



Ms. Joanne Deneron  
Chairperson  
Mackenzie Valley Environmental Impact Review Board  
PO Box 938  
YELLOWKNIFE NT X1A 2N9

JUN 22 2018

Dear Ms. Deneron:

**Decision on the Report of Environmental Assessment and Reasons for Decision for the Government of the Northwest Territories' Tłıchǵ All-Season Road Project (MVEIRB file number EA1617-01)**

As the Minister with delegated authority to distribute decisions made under section 130 of the *Mackenzie Valley Resource Management Act* (MVRMA), and on behalf of the other responsible ministers with jurisdiction related to the above noted development, I am writing to convey that we have completed our review of the Mackenzie Valley Environmental Impact Review Board's (Review Board) *Report of Environmental Assessment and Reasons for Decision* (the Report) for the Tłıchǵ All-Season Road project, received on March 29, 2018. As the Minister of Lands, I am a responsible minister; the other responsible minister for the Government of the Northwest Territories (GNWT) is the Minister of Environment and Natural Resources. Responsible ministers for the Government of Canada are the Minister of Natural Resources Canada as consolidated by the Minister of Crown-Indigenous Relations and Northern Affairs.

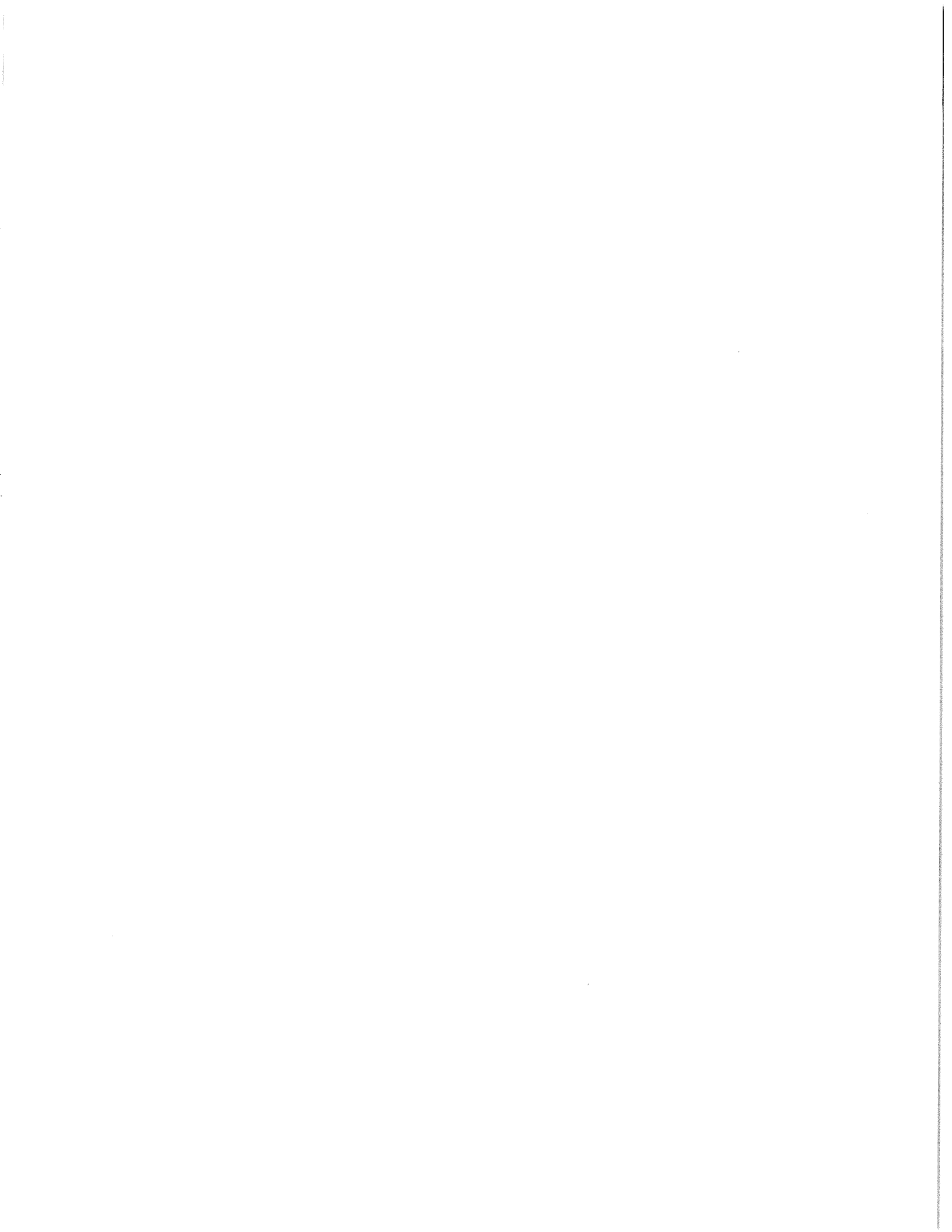
In the Report, the Review Board recommended under sub-paragraph 128(1)(b)(ii) of the MVRMA that the Tłıchǵ All-Season Road project be approved subject to the implementation of 23 measures and developer's commitments recorded in the Report.

In general, the responsible ministers and I are pleased and supportive of the work undertaken by the Review Board. However, prior to rendering a decision on the Review Board's recommendation, the responsible ministers and I would like to consult the Review Board with respect to proposed modifications to measures 6-1, 6-2, and 6-3 of the Report, pursuant to subparagraph 130(1)(b)(ii) of the MVRMA. In this regard, I am enclosing the proposed modifications to the measures with supporting rationale for your consideration.

Although the Tłıchǵ Government has a separate decision process pursuant to subparagraph 131(1) of the MVRMA, in the spirit of supporting a streamlined and cooperative decision making process, staff from responsible minister departments have sought the view of the Tłıchǵ Government on the proposed modifications to measures 6-1, 6-2, and 6-3. The Tłıchǵ Government has expressed no concerns with the proposed modifications.

The responsible ministers understand the Review Board will be providing parties to the environmental assessment of the Tłıchǵ All-Season Road project with the opportunity to comment on the proposed modifications. We have also written to potentially impacted Indigenous governments and organizations to ask for their views on the proposed modifications and encourage

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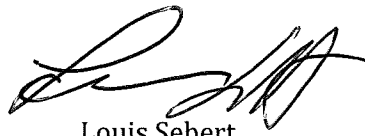


those who were party to the environmental assessment to participate in the Review Board's consultative process.

The responsible ministers and I appreciate the effort the Review Board makes to ensure the views of all parties to the environmental assessment of the project are heard, and trust the Review Board will do so during this consult to modify procedure in a timely manner.

In order to make arrangements to meet with the responsible ministers' officials to discuss the proposed modifications to the measures, please contact Melissa Pink, Manager, Project Assessment Branch, Department of Lands, at 867-767-9180 ext 24021 or [Melissa.pink@gov.nt.ca](mailto:Melissa.pink@gov.nt.ca).

Sincerely,



Louis Sebert  
Minister of Lands

Attachment

c. Honourable Robert C. McLeod  
Minister of Environment and Natural Resources

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. Joe Dragon, Deputy Minister, GNWT Environment and Natural Resources

Mr. Willard Hagen, Deputy Minister, GNWT Lands

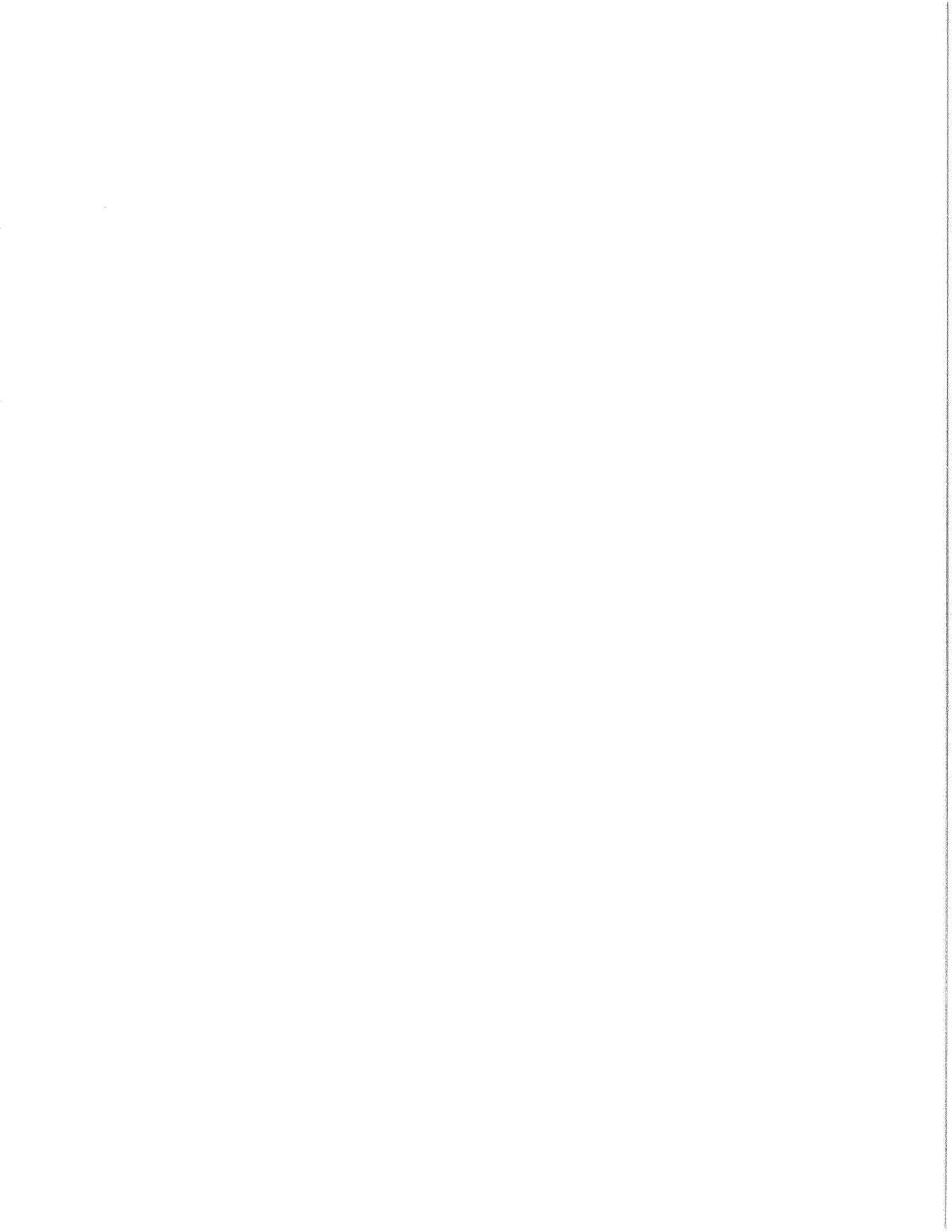
Hélène Laurendeau, Deputy Minister, Crown-Indigenous Relations and Northern Affairs Canada

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

Adrian Paradis, A/ Director-General, Northern Projects Management Office, Canadian Northern Economic Development Agency Canada

Grand Chief George Mackenzie, Tłı̨chǫ Government

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



## PROPOSED MODIFICATIONS TO MEASURES FOR THE Tłıchǰ ALL-SEASON ROAD PROJECT

### **Measure 6-1: Implementation of the *Recovery Strategy for the Boreal Caribou in the NWT*, and required range plans, for boreal caribou affected by the Project**

**6-1 - Part 1:** The responsible ministers agree with the Mackenzie Valley Environmental Impact Review Board (Review Board) that range plan(s) for boreal caribou in the North Slave region should be completed in a timely manner and acknowledge that the Review Board issued measure 6-1 in part because of the Review Board's concerns with the absence of range plans. As it is implied in the Report of Environmental Assessment (Report of EA) for the Tłıchǰ All-season Road (the Project) that range plans could address many of the Review Board's concerns, it is important that the implementation of measure 6-1 reflects the existing co-management system within which the Government of the Northwest Territories (GNWT) must work. In order to do so, the responsible ministers are suggesting modifications to measure 6-1.

The first modification clarifies that a range plan will be developed for the North Slave portion of the NT1 boreal caribou range, as the boreal caribou range does not overlap with the entirety of the North Slave region. GNWT recognizes that the measure calls for developing and implementing range plans in other regions where boreal caribou may experience impacts from the project, and the GNWT is committed to doing so.

The completion of range plan(s) will require collaboration and endorsement by Indigenous Governments and organizations (IGOs) and renewable resource boards. The GNWT cannot guarantee the outcome or the timing for completion of this necessary co-management process; therefore, the modifications are being proposed to reflect that completion of a range plan prior to the Project being opened for public use cannot be guaranteed by the GNWT. An achievable objective within the GNWT's control is the completion and submission of a range plan for the North Slave portion of the NT1 range for review under section 12.5.1 of the Tłıchǰ Agreement prior to the Project being opened for public use.

The third modification is intended to reflect that GNWT-ENR does not have the sole authority for land management decisions. The proposed modifications reflect that

land and habitat management in the North Slave region is a shared responsibility between the GNWT, the Tłı̨chǫ Government, and the federal government.

As indicated above, the GNWT feels strongly that the development and establishment of any threshold for undistributed boreal caribou habitat within the North Slave region must respect established co-management processes and the Tłı̨chǫ Agreement. This is the underlying basis for the GNWT's proposed modifications in the third paragraph. While the 65% undisturbed habitat threshold established by Environment and Climate Change Canada (ECCC) under the federal *Species at Risk Act* applies to the NT1 range as a whole, it does not legally apply on a regional basis. Regional disturbance thresholds for different portions of the NT1 range must be determined and agreed to through established NWT co-management processes. While ECCC is a key player in that determination, ECCC does not have an approval authority in that regard. Modifications to the measure are proposed to reflect that determination of an undisturbed habitat threshold for the North Slave portion of the range will occur through those existing co-management processes, while also ensuring engagement with ECCC during that process.

**6-1 - Part 2:** A modification is being proposed by responsible ministers to Measure 6-1, Part 2 in order to avoid requiring that certain elements be included in range plans that are more appropriately addressed by implementation of the *Recovery Strategy for the Boreal Caribou in the NWT* (the "NWT Recovery Strategy") and vice versa (the proposed modifications has "and" replaced by "or" in the first sentence of Part 2 of the measure). Boreal caribou range plans are intended to focus on the management of natural and human habitat disturbance, whereas the NWT Recovery Strategy for boreal caribou addresses a broader range of issues including boreal caribou population monitoring and research, and management of boreal caribou harvest. An implementation agreement for the NWT recovery strategy has already been signed by the Conference of Management Authorities (CMA) that outlines actions that CMA parties have agreed to implement over the next 5 years, many of which are captured in Measure 6-1, Part 2.

GNWT agrees with the requirement to monitor boreal caribou population trends and distribution, but notes that current monitoring methods used by GNWT to monitor boreal caribou population trends do not provide estimates of "abundance". The first bullet of the measure has been modified to reflect this.

The third bullet was modified to reflect the changes the Tłıchǵ Government have proposed to Measure 9-1 (which the GNWT has no concerns with) which clarifies that Aboriginal harvest monitoring and reporting programs will be voluntary, and therefore GNWT-ENR cannot guarantee that harvest monitoring and reporting information required by Measure 6-1, Part 2 will include Aboriginal harvesting.

The 7<sup>th</sup> bullet was modified to reflect that disturbance thresholds will be set on a regional basis and uses language that is consistent with the proposed wording in Part 1 of Measure 6-1 to reflect that GNWT will work to the greatest extent possible to manage habitat disturbance within each range planning region to established thresholds, recognizing that GNWT does not have ultimate control over fires.

<b>Measure 6-1, Part 1 current wording with problematic aspects highlighted and underlined</b>	<b>Proposed revised wording (highlighted in yellow)</b>
<b>6-1, Part 1 - Develop and implement range plans</b>	<b>6-1, Part 1 - Develop and implement range plans</b>
<p>The GNWT-ENR will develop and implement a range plan for boreal caribou (tǵdzı) in the North Slave region, as required by the <i>Recovery Strategy for the Boreal Caribou in the NWT</i>. The GNWT-ENR will also develop and implement a range plan for any other region where boreal caribou (tǵdzı) may experience impacts related to the Project.</p> <p>The range plan(s) will be developed collaboratively with Aboriginal groups and co-management partners. <u>The range plan(s) will be completed before the Project is opened for public use.</u></p>	<p>The GNWT-ENR will develop and implement a range plan for boreal caribou (tǵdzı) in the North Slave <b>portion of the NT1 range</b>, as required by the <i>Recovery Strategy for the Boreal Caribou in the NWT</i>. The GNWT-ENR will also develop and implement a range plan for any other region where boreal caribou (tǵdzı) may experience impacts related to the Project.</p> <p>The range plan(s) will be developed collaboratively with Aboriginal groups and co-management partners. <b>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 Tłıchǵ Agreement</b> a minimum of 90</p>

<p>The GNWT-ENR will manage the amount of undisturbed habitat in the North Slave region to achieve the National Recovery Strategy recommended threshold for critical habitat, or a threshold proposed by the GNWT-ENR and approved by Environment and Climate Change Canada.</p>	<p>days before the Project is opened for public use.</p> <p>GNWT will work with the Tłıchǫ Government, and other relevant Aboriginal and federal land management authorities to achieve the National Recovery Strategy recommended threshold for critical habitat to manage, to the greatest extent possible, the amount of undisturbed habitat in the North Slave portion of the NT1 range to a threshold proposed by the GNWT-ENR, following engagement with Environment and Climate Change Canada and consultation with applicable Aboriginal groups, and approved in accordance with chapter 12 of the Tłıchǫ Agreement.</p>
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<b>Measure 6-1, Part 2 current wording with problematic aspects highlighted and underlined</b>	<b>Proposed revised wording (highlighted in yellow)</b>
<p><b>6-1, Part 2: Information and adaptive management requirements</b></p> <p>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 <i>Recovery Strategy for the Boreal Caribou in the NWT</i> <u>and</u> range plan(s):</p> <ul style="list-style-type: none"> <li>• monitoring of population trends, abundance and distribution;</li> </ul>	<p><b>6-1, Part 2: Information and adaptive management requirements</b></p> <p>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 <i>Recovery Strategy for the Boreal Caribou in the NWT</i> <u>or</u> range plan(s):</p> <ul style="list-style-type: none"> <li>• monitoring of population trends, <u>abundance</u> and distribution;</li> </ul>



- determination of population thresholds and triggers to inform adaptive management;
- harvest monitoring and reporting including Aboriginal harvesting and non- Aboriginal hunting;
- determining sustainable harvest levels;
- identifying critical habitat;
- ongoing habitat disturbance monitoring;
- setting and meeting critical habitat objectives for each range; and,
- monitoring predator populations including densities, movements and predation rates.<sup>1</sup>

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).

- determination of population thresholds and triggers to inform adaptive management;
- harvest monitoring and reporting including Aboriginal harvesting and non- Aboriginal hunting;
- determining sustainable harvest levels;
- identifying critical habitat;
- ongoing habitat disturbance monitoring;
- an approach to setting and, to the greatest extent possible, managing habitat disturbance thresholds for each range planning region; and,
- monitoring predator populations including densities, movements and predation rates.<sup>1</sup>

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: Temporary no-hunting corridor for boreal caribou (t̄odzı)**

The responsible ministers agree with the Review Board that there is a need to determine sustainable harvest levels for boreal caribou in the North Slave region, and that measures to ensure harvest is sustainable are implemented, to the fullest extent required. Such actions may include, but not be limited to, a no hunting corridor along the road.

Established processes under the NWT *Wildlife Act* and the Tłı̨chǫ Agreement should be respected and used to first determine sustainable harvest levels, and then propose management actions, to the greatest extent required, to ensure that harvest remains within sustainable levels. Processes for considering and implementing harvest restrictions are laid out in the NWT *Wildlife Act* and regulations, and are done using a collaborative process that involves the full engagement and consultation with renewable resource boards and IGOs. The process to impose harvest restrictions is based on the demonstration of a conservation or safety concern that would support the need for management actions. Measure 6-2 as currently worded pre-supposes a need to implement a specific management action, without an assessment of sustainable harvest levels in the region and if required, without allowing the WRRB to review and make a determination on a management proposal. The GNWT is committed to undertaking this work and implementation of the measure would be legally binding in this regard. The responsible ministers are of the strong opinion that the co-management process, foundational to wildlife management in the NWT, be respected.

Reference to the implementation of the *Recovery Strategy for Boreal Caribou in the Northwest Territories* has been removed. There are established processes under the NWT *Species at Risk Act* to guide the implementation of the recovery strategy. The Conference of Management Authorities (which consists of renewable resources boards established under land claims, Tłı̨chǫ Government, GNWT and Government of Canada) develops consensus agreements respecting the implementation of management plans and recovery strategies. The recommended conservation and recovery approaches and the Management Authorities' intent to undertake them constitute the Consensus Agreement Respecting Implementation of the Recovery Strategy for Boreal Caribou in the Northwest Territories (2017)<sup>1</sup>. The GNWT works with other management authorities to implement the actions under the Consensus Agreement and has intended to work with co-management boards to define sustainable harvest levels (Action 2.2.1).

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[http://www.nwt-species-at-risk.ca/sites/default/files/consensus\\_agreement\\_boreal\\_caribou\\_implementation\\_nov2417\\_signed.pdf](http://www.nwt-species-at-risk.ca/sites/default/files/consensus_agreement_boreal_caribou_implementation_nov2417_signed.pdf)

Measure 6-2 current wording with problematic aspects highlighted and underlined	Proposed revised wording (highlighted in yellow)
<p><b>6-2 - Temporary no-hunting corridor for boreal caribou (t̥ɔdʒɪ)</b></p>	<p><b>6-2 - Determine sustainable harvest levels for boreal caribou (t̥ɔdʒɪ) and implement measures to ensure harvest is sustainable if required</b></p>
<p>To mitigate significant adverse impacts from the project on boreal caribou (t̥ɔdʒɪ), the GNWT-ENR and T̥ɪch̥ɔ Government will submit a wildlife management proposal under section 12.5.1 of the T̥ɪch̥ɔ Agreement to the Wek'èezhì Renewable Resources Board.</p> <p><u>The proposal will establish a temporary no-hunting corridor to reduce the take of boreal caribou (t̥ɔdʒɪ) along the Project route. Only individuals exercising section 35 rights will be allowed to harvest boreal caribou (t̥ɔdʒɪ) in this corridor.</u></p> <p><u>The corridor will be established prior to the road being opened to the public. At a minimum, this hunting restriction will remain in place until the <i>Recovery Strategy for Boreal Caribou in the Northwest Territories</i> is fully implemented in the area of the range plan(s) required by measure 6-1,</u> and sustainable harvest levels for the North Slave region are determined.</p>	<p>To mitigate significant adverse impacts from the project on boreal caribou (t̥ɔdʒɪ), the GNWT-ENR, <u>in collaboration with Aboriginal groups and in accordance with the requirements of the T̥ɪch̥ɔ Agreement,</u> 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.</p> <p><u>In that same period, if current harvest levels are determined to exceed sustainable levels, management action will be undertaken in conjunction with the T̥ɪch̥ɔ Government.</u></p> <p><u>If harvest levels are observed to increase beyond sustainable levels once the road is opened to the public, GNWT-ENR and the T̥ɪch̥ɔ Government will submit a wildlife management proposal under section 12.5.1 of the T̥ɪch̥ɔ 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.</u></p>

	Such measures may include the establishment of a no-hunting corridor along the Project route.
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**Measure 6-3: Habitat offset and restoration plan**

The responsible ministers agree with the Review Board’s determination that the developer should offset boreal caribou habitat that is effectively lost because of disturbance from the Project. As with Measures 6-1 and 6-2, Measure 6-3 as currently worded pre-supposes any determination by the WRRB, without allowing them to undertake their due process. Again, the responsible ministers are of the strong opinion that the co-management process, foundational to wildlife management in the NWT, be respected.

The proposed modifications will require that an appropriate offset area be determined by the developer in collaboration with the Tłı̨chǫ Government and the Wek’èezhì Renewable Resources Board (WRRB) and in consultation with Environment and Climate Change Canada (ECCC), Yellowknives Dene First Nation and North Slave Métis Alliance.

Modifications are also being proposed in order to allow sufficient time for the developer to collaborate and consult with required parties on a draft offsetting plan. Responsible ministers do not see this as problematic, as the draft plan will still be submitted prior to the start of construction and will be, in all likelihood, implemented prior to the opening of the road for public use.

<b>Measure 6-3 current wording with problematic aspects highlighted and underlined</b>	<b>Proposed revised wording (highlighted in yellow)</b>
<b>6-3 - Habitat offset and restoration plan</b>	<b>6-3 - Habitat offset and restoration plan</b>
The developer will offset effective boreal caribou (ṯḏzı) habitat lost because of disturbance from the Project. <u>The offset</u>	The developer will offset effective boreal caribou (ṯḏzı) habitat lost because of disturbance from the Project. The offset

calculation will, at a minimum, be based on the area of the right of way with a 2500 m buffer on each side.

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 (calculated as set out above) will be achieved. In preparing the plan, the developer will collaborate with Tłıchq 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 for review under section 12.5.1 of the Tłıchq Agreement, a minimum of 90 days prior to commencement of construction. The developer will submit the final habitat offset plan to the Wek'èezhì Renewable Resources Board

calculation will, at a minimum, be based on the area of the right of way with a 2500 m buffer on each side.

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 Tłıchq 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 for review under section 12.5.1 of the Tłıchq Agreement, prior to commencement of construction. The developer will submit the final habitat offset plan to the Wek'èezhì Renewable Resources Board for review under

for review under section 12.5.1 of the Tłı̨chǫ 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

section 12.5.1 of the Tłı̨chǫ 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

<p>the draft and final plans;</p> <ul style="list-style-type: none"><li>• a description of any Traditional Knowledge that was considered in the development of the plan, and how it was incorporated; and,</li><li>• 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.</li></ul>	<p>Knowledge that was considered in the development of the plan, and how it was incorporated; and,</p> <ul style="list-style-type: none"><li>• 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.</li></ul>
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