

August 27, 2020

Ken Armstrong
President
NWT and Nunavut Chamber of Mines
#4, 5120 – 49th Street,
Yellowknife, NT X1A 1P8

Sent via email

Dear Ken Armstrong,

RE: COVID-19 Impacts and Request for Deferrals or Extensions - Regulatory Conditions

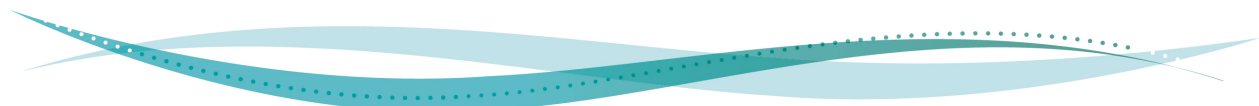
Thank you for your letter of August 24, 2020 in which the NWT and Nunavut Chamber of Mines (Chamber) provides additional information about the difficulties affecting smaller developers and exploration companies in the mining industry in the NWT as a result of the COVID-19 pandemic. To expand on our August 10 response to the Chamber, the Land and Water Boards of the Mackenzie Valley (LWBs) are bound by the legislative framework in which they operate, but where that framework provides procedural flexibility, or the LWBs exercise discretion in meeting their decision-making responsibilities, we can accommodate requests from the mining industry, and other permittees and licensees, for relief on deadlines, within the limits of our authority and the requirement for procedural fairness.

In this context, our staff and representatives of members of the Chamber have recently been exchanging views about a particular issue related to the extension of a land use permit's term under subsections 26(5) and (6) of the Mackenzie Valley Land Use Regulations (MVLUR). As you know, these regulations were promulgated by the Government of Canada under the *Mackenzie Valley Resource Management Act* in 2000. The previous regulations in place in the Mackenzie Valley, and the current Territorial Land Use Regulations, include a slightly different formulation of the words for the provision about extensions of land use permits (ss. 26(6) in the MVLUR).

The interpretation of subsection 26(6) applied by the LWBs for over 20 years has been that the total term possible for a land use permit under the MVLUR is seven (7) years. This is consistent with the limited permit terms set out in both similar and previous land use regulations, but we do admit these other authorities are explicit about the total length of a permit term while the MVLUR are not.

Until the exchanges referred to above, there had been no questions raised about the LWBs' interpretation of ss. 26(6) over the last 20 years. There is no judicial guidance available on the interpretation of this specific MVLUR subsection and the LWBs have not had cause themselves to rule on the question of multiple extensions to the term of a land use permit.

While it might be possible to initiate a process for securing a binding interpretation of the meaning of ss. 26(6), it is clear that such a process would take time and financial resources. In the absence of a ready mechanism to generate an answer to this statutory interpretation question, the LWBs suggest that the



Land and Water Boards of the Mackenzie Valley

Chamber and the LWBs would benefit from guidance from the department of Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC).

The MVLUR are federal legislation and as such it would be more appropriate to seek federal input on this matter. While the LWBs will follow-up with CIRNAC about this, we suggest the Chamber doing the same might result in a more timely response.

Sincerely,

Mavis Cli-Michaud
Chair
Mackenzie Valley Land and Water Board

Joseph Mackenzie
Chair
Wek'èezhii Land and Water Board

Larry Wallace
Chair
Sahtu Land and Water Board

Elizabeth Wright
Chair
Gwich'in Land and Water Board

Copied to: Hon. Shane Thompson, NWT Minister for Environment & Natural Resources, Lands and Industry, Tourism & Investment
Hon. Dan Vandal, Federal Minister of Northern Affairs
Hon. Michael McLeod, Member of Parliament for the Northwest Territories
Senator Margaret Dawn Anderson
Ms. Paula Isaak, President of Canadian Northern Development Agency
Pamela Strand, Deputy Minister, GNWT – Industry, Tourism & Investment
Serge Beaudoin, Assistant Deputy Minister – Northern Affairs, CIRNAC
Matthew Spence, Regional Director General, CIRNAC
Tom Hoefer, Executive Director, NWT and Nunavut Chamber of Mines

