

MLT AIKINS

WESTERN CANADA'S LAW FIRM

MLT Aikins LLP
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January 12, 2023

Delivered Via Process Server

KBL Environmental Ltd.
c/o Head Office
17 Cameron Road
P.O. Box 1895
Yellowknife, NT X1A 0E8

KBL Environmental Ltd.
c/o Carolyn Simpson
Lawson Lundell
225 – 6th Avenue SW
Suite 1100, Brookfield Place
Calgary, AB T2P 1N2

Gwich'in Land and Water Board
c/o Main Office
Alex Moses-Greenland Building
105 Veterans Way
P.O. Box 2018
Inuvik, NT X0E 0T0

Deputy Attorney General of Canada
Northern Regional Office - Northwest Territories
Department of Justice Canada
5019 52nd Street
2nd Floor, Nova Plaza
P.O. Box 2052
Yellowknife, NT X1A 2P5

Attorney General of the Northwest Territories
Department of Justice
4903 - 49th Street
P.O. Box 1320
Yellowknife, NT X1A 2L9

To Whom it May Concern:

**Re: Gwich'in Tribal Council vs. KBL Environmental Ltd. & Gwich'in Land and Water Board
Originating Notice for Judicial Review – Court File #S-1-CV-2022-000301;
Originating Notice for Statutory Appeal – Court File #S-1-CV-2023-000005**

MLT Aikins File No: 149645-6

Please find attached for service upon you the following documents:

- (1) Originating Notice for Judicial Review in Court File #S-1-CV-2022-000301, issued December 16, 2022; and
- (2) Originating Notice for Statutory Appeal in Court File #S-1-CV-2023-000005, filed as of December 28, 2022 (unissued).

MLT AIKINS LLP | MLT AIKINS.COM

MLT AIKINS

WESTERN CANADA'S LAW FIRM

We will provide you with an issued copy of the Originating Notice for Statutory Appeal as soon as we receive it from the Court.

Counsel for the Applicant, Gwich'in Tribal Council, will accept service by electronic means at the following email address: RJeerakathil@mltaikins.com. Please be advised that counsel for the Applicant intends to appear by telephone on the first return date for the above noted matters, being January 27, 2023.

With respect to both the Originating Notice for Judicial Review and Originating Notice of Statutory Appeal, please do not serve any documents at the following address listed in the Originating Notice:

301, 5109 – 48 Street
Yellowknife NT XIA IN5

Any documents that must be personally served may be sent to the applicant, Gwich'in Tribal Council, at the following address:

1 - 3 Council Crescent
P.O. Box 1509
Inuvik, NT. X0E 0T0

Kindly copy Gwich'in Tribal Council's counsel by email at with respect to any documents served at the Gwich'in Tribal Council's above noted address. However, we are prepared to accept any and all documents that must be served personally or otherwise in these matters at the above-noted email address on behalf of the Gwich'in Tribal Council.

Kindly sign and return the attached Acknowledgments of Service to RJeerakathil@mltaikins.com.

Sincerely,

MLT AIKINS LLP

Per:

Rangi Jeerakathil

RGJ:sdk

Encls.

CONTACT INFORMATION AND ADDRESS FOR SERVICE:

Rangi Jeerakathil

MLT Aikins LLP — 1201, 409 3rd Avenue South — Saskatoon SK S7K 5R5

Phone: 306.975.7100 — email: RJeerakathil@mltaikins.com — File No. 149645.6

Rangi Jeerakathil
MLT Aikins LLP — 1201, 409 3rd Avenue South — Saskatoon SK S7K 5R5
Phone: 306.975.7100 — email: RJeerakathil@mltaikins.com — File No. 149645.6

FORM 4

(Subrules 23(1) and 626(2))

ORIGINATING NOTICE

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

Gwich'in Tribal Council

Applicant

- and -

KBL Environmental Ltd. and
Gwich'in Land and Water Board

Respondents

ORIGINATING NOTICE OF STATUTORY APPEAL

TAKE NOTICE that a motion will be made on behalf of Gwich'in Tribal Council of Inuvik, Northwest Territories, for leave to appeal and to appeal, pursuant to section 56 of the *Waters Act*, SNWT 2014, c 18, from the decision of the Gwich'in Land and Water Board dated November 18, 2022 regarding the issuance of Type B Water Licence G22L1-005 to KBL Environmental Ltd. (the "**Decision**") in the Supreme Court of the Northwest Territories.

Relief Sought

AND FURTHER TAKE NOTICE THAT the relief claimed by the Applicant with respect to the request for leave to appeal includes:

1. an Order pursuant to section 56(1) of the *Waters Act* granting leave to appeal the Decision;
2. an Order pursuant to section 56(1) of the *Waters Act* extending the time for making the application for leave to appeal and other such related relief as may be required;

3. an Order pursuant to Rule 318(1)(a) of the *Rules of the Supreme Court of the Northwest Territories* that this proceeding be heard with the proceeding in Court File No. S-1-CV-2022-000301;
4. directions with respect to the scheduling of this application for leave to appeal, the content of and time for service of memoranda of argument, affidavits, and such other directions as may be required;
5. costs; and
6. any such other relief that this Honourable Court deems just.

AND FURTHER TAKE NOTICE THAT the relief claimed by the Applicant with respect to the statutory appeal includes:

1. an Order setting aside the Decision and remitting the Decision back to the Gwich'in Land and Water Board to reconsider in accordance with any directions that the Court considers appropriate;
2. costs; and
3. any such other relief that this Honourable Court deems just.

Request for Leave to Appeal

AND FURTHER TAKE NOTICE THAT this request for leave to appeal is based on the following:

Test for Leave to Appeal

4. The grounds of the statutory appeal, as set out below, under the headings Background Facts and Statutory Appeal Grounds, meet the test for leave to appeal because they raise serious arguable points. In particular:
 - a. the issues raised by the grounds of the statutory appeal are significant to the practice and to the action as they involve the duty of the Gwich'in Land and

Water Board to make licensing decisions in accordance with the law and within the scope of the Gwich'in Land and Water Board's jurisdiction;

- b. for the same reasons set out in paragraph 4(a), the issues raised by the grounds of the statutory appeal are significant to the action;
 - c. the statutory appeal is prima facie meritorious; and
 - d. the statutory appeal will not unduly hinder the progress of the action.
5. There are special circumstances that warrant extending the time for making this Application for leave to appeal, if required, namely:
- a. the closure of the Northwest Territories Supreme Court for the period of December 22, 2022 to January 2, 2023, inclusive; and
 - b. no prejudice to the Respondents will occur as a result of an extension of time.

Background Facts

6. The Decision to issue Type B Water Licence G22L1-005 to KBL Environmental Ltd. was made on November 18, 2022 and was received by the Gwich'in Tribal Council on November 23, 2022.
7. On May 11, 2017, KBL Environmental Ltd. applied to the Gwich'in Land and Water Board for a Type B Water Licence for a proposed Soil Treatment Facility located in Inuvik, Northwest Territories (the "**Initial Application**"). The proposed Soil Treatment Facility was designed to receive, store and treat petroleum hydrocarbon contaminated soil and snow generated primarily from residential, commercial and industrial properties where a hydrocarbon release had occurred.
8. On July 12, 2017, the Gwich'in Land and Water Board completed a preliminary screening and determined that the Initial Application did not require an environmental assessment.

9. Effective July 25, 2017, the Gwich'in Land and Water Board issued Water Licence G17L1-002 to KBL Environmental Ltd. (the "**Initial Licence**"). The Initial Licence was for a term of five years, expiring June 24, 2022.
10. On November 23, 2017, the Gwich'in Land and Water Board amended the Initial Licence to reduce the amount of security required and to correct clerical errors.
11. On April 8, 2021, the Gwich'in Land and Water Board further amended the Initial Licence to allow the Soil Treatment Facility to receive contaminated water (in addition to soil and snow). No further preliminary screening occurred.
12. The Soil Treatment Facility was constructed and began operating in late 2021.
13. On May 30, 2022, KBL Environmental Ltd. applied to renew the Initial Licence (the "**Renewal Application**").
14. Gwich'in Tribal Council was a party before the Gwich'in Land and Water Board in its proceeding regarding the Renewal Application.
15. On June 28, 2022, Gwich'in Tribal Council wrote to the Gwich'in Land and Water Board regarding concerns that it had with KBL Environmental Ltd.'s compliance with the conditions of the Initial Licence. The Gwich'in Tribal Council requested the Gwich'in Land and Water Board refer the Renewal Application for a public hearing.
16. On July 18, 2022, the Gwich'in Land and Water Board requested the Government of the Northwest Territories Environment and Natural Resources provide a Water Licence Inspection Report for the Soil Treatment Facility ("**Inspection Report**").
17. On August 19, 2022, Environment and Natural Resources provided an Inspection Report which found that KBL Environmental Ltd. was not in compliance with the Initial Licence conditions.
18. On September 7, 2022, the Gwich'in Land and Water Board met to consider Gwich'in Tribal Council's request for a public hearing. The Gwich'in Land and Water Board decided not to hold a public hearing.

19. On October 28, 2022, the Gwich'in Tribal Council wrote to the Gwich'in Land and Water Board and requested that it reconsider its decision not to hold a public hearing.
20. On November 18, 2022, the Gwich'in Land and Water Board decided not to accept the Gwich'in Tribal Council's submission because it was made outside of the public review period for the Renewal Application.
21. Also on November 18, 2022, the Gwich'in Land and Water Board issued Water Licence G22L1-005 to KBL Environmental Ltd. The Gwich'in Land and Water Board directed KBL Environmental Ltd. to submit an updated closure cost estimate and a revised Waste Management Plan within 30 days of the issuance of the licence.

Statutory Appeal Grounds

AND FURTHER TAKE NOTICE that the statutory appeal is based on the grounds of appeal set out below:

1. Gwich'in Tribal Council says that the Gwich'in Land and Water Board's decision to issue Water Licence G22L1-005 to KBL Environmental Ltd. demonstrates errors of law and/or jurisdiction, including but not limited to:
 - a. The Gwich'in Land and Water Board had no jurisdiction to issue Water Licence G22L1-005 as it concerned an application with transboundary effects, contrary to the *Mackenzie Valley Resource Management Act*, including section 103(1).
 - b. The Gwich'in Land and Water Board erred in law in issuing Water Licence G22L1-005 without considering whether the Crown's duty to consult the Gwich'in Tribal Council was met, contrary to section 35 of the *Constitution Act, 1982* and *Mackenzie Valley Resource Management Act*, including section 60.1 and the Mackenzie Valley Land and Water Board's Engagement and Consultation Policy.
 - c. The Gwich'in Land and Water Board erred in law in failing to hold a public hearing for the Renewal Application contrary to the *Mackenzie Valley Resource*

Management Act, including section 72.15, and the *Waters Act*, including section 41.

- d. The Gwich'in Land and Water Board erred in law in failing to consider the Gwich'in Tribal Council's October 28, 2022 submission.
- e. The Gwich'in Land and Water Board's decision to issue Water Licence G22L1-005 erred in law by failing to consider the following evidence, and/or weigh the evidence in conjunction with the other evidence before it, and the applicable statutory provisions, including but not limited to sections 26 and 36 of the *Waters Act* and sections 124 and 125 of the *Mackenzie Valley Resource Management Act*, prior to issuing Water Licence G22L1-005, namely:
 - i. That KBL Environmental Ltd. was significantly not in compliance with the conditions of the Initial Licence, and these instances of non-compliance had not been demonstrated to have been rectified at the time the Decision was issued;
 - ii. The conclusions of the Inspection Report, particularly after the Gwich'in Land and Water Board had determined that the Inspection Report was required;
 - iii. The potential impacts on the Gwich'in Land Use Plan, including neighbouring lands and waters that are protected by the Gwich'in Comprehensive Land Claim Agreement;
 - iv. That no updated Waste Management Plan was received, reviewed and found appropriate;
 - v. That KBL Environmental Ltd. did not demonstrate adequate land tenure and zoning compliance for the Soil Treatment Facility;
 - vi. That the preliminary screening did not include the full scope of the activities authorized by Water Licence G22L1-005, including, but not limited to, the treatment of contaminated water and inadequate baseline

environmental information, contrary to sections 124 and 125 of the *Mackenzie Valley Resource Management Act*; and

- vii. That there was no assessment of how a water containment failure would affect the receiving environment.

Materials Relied On

AND FURTHER TAKE NOTICE that in support of the request for leave to appeal and statutory appeal proper, the Applicant intends to rely on the following:

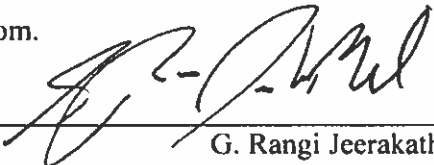
1. *Mackenzie Valley Resource Management Act*, SC 1998, c 25;
2. *Waters Act*, SNWT 2014, c 18;
3. *Waters Regulations*, R-019-2014;
4. *Rules of the Supreme Court of the Northwest Territories*, NWT Reg 010-96;
5. Gwich'in Comprehensive Land Claim Agreement;
6. Mackenzie Valley Land and Water Board Guidelines and Policies;
7. this Honourable Court's inherent jurisdiction; and
8. any other materials that counsel may advise.

AND FURTHER TAKE NOTICE that in support of the request for leave to appeal and statutory appeal proper, the Applicant intends to rely on the following material:

1. The record returned before this Honourable Court pursuant to Rule 601 of the *Rules of the Supreme Court of the Northwest Territories*;
2. The Affidavit of Leigh-Ann Williams-Jones, to be affirmed; and
3. Such further and additional material as this Honourable Court may allow.

AND FURTHER TAKE NOTICE that the motion will be before the presiding Judge in Chambers at 4903 – 49th Street in Yellowknife, Northwest Territories, on the 27th day of January, 2023 at 10:00 a.m. or as soon after that time as counsel may be heard.

DATED at Saskatoon in the Province of Saskatchewan on the 28th day of December, 2022 and taken out by MLT Aikins LLP, solicitors for the Applicant, whose address for service is 1 - 3 Council Crescent, P.O. Box 1509, Inuvik, NT, X0E 0T0, and who consent to service of documents by electronic means at rjeerakathil@mltaikins.com.



G. Rangi Jeerakathil
Solicitor for the Applicant

ISSUED out of the office of the Clerk of the Supreme Court of the Northwest Territories, at Yellowknife, Northwest Territories, on the ____ day of December, 2022.

Clerk of the Supreme Court

FORM 4

(Subrules 23(1) and 626(2))

ORIGINATING NOTICE

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

Gwich'in Tribal Council

Applicant

- and -

KBL Environmental Ltd. and
Gwich'in Land and Water Board

Respondents

ORIGINATING NOTICE FOR JUDICIAL REVIEW

TAKE NOTICE that a motion will be made on behalf of Gwich'in Tribal Council of Inuvik, Northwest Territories for an order that:

1. the decision of the Gwich'in Land and Water Board dated November 18, 2022 regarding the issuance of Type B Water Licence G22L1-005 to KBL Environmental Ltd. is quashed and set aside;
2. KBL Environmental Ltd.'s Application for a Type B Water Licence is referred back to the Gwich'in Land and Water Board to reconsider in accordance with any directions that the Court considers appropriate;
3. costs; and
4. any such other relief that this Honourable Court deems just.

AND FURTHER TAKE NOTICE that the motion will be before the presiding Judge in Chambers at 4903 – 49th Street in Yellowknife, Northwest Territories, on the 27th day of January, 2023 at 10:00 a.m. or as soon after that time as counsel may be heard.

AND FURTHER TAKE NOTICE that in support of this Application, the Applicants intend to rely on the following:

1. *Mackenzie Valley Resource Management Act*, SC 1998, c 25;
2. *Waters Act*, SNWT 2014, c 18;
3. *Waters Regulations*, R-019-2014;
4. *Rules of the Supreme Court of the Northwest Territories*, NWT Reg 010-96;
5. Gwich'in Comprehensive Land Claim Agreement;
6. this Honourable Court's inherent jurisdiction; and
7. any other materials that counsel may advise.

AND FURTHER TAKE NOTICE that the Applicants rely on the following grounds in support of this Application:

1. Gwich'in Tribal Council brings this application for judicial review in respect of a decision rendered by the Gwich'in Land and Water Board on November 18, 2022 regarding the issuance of Type B Water Licence G22L1-005 to KBL Environmental Ltd. (the "**Decision**"). The Decision was communicated to Gwich'in Tribal Council on November 23, 2022.
2. On May 11, 2017, KBL Environmental Ltd. applied to the Gwich'in Land and Water Board for a Type B Water Licence for a proposed Soil Treatment Facility located in Inuvik, Northwest Territories (the "**Initial Application**"). The proposed Soil Treatment Facility was designed to receive, store and treat petroleum hydrocarbon contaminated soil and snow generated primarily from residential, commercial and industrial properties where a hydrocarbon release had occurred.
3. On July 12, 2017, the Gwich'in Land and Water Board completed a preliminary screening and determined that the Initial Application did not require an environmental assessment.
4. Effective July 25, 2017, the Gwich'in Land and Water Board issued Water Licence G17L1-002 to KBL Environmental Ltd. (the "**Initial Licence**"). The Initial Licence was for a term of five years, expiring June 24, 2022.

5. On November 23, 2017, the Gwich'in Land and Water Board amended the Initial Licence to reduce the amount of security required and to correct clerical errors.
6. On April 8, 2021, the Gwich'in Land and Water Board further amended the Initial Licence to allow the Soil Treatment Facility to receive contaminated water (in addition to soil and snow). No further preliminary screening occurred.
7. The Soil Treatment Facility was constructed and began operating in late 2021.
8. On May 30, 2022, KBL Environmental Ltd. applied to renew the Initial Licence (the "**Renewal Application**").
9. Gwich'in Tribal Council was a party before the Gwich'in Land and Water Board in its proceeding regarding the Renewal Application.
10. On June 28, 2022, Gwich'in Tribal Council wrote to the Gwich'in Land and Water Board regarding concerns that it had with KBL Environmental Ltd.'s compliance with the conditions of the Initial Licence. The Gwich'in Tribal Council requested the Gwich'in Land and Water Board refer the Renewal Application for a public hearing.
11. On July 18, 2022, the Gwich'in Land and Water Board requested the Government of the Northwest Territories Environment and Natural Resources provide a Water Licence Inspection Report for the Soil Treatment Facility ("**Inspection Report**").
12. On August 19, 2022, Environment and Natural Resources provided an Inspection Report which found that KBL Environmental Ltd. was not in compliance with the Initial Licence conditions.
13. On September 7, 2022, the Gwich'in Land and Water Board met to consider Gwich'in Tribal Council's request for a public hearing. The Gwich'in Land and Water Board decided not to hold a public hearing.
14. On October 28, 2022, the Gwich'in Tribal Council wrote to the Gwich'in Land and Water Board and requested that it reconsider its decision not to hold a public hearing.
15. On November 18, 2022, the Gwich'in Land and Water Board decided not to accept the Gwich'in Tribal Council's submission because it was made outside of the public review period for the Renewal Application.
16. Also on November 18, 2022, the Gwich'in Land and Water Board issued Water Licence G22L1-005 to KBL Environmental Ltd. The Gwich'in Land and Water

Board directed KBL Environmental Ltd. to submit an updated closure cost estimate and a revised Waste Management Plan within 30 days of the issuance of the licence.

17. Gwich'in Tribal Council says that the Gwich'in Land and Water Board's decision to issue Water Licence G22L1-005 to KBL Environmental Ltd. demonstrates the following errors:

- a. The Gwich'in Land and Water Board had no jurisdiction to issue Water Licence G22L1-005 as it concerned an application with transboundary effects.
- b. The Gwich'in Land and Water Board erred in law in issuing Water Licence G22L1-005 without considering whether the Crown's duty to consult the Gwich'in Tribal Council was met.
- c. The Gwich'in Land and Water Board erred in law in failing to hold a public hearing for the Renewal Application.
- d. The Gwich'in Land and Water Board erred in law in failing to consider the Gwich'in Tribal Council's October 28, 2022 submission.
- e. The Gwich'in Land and Water Board's decision to issue Water Licence G22L1-005 is unreasonable because:
 - i. It was unreasonable to issue Water Licence G22L1-005 in light of KBL Environmental Ltd.'s significant noncompliance with the conditions of the Initial Licence, particularly because these instances of non-compliance had not been demonstrated to have been rectified at the time the Decision was issued.
 - ii. It was unreasonable for the Gwich'in Land and Water Board to, after having determined that the Inspection Report was required, to then place limited weight on the conclusions of the Inspection Report and the Gwich'in Land and Water Board erred in weighing this evidence in conjunction with the other evidence before it.
 - iii. It was unreasonable to not consider potential impacts on the Gwich'in Land Use Plan, including neighbouring lands and waters that are protected by the Gwich'in Comprehensive Land Claim Agreement.

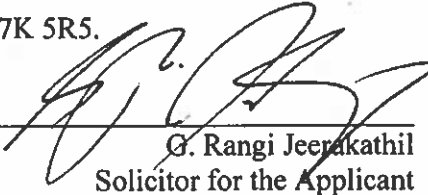
- iv. It was unreasonable to issue Water Licence G22L1-005 in the absence of an updated Waste Management Plan being received, reviewed and found appropriate prior to the issuance of the decision to issue Water Licence G22L1-005.
 - v. It was unreasonable to issue Water Licence G22L1-005 without KBL Environmental Ltd. demonstrating adequate land tenure and zoning compliance for the Soil Treatment Facility.
 - vi. It was unreasonable to issue Water Licence G22L1-005 on the basis of a preliminary screening that did not include the full scope of the activities authorized by Water Licence G22L1-005, including, but not limited to, the treatment of contaminated water and inadequate baseline environmental information.
 - vii. It was unreasonable to issue Water Licence G22L1-005 without an assessment of how a water containment failure would affect the receiving environment.
- f. Such further and other grounds as counsel may advise and this Honourable Court deems just.

AND FURTHER TAKE NOTICE that in support of this Application, the Applicant will rely on the following material:

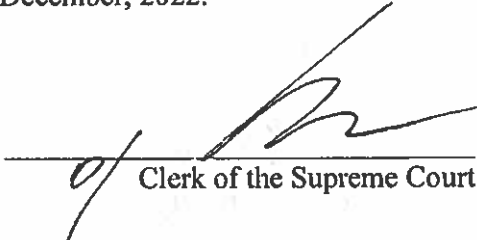
1. The record returned before this Honourable Court pursuant to Rule 601 of the *Rules of the Supreme Court of the Northwest Territories*;
2. The Affidavit of Leigh-Ann Williams-Jones, to be affirmed; and

3. Such further and additional material as this Honourable Court may allow.

DATED at Saskatoon in the Province of Saskatchewan on the 16th day of December, 2022 and taken out by MLT Aikins LLP, solicitors for the Applicant, whose address for service is 409 – 3rd Avenue S, Suite 1201, Saskatoon, Saskatchewan, S7K 5R5.


G. Rangi Jeerakathil
Solicitor for the Applicant

ISSUED out of the office of the Clerk of the Supreme Court of the Northwest Territories, at Yellowknife, Northwest Territories, on the 16th day of December, 2022.


Clerk of the Supreme Court

TO: KBL Environmental Ltd.
17 Cameron Road
P.O. Box 1895
Yellowknife, NT X1A 2P4
Telephone: 867-873-5263

Gwich'in Land and Water Board
Alex Moses-Greenland Building
105 Veterans Way
P.O. Box 2018
Inuvik, NT X0E 0T0
Telephone: 867-777-4954
Fax: 867-777-2304

Deputy Attorney General of Canada
Northern Regional Office - Northwest Territories
Department of Justice Canada
5019 52nd Street
2nd Floor, Nova Plaza
P.O. Box 2052
Yellowknife, NT X1A 2P5
Telephone: 867-920-6001
Fax: 867-920-6025

Attorney General of the Northwest Territories
Department of Justice
4903 - 49th Street
P.O. Box 1320
Yellowknife, NT X1A 2L9
Telephone: 867-767-9070
Fax: 867-873-0234

AND FURTHER TAKE NOTICE that the *Rules of the Supreme Court of the Northwest Territories*, R-010-96, contain the following Rule:

Tribunal's actions on being served

601. (1) On being served with an originating notice, the tribunal in respect of whose order relief is claimed shall return to the Clerk

- (a) the formal order and any reasons;
- (b) the process commencing the proceeding;
- (c) the evidence and all exhibits filed, if any;
- (d) the originating notice served on the tribunal; and
- (e) a certificate in the following form:

"As required by the accompanying originating notice, I hereby return to the Honourable Supreme Court the following papers and documents:

- (a) the order and the reasons for it;
- (b) the process commencing the proceeding;
- (c) the evidence taken at the hearing and all exhibits filed.

And I hereby certify to the Honourable Supreme Court that I have enclosed in this return all the papers and documents in my custody relating to the matter set forth in the originating notice.

Date:

.....

Clerk (or Chairperson) of the Tribunal".

(2) All items required to be returned to the Clerk under subrule (1) constitute the record.

(3) A person who is not in possession or is not in partial possession of those items required under subrule (1), shall file a certificate

- (a) listing what items, if any, he or she is returning to the Clerk; and
- (b) listing what items he or she is not returning to the Clerk with an explanation of why those items are not being returned.

(4) Where those items required under subrule (1) have not been received by the Clerk before the application for judicial review or appeal is heard, he or she shall file a certificate stating that fact.

(5) All things required by subrule (1) to be returned to the Clerk shall, for the purpose of the application for judicial review, constitute part of the record.

(6) The Court may dispense with the return of the evidence or exhibits or part of the evidence or exhibits.

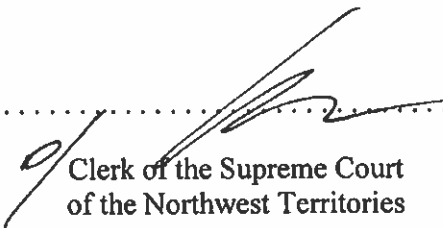
(7) Notwithstanding this rule, the parties may agree on what constitutes the record.

Notice Pursuant to Rule 594(6)(b)

You are required without delay after service of this notice to return to the Clerk of the Supreme Court at Yellowknife the judgment, order or decision (*or as the case may be*) to which this notice refers and reasons, if any, together with the process commencing the proceeding, the evidence and all exhibits filed, if any, and all things touching the matter as fully and entirely as they remain in your custody and power, together with this notice.

Date: *October 16, 2022*

To: *Gwich'in Land and Water Board*

.....

Clerk of the Supreme Court
of the Northwest Territories

NOTICE TO RESPONDENT(S):

You are hereby notified that the Applicant (or Applicants) may enter judgment in accordance with this Notice, or such judgment as the Applicant may be entitled to in accordance with the practice of the Supreme Court of the Northwest Territories, without any further notice to you unless you or your agent or solicitor appear at the place and on the date and time specified.

No. S-1-CV-2022-000301

**IN THE SUPREME COURT OF THE
NORTHWEST TERRITORIES**

BETWEEN:

Gwich'in Tribal Council
Applicant

- and -

KBL Environmental Ltd. and
Gwich'in Land and Water Board

Respondents

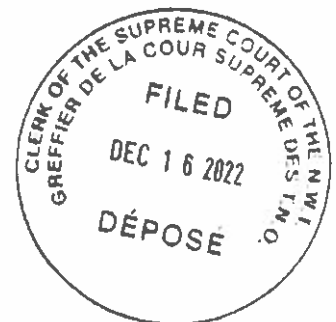
ORIGINATING NOTICE

This Originating Notice is filed by:
G. Rangi Jeerakathil
MLT Aikins LLP
Solicitor for the Applicant

Whose address for service is:
301, 5109 – 48 Street
Yellowknife NT X1A 1N5
rjeerakathil@mltaikins.com

I, G. Rangi Jeerakathil, do hereby certify that the Originating Notice was issued by telephone by Clerk of the Supreme Court.


G. Rangi Jeerakathil



TO: KBL Environmental Ltd.
17 Cameron Road
P.O. Box 1895
Yellowknife, NT X1A 2P4
Telephone: 867-873-5263

Gwich'in Land and Water Board
Alex Moses-Greenland Building
105 Veterans Way
P.O. Box 2018
Inuvik, NT X0E 0T0
Telephone: 867-777-4954
Fax: 867-777-2304

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AND FURTHER TAKE NOTICE that the *Rules of the Supreme Court of the Northwest Territories*, R-010-96, contain the following Rule:

Tribunal's actions on being served

601. (1) On being served with an originating notice, the tribunal in respect of whose order relief is claimed shall return to the Clerk

- (a) the formal order and any reasons;
- (b) the process commencing the proceeding;
- (c) the evidence and all exhibits filed, if any;
- (d) the originating notice served on the tribunal; and
- (e) a certificate in the following form:

"As required by the accompanying originating notice, I hereby return to the Honourable Supreme Court the following papers and documents:

- (a) the order and the reasons for it;
- (b) the process commencing the proceeding;
- (c) the evidence taken at the hearing and all exhibits filed.

And I hereby certify to the Honourable Supreme Court that I have enclosed in this return all the papers and documents in my custody relating to the matter set forth in the originating notice.

Date:

.....
Clerk (or Chairperson) of the Tribunal".

- (2) All items required to be returned to the Clerk under subrule (1) constitute the record.
- (3) A person who is not in possession or is not in partial possession of those items required under subrule (1), shall file a certificate
 - (a) listing what items, if any, he or she is returning to the Clerk; and
 - (b) listing what items he or she is not returning to the Clerk with an explanation of why those items are not being returned.
- (4) Where those items required under subrule (1) have not been received by the Clerk before the application for judicial review or appeal is heard, he or she shall file a certificate stating that fact.
- (5) All things required by subrule (1) to be returned to the Clerk shall, for the purpose of the application for judicial review, constitute part of the record.
- (6) The Court may dispense with the return of the evidence or exhibits or part of the evidence or exhibits.
- (7) Notwithstanding this rule, the parties may agree on what constitutes the record.

Notice Pursuant to Rule 594(6)(b)

You are required without delay after service of this notice to return to the Clerk of the Supreme Court at Yellowknife the judgment, order or decision (*or as the case may be*) to which this notice refers and reasons, if any, together with the process commencing the proceeding, the evidence and all exhibits filed, if any, and all things touching the matter as fully and entirely as they remain in your custody and power, together with this notice.

Date:

To:

.....

Clerk of the Supreme Court
of the Northwest Territories

NOTICE TO RESPONDENT(S):

You are hereby notified that the Applicant (or Applicants) may enter judgment in accordance with this Notice, or such judgment as the Applicant may be entitled to in accordance with the practice of the Supreme Court of the Northwest Territories, without any further notice to you unless you or your agent or solicitor appear at the place and on the date and time specified.

No. S-1-CV-2023-000005

**IN THE SUPREME COURT OF THE
NORTHWEST TERRITORIES**

BETWEEN:

Gwich'in Tribal Council
Applicant

- and -

KBL Environmental Ltd. and
Gwich'in Land and Water Board

Respondents

**ORIGINATING NOTICE OF
STATUTORY APPEAL**

This Originating Notice is filed by:
G. Rangi Jeerakathil
MLT Aikins LLP
Solicitor for the Applicant

Whose address for service is:
1 - 3 Council Crescent
P.O. Box 1509
Inuvik, NT. X0E 0T0
Telephone: 867-777-7900
Fax: 867-777-7919
Email: rjeerakathil@mltaikins.com

I, G. Rangi Jeerakathil, do hereby certify that the Originating Notice was issued by telephone by Clerk of the Supreme Court.



G. Rangi Jeerakathil