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[www.glwb.com](http://www.glwb.com)

June 23, 2022

File: G22L8-003

Patrick McLaughlin  
Marine Manager, North  
GWNT Department of Infrastructure  
PO BOX 2038  
Inuvik, NT X0E 0T0

Sent by email

Dear Patrick,

**Re: Water Licence Renewal Issuance Package – Mackenzie River Ferry Landings**

The Gwich'in Land and Water Board (Board) met on June 22, 2022 and considered the Application Package submitted by the GWNT Department of Infrastructure for the renewal of Water Licence G15L8-002 (former G99L8-002) for watercourse training at the Mackenzie River and Arctic Red River, in accordance with the *Waters Act*.

The Board has approved Water Licence (Licence) G22L8-003 (attached) for a term of seven (7) years effective June 22, 2022 and expiring November 30, 2029. The Licence is supported by the Board's Reasons for Decision. These documents are attached and have been posted to the Board's Public Registry.<sup>1</sup>

Submission Requirements

Please refer to Annex B of the Licence for a complete summary and timetable of submissions required for this Licence. The Board's decisions on submissions that were considered in conjunction with the renewal Application Package are set out below.

*Management Plans Requiring Revision*

The Board has approved the Waste Management Plan, Spill Contingency Plan and Engagement Plan that were submitted as part of the application, however minor revisions are required. Please update the Spill Contingency Plan, Waste Management Plan, and Engagement Plan and submit to Board staff within 60 days of Licence Issuance, as indicated below.

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<sup>1</sup> See GLWB Online Registry [www.glwb.com](http://www.glwb.com) for file [G22L8-003](#)

Licence Condition	Plan	Requirement
B.19	Engagement Plan	Update plan to include records from April 26, 2022 Fort McPherson community meeting
F.3	Waste Management Plan	Update plan to remove reference to granular material as a waste type
H.3	Spill Contingency Plan	Update plan with contact information for ECCC. Update plan to include methods for notifying community members immediately after a spill occurs.

The revised plans will be considered to be approved upon confirmation of conformity by Board staff.

#### Licence Processes and Additional Information

Sections 5 and 6 of the Board's *Guide to the Water Licensing Process*<sup>2</sup> (Guide) contain detailed information on licence enforcement and potential post-issuance processes, such as amendments to conditions, and assignment to another company. Please be familiar with these sections of the Guide and reach out to Board staff with any questions about Board processes related to the Licence. Please note that the Inspectors referred to in the Licence can be contacted at the regional GNWT-ENR offices.<sup>3</sup>

Full cooperation of GNWT Department of Infrastructure is anticipated and appreciated. Please contact Regulatory Specialist AlecSandra Macdonald at (867) 777-4954 with any questions or concerns regarding this letter.

Yours sincerely,



Elizabeth Wright  
Chair, Gwich'in Land and Water Board

BCC'd to: GLWB Distribution List  
Attached: Water Licence G22L8-003  
Reasons for Decision

<sup>2</sup> See GLWB Policies and Guidelines webpage for MVLWB [Guide to the Water Licensing Process](#).

<sup>3</sup> See GNWT-ENR Regional Offices webpage (<https://www.enr.gov.nt.ca/en/regional-offices>) for regional contact information.



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### Water Licence G22L8-003

Pursuant to the *Waters Act* and the Waters Regulations,  
the Gwich'in Land and Water Board grants this Water Licence to:

Government of the Northwest Territories – Department of Infrastructure

(Licensee)

of PO Box 2038, Inuvik NT X0E0T0

(Mailing Address)

hereinafter called the Licensee, to proceed with the following undertaking, subject to the annexed definitions and conditions contained therein:

<b>Location:</b>	Mackenzie River and Arctic Red River Ferry Crossings, km 143.6 Dempster Highway #8
<b>Water Management Area:</b>	Northwest Territories 03
<b>Purpose:</b>	Miscellaneous – Watercourse Training
<b>Type:</b>	B Renewal
<b>Quantity of Water not to be exceeded:</b>	Not Applicable
<b>Effective Date:</b>	June 22, 2022
<b>Expiry Date:</b>	November 30, 2029

Elizabeth Wright, Chair  
Gwich'in Land and Water Board

Alec Sandra Macdonald, Witness

# **Type B Water Licence G22L8-003**

## **Mackenzie River Ferry Landings - Water Licence**

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### **Annex B: Table of Revision History**

## Part A: Scope and Defined Terms

### Scope:

		Condition Title
1.	This Licence entitles the Licensee to carry out watercourse training at the Mackenzie River and Arctic River Ferry Landings.	SCOPE
	The scope of this Licence includes the following:	
	a) Construction, operation and maintenance of the Mackenzie River and Arctic River Ferry Landings.	
2.	This Licence is issued subject to the conditions contained herein with respect to the use of Water and the deposit of Waste in any Waters or in any place under any conditions where such Waste or any other Waste that results from the deposits of such Waste may enter any Waters. Any change made to the <i>Waters Act</i> and/or the Waters Regulations that affects licence conditions and defined terms will be deemed to have amended this Licence.	LEGISLATION SUBJECT TO CHANGE
3.	Compliance with this Licence does not relieve the Licensee from responsibility for compliance with the requirements of any applicable federal, territorial, or municipal legislation.	LEGISLATIVE COMPLIANCE

## **Defined Terms**

**Board** – Gwich'in Land and Water Board, established under Part 3 of the *Mackenzie Valley Resource Management Act*.

**Closure and Reclamation** – the process and activities that facilitate the return of areas affected by the Project to viable and, wherever practicable, self-sustaining ecosystems that are compatible with a healthy environment and human activities.

**Closure and Reclamation Plan (CRP)** – a document, developed in accordance with this Licence, that clearly describes the Closure and Reclamation for the Project.

**Construction** – any activities undertaken during any phase of the Project to construct or build any structures, facilities or components of, or associated with, the development of the Project.

**Engagement Plan** – a document, developed in accordance with the MVLWB *Engagement and Consultation Policy* and the *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*, that clearly describes how, when, and which engagement activities will occur with an affected party during the life of the Project.

**Inspector** – an Inspector designated by the Minister under subsection 65(1) of the *Waters Act*.

**Licensee** – the holder of this Licence.

**Minister** – the Minister of the Government of the Northwest Territories – Environment and Natural Resources.

**Professional Engineer** – a person registered with the Northwest Territories and Nunavut Association of Professional Engineers and Geoscientists to practice as a Professional Engineer in the Northwest Territories as per the territorial *Engineering and Geoscience Professions Act* and whose professional field of specialization is appropriate to address the components of the Project at hand.

**Project** – the undertaking described in Part A, Condition 1.

**Receiving Environment** – the natural environment that, directly or indirectly, receives any deposit of Waste from the Project.

**Remediation** – the removal, reduction, or neutralization of substances, Wastes, or hazardous materials from a site in order to prevent or minimize any adverse effects on the environment and public safety, now or in the future.

**Traditional Knowledge** – As defined by Gwich'in Tribal Council's *Working with Gwich'in Traditional Knowledge In The Gwich'in Settlement Region*, that body of knowledge, values, beliefs and practices passed from one generation to another by oral means or through learned experience, observation and spiritual teachings, and pertains to the identity, culture and heritage of the Gwich'in. This body of knowledge reflects many millennia of living on the land. It is a system of classification, a set of empirical observations about the local environment, and a system of self-management that governs the use of resources and defines the relationship of living beings with one another and with their environment.

**Unauthorized Discharge** – a Discharge of any Water or Waste not authorized under this Licence

**Waste** – as defined in section 1 of the *Waters Act*:

- a) a substance that, if added to water, would degrade or alter or form part of a process of degradation or alteration of the quality of the water to an extent that is detrimental to its use by people or by an animal, fish or plant, or
- b) water that contains a substance in such a quantity or concentration, or that has been so treated, processed or changed, by heat or other means, that it would, if added to other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water to the extent described in paragraph (a) and includes
- c) a substance or water that, for the purposes of the *Canada Water Act*, is deemed to be waste,
- d) a substance or class of substances prescribed by regulations made under subparagraph 63(1)(b)(i),
- e) water that contains a substance or class of substances in a quantity or concentration that is equal to or greater than a quantity or concentration prescribed in respect of that substance or class of substances by regulations made under subparagraph 63(1)(b)(ii), and
- f) water that has been subjected to a treatment, process or change prescribed by regulations made under subparagraph 63(1)(b)(iii).

**Water** – as defined in section 1 of the *Waters Act*: water under the administration and control of the Commissioner, whether in a liquid or frozen state, on or below the surface of land.

**Watercourse** – as defined in section 1 of the *Waters Regulations*: a natural watercourse, body of Water or Water supply, whether usually containing Water or not, and includes Groundwater, springs, swamps, and gulches.

**Waters Regulations** – the regulations proclaimed pursuant to section 63 of the *Waters Act*.

**Water Use** – as defined in section 1 of the *Waters Act*: a direct or indirect use of any kind, including, but not limited to,

- a) a diversion or obstruction of waters,
- b) an alteration of the flow of waters, and
- c) an alteration of the bed or banks of a river, stream, lake or other body of water, whether or not the body of water is seasonal, but does not include a use connected with shipping activities that are governed by the *Canada Shipping Act, 2001*

	<b>Condition</b>	<b>Condition Title</b>
	<b>Part B: General Conditions</b>	
1.	The Licensee shall ensure a copy of this Licence is maintained at the municipal office at all times.	<b>COPY OF LICENCE</b>
2.	The Licensee shall take every reasonable precaution to protect the environment.	<b>PRECAUTION TO PROTECT ENVIRONMENT</b>
3.	In conducting its activities under this Licence, the Licensee shall make every reasonable effort to consider and incorporate any scientific information and Traditional Knowledge that is made available to the Licensee.	<b>INCORPORATE SCIENTIFIC INFORMATION AND TRADITIONAL KNOWLEDGE</b>
4.	In each submission required by this Licence or by any directive from the Board, the Licensee shall identify all recommendations based on Traditional Knowledge received, describe how the recommendations were incorporated into the submission, and provide justification for any recommendation not adopted.	<b>IDENTIFY TRADITIONAL KNOWLEDGE</b>
5.	All references to policies, guidelines, codes of practice, statutes, regulations, or other authorities shall be read as a reference to the most recent versions, unless otherwise noted.	<b>REFERENCES</b>
6.	The Licensee shall ensure all submissions to the Board: <ul style="list-style-type: none"> <li>a) Are in accordance with the MVLWB <i>Document Submission Standards</i>;</li> <li>b) Include a conformity statement or table which identifies where the requirements of this Licence, or other directives from the Board, are addressed; and</li> <li>c) Include any additional information requested by the Board.</li> </ul>	<b>SUBMISSION FORMAT AND CONFORMITY</b>
7.	The Licensee shall ensure management plans are submitted to the Board in a format consistent with the MVLWB <i>Standard Outline for Management Plans</i> , unless otherwise specified.	<b>MANAGEMENT PLAN FORMAT</b>



8.	The Licensee shall comply with all plans - including revisions, approved pursuant to the conditions of this Licence.	<b>COMPLY WITH SUBMISSIONS AND REVISIONS</b>
9.	The Licensee shall conduct an annual review of all approved plans and make any revisions necessary to reflect changes in operations, contact information, or other details.	<b>ANNUAL REVIEW</b>
10.	The Licensee may, at any time, propose changes to any plan by submitting revisions to the Board, for approval, a minimum of 90 days prior to the proposed implementation date for the changes. The Licensee shall not implement the changes until approved by the Board.	<b>REVISIONS</b>
11.	The Licensee shall revise any submission and submit it as per the Board's directive.	<b>REVISE AND SUBMIT</b>
12.	If any date for any submission falls on a weekend or holiday, the Licensee may submit the item on the following business day.	<b>SUBMISSION DATE</b>
13.	The Licensee shall comply with the <b>Schedules</b> , which are annexed to and form part of this Licence, and any updates to the Schedules as may be made by the Board.	<b>COMPLY WITH SCHEDULE(S)</b>
14.	The Schedules, the Surveillance Network Program, and any compliance dates specified in this Licence may be updated at the discretion of the Board.	<b>UPDATES TO COMPLIANCE DATE(S)</b>
15.	The Licensee shall comply with all directives issued by the Board in respect of the implementation of the conditions of this Licence.	<b>COMPLY WITH BOARD DIRECTIVES</b>
17.	Beginning March 31, 2023 and no later than every March 31 thereafter, the Licensee shall submit an <b>Annual Water Licence Report</b> to the Board and an Inspector. The Report shall be in accordance with the requirements of Schedule 1, Condition 1.	<b>ANNUAL WATER LICENCE REPORT</b>

18.	The Licensee shall comply with the <b>Engagement Plan</b> , once approved.	<b>ENGAGEMENT PLAN</b>
19.	Within ninety (60) days following the effective date of this Licence, the Licensee shall submit to the Board, for approval, a revised <b>Engagement Plan</b> .	<b>ENGAGEMENT PLAN – REVISED</b>
20.	The Licensee shall immediately provide written notification to the Board and an Inspector of any non-compliance with the conditions of this Licence.	<b>NOTIFICATION – NON-COMPLIANCE</b>
21.	The Licensee shall ensure that a copy of any written authorization issued to the Licensee by an Inspector is provided to the Board.	<b>COPY – WRITTEN AUTHORIZATION</b>
	<b>Part C: Security</b>	
	<i>Section Left Intentionally Blank</i>	
	<b>Part D: Water Use</b>	
	<i>Section Left Intentionally Blank</i>	
	<b>Part E: Construction</b>	
1.	The Licensee shall ensure that all structures intended to contain, withhold, divert, or retain Water or Waste are designed, constructed, and maintained to minimize the escape of Waste to the Receiving Environment.	<b>OBJECTIVE – CONSTRUCTION</b>
3.	The Licensee shall attempt to recover all the granular material placed below the high water mark during the course of this undertaking at the end of each ferry season; the maximum allowable difference between the total volume of granular material placed and total volume of granular material recovered shall be 500 m <sup>3</sup> .	<b>RECOVER MATERIAL</b>
4.	The Licensee shall employ a staged approach in recovering granular material at the end of each ferry season by progressively recovering material as the river level decreases.	<b>PROGRESSIVE RECOVERY</b>
3.	The Licensee shall only use material that is clean and free of contaminants and is from a source that has been authorized in writing by an Inspector.	<b>CONSTRUCTION MATERIAL – SOURCE(S)</b>

	<b>Part F: Waste and Water Management</b>	
1.	The Licensee shall manage Waste and Water with the objective of minimizing the impacts of the Project on the quantity and quality of Water in the Receiving Environment through the use of appropriate mitigation measures, monitoring, and follow-up actions.	<b>OBJECTIVE – WASTE AND WATER MANAGEMENT</b>
2.	The Licensee shall deposit all Waste as described in the approved <b>Waste Management Plan</b> .	<b>WASTE MANAGEMENT PLAN</b>
3.	Within sixty (60) days following the effective date of this Licence, the Licensee shall submit to the Board, for approval, a revised <b>Waste Management Plan</b> .	<b>WASTE MANAGEMENT PLAN – REVISED</b>
4.	The Licensee shall employ sediment control measures while carrying out Project activities.	<b>SEDIMENT CONTROL</b>
	<b>Part G: Aquatic Effects Monitoring</b>	
	<i>Section Left Intentionally Blank</i>	
	<b>Part H: Spill Contingency Planning</b>	
1.	The Licensee shall ensure that Unauthorized Discharges associated with the Project do not enter any Waters.	<b>OBJECTIVE – PREVENT WASTE INTO WATER</b>
2.	The Licensee shall comply with the <b>Spill Contingency Plan</b> , once approved.	<b>SPILL CONTINGENCY PLAN</b>
3.	Within sixty (60) days following the effective date of this Licence the Licensee shall submit to the Board, for approval, a revised <b>Spill Contingency Plan</b> .	<b>SPILL CONTINGENCY PLAN – REVISED</b>

4.	<p>If a spill or an Unauthorized Discharge occurs or is foreseeable, the Licensee shall:</p> <p>a) Implement the approved Spill Contingency Plan referred to in Part H, Condition x;</p> <p>b) Report it immediately using the NU-NT Spill Report Form by one of the following methods:</p> <ul style="list-style-type: none"> <li>• Telephone: (867) 920-8130</li> <li>• Fax: (867) 873-6924</li> <li>• E-mail: spills@gov.nt.ca</li> <li>• Online: Spill Reporting and Tracking Database</li> </ul> <p>c) Notify the Board and an Inspector immediately; and</p> <p>d) Within 30 days of initially reporting the incident, or within a timeframe authorized by an Inspector, submit a detailed report to the Board and an Inspector, including descriptions of causes, response actions, and any changes to procedures to prevent similar occurrences in the future. Written notification shall be provided to the Board and an Inspector if any changes occur.</p>	<b>REPORT SPILLS</b>
5.	The Licensee shall ensure that spill prevention infrastructure and spill response equipment is in place prior to commencement of the Project.	<b>SPILL PREVENTION AND RESPONSE EQUIPMENT</b>
6.	The Licensee shall restore all areas affected by spills and Unauthorized Discharges to the satisfaction of an Inspector.	<b>CLEAN UP SPILLS</b>
<b>Part I: Closure and Reclamation</b>		
1.	A minimum of six months prior to the permanent closure and reclamation of the ferry landings, the Licensee shall submit to the Board, for approval, a <b>Closure and Reclamation Plan</b> .	<b>CLOSURE AND RECLAMATION PLAN</b>

Signed on behalf of the Gwich'in Land and Water Board

  
 \_\_\_\_\_  
 Elizabeth Wright, Chair

  
 \_\_\_\_\_  
 AlecSandra Macdonald, Witness

**Schedule 1**  
**Annual Water Licence Report**

	Condition
1.	The <b>Annual Water Licence Report</b> referred to in Part B, Condition 19 of this Licence shall include, but not be limited to, the following information about activities conducted during the previous calendar year:
	a) Tabular summaries for each of the ferry landings, specifying the volumes of granular material placed/recovered, the date of placement/recovery, the difference between the volumes placed and the volumes recovered, and the source of the granular material
	b) A summary of activities conducted in accordance with the approved <b>Spill Contingency Plan</b> , referred to in Part H, Condition 2 of this Licence, including: <ul style="list-style-type: none"> <li>i. A list and description for all Unauthorized Discharges, including the date, NWT spill number, volume, location, summary of the circumstances and follow-up actions taken, and status (i.e. open or closed), in accordance with the reporting requirements in Part H, Condition 4 of this Licence; and</li> <li>ii. An outline of any spill training carried out.</li> </ul>
	c) A summary of any updates or revisions to the Spill Contingency Plan, Engagement Plan, and/or Waste Management Plan, conducted under the Annual Review referred to in Part B Condition 9;
	d) A summary of engagement activities conducted in accordance with the approved <b>Engagement Plan</b> , referred to in Part B, Condition 18 of this Licence;
	e) A summary of how any Traditional Knowledge, referred to in Part B Condition 4, was incorporated into decision making;
	f) A list of any non-compliance(s) with the conditions of this Licence or any directive from the Board pursuant to the conditions of this Licence;
	g) A summary of actions taken to address concerns, noncompliance, or deficiencies in any reports filed by an Inspector;
	h) A summary of any studies requested by the Board , and/or a brief description of any future studies planned; and
	i) Any other details requested by the Board by December 31 of the year being reported.

## Annex A: Concordance Table

### Annexed to Water Licence G22L8 -003 - Items Requiring Submission

This table summarizes the information the Licensee is required to submit as per the Water Licence conditions. It supplements the Water Licence. If there are any discrepancies between this table and the body of the Water Licence, the Water Licence conditions prevail.

**Table 1: Concordance Table of Items Requiring Submission**

Condition	Requirement	Submission Timeline
<b>ANNUAL REVIEW (B.9)</b>	Conduct an annual review of all plans, programs, manuals, and studies and make any revisions necessary to reflect changes in operations, contact information, or other details.	No later than March 31 each year.
<b>REVISIONS (B.10)</b>	Submit revised plans, programs, manuals, and studies to the Board, for approval.	A minimum of 90 days prior to the proposed implementation date for the changes.
<b>ANNUAL WATER LICENCE REPORT (B.17)</b>	Submit an <b>Annual Water Licence Report</b> to the Board and an Inspector, in accordance with the requirements of Schedule 1, Condition 1.	Beginning March 31, 2023, and no later than every March 31 thereafter.
<b>ENGAGEMENT PLAN – REVISED (B.19)</b>	Submit a Revised Engagement Plan to the Board for approval.	Within 60 days of Licence Issuance
<b>NOTIFICATION – NON-COMPLIANCE (B.20)</b>	Notify Board and Inspector of any non-compliance with the Licence	Immediately
<b>WASTE PLAN – REVISED (F.3)</b>	Submit a Revised Waste Management Plan to the Board for approval.	Within 60 days of Licence Issuance
<b>SPILL PLAN – REVISED (H.3)</b>	Submit a Revised Spill Contingency Plan to the Board for approval.	Within 60 days of Licence Issuance
<b>CLOSURE AND RECLAMATION PLAN (I.1)</b>	Submit to the Board, for approval, a <b>Closure And Reclamation Plan.</b>	A minimum of six months prior to commencing permanent Closure and Reclamation of the ferry landings.

## Annex B: Revision History table

Table 1: Updates and changes that have been made to Licence G22L8-003 since issuance.

Date	Location of Change	Description of Change



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### Reasons for Decision

Issued pursuant to section 72.25 of the *Mackenzie Valley Resource Management Act* (MVRMA) and subsection 26(1) of the *Waters Act*.

<b>Water Licence Application</b>	
<b>File Number</b>	G22L8-003
<b>Company</b>	Government of the Northwest Territories, Department of Infrastructure
<b>Type</b>	Type B Water Licence Renewal
<b>Location</b>	Mackenzie River and Arctic Red River Ferry Landings
<b>Activity</b>	Watercourse Training
<b>Date of Decision</b>	June 22, 2022



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## **1.0 DECISION**

On June 22, 2022 the Gwich'in, Land and Water Board (GLWB or Board) met and considered the Application made by the Government of the Northwest Territories Department of Infrastructure (GNWT INF or Applicant) to the Board for Water Licence G22L8-003 for watercourse training at the Mackenzie and Arctic Red Rivers. After reviewing the Application and the evidence gathered during the regulatory proceeding, the Board has made the following decisions:

- 1) To issue Water Licence G22L8-003 for a term 7 years;
- 2) To approve Version 1.0 of the Engagement Record and Plan, and further require revisions be submitted to the Board for approval within 60 days;
- 3) To approve Version 1.0 of the Spill Contingency Plan, and further require revisions be submitted to the Board for approval within 60 days; and
- 4) To approve Version 1.0 of the Waste Management Plan, and further require revisions be submitted to the Board for approval within 60 days.

These Reasons for Decision set out the Board's regulatory process for the Application and rationale for decisions regarding the Licence.

## 2.0 REGULTORY PROCESS

### 2.1 **Summary of Application**

The Government of the Northwest Territories Department of Infrastructure (GNWT INF or Applicant) applied to the GLWB to renew Type B Water Licence G15L8-002 (former G99L8-002) for a period of ten years. Licenced activities include water use (watercourse training) for the purpose of construction and operation of the ferry landings at the Mackenzie River and Arctic Red River. These seasonal activities are carried out on public lands within the right of way of Dempster Highway #8.

#### Description of Undertaking

The following activities are described in the application:<sup>1</sup>

1. *Placement and removal of granular materials at the Mackenzie River and Arctic Red River Ferry Landings.*

Includes depositing of shale and/or pit run gravel on the ferry landing areas. The type of material to be used is locally sourced pit run from Frog Creek Quarry near Km 126 on NWT Highway #8. The size of the material is 60mm, with 5% oversized and 35% passing through a No. 5 screen. The fill is placed on the ferry landings using a loader and end-dump, 25-30 metres below embankment high point and leveled with a bulldozer front end loader. A maximum of 500m<sup>3</sup> per landing/per year of aggregate will be used. The process of building landings and removing materials from landings is a continuous process based on the River water fluctuations. Depending on the spring water level, if high water is present the existing granular material is pushed or placed on top of the existing landing to be packed down. If there is low water level, the certified material is pushed and placed from the existing edge into the River, building the landing out and up to meet the required height so the Ferry landing ramps when lowered are level and secured. Granular materials that are utilized are reused, as granular materials placed throughout the season are recovered in the fall and during periods of low water. Over the years there have been numerous granular material additions that have been constantly mixed in with the working stockpiled materials. In effort not to only introduce new material every season INF mixes the new fresh material with the stockpiled used materials and blend them. When it gets

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<sup>1</sup> See GLWB Online Registry for [GNWT INF - Mackenzie River Ferry Landings - Application Form - Mar30 22.pdf](#)

to the point of the materials not meeting the Clean Gravel Criteria INF stops using it for landing mix and uses it for the approaches to fill and road building. INF has also gifted large amounts to the Hamlets for landfill capping and road covering.

### Contents of Application G22L8-003

1. Application Form and Cover Letter
2. Spill Contingency Plan
3. Waste Management Plan
4. Engagement Record and Plan
5. Erosion and Sediment Control Plan
6. Local Area Monitoring Program Final Report

## **2.2 Timeline**

On March 30, 2022 the Applicant submitted Licence Application G22L8-003. The Application was deemed complete on March 31, 2022, and circulated to the Distribution List for public review, using the Online Review System (ORS).<sup>2</sup> As part of the public review, Board staff requested comments and recommendations to assist the Board in reaching its preliminary screening determination and developing appropriate terms and conditions for the licence.

Public notice of the Application was published in *the Inuvik Drum* during the weeks of April 7 and April 14, 2022 to fulfill paragraph 43(1)(a) of the [Waters Act](#).<sup>3</sup>

On April 19 the Gwich'in Tribal Council Department of Lands and Resources requested an extension to the public review period, to allow for a community engagement meeting in Fort McPherson to take place prior to the deadline.<sup>4</sup> The request was approved; the comment deadline was extended to May 6, and the response deadline was extended to May 16, 2022.

By May 6, 2022 comments and recommendations regarding the Application were received from the following Parties: Fisheries and Oceans Canada (DFO), Gwich'in Tribal Council – Dept of Lands and

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<sup>2</sup> See GLWB Online Review System for [Mackenzie River/ Arctic Red River Ferry Landings: Type B Licence Renewal Application \(G22L8-002\)](#)

<sup>3</sup> See GLWB Online Registry for [GNWT INF - Mackenzie River Ferry Landings Notification of Application in Inuvik Drum – Apr14\\_22.pdf](#)

<sup>4</sup> See GLWB Online Registry for [GNWT INF – Mackenzie Ferry Landings - GTC Request for Extension - Apr19\\_22.pdf](#)

Resources (GTC DLR), Environment and Climate Change Canada (ECCC). Responses were submitted by GNWT INF prior to the May 16 response deadline.<sup>5</sup>

On May 20, 2022, Board Staff circulated a draft Water Licence for Public Review.<sup>6</sup> By the comment deadline of May 31, 2022, the Board received comments and recommendations regarding the Draft Licence from ECCC; the Applicant did not provide comments or responses.<sup>7</sup>

On June 22 2022 the Board met to make decisions regarding the Application. These decisions and related reasons are described in sections [3.0](#) and [4.0](#), below.

### **3.0 REASONS - Legislative Requirements Related to Licence Issuance**

#### **3.1 Consultation, Engagement, and Public Notice**

As per paragraph 60.1(a) of the [MVRMA](#), in exercising its authority, the Board must consider the importance of conservation to the well-being and way of life of Indigenous peoples of Canada, specifically those to whom section 35 of the *Constitution Act, 1982*, applies and who use an area of the Mackenzie Valley. Accordingly, the Board works with applicants, affected parties (including Indigenous governments and organizations), and other parties (such as other boards and regulators) to ensure that potential impacts of proposed projects, including impacts on rights under section 35, are understood and carefully considered before decisions are made with respect to the issuance of permits and licences.

The Board's requirements for engagement are set out in the MVLWB [Engagement and Consultation Policy](#) and [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#). The Policy and Guidelines were developed to ensure that the Board's obligations for achieving meaningful consultation (as set out by land claims and applicable legislation) with all affected parties, including Indigenous groups in the Mackenzie Valley, are met and engagement and consultation results clearly articulated.

GNWT INF undertook engagement and submitted an Engagement Record and Plan (ERP) as part of its application.<sup>8</sup> Due to COVID-related travel restrictions that were in place in early 2022, GNWT had been unable to meet in person with the community of Fort McPherson prior to the submission of the

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<sup>5</sup> See GLWB Online Registry for [GNWT INF – Mackenzie River Ferry Landings - Reviewer Comments on Application and Proponent Responses - May20 22.pdf](#)

<sup>6</sup> See GLWB Online Registry for [GNWT INF - Mackenzie River Ferry Landings - Draft Water Licence - May20 22.pdf](#)

<sup>7</sup> See GLWB Online Registry for [GNWT INF - Mackenzie River Ferry Landings - Reviewer Comments on Draft Licence and Proponent Responses – Jun03 22](#)

<sup>8</sup> See GLWB Online Registry for [GNWT INF – Mackenzie River Ferry Landings - Engagement Plan - Mar30 22.pdf](#)

companion water licence application G22L8-002, and this meeting was rescheduled to April 26, 2022. Subsequently, GTC Lands and Resources requested an extension to the public review period until after the meeting had taken place, so that community comments and concerns for both applications could be incorporated into GTCs recommendations to the Board and included in the Engagement Record. This request was granted and the public review was extended to May 6, 2022, so the that both Licences could be processed together.

In accordance with sections 63 and 64 of the [MVRMA](#), the Board is satisfied that notice of and access to copies of the Application were provided, and that a reasonable amount of time was given to communities, First Nations, and the public to participate in this proceeding and make submissions to the Board.

### **3.2 Land Use Plan Conformity**

As per section 61 of the [MVRMA](#), where an approved Land Use Plan (GLUP) applies, the Board must confirm conformity with the Land Use Plan before issuing a permit or licence.

The Gwich'in Land Use Plan (GLUP) considers all lands within the Gwich'in Settlement Area.<sup>9</sup> The Mackenzie River and Arctic Red River Ferry Landings are located within the Transportation Special Management Zone (TSMZ) of the GLUP. The goal of this zone is to allow for transportation-related activities within a two km wide buffer along the Dempster Highway while protecting the resource values of the area. The TSMZ is further broken into subzones that reflect the conservation values in particular areas along the highway. Activities taking place in the TSMZ between the Peel River and Mackenzie River must conform to the following conditions pertaining to tourism, and porcupine caribou:

- 1) Along the Dempster Highway, new activities not related to maintenance, construction, and operations on the existing right-of-way, should not be visible from the highway;
- 2) Activities requiring a permit, licence or authorization should demonstrate that there will be no adverse effects on waterfowl nesting and staging site;
- 3) Any known waterfowl nesting and staging sites discovered during activities, at any other time of the year, should be avoided by a minimum of 250 metres;
- 4) Aircraft should maintain a minimum altitude of 650 metres when flying over this Special Management Zone in June, July and August.

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<sup>9</sup> See [gwichinplanning.nt.ca](http://gwichinplanning.nt.ca) for [Nanh' geenjit gwitr'it t'igwaa'in/Working for the Land - Gwich'in Land Use Plan](#)

In its application to the Board, GNWT INF acknowledges the GLUP and its historic conformity with the plan.<sup>10</sup> During the public review period ECC submitted comments and recommendations regarding the protection of migratory birds and wildlife, and INF responded with mitigation measures that the Board believes to be appropriate for the scope and scale of the proposed activities, including migratory bird awareness training, the use of best practices, including mitigation measures, nest avoidance and work stoppage.<sup>11</sup> The Board is satisfied that the proposed activities will not interfere with waterfowl nesting or staging sites and confirm that the application conforms with the GLUP.

### **3.3 Water Use Fees**

No direct water use is proposed by the applicant, and no water use fees were established under this Licence.

### **3.4 Existing Licences**

During the time period established in the Notice of Application, no licensees or applicants contacted the Board to identify potential effects from the Project on other projects, and there are no other applicants with precedence. Accordingly, with respect to paragraph 26(5)(a) of the [Waters Act](#), Board is satisfied that issuing the Licence to the Applicant will not adversely affect, in any significant way, any existing licensee or any other applicant, provided the Applicant complies with the conditions of the Licence.

### **3.5 Compensation to Existing Water Users**

Paragraph 26(5)(b) of the [Waters Act](#) prohibits the issuance of the Licence unless the Board is satisfied that appropriate compensation has been or will be paid by the Applicant to persons who would be adversely affected by the use of waters, or deposit of waste proposed by the Applicant, at the time when the Applicant filed the Applications with the Board.

The Board received no claims for compensation either during the time period established in the Notice of Application, or during the remainder of the proceeding. Provided the Applicant complies with the Licence conditions, the Board is satisfied there are no water users or persons listed in paragraph 26(5)(b) of the [Waters Act](#) who will be adversely affected by the proposed use of waters or deposit of waste.

### **3.6 Water Quality Standards**

With regards to subparagraph 26(5)(c)(i) of the [Waters Act](#) no water quality standards have been prescribed in the [Waters Regulations](#); however, the MVLWB [Water and Effluent Quality Management](#)

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<sup>10</sup> See GLWB Online Registry for [GNWT INF - Mackenzie River Ferry Landings - Application Form - Mar30\\_22.pdf](#)

<sup>11</sup> See GLWB Online Registry for [GNWT INF – Mackenzie River Ferry Landings - Reviewer Comments on Application and Proponent Responses - May20\\_22.pdf \(ECC#2,#5,#6\)](#)

[Policy](#) applies to all Licences, and the primary objective of the Policy is “protection of water quality in the receiving environment.” This objective is directly reflected in the Licence Condition OBJECTIVE – WATER AND WASTE MANAGEMENT, and in accordance with the Policy and this objective, the Board has set out conditions in the Licence regarding the use of aggregate placement, waste management, spill contingency planning and sediment control requirements.

The Board is satisfied that the conditions set out in the Licence are consistent with the Policy and compliance with these conditions will ensure that the undertakings are carried out in a manner that will be protective of water quality in the receiving environment. These conditions and detailed rationale are described in Section 4.

### **3.7 Effluent Quality Standards**

The discharge of effluent is not contemplated by the proposed undertaking, and no effluent criteria were established under this Licence.

### **3.8 Financial Responsibility**

As per paragraph 26(5)(d) of the [Waters Act](#), before the Board can issue the Licence, it must be satisfied that the Applicant’s financial responsibility is adequate to complete the Project, including any required mitigation measures, and the closure and reclamation of the site.

The Applicant is a public government, and the Board is confident that the Applicant is capable of meeting any financial obligations set out in the [Waters Act](#) and Licence.

As a result, and for the reasons set out above, the Board is satisfied that the legislated requirement to establish the financial responsibility of the Applicant for the Project has been met.

### **3.9 Minimization of Adverse Effects**

With regards to subsection 27(2) of the [Waters Act](#), the Board must ensure that the Licence conditions minimize potential adverse effects on other water and land users from the proposed use of water and deposit of waste.

The Board has set conditions in the Licence to regulate waste management for the purpose of protecting the receiving environment, and it has also set conditions regarding the placement and removal of granular material, in order to reduce sediment loading and potential impacts to fish habitat.

The Board notes that its regulatory process provides opportunities for potentially affected parties to make submissions to the Board. During the Public Review GTC DLR commented that *“In recent years, the ferries and landing activities have severely impacted the traditional activities of the Nazon family whose*



*fish camp is located just east of the Inuvik-side ferry landing at the Mackenzie River crossing. This concern has been ongoing and been brought up many times over the years but has not been adequately addressed. GLR and DCH strongly recommend that the permit includes a requirement that INF work with Margaret Nazon and family to learn how to avoid disrupting the family's important traditional activities at this fish camp. For example, keeping the ferry's movements out of their fishing net areas during July and August, and accommodating their family's vehicles being parked as required near the landing area, will help alleviate ongoing issues. The family's fish camp has been in active use long before the ferry landings were developed. The family members have been appealing to have their harvesting and traditional rights protected and respected since at least 2009; these concerns need to be addressed immediately".* During the applicant response period, GNWT INF indicated that it had met with the user and that it would do what is necessary to reduce the impact of the operations to the harvesting of fish.<sup>12</sup>

Subsequently, the Board has included the condition REVISE ENGAGEMENT PLAN, which requires GNWT INF to undertake engagement with the affected party and update the Engagement Plan and Record to reflect these activities.

It is the opinion of the Board that compliance with the Licence conditions that have been set to protect the water sources and the receiving environment will also minimize any potential adverse effects on other water and land users in the Project area.

### **3.10 Time Limit**

As required under section 48(1) of the [Waters Act](#), the Board made its decision on the Licence within nine months after receiving the complete Application.

### **3.11 Preliminary Screening**

Preliminary Screening is the first level of Environmental Impact Assessment in the Mackenzie Valley; it is an initial examination of a proposed development's potential to cause significant adverse impacts on the environment and/or public concern. Section 125 of the [MVRMA](#), governs how a preliminary screener makes decisions. In most cases, the preliminary screener must "determine and report to the Review Board whether, in its opinion, the development might have a significant adverse impact on the environment or might be a cause of public concern." Proposed developments that might cause a significant adverse impact on the environment – or might cause significant public concern, and which cannot be mitigated through further studies or public hearings – must be referred to the Mackenzie Valley Environmental Review Board for an Environmental Assessment.

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<sup>12</sup> See GLWB Online Registry for [GNWT INF – Mackenzie River Ferry Landings - Reviewer Comments on Application and Proponent Responses - May20 22.pdf \(GTC#3\)](#)

The GLWB may not issue a licence or permit for the carrying out of a proposed development unless the requirements of Part 5 of the [MVRMA](#), have been met. As a screener, the Board must ensure that the concerns of Aboriginal people and the general public are taken into account, and must consider the protection of the social, cultural, and economic well-being of residents of the Mackenzie Valley. In exercising its powers, the Board must also consider the importance of conservation to the well-being and way of life of the Aboriginal peoples of Canada to whom section 35 of the Constitution Act, 1982 applies.

On June 22, 2022 the Board met and confirmed that the activities associated with the Renewal Application were exempt from preliminary screening based on Part 1, Schedule 1, section 2.1 of the Exemption List Regulations to the [MVRMA](#). Under these regulations, a Project only needs to undergo preliminary screening once, at the time of initial application, provided that the scope and footprint of the Project have not changed. These activities have been ongoing since the opening of the Dempster Highway and have been licenced by the Board since January 1, 2000, when initial preliminary screening was undertaken.<sup>13</sup> Thus the Board is satisfied that the requirements of Part 5 of the [MVRMA](#) have been met for the Project. Consequently, no preliminary screening was conducted for application G22L8-002.

#### **4.0 REASONS - Licence Terms and Conditions**

The Board's determinations and reasons for this decision are set out below.

In making its decision and preparing these Reasons for Decision, the Board has reviewed and considered:

- 1) The Application as submitted by the Applicant for the Project;
- 2) The evidence and submissions received by the Board from the Applicant in relation to the Licence; and
- 3) The comments and recommendations, evidence, and submissions received by the Board from Parties during the regulatory proceeding.

Having due regard to the facts, circumstances, and the merits of the submissions made to it, and to the purpose, and provisions of the [MVRMA](#) and the [Waters Act](#), the Board has determined that Licence G22L8-003 should be issued, subject to the scope, defined terms, conditions, and term contained therein.

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<sup>13</sup> See GLWB Online Registry for [G99L8-002 - Water Licence 2000.pdf](#)

The Licence has been developed to address the Board’s statutory responsibilities; to protect the receiving environment and minimize potential adverse effects on other water users; and to address issues within the Board’s jurisdiction that were identified and investigated during the regulatory proceeding.

In developing the Licence, the Board considered the MVLWB [Standard Water Licence Conditions Template](#) (Standard Licence Conditions) and included a number of these standard conditions that are relevant to the Project. The Standard Licence Conditions have been established by the Land and Water Boards (LWBs) based on information from LWB policies and guidelines, other applicable guidelines and best practices, meetings with Inspectors, input from LWB staff, and feedback from a public review. Each standard condition has been evaluated against the following characteristics of an ideal condition:

- Clearly part of LWBs’ authority;
- Has a clear purpose and rationale;
- Is practical and enforceable; and
- Does not conflict with existing legislation (i.e., is not less stringent).

As noted in Section 3.0, Board staff circulated a draft Licence for review. The Draft Licence was developed using previous Licence G15L8-002, the MVLWB Standard Water Licence Conditions Template, as well as comments and recommendations submitted to the Board during the application public review process.

The intent of the draft licence to allow Parties to provide specific input to the Board on possible conditions, and the Board considered these review comments and recommendations in making its determination on the Licence conditions. The Standard Licence Conditions include general rationale for each standard condition, and as such, the language of any standard condition included in the Licence is only discussed in detail in the following sections of these Reasons for Decision when it specifically relates to concerns or recommendations raised during the regulatory proceeding. The Board’s reasons for developing and including Project-specific conditions, including discussion of any concerns and recommendations raised regarding these conditions, are detailed in the relevant sections below.

#### **4.1 Term of Licence**

The Applicant has applied for a Licence term of ten years. Subsection 26(2) of the [Waters Act](#) allows for a licence term of not more than 25 years for a type B licence. In the past, the GLWB has granted maximum five-year licence terms for this undertaking.<sup>14 15 16 17</sup>

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<sup>14</sup> See GLWB Online Registry for [G99L8-002- Water Licence 2000.pdf](#)

<sup>15</sup> See GLWB Online Registry for [G99L8-002 - Water Licence 2004.pdf](#)

No comments regarding the Licence term were submitted to the Board during the public review of the application or draft licence.

After reviewing the submissions made during this regulatory process, the Board has determined an appropriate term for the Licence is seven (7) years. This is consistent with the maximum allowable land use permit term for related highway operations and maintenance activities taking place on the Dempster Highway.

## **4.2 Part A: Scope and Defined Terms**

Part A of the Licence contains the scope and the defined terms used throughout the Licence.

### **4.2.1 Scope**

The scope of the Licence is written to ensure the Licensee is entitled to conduct activities which have been applied for and have been subject to Part 5 of the [MVRMA](#). In setting out the scope of the Licence, the Board endeavoured to provide enough detail to identify and describe the authorized activities, without being unduly restrictive or prescriptive, and to allow for project flexibility, as contemplated in the Application, throughout the term of the Licence.

Based on the activities described in the Licence Application, the scope of previously issued licences for this Project, and on the scope outlined in the Standard Licence Conditions, Board staff developed the below scope for the draft Licence that was circulated for public review.

*“This Licence entitles the Licensee to carry out Water Use and the deposit of Waste for miscellaneous undertakings at the Peel River. The scope of this Licence includes the following: a) Deposit of Waste of up to 500 m<sup>3</sup> / year of granular materials (per landing) into the Peel River; b) Construction, operation and maintenance of the Mackenzie River and Arctic Red River Ferry Landings; and c) Removal of granular material from the Peel River.”<sup>18</sup>*

During the public review of the Draft Licence, ECCC commented that the granular materials to be used are specified in Part E: Item 2 to be clean and free of contaminants, from an authorized source, and should not fall under the definition provided for Waste. ECCC further recommended

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<sup>16</sup> See GLWB Online Registry for [G99L8-002 - Water Licence 2010- Nov 2 10.pdf](#)

<sup>17</sup> See GLWB Online Registry for [G15L8-002- Water Licence Nov30 15.pdf](#)

<sup>18</sup> See GLWB Online Registry for [GNWT INF - Peel River Ferry Landings - Draft Water Licence - May20 22.pdf](#)

that the Board revise the Licence scope to remove reference to waste deposit, and that INF update its waste management plan to reflect this, by removing the reference to granular materials in the Waste Management Plan in accordance with their purpose for construction use, rather than disposal.<sup>19</sup>

The Board has subsequently revised the scope of the Licence to reflect this recommendation, and to reflect more broadly the construction and operation of the landings. Accordingly, the conditions RECOVER MATERIAL and PROGRESSIVE RECOVERY have been moved to Licence Part E, Construction, to better reflect the nature of the activities. The Board has also removed from the Draft Licence proposed condition MEASURE WASTE DEPOSITED, which required the licensee to measure volumes of waste discharged, to the satisfaction of an inspector.

The conditions in Part A are consistent with the Standard Licence Conditions. These conditions ensure that the scope of the authorization includes all water use and deposits of waste associated with the Project. They also clarify that the Licensee must comply with applicable legislation, including any changes to legislation that are deemed to automatically amend the Licence.

#### **4.2.2 Defined Terms**

The Board defined certain terms in the Licence to ensure a common understanding of the conditions, to avoid future differences in interpretation of the Licence, to reflect Project-specific evidence, and to support consistency across licences and permits issued by the LWBs. For the most part, the Board selected applicable defined terms relevant to the Project from the Standard Licence Conditions. Part B: General Conditions and Schedule 1.

### **4.3 Part B: General Conditions and Schedule 1**

Part B of the Licence primarily contains general administrative conditions regarding implementation of the Licence, and compliance with the Licence conditions, Board directives, and LWB policies and procedures. This section also details compliance requirements and review and revision procedures for submissions required under the Licence. These conditions are consistent with the Standard Licence Conditions and are applicable to all licences.

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<sup>19</sup>See GLWB Online Registry for [GNWT INF – Mackenzie River Ferry Landings - Reviewer Comments on Draft Licence and Proponent Responses – Jun03 22](#)

## Part B: UPDATES TO COMPLIANCE DATES

Compliance dates are included in the Licence conditions for various submissions and other requirements, and Schedules are appended to the Licence to set out the detailed requirements associated with specific conditions in the main body of the Licence. The purpose of the Schedules is to provide greater clarity and to aid in interpretation of Licence conditions.

This standard Condition is included in the Licence to clarify that the Board may, at its discretion, update compliance date and the Schedules, and that such updates are not considered amendments to the Licence, unless otherwise directed by the Board. Such updates may be requested by the Licence in writing at least 90 days in advance, or may be initiated by the Board based on the information available to it, and will undergo the Board's public review process before being considered by the Board.

## Part B: ANNUAL WATER LICENCE REPORT

The requirements for the Annual Water Licence Report are outlined in Part B: ANNUAL LICENCE REPORT, and Schedule 1, Condition 1. The purpose of the Annual Water Licence Report is to provide the Board and all interested parties the opportunity to be annually updated on Project components and activities and compliance with Licence conditions, and to provide a platform for interested parties to submit comments, observations, feedback, and questions as necessary. The Report is also an important tool for evaluating the effectiveness of the Licence conditions.

In establishing the Annual Report requirements in the Licence, the Board primarily included requirements from the Standard Licence Conditions that are applicable to the Project and reflect the Licence conditions. All of these requirements are intended to provide clarity and summarize information already captured through existing submissions; they are not meant to be onerous. The Board organized these requirements to coincide with the layout of the Licence and to be consistent with the Standard Licence Conditions.

The Annual Water Licence Report is not subject to Board approval. The Annual Report is a submission of monitoring results and activities undertaken during the previous year. If Parties review and have concerns regarding the results reported or activities undertaken as reported in the Annual Report, they can be discussed directly with the Town or addressed through the Board. Annual Reports are posted to the Board's registry, distributed for review and comment, and presented to the Board, even if it is not for approval. Any issues identified can be addressed through a similar process as that with other plans.

For clarity, Annual Water Licence Reports are required each year, regardless of whether the Licensee has conducted any activity during the reporting year.

## Part B: ENGAGEMENT PLAN

As explained in section 3.1 above, the Board assesses engagement adequacy through the MVLWB [Engagement and Consultation Policy](#) and [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#).

As discussed in Section 2 above, GNWT INF undertook engagement and submitted an Engagement Record and Plan (ERP) as part of its application.<sup>20</sup> Due to COVID-related travel restrictions that were in place in early 2022, GNWT had been unable to meet in person with the community of Fort McPherson prior to the submission of the application, and this meeting was rescheduled to April 26, 2022. Subsequently, GTC Lands and Resources requested an extension to the public review period until after the meeting had taken place, so that community comments and concerns could be incorporated into GTCs recommendations to the Board and included in the Engagement Record. This request was granted, and the public review was extended to May 6, 2022.

During the Public Review, GTC DLR commented: *In recent years, the ferries and landing activities have severely impacted the traditional activities of the Nazon family whose fish camp is located just east of the Inuvik-side ferry landing at the Mackenzie River crossing. This concern has been ongoing and been brought up many times over the years but has not been adequately addressed. GTC DLR and DCH strongly recommend that the permit includes a requirement that INF work with Margaret Nazon and family to learn how to avoid disrupting the family's important traditional activities at this fish camp. For example, keeping the ferry's movements out of their fishing net areas during July and August, and accommodating their family's vehicles being parked as required near the landing area, will help alleviate ongoing issues. The family's fish camp has been in active use long before the ferry landings were developed. The family members have been appealing to have their harvesting and traditional rights protected and respected since at least 2009; these concerns need to be addressed immediately.* In its response GNWT INF noted it had met with the family, and that it would do what is necessary to reduce the impact of the operations to the harvesting of fish.

In review of the public comments and record of engagement for this application (and in considering those submitted during past renewals) the Board acknowledges that there is significant community interest in the ferry operations and landing construction activities. The Board underscores to GNWT INF the importance of communication and outreach activities, both in advance of licence applications, and throughout the life of project.

In the past, the requirement to meet annually with the communities have been written directly into the licence. The Board now relies on the approved Engagement Plan to direct how and when engagement activities take place. This allows the Licensee and affected Parties the flexibility to develop a mutually-

<sup>20</sup> See GLWB Online Registry [GNWT INF - Peel River Ferry Landings - Engagement Plan - Mar30 22.pdf](#)

agreed upon plan for engagement that is reasonable for the scope, scale, and context of the Project, and which can be adjusted to meet the needs of participants, should conditions change.

The Board notes that annual community meetings are still proposed under the Engagement Plan, and that INF has also committed to written and/or verbal notifications – for seasonal openings and closures of the ferry, in the event of a spill, when landing operations change, and when submitting applications to the Board. Engagement also can be requested by affected parties at anytime, to discuss any concerns or other topics that may arise during ferry landing operations.<sup>21</sup>

The Board is satisfied that Engagement has been undertaken in accordance with Board Policy; the Board has approved Engagement Plan Version 1 because it meets the requirements of the Guidelines and is appropriate for the Project activities. The Board further requires that the Licensee revise the Engagement Plan and submit Version 1.1, within 60 days of the effective date of the Licence to include the following:

- Update list of affected parties to include Margaret Nazon Family
- Conduct engagement with the Nazons and update engagement record accordingly

The updated plan will be considered approved upon confirmation of conformity by Board staff.

#### **4.4 Part C: Conditions Applying to Security Requirements**

The Board did not include security requirements in the Licence. As per section 94 of the [MVRMA](#), territorial and federal governments are not required to post security for permits. Although this exemption does not include licences, it is Board practice to not require security for a water licence when the applicant is the territorial and federal government, as the liability with respect to the undertaking already rests with the government. The Board is satisfied that the Licensee will be accountable for carrying out closure and reclamation even though a security deposit is not required.

#### **4.5 Part D: Conditions Applying to Water Use**

Part D of a Licence contains conditions related to water use for the Project. The Applicant does not propose the direct use of water in this undertaking, so no conditions pertaining to water use have been included in the Licence.

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<sup>21</sup> See GLWB Online Registry [GNWT INF - Peel River Ferry Landings - Engagement Plan - Mar30 22.pdf](#)



#### 4.6 Part E: Conditions Applying to Construction

Part E and Schedule 2 of the Licence contain conditions applying to Construction activities for the Project. These are consistent with the Standard Licence Conditions.

#### 4.7 Part F: Conditions Applying to Waste and Water Management and Schedule 3

Part F and Schedule 3 of the Licence contain conditions applying to Waste and Water management activities for the Project. Most are consistent with the Standard Licence Conditions. Conditions SEDIMENT CONTROL, RECOVER MATERIAL, and PROGRESSIVE RECOVERY are non-standard conditions which were carried over from Water Licence G15L8-002<sup>22</sup>.

##### Part F: WASTE MANAGEMENT PLAN

All applicants must submit detailed waste management information, identifying all types of waste that will be produced by the project (including quantity and quality) and describing the disposal methods that are proposed for each type of waste. For most applicants, this will be in the form of a Waste Management Plan, developed in accordance with the LWBs' [Guidelines for Developing a Waste Management Plan](#), and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board. The Guidelines can be applied to a wide range of projects and are intended to ensure that all waste management activities are carried out in a way that is consistent with best practices and applicable guidelines to minimize waste released from a project.

The Licensee included a Waste Management Plan in the Application.<sup>23</sup> The Board considered this Plan as part of the Application Package.

During the public review ECCC commented that the deposit of granular materials into the Peel River did not constitute a deposit of waste, as they were considered to be construction materials.

The Board has approved the Waste Management Plan, Version 1 because it meets the requirements of the Guidelines and is appropriate for the Project activities. The Board further requires that the Licensee revise the Waste Management Plan and submit Version 1.1, within 60 days of the effective date of the Licence to include the following:

- Removal of the reference to granular materials in the Waste Management Plan in accordance with their purpose for construction use, rather than disposal.

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<sup>22</sup> See GLWB Online Registry for [G15L8-002 - Water Licence Nov30 15.pdf](#)

<sup>23</sup> See GLWB Online Registry for [GNWT INF - Mackenzie River Ferry Landings - Waste Management Plan - Mar30 22.pdf](#)

The revised plan will be considered approved upon confirmation of conformity by Board staff.

#### **4.8 Part G: Conditions Applying to Aquatics Effects Monitoring**

If applicable, Part G of a licence will contain conditions applying to an Aquatic Effects Monitoring Program (AEMP). The purpose of an AEMP is to monitor for project-related effects in the aquatic environment. In accordance with the LWB/GNWT [Guidelines for Aquatic Effects Monitoring Programs](#), the Board will generally require AEMPS in type A mining/milling and oil/gas production licences, but may consider requiring an AEMP for other types of licences based on the evidence.

In review of the application materials, engagement records, and public review comments (and in considering those submitted during past renewals) the Board acknowledges that there is considerable community interest in the ferry operations and landing construction activities. Over the years the Board has heard concerns from the community about potential impacts to the land and water, in particular the Board heard concerns regarding how the placement of granular materials could be impacting fish health, habitat and populations downstream of the landings.

In January 2000 the Board directed GNWT INF, through licence G99L8-002, to conduct an Aquatic Effects Study to a) determine the redistribution of the deposited granular material, and b) assess changes to fish habitat due to the undertaking, in consideration of Gwich'in Traditional Knowledge. Through the same licence, it also required GNWT INF to conduct a structural alternatives study, to determine if other methods of crossing (dock, pads, bridge, ballast tanks etc.) or alternative landing locations might be a feasible alternative to the gravel landings.<sup>24</sup>

The 2003 Aquatic effects study concluded that: the eddies both upstream and downstream of the landings remain popular for setting nets; that ferry operations did not affect the health of the fish populations around the landings; that fish do not seem to use the landing areas for feeding, resting or spawning; and that while the ferry operations did affect currents around the landings by infilling old eddies and creating new ones, they were not affecting the overall flow of the rivers and or significantly affecting their suspended sediment concentrations.<sup>25</sup>

The 2003 Structural Investigation concluded that “alternative landing structures are not practical at the locations on the Mackenzie and Peel Rivers. These locations have unique geological and hydrological features that are characteristic of the harsh arctic environment. These conditions, such as discontinuous

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<sup>24</sup> See GLWB Online Registry for [G99L8-002 - Water Licence 2000.pdf](#)

<sup>25</sup> See GLWB Online Registry for [G99L8-002 -Aquatic Effects Study - Aug 25 10.pdf](#)

permafrost, limited construction access, extreme debris and ice flows, rapidly fluctuating water levels, and cold temperatures limit the feasibility of other construction options.”<sup>26</sup>

During the 2010 licence renewal the Board again heard community concerns that gravel from ferry landings could be degrading water quality, harming fishing opportunities, and altering river morphology downstream. Subsequently, the Board directed GNWT INF to develop a Local Area Monitoring Plan (LAMP 1.0), which was to provide an annual assessment of river morphology, fish harvesting, and the physical extent of each ferry landing.<sup>27</sup> The monitoring program was undertaken between 2010 and 2015; it involved taking bathymetric readings from a boat twice a year and gathering twice-annual traditional fishing information from community members in the form of a survey. The results, which were presented to the Board as part of the 2015 renewal application, suggested “a strong, healthy and resilient fishery capable of adapting to naturally occurring changes to the River, such as low and high water events.”<sup>28</sup>

During the 2015 licence renewal, the Board received several comments and recommendations regarding LAMP 1.0, with reviewers suggesting expansion to the monitoring program and improvements to the study design.<sup>29</sup> The Board subsequently directed GNWT INF to submit to the Board a summary report of the results of the 2010-2015 LAMP 1.0 data, to determine if any changes to river morphology or fish harvesting had been observed, and to discuss the effectiveness of the study design and lessons learned. The Board also directed GNWT INF to work in consultation with the Gwich’in Renewable Resources Board and community Renewable Resources Councils to develop an updated version of the LAMP, in consideration of Gwich’in Traditional Knowledge, and so to capture both quantitative and qualitative data on fish health.<sup>30</sup>

GNWT INF subsequently partnered with researchers at Wilfred Laurier University to develop LAMP 2.0; the updated program used western scientific methods to monitor bedloads, turbidity, suspended solids, and benthic invertebrates to at locations upstream and down of the ferry landings (both before and after construction) to determine if there were differences that might be attributed to landing construction. The study also used traditional knowledge interviews to gather information about river morphology and fish health. The LAMP 2.0 report concluded that there was no significant difference in turbidity, total suspended solids, or bed load sediments between locations upstream and downstream of the ferry landings. The study also found that although benthic invertebrate populations did differ between locations, ferry operations did not alter total abundance, taxonomic richness, or the proportion

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<sup>26</sup> See GLWB Online Registry for [G99L8-002 - Structural Alternatives Report - Aug 25 10](#)

<sup>27</sup> See GLWB Online Registry for [G99L8-002 - Water Licence 2010.pdf](#)

<sup>28</sup> See GLWB Online Registry for [G15L8-002 \(G99L8-002 WL Renewal\) UPDATED APPLICATION\\_Oct272015.pdf](#)

<sup>29</sup> See GLWB Online Registry for [G15L8-002 - ORS Reviewer Comment Tables.pdf](#)

<sup>30</sup> See GLWB Online Registry for [G15L8-002 - Water Licence Nov30 15.pdf](#)

of sensitive taxa. Researchers noted that most Gwich'in harvesters participating in the traditional knowledge study did not notice changes to the health or abundance of important fish stocks, like Łuk zheii (Broad Whitefish) and Sruh (Inconnu), though harvesters in Tsiigehtchic have been impacted by the physical presence of the ferry landings due to the alteration of traditional fishing locations.<sup>31</sup>

The Board acknowledges the results of the LAMP 2.0, and notes the following observation made by researchers:

*Many of the concerns raised by participants in the research do not relate directly to the water licence, and are arguably tangential to the main question the study sought to answer. Nevertheless, it is clear that communities have consistently seen water licence discussions as a space in which to raise concerns that are important to them. This suggests that they may not be finding other avenues for their concerns to be considered. Although we did not investigate these concerns in the Western Scientific portion of our study, it is clear from the research with Traditional Knowledge holders that ferry operations have affected livelihood and sense of well-being for a significant number of these study participants. While these broader effects go far beyond the scope of this study, community participants saw them as closely related. In this light, we suggest that efforts by both the Department of Infrastructure and Renewable Resource Councils to improve channels of communication could be the basis for stronger relationships, where a broad range of issues can be raised and resolved more readily.*

*Given the importance of the traditional fishery, it would make more sense to devote resources to pursuing broader water and fish monitoring efforts that could identify cumulative impacts of climate change and other factors on the health of the fishery. This would require the involvement of other GNWT departments and funding sources, such as the Community-Based Water Monitoring Program and the Cumulative Impacts Monitoring Program, led by the Department of Environment and Natural Resources. While such monitoring would fall outside the purview of the Department of Infrastructure, their active collaboration could contribute positively to relationships with the communities.<sup>32</sup>*

The Board understands that there is community support for ongoing monitoring activities at both ferry crossing locations, which are important fishing sites. The Board is also supportive of continued monitoring at these locations, however, the Board also accepts the results of the monitoring programs

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<sup>31</sup> See GLWB Online Registry for [GNWT INF - Mackenzie River Ferry Landings - Local Area Monitoring Program 2.1 Final Report - Mar30\\_22.pdf](#)

<sup>32</sup> See GLWB Online Registry for [GNWT INF - Peel River Ferry Landings - Local Area Monitoring Program 2.1 Final Report - Mar30\\_22.pdf](#)

and studies that INF has undertaken to date, all of which conclude that landing construction is not having a significant impact on fish, water quality, or river morphology.<sup>33 34 35</sup> The Board acknowledges that the materials being deposited for use as ferry landings are but one small contributor to a complex, dynamic, and already sediment-laden river system. And while the water quality concerns brought forward by community members are important and should be addressed, the Board concedes that the majority of these concerns do not pertain directly to the construction of the ferry landings themselves. As such, the Board does not feel it is appropriate to task GNWT INF with additional monitoring requirements as part of its water licence, at this time.

Accordingly, the Board has not included any requirements for AEMP or other monitoring programs in the licence.

#### **4.9 Part H: Conditions Applying to Contingency Planning**

Part H of the Licence contains conditions related to spill contingency planning and reporting, reclamation of spills and unauthorized discharges, and emergency response for the Project. These conditions are consistent with the Standard Licence Conditions.

##### Part H: SPILL CONTINGENCY PLAN

All applicants must describe spill contingency planning. For most applicants, this will be in the form of a Spill Contingency Plan (SCP), developed in accordance with the INAC [Guidelines for Spill Contingency Planning](#), and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board.

The Licensee included a SCP in the Application.<sup>36</sup> The Board considered this Plan as part of the Application Package.

During the application public review, ECC noted that the contact information for ECCC was not included in the SCP and recommended that it be added. GTC DLR commented that deck washing and hazardous material spills can result in contamination of the waterways; it recommended that INF adhere to the SCP at all times and let the community know immediately if there are any spills so the residents (in particular those conducting traditional activities at camps adjacent to the ferry landings) can plan any fishing /

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<sup>33</sup> See GLWB Online Registry for [G99L8-002 - Mackenzie Ferry Landing -Aquatic Effects Study - Aug 25 10.pdf](#)

<sup>34</sup> See GLWB Online Registry for [G15L8-001 and 002 - 2011 - 2015 LAMP Summary Report - Jul25 17.pdf](#)

<sup>35</sup> See GLWB Online Registry for [GNWT INF – Mackenzie River Ferry Landings - Local Area Monitoring Program 2.1 Final Report - Mar30 22.pdf](#)

<sup>36</sup> See GLWB Online Registry for [GNWT INF - Peel River Ferry Landings - Spill Contingency Plan - Mar30 22.pdf](#)

harvesting activities accordingly. In its response to comments, GNWT INF committed to updates to the spill plan.<sup>37</sup>

The Board has approved the Spill Contingency Plan, Version 1 because it meets the requirements of the Guidelines and is appropriate for the Project activities. The Board further requires that the Licensee revise the Spill Contingency Plan and submit Version 1.1, within 60 days of the effective date of the Licence to include the following:

- Updated Contact Information for ECCC
- Method for notifying community members immediately after a spill occurs

The updated plan will be considered approved upon confirmation of conformity by Board staff.

#### **4.10 Part I: Conditions Applying to Closure and Reclamation**

Part I of the Licence contain conditions applying to closure and reclamation, including progressive reclamation of the Project.

##### Part I: CLOSURE AND RECLAMATION PLAN

All applicants must describe closure and reclamation planning. For most applicants, this will be in the form of a Closure and Reclamation Plan (CRP).

Conceptual closure and reclamation plans were not included in the Application. Due to the on-going nature of highway operations, CRPs are not typically required at time of application. The Board has included the condition CLOSURE AND RECLAMATION PLAN, requiring the submission of a closure and reclamation plan be submitted to the Board for approval a minimum of six months prior to the permanent closure and reclamation of the ferry landings.

#### **4.11 Annex A: Concordance Table - Items Requiring Submission**

Annex B of the Licence contains a table that summarizes the submissions required by the Licence conditions.

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<sup>37</sup> See GLWB Online Registry for [GNWT INF - Peel River Ferry Landings - Reviewer Comments on Application and Proponent Responses - May20 22.pdf](#)

#### 4.12 Annex C: Table of Revision History

Annex C of the Licence contains a table which identifies updates and tracks changes made to the Licence. This table is currently blank because this is a newly issued Licence, but it will be updated throughout the life of the Licence.

#### 5.0 Conclusion

Subject to the scope, definitions, conditions, and terms set out in the Licence, and for the reasons expressed herein, the GLWB is of the opinion that water use, and waste disposal associated with the Project can be completed by GNWT INF while providing for the conservation, development, and utilization of waters in a manner that will provide the optimum benefit for all Canadians and in particular for the residents of the Mackenzie Valley.

Water Licence G22L8-003 contains provisions that the Board deems necessary to ensure and monitor compliance with the MVRMA, *Waters Act*, and the Regulations made thereunder, and to provide appropriate safeguards in respect of the GNWT INFs use of water and deposit of waste as authorized by the Licence.

SIGNATURE



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**Elizabeth Wright, Chair**  
**Gwich'in Land and Water Board**

June 22 2022

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**Date**