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May 15, 2024

File: G22L3-004

Rick Walbourne  
Director  
Regulatory and Permitting Division  
Department of Environment and Climate Change  
Government of the Northwest Territories

Sent by email

Dear Rick Walbourne,

**Re: Information Request (Updated to extend deadline and to clarify process steps)**

On March 1, 2023, the Gwich'in Tribal Council (GTC) applied to cancel type B Water Licence G22L3-004 that had been issued for the Rachel Reindeer Wellness Camp (the Cancellation Application). On March 30, 2023, the Government of the Northwest Territories – Environment and Natural Resources (now Environment and Climate Change) submitted comments on the Cancellation Application. In its submission regarding licensing criteria for the deposit of waste, it stated:

While it seems that a Type B Licence would not be triggered based on water use, the current Water Licence likely needs to be retained on the basis of deposit of waste. ENR notes that Schedule F, Item 3(b) of the Waters Regulations is based on the maximum capacity of people that could be at a camp at the same time. It is not limited to the capacity for people overnighing nor the maximum number of people expected to be there at the same time. The Cancellation Application indicates that full capacity is 43 people per day. However, the Permit Application indicated that, although it was anticipated that overnight programming would involve fewer than 40 people, there could be up to 140 people on site at the same time (GTC, 2022). Based on the above considerations, it seems likely that the capacity of the Rachel Reindeer Wellness Camp (the Camp) is 140 people. If that is the case, a Type B Licence is required.

It is noted that this interpretation might be different than the guidance that is provided in the [LWB Guide to the Water Licensing Process](#), which indicates that capacity is measured based on “the capacity to house” (see page 4 of 68). As such, GLWB staff have determined that additional information is required for the Board to make its decision and are thereby issuing this Information Request (IR) under the [LWB Rules of](#)

[Procedure](#) to the Government of the Northwest Territories – Environment and Climate Change (GNWT-ECC) to seek further clarification about its interpretation.

**IR #1 to GNWT-ECC:**

Please provide a fully reasoned and thoroughly explained argument based on the *Waters Act* and Waters Regulations (and other authorities as required) indicating why, in GNWT-ECC's view, the deposit of waste licensing criteria described in Schedule F, Item 3(b), Column III of the Waters Regulations is based on the maximum capacity of people that could be at a camp at the same time (i.e., total possible on-site capacity). Please explain why it is not limited to the capacity of overnight occupants nor to the actual number of people that will be on site (as described in an application).

Include reference to any environmental, operational, or practical considerations, and include applicable case law and precedent Land and Water Board decisions in your response, as needed.

Please submit this information by 5:00 PM MST on Wednesday June 05, 2024.

Depending on the response, the GLWB may need to make a legal ruling on the interpretation of the licensing criteria. If a legal ruling is required, GNWT-ECC's response to this IR will be sent to a broader distribution list of reviewers in the Mackenzie Valley for review because this issue will be of general interest to Indigenous Governments, Land Claim Organizations, and other existing licensees. In this case, GNWT-ECC will then have an opportunity to reply to review comments, followed by a final reply by the GTC as the Applicant, prior to the GLWB making its decision on the Cancellation Application, which would incorporate a ruling on this matter.

Please contact me via email or (867) 777-4954 with any questions or concerns regarding this letter.

Sincerely,



Leonard DeBastien  
Executive Director, GLWB

BCC to:           Distribution List – All Users  
                      Angela Tripathy - Chief Executive Officer – Gwich'in Tribal Council  
                      Willard Hagen – Director of Lands, Resources and Economic Development – Gwich'in  
                      Tribal Council  
                      Kanda Gnama – Lands and Resources Coordinator – Gwich'in Tribal Council