

VIA EMAIL AND FAX

SEP 17 2018

Chief Peter Marcellais
Nahanni Butte Dene Band
General Delivery
NAHANNI BUTTE NT X0E 0N0

Dear Chief Marcellais:

Consultation on proposed final modifications to four measures in the Report of Environmental Assessment and Reasons for Decision for the GNWT's proposed Tłı̨ch̨o All-Season Road Project (EA1617-01)

On March 29, 2018, the Mackenzie Valley Environmental Impact Review Board (Review Board) released the Report of Environmental Assessment and Reasons for Decision (Report of EA) for the Tłı̨ch̨o All-Season Road Project (Project). The Review Board recommended the Government of the Northwest Territories' (GNWT), as led by the Department of Infrastructure, proposed Project be approved, subject to the implementation of 23 measures and developer commitments.

On June 22, 2018, in response to the Report of EA, the responsible ministers began consultation with the Review Board to modify three measures related to boreal caribou. This consultation is set out in the *Mackenzie Valley Resource Management Act* (the Act) under section 130(1)(b)(ii). Concurrently, the responsible ministers began Aboriginal consultation with the Nahanni Butte First Nation (NBDB), sharing the proposed modifications to these three measures via a letter; the letter also included the Tłı̨ch̨o Government's proposed modifications to five separate measures. The letter asked the NBDB whether the proposed modifications had the potential to adversely impact NBDB's asserted or established Aboriginal and/or Treaty rights.

The purpose of this letter is to let you know that the responsible ministers are now consulting with NBDB on the final proposed wording of Measures 6-1, 6-2 and 6-3 prior to rendering a final decision under sub-paragraph 130(1)(b)(ii) of the *Mackenzie Valley Resource Management Act*. This is an opportunity to advise the responsible ministers whether their final proposed wording of the three measures (6-1, 6-2, 6-3) and the final proposed modification to one measure by the Tłı̨chǫ Government, has the potential to adversely impact any asserted or established Aboriginal and/or Treaty rights. The edits made by the responsible ministers are in green font and the segments of the Review Board's proposed modified text that the responsible ministers agree with are in purple font in the attachment.

The GNWT and the Government of Canada are seeking the NBDB's response to the following questions:

- Are there any specific components of the modification(s) to the measure(s) in green and/or purple font that you identify as having the potential to adversely impact any asserted or established Aboriginal and/or Treaty rights?
- If so, please specify the nature of any and all concerns regarding potential adverse impacts resulting from the modification(s) to the measure(s) in green and/or purple font, and which asserted or established Aboriginal and/or Treaty rights you see as being potentially adversely impacted, in your response letter; and
- Please specify what modification(s) to the measure(s) in green and/or purple font you would recommend to address the potential adverse impact.

Please provide any written comments by September 26, 2018 directly to the GNWT's Department of Lands', Project Assessment Branch via Melissa Pink at Melissa.Pink@gov.nt.ca or 867-767-9180 ext. 24021.

Sincerely,



Kate Hearn
Assistant Deputy Minister
Planning and Coordination
Department of Lands
Government of the Northwest Territories



Adrian Paradis
Acting Director General
Northern Projects Management Office
Government of Canada

c: Mr. Gary Bohnet, Principal Secretary, Office of the Premier of the Northwest Territories

Mr. Mike Aumond, Secretary to Cabinet/Deputy Minister, GNWT Executive and Indigenous Affairs

Mr. Alan Cash, Deputy Secretary to Cabinet and Assistant Deputy Minister

Mr. Willard Hagen, Deputy Minister, GNWT Department of Lands

Dr. Joe Dragon, Deputy Minister, GNWT Department of Environment and Natural Resources

Mr. Robert Jenkins, Assistant Deputy Minister, GNWT Department of Environment and Natural Resources

Mr. Mark Hopkins, Director General, Natural Resources and Environment Branch, Crown-Indigenous Relations and Northern Affairs Canada

Mr. Patrick O'Neill, Director General, Explosive Safety and Security Branch, Natural Resources Canada

Mr. Mark Cliffe-Phillips, Executive Director, Mackenzie Valley Environmental Impact Review Board

Attachment

Revised proposed wording for Measure 6-1

6-1, Part 1: Develop and implement range plans

The GNWT-ENR will develop and implement a range plan for boreal caribou (t̥ɔdzɪ) in the North Slave portion of the NT1 range, as required by the *Recovery Strategy for the Boreal Caribou in the NWT*. The GNWT-ENR will also develop and implement a range plan for any other region where boreal caribou (t̥ɔdzɪ) may experience impacts related to the Project.

The range plan(s) will be developed collaboratively with Aboriginal groups and co-management partners. GNWT-ENR will complete and submit a range plan for the North Slave portion of the NT1 range to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the T̥ìcho agreement a minimum of 90 days before the Project is opened for public use.

The GNWT will work collaboratively with the T̥ìcho Government and other relevant Aboriginal and federal land management authorities to manage habitat to achieve the habitat disturbance threshold set out in this range plan **to the greatest extent possible**. **The GNWT will consult with applicable Aboriginal groups as required.**

6-1, Part 2: Information and adaptive management requirements

For the area identified by the range plan(s) in measure 6-1, part 1, the following must be included in the development and implementation of the *Recovery Strategy for the Boreal Caribou in the NWT* or range plan(s):

- monitoring to determine population trends, abundance and distribution;
- determination of population thresholds and triggers to inform adaptive management;
- harvest monitoring and reporting;
- determining sustainable harvest levels;
- identifying critical habitat;
- ongoing habitat disturbance monitoring;
- setting disturbance thresholds for critical habitat and, **to the greatest extent possible**, managing habitat **towards meeting** these disturbance thresholds for each range planning region; and,
- monitoring predator populations including densities, movements and predation rates.

Monitoring will meet the requirements of Appendix C. GNWT-ENR will work with the developer to adaptively manage Project impacts on boreal caribou (t̄odzı) (following guidance in Appendix B).

Measure 6-2: Determine sustainable harvest levels for boreal caribou (t̄odzı) and implement measures to ensure harvest is sustainable if required

Proposed wording for Measure 6-2

To mitigate significant adverse impacts from the project on boreal caribou (t̄odzı), the GNWT-ENR in collaboration with Aboriginal groups and in accordance with the requirements of the T̄ıcho agreement, will determine sustainable harvest levels for boreal caribou in the North Slave portion of the NT1 range prior to the road being opened to the public.

In that same period, if current harvest levels are determined to exceed sustainable levels, management action will be undertaken in conjunction with the T̄ıcho Government.

If harvest levels are observed to increase towards unsustainable levels once the road is opened to the public, GNWT-ENR and the T̄ıcho Government will submit a wildlife management proposal under section 12.5.1 of the T̄ıcho Agreement to the Wek'èezhì Renewable Resources Board for the timely implementation of any measures necessary to ensure boreal caribou harvest in the region is kept within sustainable levels.

Such measures may include the establishment of a no-hunting corridor along the Project route.

Measure 6-3: Habitat offset and restoration plan

Revised proposed wording for Measure 6-3

The developer will offset effective boreal caribou (ṯdzı) habitat lost because of disturbance from the Project.

The developer, with the involvement of GNWT-ENR, will prepare and implement a habitat offset plan. This plan will describe how the required habitat offset area will be determined and how it will be achieved. In preparing the plan, the developer will collaborate with Ṯcẖ Government and the Wek'èezhì Renewable Resources Board, and consult with the following participants to this environmental assessment:

- Environment and Climate Change Canada;
- Yellowknives Dene First Nation; and,
- North Slave Métis Alliance.

The developer will make funding available to the parties to support this consultation and collaboration. The developer will submit a draft and a final plan as described below. Once approved, the developer will operate in accordance with the plan.

The developer will submit a draft plan to the Wek'èezhì Renewable Resources Board a minimum of 30 days prior to commencement of construction. The developer will submit the final habitat offset plan to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the Ṯcẖ Agreement, as soon as possible, and no later than 90 days prior to public use of the road. This final plan will include, at a minimum:

- the goals and objectives of the plan;
- a discussion on the expected effectiveness of mitigations and offsets;
- a decision framework to prioritize restoration areas, mitigations, and offsets, including references to the research on which the decision framework was based;
- a discussion of how any proposed mitigations or offsets align with the Recovery Strategy for the Boreal Caribou in the NWT and range plans;
- details of proposed ways to offset habitat disturbance including restoration sites, mitigation measures, offsets, forest fire fighting policies, or habitat management approaches;
- a description of the spatial scale of the proposed offset, the habitat quality and type, site specific restoration activities, and any challenges;
- a timeline for offsetting;
- a quantitative and qualitative assessment of the total area of boreal caribou habitat proposed for restoration and the timeframe required for restoration;

- a summary of consultation feedback that was integrated into the draft and final plans;
- a description of any Traditional Knowledge that was considered in the development of the plan, and how it was incorporated; and,
- a description of any resources provided to Aboriginal groups to support their involvement in the drafting of the final plan, and for any involvement in the implementation of the plan.

Measure 8-1: Fisheries Management Plan

Fisheries and Oceans Canada and the Tłıchǵo Government, with the support of the developer, will develop and implement Fisheries Management Plan for fisheries in the project area. This will prevent significant adverse impacts from additional fishing pressure that will likely result from increased access via the Project. In designing the plan, Fisheries and Oceans Canada will engage with the Tlıcho Government, the Wek'èezhì Renewable Resources Board, the Community of Whatì and other affected Aboriginal groups. Fisheries and Oceans Canada and the Tłıchǵo Government will submit the plan to the Wek'èezhì Renewable Resources Board for review under section 12.5.1 of the Tłıchǵo Agreement.

As part of this plan, the following work will be completed by Fisheries and Oceans Canada, and Tlıcho Government:

- a) Complete work to understand baseline fishery and harvest conditions. This work will include, at a minimum:
 - i. assessing yield and harvest;
 - ii. identifying management issues;
 - iii. establishing fisheries objectives; and,
 - iv. clarifying management and stewardship arrangements.

- b) Design and implement, with support of the developer, mitigation to prevent or manage project impacts (which may include a regulatory and compliance plan).

- c) Design and implement monitoring plans, meeting the requirements of Appendix C.

- d) Design and implement an adaptive management plan (following guidance in Appendix B).

Fisheries and Oceans Canada and the Tłıchǵo Government will provide opportunity for the working group (required by Measure 14-3) and other interested parties to review and comment on this plan.