

July 14, 2020

Shelagh Montgomery
Executive Director MVLWB
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Yellowknife, NT
Email: smontgomery@mvlwb.com

Ryan Fequet
Executive Director WLWB
P.O. Box
Yellowknife, NT
Email: rfequet@wlwb.ca

Rick Walbourne
GNWT: A/Manager Water Regulatory
P.O. Box 1320
Yellowknife, NT
Email: Rick.Walbourne@gov.nt.ca

Dear Ms. Montgomery and Messrs. Fequet and Walbourne,

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

As you are well aware, the negative impacts of the COVID-19 pandemic have been unprecedented around the world and are not sparing residents and businesses in the North.

We commend the Northwest Territories Government and Chief Public Health Officer for taking swift and decisive actions this spring to minimize health impacts on NWT residents.

However, these restrictions come at a cost, as they are having enormous negative socio-economic impacts on the Northern aviation, tourism and minerals industries, including the Indigenous Development Corporations and Northern service and supply companies supporting these sectors. We are writing to alert you to, and seek your help in mitigating, the negative effects our minerals industry is facing.

These effects are perhaps best understood within the several phases of a project's lifecycle in the minerals industry, comprising:

- Grassroots exploration;
- Small scale exploration;
- Bulk sampling exploration/advanced project development;
- Mining; and
- Closure & Monitoring.

Each of these phases is guided by various statutory authorizations, including Land Use Permits, Water Licences, and Leases which have strict environmental conditions to be complied with.

However, the health restrictions put in place to protect the public from COVID-19 are both constraining permit and license holding companies' access to their project sites and inhibiting fulfilment of their environmental authorization obligations. Many company officials and/or their consultants are only now beginning to gain access to the North, meaning that they have already missed 3-4 months of field work this year. Others are accepting the fact that they will not be able to resume work on their projects due to COVID access restrictions, COVID related financing challenges, and/or the quickly shrinking window of time available to mobilize their projects given the short work seasons in the NWT. The health vulnerabilities and concerns of Northern Indigenous communities are further affecting the ability of some of our members to advance work on their projects.

Therefore, the NWT & Nunavut Chamber of Mines is requesting that the Regulatory Boards and GNWT Departments that issue permits and licences and other such regulatory instruments defer or provide extensions for certain conditions/requirements for a two year period for the various phases of mining lifecycle activities (described below). It is, of course, essential that such deferrals not result in environmental damage, and we believe that closer study in collaboration with the GNWT inspectors will enable you to conclude that there will be no increased threat to the environment in most cases. Providing such deferrals in the NWT will be consistent with actions being taken in many provinces to assist economic recovery in their jurisdictions. This is an important consideration given that the NWT must compete with other jurisdictions to attract the investment it needs for a healthy minerals industry. Taking progressive actions to deal with COVID impacts will help demonstrate that the North is a welcoming and competitive jurisdiction to invest in.

Below, find our request for two actions to assist the minerals industry through this COVID crisis:

1. Extension of the expiry date of water licences and land use permits

For water licences that are typically valid for multiple consecutive years, we recommend that the Boards and Minister apply a two-year extension to them. This should specifically apply to exploration and mining within the first three of the five phases, namely: 1) grassroots exploration, 2) small scale exploration, and 3) advanced development or bulk sampling exploration projects. A simple extension of the licence expiry date would allow these companies to plan for work to be conducted in 2021/22 without the need to worry about filing applications for a renewed licence. Due to the seasonal nature of many exploration and project development activities and the cyclical nature of investor funding, companies may not get back into the field before late 2021 or early 2022. Clauses under the MVRMA (59[1]; 72.12[1,B,iii]) and the NWT Waters Act (36[1,a,ii]; 37[a]; 37[b,i,ii]; 44[1]) allow the Board or the Minister to renew a water licence if it is in the public interest.

As noted under the MVRMA, a Land and Water Board has jurisdiction of lands in its management area for which a permit is required (59[1], 61[1], 61[2], 76). There is an allowance under the regulations for a two-year extension to land use permits.

Given these unusual and unprecedented times, continued investment in the NWT is in the public interest, the Chamber of Mines recommends that the Boards and the Minister apply a two-year extension to licences and permits issued to exploration mining companies. There would be no change to any conditions within the licences and permits, just an extension of the expiry date by two years.

2. Deferral of Reporting

Licences and permits have a requirement for submission of annual reports. Report preparation by exploration companies can be an expensive and onerous process because of the need to hire various specialist contractors. Given these unprecedented times, the Chamber of Mines recommends that the Boards apply a two-year extension to the 2020 reporting requirements for exploration mining companies. Reports would then be submitted by March 31, 2022 and include any combined information from the 2020 and 2021 calendar years.

We trust that your Boards and Department will seriously consider these requests. Doing so will help reduce the unprecedented COVID burden that our companies are facing, and do so without adding any environmental risk. Doing so will also demonstrate your understanding of the need to support investors who take on the risks and challenges of investing in our territory, and will strengthen the NWT's reputation as an attractive investment destination.

Should you require any clarification please feel free to contact our Executive Director, Mr. Tom Hoefer, at executivedirector@miningnorth.com, who can schedule any meetings or conference calls required.

Yours truly,

NWT & NUNAVUT CHAMBER OF MINES



Ken Armstrong
President

- c.c. Hon. Shane Thompson, NWT Minister for Environment & Natural Resources & for Lands
Hon. Katrina Nokleby, NWT Minister for Industry, Tourism & Investment
Hon. Dan Vandal, Federal Minister of Northern Affairs
Mavis Cli-Michaud, Chair, Mackenzie Valley Land & Water Board
Joseph Mackenzie, Chair, WLWB
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

August 10, 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

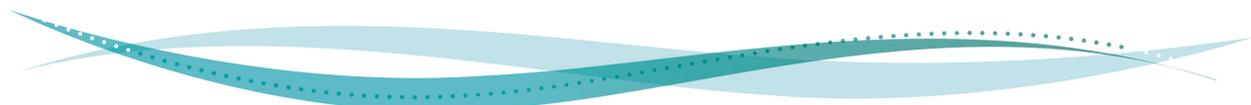
Thank you for your letter of July 14, 2020 that outlines the NWT & Nunavut Chamber of Mines' concerns and requests related to the impacts of COVID-19 on the minerals industry.

As you are aware, the Land and Water Boards of the Mackenzie Valley (LWBs) carry out their work in accordance with the applicable legislation and relevant Ministerial policy direction. The LWBs currently regulate 232 active Land Use Permits (Permits) and 98 active Water Licences (Licences) within the Mackenzie Valley. Of those, 94 Permits and 30 Licences are scheduled to expire on or before December 31, 2021, with 51 of those 94 Permits eligible for an extension of up to two years (per the current legislation). And, of those 51 Permits, 10 are related to the minerals industry. There are 6 mining-related Licences that are set to expire by the end of 2021 (2 type A and 4 type B licences), and Board staff are already working with the proponents of the type A licences on the renewal processes.

As the Chamber of Mines noted, the LWBs can renew water licences on their own initiative if the renewal is deemed to be in the public interest (noting that the Minister's approval is required for all type A licences and for type B licences where a public hearing was held). To initiate any proceeding in this regard, the Boards would consider a request from the licensee in question or seek input on a case by case basis.

In the case of land use permits, the legislative options to extend and renew those authorizations are different. According to the Mackenzie Valley Land Use Regulations (see subsection 26(6)), a permit extension requires the permittee to submit a written request prior to the expiry of the permit, and only one two-year extension can be granted. In other words, the LWBs cannot extend permits on their own initiative and cannot grant a two-year extension more than once without amendments to the legislation. If a permittee has already received a two-year extension, the legislation requires them to submit a new land use permit application to renew their permit.

The LWBs note that various proponents who are conducting exploration and project development activities have already contacted the issuing Board about their authorizations, and applications and requests are currently being processed. The LWBs also issued a general advisory in mid-March 2020 to let proponents and reviewers know that reasonable extensions for upcoming submissions would be considered. Since then several companies have submitted extension requests for annual reporting and compliance dates. For any proponents the Chamber of Mines is aware of who feel they are in need of a longer term on an authorization and haven't already been in touch with the Boards, it is recommended



Land and Water Boards of the Mackenzie Valley

that you reach out and encourage them to contact the relevant LWB to discuss potential options for a land use permit extension or water licence renewal or to defer the submission of annual reports.

Again, the LWBs would like to thank the Chamber of Mines for presenting your concerns and requests. Board staff would be happy to meet to discuss the concerns raised or any of the statistics we have for active authorizations. Please contact Shelagh Montgomery at smontgomery@mvlwb.com or (867) 445-2587 for any follow-up.

Sincerely,



Mavis Cli-Michaud
Chair
Mackenzie Valley Land and Water Board



Joseph Mackenzie
Chair
Wek'èzhii Land and Water Board

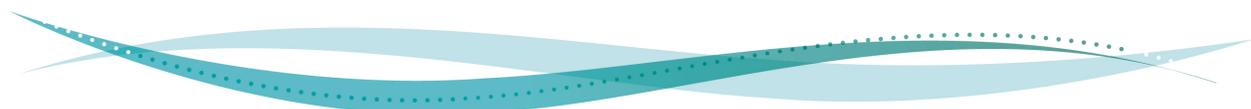


Larry Wallace
Chair
Sahtu Land and Water Board



Elizabeth Wright
Chair
Gwich'in Land and Water Board

Copied to: Hon. Shane Thompson, NWT Minister for Environment & Natural Resources & for Lands
Hon. Katrina Nokleby, NWT Minister for 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 Hofer, Executive Director, NWT and Nunavut Chamber of Mines





August 12, 2020

Mr. Ken Armstrong
President
NWT and Nunavut Chamber of Mines
#4, 5120 – 49TH STREET
YELLOWKNIFE NT X1A 1P8
Email: karmstrong@northarrowminerals.com

Dear Mr. Armstrong:

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

Thank you for your letter to the Government of the Northwest Territories – Environment and Natural Resources (ENR), and the Mackenzie Valley and Wek'èezhì Land and Water Boards (LWBs) in which the Chamber requested action to assist the mineral industry through the COVID crisis including the extension of the expiry dates of water licences and land use permits, as well as a deferral of annual reporting. ENR appreciates that the COVID-19 pandemic has changed the landscape for developers and development in the NWT given restrictions imposed to protect northerners and our communities from COVID-19.

Regarding the issuance of policy direction to the LWBs, currently only Crown Indigenous Relations and Northern Affairs Canada (CIRNAC) has the authority to issue policy direction to LWBs under subsection 83(1) and section 109 of the *Mackenzie Valley Resource Management Act*. Any policy direction issued by CIRNAC must be consistent with legislation; therefore, it could not allow for blanket term amendments to certain land use permits and water licences. However, LWBs have existing discretion to change the terms of water licences on lands outside a federal area on their own initiative if it is deemed to be in the public interest. Should the Chamber have questions related to activities occurring *inside* a federal area, it is advisable that they discuss and direct any inquiries to CIRNAC.

.../2

The role of the Minister of ENR for any adjustments to the term of any land use permits and water licences, on lands outside a federal area, is limited to approving changes to the term of any Type “A” water licences.

If any of the licences for which the Chamber of Mines has requested relief, are Type “A” water licences, this would require a call for a public hearing under s. 41(2)(b) of the *Waters Act*.

Regarding the request to defer the submission dates of annual reporting, ENR notes that changing compliance dates within a water licence is at the discretion of the LWBs. Existing proponents can make a request to the relevant LWB for reporting deferrals based on their own unique circumstances.

Thank you for bringing your concerns and recommendations to my attention. Should you wish to discuss further, please feel free to contact Mr. Rick Walbourne at [Rick Walbourne@gov.nt.ca](mailto:Rick.Walbourne@gov.nt.ca).

Sincerely,



Nathen Richea
A/Assistant Deputy Minister
Environment and Climate Change
Environment and Natural Resources

c. Honourable Senator Margaret Dawn Anderson
Northwest Territories
Senate of Canada

Honourable Shane Thompson, Minister
Environment & Natural Resources & for Lands
Government of the Northwest Territories

Honourable Katrina Nokleby, Minister
Industry, Tourism & Investment
Government of the Northwest Territories

Honourable Dan Vandal, Minister
Northern Affairs Canada

Honourable Michael McLeod
Member of Parliament for the Northwest Territories

Mr. Matt Spence, Regional Director General
Crown-Indigenous Relations and Northern Affairs Canada

Ms. Pamela Strand, Deputy Minister
Industry, Tourism & Investment
Government of the Northwest Territories

Mr. Serge Beaudoin, Assistant Deputy Minister, Northern Affairs
Crown-Indigenous Relations and Northern Affairs Canada

Ms. Mavis Cli-Michaud, Chair
Mackenzie Valley Land & Water Board

Mr. Joseph Mackenzie, Chair
Wek'èezhìi Land and Water Board

Mr. Ryan Fequet, Executive Director
Wek'èezhìi Land and Water Board

Ms. Shelagh Montgomery, Executive Director
Mackenzie Valley Land & Water Board

Ms. Paula Isaak, President
Canadian Northern Development Agency



August 24, 2020

To the Chairs of the Land and Water Boards of the Mackenzie Valley:

- Mavis Cli-Michaud, Mackenzie Valley Land and Water Board
- Joseph Mackenzie, Wek'èezhìi Land and Water Board
- Elizabeth Wright, Gwich'in Land and Water Board
- Larry Wallace, Sahtu Land and Water Board

Att: Ms. Sheila Montgomery, Mackenzie Valley Land and Water Board

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

Please pass on our thank-you to the Board Chairs for their letter of August 10 regarding our July 14 letter requesting deferrals or extensions for land use permits.

Their letter suggests that the current legislation does not allow a land use permit to be extended more than once for a two-year period. We agree that may be true of the *Northwest Territories Land Use Regulations* and the federal *Territorial Land Use Regulations*, which both expressly state that a permit can only be extended once. However, the *Mackenzie Valley Land Use Regulations* (MVLUR) contain no such restriction, and accordingly, the MVLUR allow the Board to extend land use permits more than once.

As you are aware, across the country many in the mineral industry, particularly smaller developers and exploration companies, have not been able to maintain their anticipated schedules due to pandemic circumstances far beyond their control. Governments across the country are being proactive in trying to moderate the hardships the industry is facing because of the COVID-19 pandemic. The situation is the same in the NWT, where many land use permit holders under the MVLUR have been severely affected by the pandemic. Many have been forced to suspend or curtail operations that were planned at the time permit applications were made.

The Chamber understands that the Board will evaluate each land use permit extension application on its own merits.

As a general comment, however, we would note that a more flexible approach to extend applications would be an excellent way for the Boards to demonstrate the message they have been giving the Chamber over the past year, that you are looking for ways to be more accommodating in ways that do not require legislative change.

In addition to the individual reasons that a permittee might provide on any given extension application, the Chamber offers the following general reasons as to why it may be in the best interests of the residents of the NWT – whose best interests must by statute be central to any Board decision – to grant a permit extension:

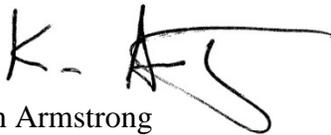
- The UN Secretary General warns that the “The current coronavirus outbreak is the biggest challenge for the world since World War Two”.
- According to World Bank forecasts, the global economy will shrink by 5.2% this year and represent the deepest recession since the Second World War, with the largest fraction of economies experiencing declines in per capita output since 1870.
- Canada’s budget deficit is now forecast to hit C\$343.2 billion, the largest shortfall since the Second World War, amid record emergency aid spending in response to the COVID-19 pandemic.

These are significant headwinds for an already embattled industry. Providing assistance with permit extensions is one way that the Board can help the industry, NWT, and Canada to rejuvenate the economy responsibly and highlight regulatory leadership.

The Chamber asks that the MVLWB make a timely announcement that land use permits may be extended more than once per the *Mackenzie Valley Land Use Regulations*.

Yours sincerely,

NWT & NUNAVUT CHAMBER OF MINES



Ken Armstrong
President

c.c.:

- Hon. Shane Thompson, NWT Minister for Environment & Natural Resources, for Lands, and for Industry, Tourism & Investment
- Hon. Dan Vandal, Federal Minister of Northern Affairs
- Hon. Michael McLeod, Member of Parliament for the Northwest Territories
- NWT 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

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

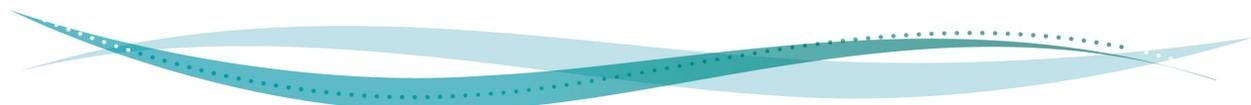
Thank you for your letter of August 24, 2020 in which the NWT and Nunavut Chamber of Mines (Chamber) provides additional information about the difficulties affecting smaller developers and exploration companies in the mining industry in the NWT as a result of the COVID-19 pandemic. To expand on our August 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,

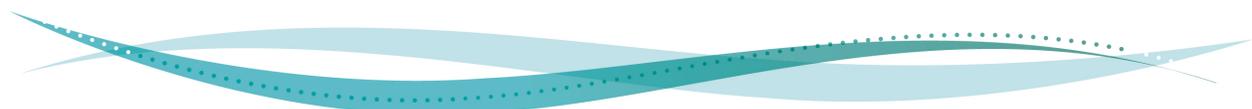
Mavis Cli-Michaud
Chair
Mackenzie Valley Land and Water Board

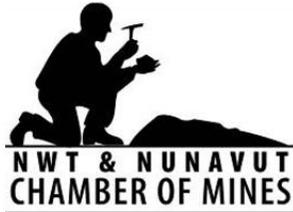
Joseph Mackenzie
Chair
Wek'èezhii Land and Water Board

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





September 2, 2020

Mr. Serge Beaudoin
Assistant Deputy Minister
CIRNAC, Northern Affairs
15 Eddy Street, 10th Floor
Gatineau, Quebec K1A 0H4
By email to: serge.beaudoin@canada.ca

Dear Mr. Beaudoin,

We are writing to you to at the suggestion of the Land and Water Boards (“**LWBs**”) of the Mackenzie Valley to discuss an urgent issue facing the mineral industry regarding extension of land use permits issued under the *Mackenzie Valley Resource Management Act*. The issue is particularly acute in the COVID crisis.

As described in the attached letter from the LWBs, a statutory interpretation issue has arisen regarding extension of a land use permit under the *Mackenzie Valley Land Use Regulations* (MVLUR). Section 26(6) of the MVLUR state that a permit may be extended for “a period not exceeding two years”, but the regulation is silent on how many times a permit may be extended. This is in contrast to the *Territorial Land Use Regulations* under the *Territorial Lands Act*, which expressly state at s. 31(6) that a permit may be extended only once. The logical conclusion is that had the federal drafters intended to limit the amount of times a permit may be extended under the MVLUR they would have said so, but they did not so intend.

The Board has implied that the Chamber’s interpretation is reasonable, but that the Chamber and the Board would benefit from guidance of CIRNAC on this issue. Accordingly, we request a letter from CIRNAC to the Board supporting the reasonable interpretation that a land use permit under the MVLUR may be extended more than once. With that general guidance in place, the Chamber believes that the LWBs will have the statutory interpretation tools they need to evaluate each land use permit extension application on its own merits.

We would note that in addition to being wholly defensible from a legal standpoint, adopting the Chamber’s interpretation would be an appropriate way for CIRNAC and the Boards to demonstrate the message they have been giving the industry over the past year, that you are actively looking for ways to be more accommodating of industry’s needs in ways that do not require legislative change.

As you are aware, across the country many in the mineral industry, particularly smaller developers and exploration companies, have been struggling to maintain their companies and their programs due to pandemic circumstances far beyond their control. Governments across the

country are being proactive in trying to moderate the hardships the industry is facing because of the COVID-19 pandemic.

The situation is the same in the NWT, where many land use permit holders under the MVLUR have been severely affected by the pandemic. Many have been forced to suspend or curtail operations that were planned at the time permit applications were made. And the issue is not limited to the mineral industry—we understand from the LWBs that up to 43 land use permits across many sectors (governments, municipalities, Indigenous communities, construction, energy, and other land users) would be adversely affected by a restrictive and narrow interpretation of the MVLUR that allows for only one extension to occur.

In addition to the individual reasons that a permittee might provide on any given extension application, the Chamber offers the following general reasons as to why it may be in the best interests of the residents of the NWT—whose best interests must by statute be central to any Board decision—to grant a permit extension in these unprecedented times:

- The UN Secretary General warns that the “The current coronavirus outbreak is the biggest challenge for the world since World War Two”.
- According to World Bank forecasts, the global economy will shrink by 5.2% this year and represent the deepest recession since the Second World War, with the largest fraction of economies experiencing declines in per capita output since 1870.
- Canada’s budget deficit is now forecast to hit C\$343.2 billion, the largest shortfall since the Second World War, amid record emergency aid spending in response to COVID-19.

These are significant headwinds for an already embattled industry. Providing a legally correct and flexible approach to permit extensions is one way that CIRNAC and the LWBs can help the industry, the NWT, and Canada to rejuvenate the economy responsibly and to highlight regulatory leadership.

The Chamber respectfully asks that CIRNAC send timely correspondence to the LWBs that land use permits may be extended more than once, as per the MVLUR.

Yours sincerely,

NWT & NUNAVUT CHAMBER OF MINES


Ken Armstrong
President

Attachment: August 27, 2020 Letter from Mackenzie Valley Land and Water Boards RE:
COVID-19 Impacts and Request for Deferrals or Extensions - Regulatory Conditions

c.c.: Hon. Dan Vandal, Federal Minister of Northern Affairs

Mark Hopkins, Director General, CIRNAC - Natural Resources & Environment Branch
Matthew Spence, Regional Director General, CIRNAC
Hon. Michael McLeod, Member of Parliament for the Northwest Territories
NWT Senator Margaret Dawn Anderson
Ms. Paula Isaak, President of Canadian Northern Development Agency
Hon. Shane Thompson, NWT Minister for Industry, Tourism & Investment
Pamela Strand, Deputy Minister, GNWT – Industry, Tourism & Investment
Mavis Cli-Michaud, Chair, Mackenzie Valley Land and Water Board
Joseph Mackenzie, Chair, Wek'èezhìi Land and Water Board
Elizabeth Wright, Chair, Gwich'in Land and Water Board
Larry Wallace, Chair, Sahtu Land and Water Board
Lisa McDonald, President, PDAC
Pierre Gratton, President, The Mining Association of Canada



Mr. Ken Armstrong
President
NWT & Nunavut Chamber of Mines
#4, 5120 – 49th Street,
YELLOWKNIFE, NT X1A 1P8

Chairs of the Land and Water Boards of the Mackenzie Valley:
Box 2130
YELLOWKNIFE, NT X1A 3Y6

Dear: Mr. Armstrong and Chairs of the Land and Water Boards of the Mackenzie Valley,

This letter is in response to the correspondences received from the land and water boards of the Mackenzie Valley on August 27, 2020 and from the NWT & Nunavut Chamber of Mines (the Chamber) on September 2, 2020 regarding extensions of land use permits issued under the *Mackenzie Valley Resource Management Act* (MVRMA).

We are aware of the significant challenges the current COVID-19 pandemic has posed on the mining sector and regulators, and understand that both the Chamber and the land and water boards would value the federal government's interpretation of subsections 26 (5) and (6) the *Mackenzie Valley Land Use Regulations* (MVLUR) to assist with new questions that have arisen regarding the extension of land use permits.

MVLUR Subsections 26(5) and 26(6) are as follows:

- 26(5) *Subject to subsection (6), every permit shall set out the term for which it is valid, which term shall be based on the estimated dates of commencement and completion set out by the permittee in the permit application, but the term of the permit shall not exceed five years.*
- 26(6) *On receipt of a written request from a permittee, prior to the expiration of the permit, for an extension of the term of the permit, the Board may extend the term of the permit for an additional period not exceeding two years, subject to any conditions referred to in subsection (1).*

After review and consideration of these provisions, it is our view that there is nothing in the ordinary meaning of the words of subsection (6) that would lead one to definitively conclude that the intent as expressed in the regulations was to limit the number of extensions to be granted to one single extension. If the intent was to limit the term of a

permit, such intention would have been expressed clearly and directly, as has been done in other statutes such as the *Territorial Land Use Regulations*. As such, we believe it would be reasonable for the land and water boards to conclude that the boards could consider multiple term extension requests from permit holders. It is important to also note that Parliament has given the discretion to the boards to determine whether or not a permit ought to be granted in any particular case and to lead the regulatory process to guide that determination.

As you are aware, the recently established Mackenzie Valley Operational Dialogue has provided parties with a mechanism in which to have continuous operational discussions on the regulatory regime in the Mackenzie Valley. CIRNAC officials would be happy to discuss the topic of land use permit extensions further at the next Regulatory Dialogue meeting that is currently being organized for this fall.

Sincerely,



Serge Beaudoin, B.Sc., LL.L
Assistant Deputy Minister, Northern Affairs Organization

c.c.: NWT Senator Margaret Dawn Anderson
Paula Isaak, President of Canadian Northern Development Agency
Hon. Shane Thompson, NWT Minister for Industry, Tourism & Investment
Pamela Strand, Deputy Minister, GNWT – Industry, Tourism & Investment
Lisa McDonald, Executive Director, PDAC
Pierre Gratton, President, The Mining Association of Canada



Shelagh Montgomery

From: Shelagh Montgomery
Sent: Monday, September 21, 2020 17:01
To: Beaudoin, Serge (AADNC/AANDC)
Cc: MargaretDawn.Anderson@sen.parl.gc.ca; Isaak, Paula (CANNOR); Shane_thompson@gov.nt.ca; Paul Dixon; Pamela_Strand@gov.nt.ca; Imcdonald@pdac.ca; pgratton@mining.ca; karmstrong@northarrowminerals.com; MVLWB Chair; Leonard DeBastien; Larry Wallace; Ryan Fequet; Anneli Jokela; Elizabeth Wright (lzwrgh2@yahoo.ca); Joe Mackenzie; Tom Hoefer
Subject: RE: Response to the correspondences received on August 27 and September 2

Dear Mr. Beaudoin,

Thank you for your response regarding extensions to land use permits. The Land and Water Boards have two follow up questions:

- 1) In the CIRNAC letter it is stated, “we believe it would be reasonable for the land and water boards to conclude that the boards could consider multiple term extension requests from permit holders”; however, does CIRNAC believe that the Boards can approve multiple extension requests that would add up to more than two years in total?
- 2) It is clear that one of the objectives for amending the Territorial Land Use Regulations (TLUR) in 2016 was to make the TLUR more consistent with the Mackenzie Valley Land Use Regulations (MVLUR) (see [Regulatory Impact Analysis Statement](#)). If CIRNAC is of the opinion that a permit can be extended beyond two years under the MVLUR unlike the TLUR, how does this view reflect the objective of the TLUR amendments? Did CIRNAC intend to make this distinction between the two Regulations?

Your prompt response to the questions above would be most appreciated.

Kind regards on behalf of the Executive Directors of the Land and Water Boards of the Mackenzie Valley,

Shelagh

Shelagh Montgomery, PhD

Executive Director

Mackenzie Valley Land and Water Board

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Please note: All correspondence to the Board, including emails, letters, faxes, and attachments are public documents and may be posted to the Public Registry.

Shelagh Montgomery

From: Castaneda, Sandra (AADNC/AANDC) <sandra.castaneda@canada.ca> on behalf of Hopkins, Mark (AADNC/AANDC) <mark.hopkins@canada.ca>
Sent: Tuesday, October 06, 2020 15:30
To: Shelagh Montgomery
Cc: MargaretDawn.Anderson@sen.parl.gc.ca; Isaak, Paula (CANNOR); Shane_thompson@gov.nt.ca; Paul Dixon; Pamela_Strand@gov.nt.ca; lmcDonald@pdac.ca; pgratton@mining.ca; Ken Armstrong; MVLWB Chair; Leonard DeBastien; Larry Wallace; Ryan Fequet; Anneli Jokela; lzwrght2@yahoo.ca; Joe Mackenzie; Tom Hoefer; Chouinard, Rebecca (AADNC/AANDC)
Subject: RE: Response to the correspondences received on August 27 and September 2

Hello Ms. Montgomery,

Mr. Beaudoin has tasked my team to respond to your email of September 21, 2020 regarding extensions to land use permits. In this email you requested clarification on the letter CIRNAC sent to you on September 18th, 2020.

Your first question seeks clarification on CIRNAC's interpretation of subsection 26(6) of the Mackenzie Valley Land Use Regulations. CIRNAC's position that "it would be reasonable for the land and water boards to conclude that the boards could consider multiple term extension requests from permit holders" is meant to refer to multiple extensions beyond a total of two years. This interpretation does not suggest that such extensions should be automatic. Instead, the assumption is that the board would run their process to gather evidence and consult with rights holders prior to making determinations on a case-by-case basis.

Your second question revolves around reconciling the objectives of the Territorial Land Use Regulation (TLUR) amendments of 2016 and the conclusion that the provision relating to land use permit extensions in the Mackenzie Valley Land Use Regulations (MVLUR) could differ. While the Regulatory Impact Analysis Statement for the TLURs states that the term of a permit is being increased to "be more in line" with the MVLURs which allows for "the possibility of two-year extensions", it does not offer any insight on the interpretation of the MVLURs and whether "more in line" is meant to be "the same", or whether the pluralization of the word "two-year extensions" was meant to mean "only one two-year extension". The TLURs include the provision that clearly delineates a one-time-only two-year term extension. The MVLURs do not include this clause; CIRNAC's analysis of subsection 26(6) of the MVLURs focused on the ordinary meaning of the words from the regulation in question.

Officials from CIRNAC are open to discussing this topic further with you if you would like, either at the upcoming Regulatory Dialogue forum, or separately as a stand-alone topic.

Please reach out to Rebecca Chouinard at Rebecca.Chouinard@canada.ca if you wish to arrange a follow-up discussion.

Sincerely,

Mark Hopkins