

Sent by Mail and by Email

August 17, 2022

Mackenzie Valley Land and Water Board
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PO Box 2130
Yellowknife, NT X1A 2P6
Attention: Sean Joseph, Regulatory Specialist

Crown-Indigenous Relations and Northern
Affairs Canada
Land and Resource Management
4923 52nd Street
PO Box 1500
Yellowknife, NT X1A 2R3
Attention: Tim Morton, Inspector

Dear Mr. Joseph, Mr. Morton

Re: MV2015L2-0003 Request for approval for Plan Revision (Part B.6), Changes (Part B.9) and Modifications (Part F.1)

This letter is notification to the Mackenzie Valley Land and Water Board (“MVLWB” or “Board”) that North American Tungsten Corporation Ltd (“NATC”) intends to modify its operations at the Cantung Mine, which requires a submittal to the Board of revised plans, and also that NATC may implement Modifications to certain infrastructure at the Cantung Mine (“Mine”), as further set out in this letter.

NATC continues to conduct care and maintenance activities (“C&M”) at the Mine under its existing water licence for mining and milling, MV2015L2-0003 (“Water Licence”). Following termination of the Joint Sales and Marketing Process for the Cantung Mine and Mactung Property by the Government of Canada and Government of Northwest Territories in April 2022, NATC, in conjunction with and with input from its primary economic stakeholder, the Department of Crown-Indigenous Relations and Northern Affairs, has decided to move the Mine towards final closure at a future date; funding of a C&M program over the long term or a plan to return the Mine to operations in the future is no longer available to NATC.

By way of this letter, NATC is requesting approval of revisions, changes and modifications it intends to implement to focus its efforts and resources on necessary C&M activities in the near term under the current Water Licence. Subsequently, NATC will commence work on the renewal of MV2015L2-0003 prior to its expiry in January 2024.

Since 2016, NATC has engaged with interested parties in accordance with its approved Engagement Plan, regarding matters pertaining to C&M, the sales process and final closure planning. Engagement

occurs predominantly through its Communities Working Group (“CWG”)¹, with direct engagement with individual members as requested; a summary of engagements is appended.

In relation to the proposed revisions, changes and modifications contained herein, specific engagements include:

- **April 2022:** Notice issued by email to CWG members that the Competitive Selection Process is terminated without a successful bidder, site remediation will continue, alternative courses of remedial action will be pursued and engagement on next steps will be forthcoming. Written materials were provided by email.
- **June 2022:** CWG meeting held virtually, parties advised that changes to C&M activities are planned and further will occur in the near-term, following a site visit by the Engineer of Record (“EOR”). Parties requested advanced notice of changes to activities. Written materials were provided by email and meeting minutes circulated for review and comment.
- **July 2022:** CWG meeting held virtually, parties advised of proposed changes, with changes based on outcomes of the EOR site visit occurring just days earlier. Written materials were provided by email and meeting minutes circulated for review and comment.
- **August 2022:** Technical engagement on closure planning aspects held virtually and in person with the CWG and EOR team. Modified C&M is included in the discussion and materials presented, to inform a holistic understanding of the future of the site and planned regulatory path forward.

Further, NATC understands interested parties also engage with its primary economic stakeholder, the Department of Crown-Indigenous Relations and Northern Affairs, on matters related to the future of the Cantung site, such as Modified C&M. While these engagements are not NATC’s responsibility, NATC feels it is important to bring knowledge of their occurrence to the Board’s attention to inform a full understanding of Mine-related dialogue that has occurred.

Modified Care and Maintenance

The program resulting from the proposed changes that NATC wishes to make to the current C&M program under the Water Licence are referred to as Modified C&M. These proposed changes have been discussed with the CWG, the Inspector and the Board staff prior to issuance of this letter. Comments received through these engagements have been incorporated into this submission and supporting materials. Further, proposed changes are based on recommendations made by the EOR pursuant to Part E Item 3 of the Water Licence; written indication of the EOR’s support for the proposed changes is enclosed.

¹ Communities Working Group is comprised of: Acho Dene Koe First Nation; Dehcho First Nations; Fort Simpson Métis Local 52; Kaska Dena Council; Liard First Nation; Łíídlı́ Kúę First Nation; Nahzà Dehé Dehe Dene Band; Ross River Dena Council

In summary, NATC is seeking to:

- Reduce its continuous site presence to an intermittent presence;
- Modify daily, weekly and bi-weekly monitoring requirements to monthly, or as needed based on site conditions and EOR direction;
- Either modify its existing facilities or potentially transition to a small standalone modular accommodations facility with its own power, water and waste systems.

Remote access and monitoring is common across Canada's north and resources are readily available to ensure safe access to the Mine during all months of the year. NATC believes that a reduced presence at the Mine is both prudent and feasible, given the transition towards future final closure. NATC recognizes that the Mine is located in a dynamic environment, that conditions on site change and it may be appropriate at times, such as throughout freshet, to maintain a continuous or more frequent site presence to ensure ongoing compliance; it is willing to do so as needed. The Modified C&M Program is intended to afford NATC the flexibility to be on site when necessary, and offsite when not, all while fulfilling its monitoring obligations and thus ensuring ongoing environmental protection.

There are three mechanisms within the Water Licence which NATC is applying to action the proposed changes; each are discussed separately below.

1. Board Approval of Revised Plans, Programs, Studies and Manuals (Part B Item 6)

NATC has reviewed its plans, programs, studies and manuals and concluded that four (4) documents require reconsideration in a Modified C&M scenario:

- *Emergency Preparedness Plan for Above Ground Tailings Storage Facility Emergencies*, Oct 2013;
- *Care and Maintenance Plan*, Sept 2017;
- *Operation, Maintenance and Surveillance Manual, Cantung Mine Tailings Storage Facility*, Aug 2018;
- *Tailings Containment Area Monitoring Program*, Aug 2011.

Inspection of Tailings Storage Facilities

The *Emergency Preparedness Plan for Above Ground Tailings Storage Facility Emergencies*, the *Care and Maintenance Plan* and the *Operation, Maintenance and Surveillance Manual, Cantung Mine Tailings Storage Facility* all include requirements for daily visual inspection of tailings storage facilities. The EOR attended the Mine in July 2022 and indicated that continued consistent trends in tailings stability have been observed over time. Accordingly, the EOR confirmed daily visual inspection of the tailings storage facilities is not required and that monthly inspections throughout the year, and weekly inspections during freshet, will suffice at this time. These documents have been revised accordingly.

Monitoring of Tailings Storage Facilities

The *Care and Maintenance Plan* and the *Operation, Maintenance and Surveillance Manual, Cantung Mine Tailings Storage Facility* include requirements for bi-weekly instrumentation readings in the tailings storage facilities. The EOR attended the Mine in July 2022 and confirmed sub-monthly data collection is not currently required; monthly (vibrating wire piezometer) and semi-annual (slope

inclinometer) data collection will suffice unless future monitoring results indicate otherwise. These documents have been revised accordingly.

Further, the *Tailings Containment Area Monitoring Program* is a program that originated as a requirement under the previous water licence and has endured in the current Water Licence. This Program was developed to provide details about the geochemistry, hydrology, hydrogeology, and physical characteristics of tailings storage facilities 1 and 2 to inform future cover design and closure of the other tailings storage facilities on site. While data collection for this program has been ongoing continuously since 2011, the program was not intended to run continuously over the long term and outcomes were reported in *Tailings Containment Area Cover Design Study* in 2014. Accordingly, the EOR attended the Mine in July 2022 and confirmed further data collection under this program is not required; further to Schedule 4 Part G Item 6.f of the Water Licence, the Program is no longer contributing to a closure and reclamation plan, as confirmed in the attached, issued by the EOR.

Inspection of Site Structures

Additional sub-monthly monitoring and inspection, including visual inspection of site structures daily is included in the *Care and Maintenance Plan*. Daily inspection of all facilities is not required given the future final closure of the Mine, and rather monthly inspections of these features throughout the year, and weekly inspections during freshet will suffice to support ongoing compliance. The *Care and Maintenance Plan* has been revised accordingly.

Inspection of Drainages and Diversions

Daily visual inspection of drainages and diversions is included in the *Care and Maintenance Plan* and the *Operation, Maintenance and Surveillance Manual, Cantung Mine Tailings Storage Facility*. Daily inspection of all drainages is not required given the current conditions and substantial dataset that supports a thorough understanding of site stability, and rather monthly inspections of these features throughout the year, and weekly inspections during freshet will suffice to support ongoing compliance. The *Care and Maintenance Plan* has been revised accordingly.

2. Board Discretion to Change Schedules, the Surveillance Network Program, and any compliance dates specified in the Water Licence (Part B Item 6)

NATC has reviewed the Water Licence schedules and Surveillance Network Program (SNP) and concluded that related components found within the SNP and annual reporting requirements (Schedule 1) require reconsideration in a Modified C&M scenario.

Flat River Discharge at Station 4-45 (SNP Part B.2, C.1.h)

Station 4-45 is located on the Flat River mainstem at the Middle Bridge upstream of the confluence with the Stinky Pond discharge. The station was established to monitor Flat River discharge to inform wastewater treatment plant operations; however, the wastewater treatment plant has been withdrawn from service and sampling at related stations suspended. Currently, weekly discharge measurements are required; NATC requests the Board modify the discharge measurement frequency from weekly to twice per year as more frequent data collection is not necessary.

Stinky Pond Discharge at Station 4-20 (SNP Part B.2, C.1.g)

Station 4-20 is a discharge culvert and channel conveying flow from Stinky Pond to the Flat River. The station was established predominantly to monitor wastewater treatment plant discharge; however, the wastewater treatment plant has been withdrawn from service and sampling at other related stations

suspended. Currently, weekly velocity and discharge measurements are required; NATC requests the Board modify the discharge measurement frequency from weekly to twice per year as more frequent data collection is not necessary.

Toxicity Testing at Station 4-20 (SNP Part B.2)

While under the *Metal and Diamond Mining Effluent Regulations* (MDMER), Station 4-20 was the designated Final Discharge Point. In 2020, the Cantung Mine achieved Recognized Closed Mine status and is no longer subject to the MDMER. Given this, and the cessation of wastewater treatment plant discharge, annual toxicity testing as required under the SNP is no longer necessary; NATC requests the Board temporarily suspend the requirement for annual toxicity testing at Station 4-20, until 3 months prior to discharge from the wastewater treatment facility.

Modify Water Licence Annual Report Requirement (Schedule 1 Part B.1.f.vi)

Further to the request to modify frequency of discharge measurements at Stations 4-45 and 4-20, NATC requests that the Board modify the corresponding annual reporting requirements listed in Schedule 1 to include monthly reporting of Flat River flow volume in m³ instead of weekly.

3. Notification of Modifications to Existing Physical Works (Part F Item 1)

As mentioned above, Modified C&M involves a reduced and intermittent site presence and may involve changes to existing worker accommodations and related waste, water and power management. These changes are within the current scope of the Water Licence, do not represent an expansion of facilities, and will continue to occur on Crown land, within a designated Federal Area. Accordingly, NATC reasonably expects that these changes can be authorized as Modifications and do not require an amendment to the Water Licence.

The facilities currently in use by the C&M crew (6 persons on average) are operational-scale facilities, requiring extensive power, fuel, water and effort to maintain continuous daily operability, relative to the small number of users. NATC is exploring options to retrofit or replace the existing accommodations (including mess, dry and supporting infrastructure) with alternatives that allow for easy, intermittent use by the small C&M workforce, reduce water use and waste generation, and reduce power consumption.

Should existing facilities be retrofitted, changes may include installation of smaller generators and individual fuel containers, manual water collection from the Flat River, greywater collection in a tank with manual pumping and disposal to the tailings storage facilities, sewage collection in pacto-style toilets or a blackwater tank, and waste backhaul offsite. Following a retrofit, the bulk fuel storage and distribution system will be drawn down and removed from service; the main generators, drinking water withdrawal, treatment and distribution system, and the sewage treatment system will be withdrawn from service.

Should existing facilities be replaced, the replacement facilities are expected to be in the form of a temporary hard-wall modular accommodations facility for up to 10 persons, including a mess and dry, with its own separate smaller generators and individual fuel containers, greywater collection in a tank with manual pumping and disposal to the tailings containment area, sewage collection in pacto-style toilets or a blackwater tank, and waste backhaul offsite. Washwater would be withdrawn manually from the Flat River. Following installation of modular accommodations, the bulk fuel storage and distribution system will be drawn down and removed from service; the main generators, drinking water

withdrawal, treatment and distribution system, and the sewage treatment system will be withdrawn from service and the current accommodations building closed and removed from use.

NATC does not consider the proposed Modifications to Existing Physical Works to be final abandonment, decommissioning, or other significant alteration of the project, nor does it consider the installation of alternative accommodations to be an expansion. Rather, NATC considers the proposed Modifications to be a change that does not alter the purpose or function of the work. During operations and prior to entering in C&M, the mine site provided accommodations for up to approximately 140 persons, occurring in various buildings including houses, apartments and other accommodations complexes; the majority of these accommodations are the subject of ongoing progressive reclamation, having either been historically retired from use, damaged by avalanches or otherwise fallen into disuse over time. Accordingly, the installation of a temporary hard-wall modular accommodations facility is not an expansion to the 140 person accommodations that existed during operations; rather it is a replacement for a small portion of those historically existing and withdrawn from use.

Should replacement facilities be installed, they will occur in the immediate vicinity of existing facilities, within the boundaries of the mine site, the following leases and the area licenced under MV2015L2-0003:

- Mining Lease 3129; and
- Crown land lease 105H16-8-8;
- Crown land lease 105H16-7-12; or
- Crown land lease 105H16-16-8.

Exact installation location is based on camp configuration, which has not yet been confirmed. Potential installation location options are illustrated in the attached figures.

These changes, implemented in whole or in part, require Modifications to the following existing physical works:

1. Potential replacement of all or part of the accommodations facilities currently in use;
2. Continued water withdrawal from the Flat River, utilizing a different water intake location/structure on the Flat River as may be safely accessible during intermittent site presence;
3. Continued greywater discharge to the tailings storage facility.

Accordingly, by way of this letter, NATC is notifying the Board and the Inspector that it may implement these modifications in 60 days time or thereafter. These Modifications have been discussed with the Inspector and this letter is intended to satisfy notification requirements. Further, these changes are reflected in the appended revised *Care and Maintenance Plan*.

Request of the Board

Based on the enclosed and attached, NATC respectfully requests the Board:

- Approve the revised *Emergency Preparedness Plan for Above Ground Tailings Storage Facility Emergencies* for implementation 60 days following this submission;
- Approve the revised *Care and Maintenance Plan* for implementation 60 days following this submission;

- Approve the revised *Operation, Maintenance and Surveillance Manual, Cantung Mine Tailings Storage Facility* for implementation 60 days following this submission;
- Approve suspension of the *Tailings Containment Area Monitoring Program* 60 days following this submission;
- Modify the frequency of discharge sampling at Stations 4-20 and 4-45 from weekly to semi-annually (twice per year);
- Temporarily suspend the requirement for toxicity testing at Station 4-20;
- Modify the corresponding annual reporting requirement from weekly to monthly Flat River flow volume in m³;
- Not reject the proposed Modification to the existing physical works.

Request of the Inspector

Based on the enclosed and attached, NATC respectfully requests the Inspector authorize the proposed Modifications and provide a corresponding letter to the MVLWB.

Closure

NATC has conducted continuous monitoring and maintenance of the Cantung Mine under C&M for over 6 years following the cessation of milling and tailings deposition; the data collected throughout this time, as well as additional studies undertaken to inform final closure planning, provide a thoroughly informed understanding of the existing conditions and risks at the Mine.

NATC acknowledges that there is some uncertainty in timing and scope for implementing the Modifications to Existing Works; this is largely due to supply chain uncertainty and seasonal constraints. NATC appreciates the Board's and Inspector's consideration of these constraints and respectfully requests any decision made by either party reflect NATC's need for flexibility to the extent feasible under the current Water Licence.

NATC considers the items in this request to suitably balance its statutory obligations with environmental protection, interests of Rights holders and land users, and parties to the ongoing *Companies' Creditors Arrangement Act* proceedings.

Should you have any questions or require further information to inform a decision, feel free to contact Vicki Chan at 604.639.0847 or vchan@alvarezandmarsal.com should you have any questions.

Yours truly,

North American Tungsten Corporation
by its Monitor, Alvarez & Marsal Canada Inc.
acting in its capacity as Monitor of NATC and not
in its personal capacity



Todd M. Martin
 Senior Vice President

Encl.

Cc: MVLWB: J. Potten, C. Hotson
CIRNAC: J. Mackey, M. Yetman, S. Kennedy, M. Benjamin
NATC: B. Delaney, Enviro Dept, D. Bynski, S. Hamm (consultants)
Communities Working Group: Acho Dene Koe First Nation; Dehcho First Nations; Fort
Simpson Métis Local 52; Kaska Dena Council; Liard First Nation; Łíídlı́ Kúé First Nation;
Nahzà Dehé Dehe Dene Band; Ross River Dena Council

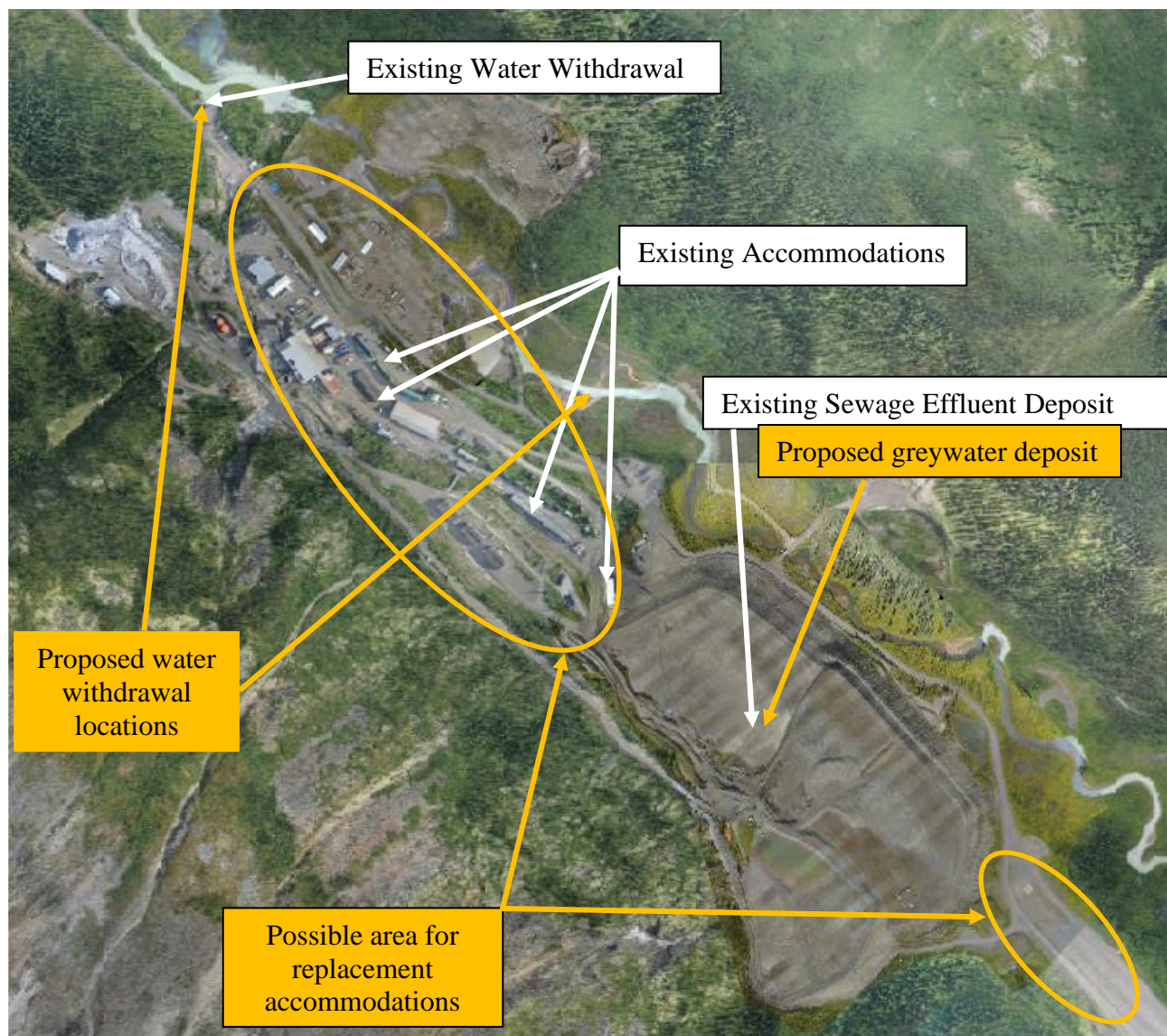


Figure 1. Existing mine site and possible location of proposed Modifications

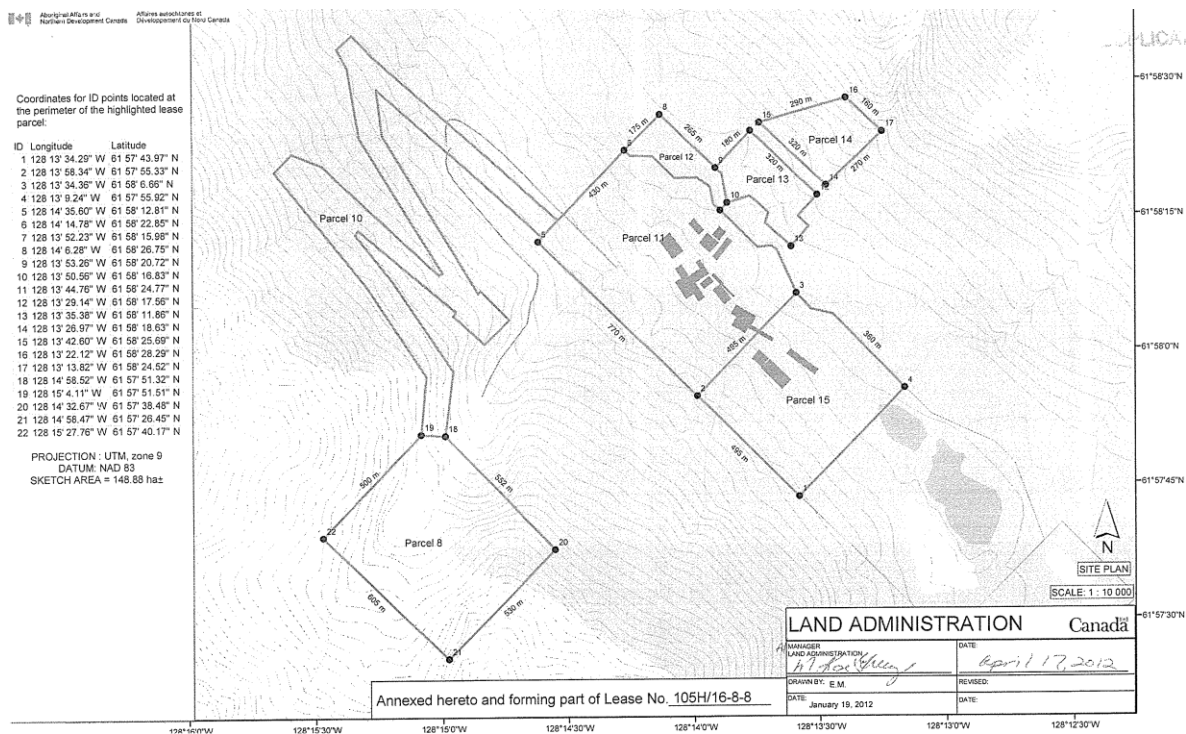


Figure 2. Crown land lease extents, Lease 105H16-8-8

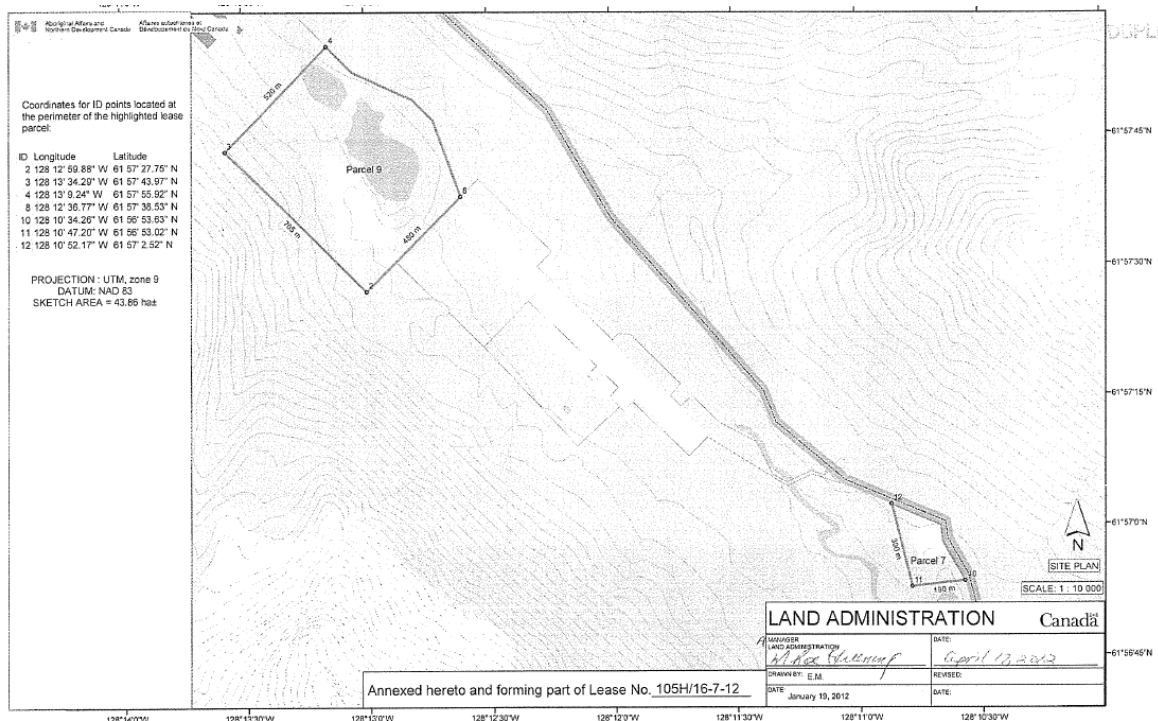


Figure 3. Crown land lease extents, Lease 105H16-7-12

