

June 27, 2018

Notice of Proceeding

Tłıchq All Season Road, GNWT – Department of Infrastructure

Re: Process for consult-to-modify under MVRMA subparagraph 130(1)(b)(ii) and paragraph 131.1(1)(b)

The Review Board is inviting parties to the Tłıchq All Season Road EA to provide their views of proposed modifications to the Board's measures.

On June 22, 2018 the GNWT Minister of Lands and the Tłıchq Government initiated a consult-to-modify¹ process to modify the wording of certain measures in the Review Board's *Report of Environmental Assessment and Reasons for Decision* for the Tłıchq All Season Road Project. They have provided their alternative wording and reasons. The consult-to-modify process allows final decision makers to modify recommended measures while preserving the Review Board's intent. The consult-to-modify process is not a rejection of the Board's measures, nor does it involve a reconsideration of the Board's decision.

This notice describes the process that the Review Board will follow to respond to the modifications proposed by the Minister and Tłıchq Government.

This process respects the Review Board's decision-making process and the requirements of Part 5 of the MVRMA, while properly reflecting the legal authorities of the Minister and Tłıchq Government. The consult-to-modify process will be transparent and ensure that the ultimate accountability for any modifications rests with the final decision makers. The Review Board will follow the procedures and schedule below in response to the consult-to-modify process initiated by the Minister and Tłıchq Government.

¹ Under sections 130 and 131.1 of the MVRMA, final decision-makers – which in this case includes the Tłıchq Government and GNWT Minister of Lands – must consult with the Review Board before a decision to modify any part of the Board's recommendation in a Report of Environmental Assessment. This consultation is an element of the environmental assessment decision making process set out in the MVRMA and is not related to Crown consultation requirements which may arise when proposed development activities affect Aboriginal or treaty rights.



Review of the proposed modifications

On June 22, 2018, the Minister and Tłıchǫ Government provided their proposed modifications to the Review Board (PR# 305; PR# 306, PR# 307). **Parties (listed below) are invited to provide their comments and views on the proposed modifications, in writing, by July 23, 2018.**

The Review Board will hold a one day working meeting on July 3, 2018 to assist parties in their review of the Minister and Tłıchǫ Government's proposed modifications. Board staff will facilitate this meeting in the Review Board's boardroom. The meeting will be open to the parties that participated in the environmental assessment, listed below. Parties that plan to attend should notify Review Board staff in advance. Further details about this meeting will be provided soon. Any members of the public who wish to submit a comment to the Review Board on the proposed modifications may do so in writing by July 23, 2018.

After considering parties' comments, **the Review Board will prepare its recommendation on the proposed modifications for the Minister and Tłıchǫ Government's consideration.**

Parties to the consult-to-modify process

The consult-to-modify process is a continuation of the environmental assessment. As such, the Review Board is seeking input on the proposed modifications from parties to the EA, to inform the Board's response. The Review Board will also accept any comments from members of the public during the consult-to-modify period.

The following parties to the EA are invited to review the Minister and Tłıchǫ Government's proposed modifications:

- Tłıchǫ Government²
- Wek'èezhì Renewable Resource Board
- Yellowknives Dene First Nation
- North Slave Métis Alliance
- Environment Canada
- Fisheries and Oceans Canada
- Indigenous and Northern Affairs Canada
- Natural Resources Canada

² for modifications proposed by the Minister



Scope of the consult-to-modify process

Under the MVRMA³, a final decision maker can, after consulting the Review Board, modify recommended measures in the Review Board's *Report of Environmental Assessment*. The consult-to-modify process is limited to considering the measures that the final decision makers are proposing to modify. These measures define the scope of the consult-to-modify process.

The Board will identify any modifications that alter the Board's original intent of the measure.

The final decision makers must provide any new information or outline any matter of public concern that was considered in the decision to initiate the consult-to-modify process.⁴ Apart from this, no new information or evidence may be considered during the process.

Nature of the consult-to-modify process

The intent of each measure recommended by the Review Board is described in the *Report of Environmental Assessment and Reasons for Decision*. All parties involved in the consult-to-modify process should carefully consider the context and rationale for the Review Board's recommended measures which are being considered for modification.

To ensure transparency, all relevant correspondence and materials from the consult-to-modify process will be posted on the Review Board's public registry. In addition to the decision letters and reasons for initiating the consult-to-modify process, the Review Board will also post:

- a summary of any meetings with parties hosted by the Review Board, including the issues raised and any resolution
- the Review Board's response to the proposed modifications, considering any issues raised by parties and the public

If you have any questions, please contact our Executive Director, Mark Cliffe-Phillips, at 867-766-7055 or by email at mcliffephillips@reviewboard.ca.

³ See MVRMA subsections 130(1) and 131.1(1).

⁴ See MVRMA subsections 130(3) and 131.1(3).