

## Reviewer Comments and Proponent Responses

Project: Cantung Mine - Care and Maintenance  
Board: Mackenzie Valley Land and Water Board  
Proponent: MVLWB

File Number: MV2023L2-0001  
Review Comments Due: May 24, 2024  
Proponent Responses Due: August 31, 2024

| No.                                                                      | Topic                    | Reviewer Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Reviewer Recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                | Proponent Response                                                                                                                                                                       |
|--------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| GNWT - Environment and Climate Change - Environmental Regulatory Analyst |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                          |
| 1                                                                        | GNWT-ECC Response Letter | Please see attached letter.                                                                                                                                                                                                                                                                                                                                                                                                                                                        | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                    | NATC thanks GNWT-ECC for their careful consideration of submissions and for their input into this proceeding. Please see attached reply from NATC.                                       |
| No.                                                                      | Topic                    | Reviewer Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Reviewer Recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                | Proponent Response                                                                                                                                                                       |
| Liard First Nation (Yukon) - Travis Stewart                              |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                          |
| 1                                                                        | Response from LFN        | Re NATCL Water License Application - IR #3                                                                                                                                                                                                                                                                                                                                                                                                                                         | See attached.                                                                                                                                                                                                                                                                                                                                                                                                                                          | NATC thanks LFN for their careful consideration of submissions and for their input into this proceeding. Please see attached reply from NATC.                                            |
| No.                                                                      | Topic                    | Reviewer Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Reviewer Recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                | Proponent Response                                                                                                                                                                       |
| Liidlii Kue First Nation (Ft Simpson) (LKFN) - Trieneke Gastmeier        |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                          |
| 1                                                                        | LKFN Comment             | Łíídlıı Kúé First Nation: Letter on Legal Interpretation - When would a type B licence replace a type A licence                                                                                                                                                                                                                                                                                                                                                                    | Please see attached letter from Łíídlıı Kúé First Nation                                                                                                                                                                                                                                                                                                                                                                                               | NATC thanks LKFN for their careful consideration of submissions and for their input into this proceeding. Please see attached reply from NATC.                                           |
| No.                                                                      | Topic                    | Reviewer Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Reviewer Recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                | Proponent Response                                                                                                                                                                       |
| Naha Dehe Dene Band (NDDB) - Elliot Holland                              |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                          |
| 1                                                                        |                          | <p>NDDB is fundamentally concerned about the pace of progress towards final reclamation and closure of the Cantung site, and the protection of the NDDB Traditional Territory, and the lands and waters within, in the interim.</p> <p>NDDB has not sought detailed legal advice on the form of licence most appropriate to achieve these objectives, and looks forward to reviewing the many points of view to be provided by other governments and regulators on that issue.</p> | <p>NDDB recommends that the Board expeditiously provides direction to NATCL on the process to issue a new care and maintenance water licence, which can be more customized to the current status of the site.</p> <p>If a Type A licence is maintained, NDDB recommends that NATCL should still apply for a new licence which can better match the current state of the site, and encourage steady progress towards final closure and reclamation.</p> | NATC thanks NDDB for their careful consideration of submissions and for their input into this proceeding. NATC is in support of a public hearing for this proceeding, should it proceed. |

|                                  |                                                                                   | <p>NDDB does consider a new care and maintenance water licence, in some form, to be most appropriate than the extension of the operational water licence under which the site is currently operating.</p> <p>NDDB notes that little progress has been made on this legal issue since reviewers and NATCL provided comments and recommendations on the original application on June 6, 2023, almost one year ago.</p>                                                                                                                                                                    | <p>If the Board determines that a Type B licence is appropriate instead, NDDB also recommends that this new licence matches the current state of the site, and encourage steady progress towards final closure and reclamation.</p> <p>In either case, NDDB recommends that a Public Hearing be held in Nahanni Butte, as part of the licencing process.</p> |                                                                                                                                              |
|----------------------------------|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| No.                              | Topic                                                                             | Reviewer Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Reviewer Recommendation                                                                                                                                                                                                                                                                                                                                      | Proponent Response                                                                                                                           |
| Tlicho Government - Brett Wheler |                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                              |
| 1                                | Letter                                                                            | Please See attached letter                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Please see attached letter                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                              |
| 2                                | TG Position                                                                       | Tlicho Government is of the view that the Boards do have the jurisdiction to issue a type B licence that would replace a type A licence in situations where the activities associated with an undertaking would meet the threshold for type B licensing criteria under regulations. Please see the attached letter for a full explanation of this position. In addition, we make the following points regarding the submissions made by CIRNAC and the GNWT.                                                                                                                            | Our main comments are in the attached letter. Please see the attached letter. We have a few additional comments below.                                                                                                                                                                                                                                       | NATC thanks TG for their careful consideration of submissions and for their input into this proceeding. Please see attached reply from NATC. |
| 3                                | Relationship between criteria for Type A vs B licence and criteria for no licence | A decision on criteria for Type A vs Type B licences is logically related to the criteria for when no licence is required. It is our understanding that determining when a licence is no longer required is an important outstanding issue. This issue has environmental, financial security, and socio-economic implications. Because most mines that opened after the MVRMA was passed have not yet closed, questions remain about if and when a licence is no longer required. We expect these questions will be resolved as mines in the Mackenzie Valley are closed and reclaimed. | We recommend that in making a decision on the Type A vs Type B licence for the Cantung Mine, the Board consider whether its decision has any implications on future decisions about when a licence is no longer needed.                                                                                                                                      |                                                                                                                                              |
| 4                                | Type A vs Type B licences                                                         | Under the heading "Continuing to require a Type A Licence is conceptually logical" the GNWT says the more rigorous Type A requirements make sense for the greater liabilities of a mine.                                                                                                                                                                                                                                                                                                                                                                                                | Although Type A licences typically have more demanding requirements, this is not always the case, and we are not aware of anything that requires Type A licences to have more rigorous conditions. The requirements of Type A or Type B                                                                                                                      | NATC agrees the licences are scalable, and related decision making needs to be based on evidence presented.                                  |

|   |                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                      |                                                                                                                                                          |
|---|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
|   |                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | licences will be scaled to the project and based on the evidence generated during the licensing proceeding.                                                                                                                                                          |                                                                                                                                                          |
| 5 | Water Licence Criteria:<br>Alteration of flow or storage by means of dams or dikes | In its comments on NATCL's water licence application (CIRNAC Comment 1), CIRNAC compared the capacity of the tailings containment areas to water licence criterion 2(5) of Schedule V. This criterion is for the alteration of flow or storage by means of dams or dikes. The criterion says that a Type A licence is required if storage of a quantity of water is greater than 60,000 m3 for off-stream or instream storage. (Note that this is the criterion for both Mining and Milling and Industrial undertakings.) We note that CIRNAC compared the entire quantity of tailings to this criterion, even though the criterion is clearly about water. It is our understanding that the capacities of the Cantung TCAs (e.g., 45,000 m3 for TCA1, etc.) refers to the combination of any solid tailings and water in the TCAs, and that most of the volume is solid. (This criteria should not be confused with the Canadian Dam Association definition of a dam, which refers to the impoundment of 30,000 m3 of "liquid", whereas the Schedules in the Mackenzie Valley Federal Areas Water Regulations refer to volumes of water.) | In general, at mining or milling or industrial undertakings, the volumes in the criteria for alteration of flow or storage by means of dams or dikes should be compared to the quantity of water, not the total quantity of solids, water, and wastewater.           | TG's understanding is correct: the TCA's are not water-holding structures, and the capacity of the TCAs refers to the amount of tailings stored therein. |
| 6 | Licence criteria: direct use of water                                              | Precipitation, snowmelt, and process water that is entrained in or on the surface of tailings could be considered "water" or "waste", and may vary by project and whether the tailings facility is operational or successfully closed. At some projects, water entrained in tailings will meet the definition of a waste, especially during operations. Snowmelt and runoff that is on the surface may or may not be considered a waste, again depending in part on its characteristics. If closed tailings facilities have water (whether entrained or on the surface) that is very "clean", this water may not meet the definition of waste. Determining whether precipitation and                                                                                                                                                                                                                                                                                                                                                                                                                                                       | In general, when considering licensing criteria for tailings facilities, we recommend that the Board consider whether precipitation, snowmelt and process water in and on tailings is a waste or water. This will then dictate which licensing criteria to consider. |                                                                                                                                                          |

|   |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                     |  |
|---|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|   |                                          | <p>snowmelt in or on tailings facilities is a waste may depend not only on its characteristics, but on the uses of the receiving waters. This is because the definition of waste refers to whether substances would be detrimental to its use by people or by any animal, fish or plant. For clarity, we are not commenting on the specifics of whether the Cantung TCAs contain waste or water or both.</p> <p>The determination of whether precipitation, snowmelt and process water in or on tailings facilities is a waste or water will be necessary in order to apply the water licensing criteria. Presumably, if the definition of a waste is not met, then the precipitation/snowmelt/process water is considered "water". In that case the criteria for alteration of flow (as discussed above) or for direct water use must be considered. The issue of what constitutes a "direct use of water" in relation to licence criteria is currently under review by the MVLWB and we have already commented on that issue.</p> |                                                                                                                                                                                                                                                                                     |  |
| 7 | Water Licence Criteria: Direct water use | <p>To further complicate the licensing criteria for closed tailings facilities, the Boards may need to consider whether a tailings facility continues to be a waste management structure after successful closure (i.e., after closure criteria are met). Or, after successful closure, will tailings structures be considered part of the environment? If so, then the water licensing criteria for storage and alteration of flow may no longer apply, because water is not being stored, it is passing through the environment. If closed tailings structures are not part of the environment, then the tailings are perpetually considered a waste, and any tailings that erode into receiving waters will be considered a deposit of waste. Some of these considerations will also apply to closed waste rock facilities. The regulations appear to set up a complicated decision-making process regarding</p>                                                                                                                 | <p>In making future determinations related to water licence criteria, the Boards may need to consider whether a successfully closed tailings facility is a waste management structure or part of the receiving environment. This issue requires more discussion and engagement.</p> |  |

|    |                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                 |
|----|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                            | licensing criteria for closed mines.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                 |
| 8  | Liquefaction of tailings   | In its submission, the GNWT says that the tailings are a waste in part because of the potential for liquefaction. The post-closure risk of tailings liquefaction is an important consideration at Cantung and other sites. It is not clear how this risk should be considered in relation to water licence criteria. If tailings in a closed facility have a risk of liquefaction, does this automatically mean they are a waste, and therefore a licence will always be needed? If so, how high does the risk of liquefaction have to be? On the other hand, if the potential for liquefaction does NOT render the tailings a waste, and a licence is eventually no longer needed, will there be proper oversight of the residual risk? | We trust the Board will take great care in considering what factors determine whether tailings are a waste. These determinations may have far-reaching impacts on the regulation of present and future projects.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | While post-closure risk and related oversight is of utmost importance, closure and post-closure aspects are not the subject of this proceeding. |
| 9  | Ditches                    | We note that NATCL's submission indicates that there are ditches around the tailings facility. In general, ditches that contain water (as opposed to wastewater) alter the flow of that water. Therefore, the quantity of water diverted by any ditches may be considered a water use. If that is the case, consideration needs to be given to whether this water use is relevant to water licensing criteria.                                                                                                                                                                                                                                                                                                                           | The Board should consider whether diversion of water with ditches is a water use, as it relates to water licensing criteria.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                 |
| 10 | Clarity in the regulations | There is uncertainty and lack of clarity in the regulations regarding several of the issues described above. Some issues may be complex and require extensive consideration, others may be straightforward to clarify.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | We continue to call on GNWT and the federal government to take a proactive approach and to come together with Indigenous Government partners to review and, where necessary and appropriate, amend existing regulations for clarity, consistency, and effectiveness, and to adapt them to better meet the needs of our communities as well as those of industry. This can be done in a manner that will drive investment in our region while protecting our lands and resources for present and future generations. We believe there are practical regulatory adjustments that would have broad support and move forward efficiently. As we have said, Tłı̨chǫ Government is ready to |                                                                                                                                                 |

|                                                                              |                                                                                   |                                                                                                                                                                                                   | collaborate on this important work.                  |                                                                                                                                                                |
|------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| No.                                                                          | Topic                                                                             | Reviewer Comment                                                                                                                                                                                  | Reviewer Recommendation                              | Proponent Response                                                                                                                                             |
| Fisheries and Oceans Canada (DFO) - Ms. Anna-Maija LaFlamme                  |                                                                                   |                                                                                                                                                                                                   |                                                      |                                                                                                                                                                |
| 1                                                                            | Cantung Mine - Care and Maintenance                                               | Fisheries and Oceans Canada has reviewed the Cantung Mine - Care and Maintenance: Legal Interpretation, file number: MV2023L2-0001, in accordance with our mandate and has comments at this time. | DFO has no comments or recommendations at this time. | Noted.                                                                                                                                                         |
| No.                                                                          | Topic                                                                             | Reviewer Comment                                                                                                                                                                                  | Reviewer Recommendation                              | Proponent Response                                                                                                                                             |
| NWT & Nunavut Chamber of Mines - Mr. executivedirector@miningnorth.com Hofer |                                                                                   |                                                                                                                                                                                                   |                                                      |                                                                                                                                                                |
| 1                                                                            | Response from Chamber of Mines re Cantung Mine Water License Legal Interpretation | Re Cantung Mine Water License Legal Interpretation                                                                                                                                                | We support the board on both questions.              | NATC thanks the Chamber of Mines for their careful consideration of submissions and for their input into this proceeding. Please see attached reply from NATC. |
| No.                                                                          | Topic                                                                             | Reviewer Comment                                                                                                                                                                                  | Reviewer Recommendation                              | Proponent Response                                                                                                                                             |
| North American Tungsten (NATCL) - Cantung - Todd Martin                      |                                                                                   |                                                                                                                                                                                                   |                                                      |                                                                                                                                                                |
| 1                                                                            |                                                                                   | See attached                                                                                                                                                                                      | See attached                                         |                                                                                                                                                                |
| 2                                                                            |                                                                                   | Response from NATCL to Comments and Recommendations                                                                                                                                               | See attached                                         |                                                                                                                                                                |