICO Project has ever undergone an Archeological Overview and/or Archaeological Impact Assessment and asked the Applicant to provide some information about previous ones and/or future plans to conduct these (Board staff comment 1). The Applicant responded that an Archaeological Inventory and Impact Assessment was completed for the NICO Project and the NPAR. The Applicant also states that a traditional knowledge study was completed by the Tłıchǫ Government. The Applicant's response aligns with GNWT-ECE-PWNHC's comment indicating that an AIA had been completed for the existing infrastructure related to the NICO mine within the Land Use Permit Boundary Area (GNWT-ECE-PWNHC comment 2). However, GNWT-ECE-PWNHC commented that no Archaeological Overview Assessment (AOA) or Archaeological Impact Assessment (AIA) studies had been completed for the proposed drilling programs (GNWT-ECE-PWNHC comment 2). As such, GNWT-ECE-PWNHC recommended that these standard conditions be retained in the Permit (GNWT-ECE-PWNHC comment 2). The Applicant indicated it agreed with retaining these conditions. Therefore, the Board has retained the ARCHAEOLOGICAL OVERVIEW and AIA-HIGH POTENTIAL conditions in the Permit.

The ARCHAEOLOGICAL OVERVIEW condition in the draft Permit did not specify the number of days prior to a new land disturbance that an archaeological overview would need to be conducted. No comments and/or recommendations were received with regards to this timeframe. The Board notes that previous permits issued by the WLWB have generally included 30 days for this condition; thus, that number was included in this Permit.

¹⁷ Ibid

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

During the public review, GNWT-ENR recommended that since the Project is within the range of Barren-Ground Caribou below the tree-line, that the non-standard condition NO FEEDING WILDLIFE that was included in Permit MV2002C0002 be included in the Permit (GNWT-ENR comment 1). The Applicant indicated that it agreed with the inclusion of this non-standard condition.

As discussed above under '26(2)(h) Wildlife and Fish Habitat', since issuance of Permit MV2002C0002, the Boards have developed standard conditions meant to address potential impacts to wildlife habitat and that reflect aspects of wildlife that fall within the Board's jurisdiction. The Board also notes that Fortune has an approved Waste Management Plan (i.e., Version 1.0) that it must comply with (as per the WASTE MANAGEMENT condition) and the Waste Management Plan (WMP) includes a no feeding wildlife policy under its Food Waste and Packaging section. The Board also notes that the WMP Plan includes the requirement for proper handling of food waste. For these reasons, the Board had not included the recommended non-standard condition in the Permit.

26(1)(l) Security Deposit

This section sets out the Permittee's responsibility for all costs associated with remediation of the Project area and establishes the amount of security that must be posted and maintained by the Permittee. The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions.

The Board is authorized to require the Permittee to provide security to the Minister by subsections 71(1) of the [MVRMA](#) and 32(1) of the [MVLUR](#). Subsection 71(3) of the [MVRMA](#) specifies how the security may be applied.

Based on the evidence regarding closure cost estimates for the Project, the Board has included a requirement for a security deposit of \$97,568.46 in the Permit. The reasons for the Board's decisions are described below.

Using the LWBs' template, the Applicant calculated a closure cost estimate of \$77,002.51 for the Project and this estimate was submitted as part of the Application.¹⁸ Based on information provided in the Application, and clarified during the public review and follow-up correspondence with the Applicant,¹⁹ a closure cost estimate was prepared by Board staff; this estimate was for \$97,568.46. The difference between both estimates is explained in Table 1. The information provided in Table 1 only includes line items where the costs proposed by the Applicant differed from the costs estimated by Board staff.

¹⁸ See WLWB Online Registry for [Fortune - NICO Project - LUP Application - Appendix III - Security Worksheet - Jan 26 23](#).

¹⁹ See WLWB Online Registry for [Fortune - NICO Project - LUP Application - Follow-up on Maximum Amount of Fuel - Mar 3 23](#)

Table 1: Differences in Closure Cost Estimates and Associated Board Determination

Line Item	Applicant's Estimate	WLWB Staff's Estimate	Board Decision	Rationale
Camp				
Solid Waste – non-burnable	\$6.00	\$112.00	\$112.00	Board staff's estimate was based on information in the Application that indicated that when inspection and/or maintenance activities are being conducted, the camp typically has up to four people for a period of one week up to four times per year (i.e., 112 person days).
Solid Waste – burnable	\$2.00	\$56.00	\$56.00	Same rationale as for non-burnable solid waste.
Regulated/Hazardous Materials				
Used oil, lubes, and antifreeze	\$2,500.00	\$6,500.00	\$6,500.00	Board's staff's estimate reflected the possibility of having up to 11 pieces of heavy equipment and two drills on site (as listed in section 12 of the Application, that was confirmed in follow-up correspondence with the applicant).
Hydrocarbon Storage and Transfer				
Total Fuel Cost	\$38,812.50	\$45,159.38	\$45,159.38	The volumes of diesel, gasoline, and aviation fuel were clarified during the public review and follow-up correspondence with the applicant. The estimate selected by the Board reflects the outcome of those clarifications. Further discussion on the discrepancies related to fuel volumes and the Board's rationale for including 179,100 litres of fuel is provided in paragraphs below this table and in Section 26(1)(m) of this Reasons for Decision.
Land Disturbance				
Disturbed Surface Area	\$10,000.00	\$17,000.00	\$17,000.00	Board staff's estimate reflected the amount of disturbed hectares

Line Item	Applicant's Estimate	WLWB Staff's Estimate	Board Decision	Rationale
				(i.e., 17) that was included in section 9 of the Application.
Equipment				
Heavy Equipment	\$6,000.00	\$11,000.00	\$11,000.00	Board's staff's estimate reflected the possibility of having up to 11 pieces of heavy equipment on site (as listed in section 12 of the Application and confirmed in follow-up correspondence with the applicant).
Drills	\$1,000.00	\$2,000.00	\$2,000.00	Board's staff's estimate reflected the possibility of having up to two drills on site (as listed in section 12 of the Application and confirmed in follow-up correspondence with the applicant).
Light Vehicles	\$2750.00	\$750.00	\$750.00	Board's staff's estimate reflected the possibility of having up to three light vehicles on site (as listed in section 12 of the Application and confirmed in follow-up correspondence with the applicant).

During the public review, GNWT-Lands commented that the security worksheet uses a total fuel volume of 153,500 litres, which is less than the current volume at site (GNWT-Lands comment 7). GNWT-Lands recommended that the security for fuel be reflective of how much fuel Fortune would like to maintain on site at any given time (GNWT-Lands comment 7). The Applicant responded that a total of 150,000 litres of diesel was used in the security worksheet as this will likely be the volume at site once the care and maintenance program is at an end. As indicated in the Standard Permit Conditions, security costs are intended to estimate the cost for a third party to access and restore the site if the Permittee abandons it. Abandonment of the site could happen at any time, not just at the end of the proposed Project. Also, the [LWB Guide to the Land Use Permitting Process](#) states the following regarding what fuel volume information should be included in the Application:²⁰

The information provided should reflect the maximum volumes that may be on the site at any one time, since it will be used to set maximum allowable volumes for fuel storage

²⁰ See WLWB (www.wlwb.ca) 'Policies and Guidelines' webpage for [LWB Guide to the Land Use Permitting Process](#)

in a standard permit condition. This standard condition reflects the link between the security deposit and the liability on site, which depends in part on the maximum amount of fuel on site at any time. In addition, the potential for impacts from spills, including worst-case scenarios, is sensitive to the maximum amount of fuel on site at any time.

There were several questions during the public review seeking clarification on the total volume of fuel that would be on site at any one time. These comments and responses are discussed further below in support of the amount that was included in the MAXIMUM FUEL ON SITE condition. The maximum amounts that were clarified for gasoline, diesel, and aviation fuel were used in Board staff's estimate and explain the difference in the estimate provided by the Applicant.

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 MAXIMUM FUEL ON SITE condition was included for consideration in the draft Permit but did not include the total amount; this amount required confirmation through the public review and is discussed in the paragraphs below.

GNWT-Lands-NSR recommended including 759,186 litres based on the amount of fuel listed in the Application (GNWT-Lands-NSR comment 5). This amount calculated by GNWT-Lands-NSR includes all the fuel types, as well as the various other hydrocarbons and hazardous materials included in Section 13 of the Application (e.g., transmission oil and antifreeze). While the Applicant agreed that this amount should be included in the Permit; the Applicant indicated that the current fuel inventory is far below the maximum value and will remain below the current amount of 183,646 litres during this period of care and maintenance.

Board staff also asked Fortune to confirm the total volume of diesel, gasoline, and aviation fuel that will be on site at any time during the life of the project (Board staff comments 2 to 4). The Applicant confirmed that currently the total volume of diesel on site is 175,000 litres, the maximum volume of gasoline at the site will be 1,025 litres, and the maximum anticipated volume of aviation fuel at site will be 3,075 litres. This amounts to a total of 179,100 litres of fuel, which is different from the amount provided in response to GNWT-Lands-NSR.

Given the discrepancies identified in the various estimates of fuel throughout the comments and responses of the public review, Board staff followed up with the Applicant by email to obtain clarification.²¹ In response, the Applicant clarified that it is applying to have a maximum volume of fuel at

²¹ See WLWB Online Registry for [Fortune - NICO Project - LUP Application - Follow-up on Maximum Amount of Fuel - Mar 3 23](#)

the NICO Project site of 179,100 litres, with the breakdown of fuel types as provided in response to Board staff comments 2 to 4. The Applicant also clarified that it has the equivalent of up to 315,000 litres of hydraulic oil (i.e., five 63 m³ containers) at the NICO Project site.

Based on the information above, the Board has included a total of 179,100 litres of fuel in the MAXIMUM FUEL ON SITE condition. The volume of other materials included in Section 13 of the Application and clarified by Fortune in response to Board staff's email were not included in this total as this condition is specifically for fuel and links to the fuel volumes of the security estimate.

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.

In the Application, Fortune referenced the Spill Contingency Plan (SCP) that has been approved under its main Water Licence W2008L2-0004 (i.e., Version 1.0);²² however, the hyperlink provided in the Application was to a revised Version (i.e., Version 2.0) that was submitted in response to comments during the public review of the Application for Land Use Permit W2016C0002.²³ In its decision to issue W2016C0002, the Board directed the Company to submit Version 2.0 of its SCP 60 days prior to commencement of operations under Fortune's main Water Licence (i.e., W2008L2-0004; the Licence).²⁴ It was expected that this SCP be inclusive of all activities undertaken within the NICO Project, including land use permit operations, to be easily reviewed moving forward. During the public review of the W2016C0002 Application, it was recommended that the SCP be updated to reflect the appropriate references to the Inspector and to include updated spill-related documents which have changed since devolution.²⁵ Operations under the Licence have not begun, and it is unclear at this time when the mining phase of the Project may move forward. As a result, Version 2.0 of the SCP has not been reviewed and considered by the Board.

During the public review of this Application, the Tłı̨chq̓ Government commented that it is not clear if the current Spill Contingency Plan (SCP) considers what would need to take place if spills occurred while there is minimal site presence (TG comment 3). The Tłı̨chq̓ Government recommended that the Applicant

²² See WLWB Online Registry for [NICO Mine - Spill Contingency Plan - Oct 11_13.pdf](#)

²³ See WLWB Online Registry for [W2016C0002 - Fortune - NICO Project - Spill Contingency Plan - Version 2.0 - Mar 3_16.pdf](#)

²⁴ See WLWB Online Registry for [W2016C0002 - Fortune - NICO Project - Land Use Permit - Reasons for Decision - Mar 23_16.pdf](#)

²⁵ Ibid

describe these details and that the SCP be updated should these details be different than what is in the approved SCP (TG comment 3). The Applicant responded that the procedures for the clean-up of any spills remain the same as detailed in the SCP. Specifically, all fuel at site is located within areas bermed by geomembrane for containment; as such, any spills will be contained within this area and can be cleaned-up with equipment and supplies already stored at site. The Applicant also stated that site inspections include a detailed examination for all fuel storage areas. The Board is satisfied with the Applicant's response and is of the opinion that the Plan does not need to be revised to address this comment. However, as discussed in the previous paragraph, it has been identified that the currently approved Plan (i.e., Version 1.0) is outdated. The Board requires that the Permittee submit Version 2.0 to reflect the Board's decision from the issuance of W2016C0002. Version 2.0 is required no later than one year from the effective date of the Permit or as part of any forthcoming applications from Fortune regarding the NPAR should this occur sooner.

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

The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

26(1)(o) Restoration of the Lands

During the public review, GNWT-Lands-NSR recommended that the SAVE AND PLACE ORGANIC BURDEN standard condition should be added to the land use permit because there is a Quarry Permit under this land use operation (GNWT-Lands-NSR comment 6). The Applicant indicated that it agreed with the inclusion of this standard condition. Therefore, the Board has included this condition in the Permit.

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), developed in accordance with the LWB/AANDC [Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories](#) (Closure Guidelines), and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board.

The Permittee included a link to an existing Closure and Reclamation Plan (i.e., Version 1.0) in section 18 of the Application.²⁶ The Closure and Reclamation Plan (CRP) referenced in the Application was the CRP submitted under and required by the Type B Water Licence W2006L2-0002.²⁷ The NICO Project is now authorized under Type A Water Licence W2008L2-0004; this Licence was issued in July of 2014 and covers the activities that were previously included in the Type B Water Licence, in addition to activities associated

²⁶ See WLWB Online Registry for [W2006L2-0002 - Fortune NICO Revised CRP Report - Nov 4 2007](#)

²⁷ See WLWB Online Registry for [W2006L2-0002 - Water Licence Renewal - Issuance - Mar 6 07](#)

with the full development and operation of the NICO Mine.²⁸ This Licence includes closure and reclamation planning requirements under Part K.

During the public review, GNWT-Lands commented on the fact that the CRP referenced in the Application is more than 15 years old and that additional trails and exploration have occurred since it was first prepared (GNWT-Lands comment 3). GNWT-Lands recommended that Fortune confirm that the 2007 CRP that was approved under W2006L2-0002 is still appropriate in 2023 and captures the new disturbances that have occurred at the site since then (GNWT-Lands comment 3). The Applicant responded that the plan is still valid for 2023 as the site has seen little changes since the initial development. The only major undertaking since the CRP was developed was the Burke Access Road, which has now been reclaimed under a separate LUP (W2013T0008). The Applicant further stated that:

A number of reclamation activities have already been completed such as the removal of the settling ponds near the portal, the reclamation of the Sue-Dianne camp, and the consolidation of mining equipment and materials into lay-down areas for easy access that overall reduce the scope of the CRP. A number of roads and small lay-down areas have been allowed to naturally revegetate with great success again reducing the scope of the CRP.

During the public review, GNWT-ENR commented on habitat restoration as part of the Project. Specifically, GNWT-ENR recommended that it be a condition of the Permit extension that CRP be submitted and approved prior to mine closure and that the reclamation goal of the CRP be to “restore the habitat to a condition suitable for caribou” (GNWT-ENR comment 2). The Applicant responded that it will prepare a CRP for the mine when it is required and that the recommendation from GNWT-ENR will be taken into consideration for the restoration of caribou habitat.

The Board notes that the Permit includes standard conditions that are typically used and considered adequate for addressing reclamation of the activities included in the scope of the Permit. In addition, larger concerns about the restoration of the site should mining activities take place will be addressed by the CRP required by the Licence. For these reasons, the Board is not requiring the submission of a CRP as part of this Permit; however, the Board does expect Fortune to follow the CRP that is a requirement of the main Water Licence for the NICO Project (i.e., W20008L2-0004).

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

The conditions included in this section are all consistent with the LWBs’ Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

²⁸ See WLWB Online Registry for [NICO Mine - Water Licence - Jul 22 14](#)

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

The conditions included in this section are all consistent with the LWBs' Standard Permit Conditions. No comments or recommendations regarding conditions in this section were received.

ENGAGEMENT PLAN – SUBMIT REVISED PLAN

The Board assesses engagement adequacy through the LWBs' [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 the Application, Fortune referenced an approved Engagement Plan under its main Water Licence W2008L2-0004 (i.e., Version 1.0);²⁹ however, the hyperlink provided in the Application is not to the most recently approved version of the Plan. Fortune submitted Version 2.0 of its Engagement Plan as per Part B, Condition 10 of Water Licence W2008L2-0004 on September 22, 2014.³⁰ The Board approved Version 2.0 and required Fortune to submit Version 3.0 with revisions to the Board by April 30, 2015.³¹ As addressed in its decision to issue W2016C0002, Fortune never submitted Version 3.0 but committed to submitting an updated Engagement Plan with the required revisions “when the project moves forward.” The Board directed the Company to submit Version 3.0 of its SCP 60 days prior to commencement of operations under Fortune’s main Water Licence (i.e., W2008L2-0004; the Licence).³² It was expected that this Engagement Plan include all requirements from the Board’s decision for Version 2.0 of the Engagement Plan. Operations under the Licence have not begun, and it is unclear at this time when the mining phase of the Project may move forward. As a result, Version 3.0 of the Engagement Plan remains to be submitted.

During the public review of this Application, the Tłı̨chq̓ Government commented that the Engagement Plan requires updates to be consistent with the Weghàà Èłeyatı̨s’eedı, the Tłı̨chq̓ Government Guidelines for Proponents of Development (i.e., the TG Engagement Guidelines; TG comment 1). The Tłı̨chq̓ Government indicated that during engagement, its staff had provided the Applicant with the link to the TG Engagement Guidelines, as well as providing a summary of engagement triggers and contacts to reference and include in the next version of its Plan. The Tłı̨chq̓ Government recommended that the

²⁹ See WLWB Online Registry for [NICO Mine - Engagement Plan - Version 1.0 - Oct 11_13.pdf](#)

³⁰ See WLWB Online Registry for [NICO Mine - Engagement Plan - Version 2.0 - Sep 22_14.pdf](#)

³¹ See WLWB Online Registry for [NICO Mine - Engagement Plan - Version 2.0 - Board Directive and Reasons for Decision - Dec 15_14.pdf](#)

³² See WLWB Online Registry for [W2016C0002 - Fortune - NICO Project - Land Use Permit - Reasons for Decision - Mar 23_16.pdf](#)

Engagement Plan be updated to reflect its recommendations (TG comment 1). In response, the Applicant indicated that it has contacted the Tłıchq Government and that updates are in progress.

The Board requires that the Permittee revise the Engagement Plan and submit Version 3.0 to reflect outstanding direction from the Board’s decision on Version 2.0 of the Engagement Plan, the TG Engagement Guidelines, and other recommendations received from the Tłıchq Government. Version 3.0 is to be submitted no later than one year from the effective date of the Permit or as part of any forthcoming applications from Fortune regarding the NPAR should this occur sooner.

7.0 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 Fortune Minerals Limited 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 W2023C0001 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 Fortune Minerals Limited’s use of the land as authorized by the Permit.

SIGNATURE



March 9, 2023

Mason Mantla, Chair
Wek’èezhìi Land and Water Board

Date