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Docket: S-1-CV-2025-000 199

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

THE COMMISSIONER OF THE NORTHWEST TERRITORIES

Plaintiff

-and-

CLINTON LEUSSINK AND JOHN DOE

Defendants

MEMORANDUM OF JUDGMENT

Corrected judgment: A corrigendum was issued on September 13, 2025; the corrections have been made to the text and the corrigendum is appended to this judgment.

OVERVIEW

[1] The Commissioner of the Northwest Territories applies for an interlocutory injunction requiring the removal of a gate blocking a road the Commissioner asserts is located on public lands. The Commissioner also seeks an interlocutory order restraining the Defendants from placing any obstructions on the road and from interfering with the Commissioner's and the public's access to the area.

[2] The application was first spoken to on August 15, 2025. As Mr. Leussink had only just received the application material, the application was adjourned to August 20, 2025 in order to allow Mr. Leussink to file materials if he wished to do so and to

argue the application. An interim interim injunction was granted on August 15, 2025 prohibiting the gate on the road from being locked.

[3] The Commissioner filed six affidavits in support of its application. Mr. Leussink did not file any material, however, did make submissions opposing the application.

[4] For the reasons that follow, the Commissioner's application is granted.

BACKGROUND

[5] The Commissioner of the Northwest Territories (the "Commissioner") has administration and control of public lands in the Northwest Territories: *Northwest Territories Devolution Act*, SC 2014, c 2, s 51(1).

[6] Public lands are administered through the Department of Environment and Climate Change ("DECC"). The statutory framework for doing so is contained in the *Northwest Territories Lands Act*, SNWT 2014, c 13 (the "Act").

[7] Clinton Leussink is a joint tenant with Susan Mae Lindberg on four leases in the Lindberg Landing area of the Northwest Territories. Lindberg Landing is a remote area located between the Village of Fort Simpson and the Hamlet of Fort Liard, approximately two to three kilometers northeast of Blackstone Territorial Park along the Liard Highway No. 7 (the "Area").

[8] There is a main access road located off Liard Highway No. 7 (the "Main Access Road") and a smaller access road which leads to the lease of Stephen Herrett (Herrett Access Road").

[9] Ten land leases have been granted by the Commissioner in the Area. Four of these leases are held by Clinton Leussink and Susan Mae Lindberg and six are held by other leaseholders. The leased land is located adjacent to the Main Access Road and access to the Main Access Road is required for leaseholders to access their lots with a vehicle such as a truck or car.

[10] The Area also has a public boat launch on the Liard River. Access to and from the public boat launch is through the Main Access Road or the Liard River.

[11] The uncontested evidence before the Court is that the Area has historically been used by Indigenous harvesters to hunt and fish: Affidavit of John Murray Konisenta, sworn July 30, 2025, affidavit of Don Antoine, sworn August 7, 2025, affidavit of Chief Steve Vital, sworn July 30, 2025. By all accounts, the Area is historically and culturally significant to the Indigenous people in the region.

[12] The Area is part of a larger geographic area which is subject to a Land Withdrawal Order. The purpose of the Land Withdrawal Order is to withdraw the land from disposal to facilitate the settlement of Aboriginal land and resource agreements: Land Withdrawal Order (Dehcho Region), R-048-2014, made under the *Act*.

[13] It appears from the evidence that of the ten leases in the Area, two of the leaseholders no longer reside in the Area.

[14] Susan Mae Lindberg and her husband, Edwin Edward Lindberg, had four leases in the Area. The exact date of acquisition of the leases was not before me, however, it appears that Mr. and Mrs. Lindberg had occupied the leased land for a lengthy period of time.

[15] Mr. Linberg died in 2011. On October 20, 2020, Ms. Lindberg assigned the four leases to herself and Mr. Leussink.

[16] Another one of the ten leases was assigned to a Joseph Leussink by a former leaseholder. The nature of the relationship, if any, between Joseph Leussink and Clinton Leussink was not explained.

[17] Stephen Herrett holds one of the ten leases at Lindberg landing. His affidavit evidence was important to provide some background history with respect to the current conflict leading to the Commissioner's application.

[18] Mr. Herrett deposed that he had lived in the Lindberg Landing area since 1993. He was granted a lease in 1999 and built a house on the leased land. The leased land was located at the end of the Area. Mr. Herrett accessed his leased land by the Main Access Road and then through a separate road off the Main Access Road (the "Herrett Access Road").

[19] The evidence is clear that the Main Access Road and the Herrett Access Road, until it reaches the lot line of Stephen Herrett's lease, are located on public lands under the administration and control of the Commissioner.

[20] Mr. Herrett gave evidence that the Main Access Road was built by Edwin Lindberg who maintained the road with some assistance from the government and other residents. The Herrett Access Road leading off the Main Access Road was maintained by Mr. Herrett.

[21] As the Area did not have access to trucked or piped water, Mr. Herrett, and other residents of the Area, were responsible for supplying their own water. Mr.

Herrett would travel to a nearby territorial park to access water and bring it to his residence. He used the Herrett Access Road and Main Access Road to do so.

[22] Mr. Herrett deposed that Clinton Leussink, Joseph Leussink and Christopher Curtis, moved into the Area in 2021. Collectively, these three individuals hold six leases in the Area. Mr. Herrett first got along well with all three individuals, however, in short order the relationship deteriorated with Mr. Leussink actively preventing Mr. Herrett from accessing the Main Access Road. Mr. Herrett indicated that Mr. Leussink began to describe the Main Access Road as “his road”.

[23] On February 15, 2022, Mr. Herrett describes visiting a neighbour’s house and hearing what his affidavit described as a “CAT” being driven by Mr. Leussink. Mr. Herrett’s affidavit does not detail what a “CAT” is, however, I can take judicial notice of the fact one piece of heavy equipment used in the construction and road industry is called a CAT. Mr. Herrett deposed that several hours later, the Herrett Access Road was completely blocked by a snow berm approximately five feet high and forty feet long.¹ This snow berm prevented Mr. Herrett from accessing his property for the remainder of the year until the snow melted in spring. In order for Mr. Herrett to obtain water, his neighbour would drive water to the snow berm where Mr. Herrett would meet him, and Mr. Herrett would then carry the water to his house by using a sled through a side trail. I infer the impact on Mr. Herrett’s daily life was considerable.

[24] In submissions, Mr. Leussink asserted that this snow berm was caused by snowplows and that it was not uncommon for access roads to be blocked. I reject this explanation. That evidence was not properly before me. Even if it was, the coincidence of Mr. Herrett hearing Mr. Leussink’s CAT machine near his property shortly before seeing the snow berm blocking the Herrett Access Road, coupled with the sheer height and length of the snow berm, persuades me that this act was intentional.

[25] Mr. Herrett also testified to another conflict. In 2022, Mr. Herrett was walking his dog and alleges Joseph Leussink shot his dog with a pellet gun. This was not the only incident involving his dog being shot by a pellet gun. Mr. Herrett deposed that in March 2023, his dog was shot in the back leg and that Clinton Leussink subsequently admitted to shooting his dog as well as throwing a rock at it.

[26] On another occasion, in October 2022, Mr. Herrett was blocked from accessing the Main Access Road by Mr. Leussink who asserted “this is a private

¹ Although Mr. Herrett deposed that the snow berm was five feet high, John Konisenta, a friend and neighbour from the adjacent community of Nahanni Butte, stated in his affidavit that he saw the berm and it was seven feet high. Either way, the height was significant and made the Herrett Access Road impassable.

road I own it". The following day, he heard Mr. Leussink's "quad"— which he identified as it made a distinct noise – near his property. While the quad was not described, I can take judicial notice of the fact that the phrase is often used to describe a four-wheel all terrain vehicle. Shortly thereafter, Mr. Herrett heard a chain saw and a crash and saw a large tree cut down across the Herrett Access Road. When he saw Mr. Leussink a few days later, Mr. Herrett was threatened and told by Mr. Leussink to stay away from his lease [Mr. Leussink's lease], that it was Mr. Leussink's land, and Mr. Herrett should show some respect. When he later questioned Mr. Leussink about the tree, Mr Leussink replied that Mr. Leussink was doing Mr. Herrett a favour as the tree was rotten. The tree was later removed, seemingly by a CAT machine, as there were tracks in the road.

[27] Other instances of obstruction were deposed to by Mr. Herrett in 2023 and 2024 including several further instances of Mr. Herrett being unable to access his property as debris was placed in front of the Herrett Access Road. On one occasion, Mr. Leussink stated to Mr. Herrett that "my men are cleaning up, it [being the debris] was pushed to the road to ease the clean-up". From this admission, I infer that Mr. Leussink was responsible for the placement of the debris on the Herrett Access Road.

[28] Mr. Herrett described having to regularly clean up obstructions to access his property. These were not isolated incidents. The photographic evidence corroborates significant debris which appears to be much more than one might expect to occur naturally.

[29] Mr. Leussink submits that these obstructions were naturally caused and to be expected. I reject this explanation. Apart from the lack of evidence on this point, Mr. Herrett is a 30-year resident of Lindberg Landing. He would be aware of the amount of debris which one might reasonably expect to occur as a result of weather as contrasted with debris which could only have been placed intentionally.

[30] I also received evidence from employees of DECC who were charged with managing the land leases in the Area. Laurie Nadia, the Regional Superintendent for the Deh Cho Region, and Danielle Rogers, a manager within the same department and region, testified to challenges each had with respect to carrying out their duties.

[31] Ms. Nadia testified that on May 16, 2024, in the context of doing an inspection, Ms. Nadia was challenged by Clinton Leussink, Joseph Leussink and Christopher Curtis as to why she was present in the Area. She was told by Mr. Leussink that she was being videotaped. On that same inspection, she also observed a barricade of garbage, scrap metal and other items blocking Mr. Herrett's access. Later, she noted a tree blocking the road which she had to move to exit the Area.

[32] Ms. Nadia testified that on July 31, 2024, Ms. Rogers was carrying out an inspection of the Area and was told “you are not welcome on my property” by Mr. Leussink. Mr. Leussink then left a voice mail with Ms. Nadia where he indicated his intention to bar Ms. Rogers from the leased land and objected to inspections of the Area being held without him being present and without him agreeing to the timing of the inspection.

[33] On May 30, 2025, while attempting to serve a court order relating to another individual in the Area, details of which are set forth in *Rogers v Hoven*, 2025 NWTSC 29, Ms. Nadia observed a tree blocking the Main Access Road which appeared to have been dragged there. As a result, she was unable to serve the court order. She made two attempts to access the Area, one on May 30th and one on June 3rd and on both occasions was prevented from accessing the area to perform her work.

[34] Ms. Nadia testified that on June 12, 2025, Clinton Leussink and Joseph Leussink came to her office in Fort Simpson to advise that she was barred from accessing the Area until some sort of investigation had been completed. They alleged there had been recent incidents where residents of Lindberg Landing had been harassed and that they blamed Ms. Nadia for spreading rumours about their community.

[35] On June 16, 2025, while attempting to address a compliance issue relating to another matter, Ms. Nadia, Ms. Rogers and another employee of DECC were stopped by Joseph Leussink who parked his quad directly next to the driver’s door, blocking the exit from driver’s side of the truck. Joseph Leussink refused to move his quad to permit the driver of the vehicle to exit through the driver’s door. Joseph Leussink later asserted that it was a private road and the DECC employees were not entitled to access the road. As they later continued on the Main Access Road, they were unable to access the area relating to the other matter as it was completely blocked by garbage and scrap metal.

[36] The situation reached a critical juncture in July 2025. John Konisenta, a Dene resident of Nahanni Butte, a small community located across the Liard River from Lindberg Landing, testified that around July 25, 2025², he drove past the Main Access Road to Lindberg Landing and observed a metal gate placed on the Main Access Road (the “Gate”). He took photos of the Gate. On that date, the Gate was closed and had a sign on the Gate which provided the phone number for Clinton Leussink and Sue Lindberg as well as the police. There was also a sign on the Gate

² I note that Ms. Rogers states she was advised by Stephen Herrett on June 22, 2025 of the existence of the Gate. This minor discrepancy in the evidence as to when the Gate was first observed is not relevant.

stating, “Smile You’re on Camera”. While Mr. Konisenta does not note in his affidavit whether the Gate was locked, the pictures appended to his affidavit appear to show a closed gate with a chain in the middle hanging down. Mr. Konisenta deposed that he sent the pictures to Stephen Herrett.

[37] Ms. Nadia said she was advised by Mr. Herrett on July 22, 2025 that a Gate had been installed across the Main Access Road. She asked Ms. Rogers to inspect the Area. Ms. Nadia did so on two occasions: July 25, 2025 and August 1, 2025. During the July 25, 2025 inspection, Ms. Rogers noted that the Gate was initially half closed and half open, however, later that day, both sides of the Gate were closed. There was a “Road Closed” sign in the trees adjacent to the Gate.

[38] On August 1, 2025, Ms. Rogers again inspected the Area. Ms. Rogers noted that the Gate was closed and had on it a heavy-duty padlock. A new sign placed on the road next to the Gate stated that it was a “private road, use at your own risk”. She observed a CCTV camera mounted on the new sign.

[39] Ms. Nadia testified that the presence of the Gate made it impossible for her and other employees to carry out their duties.

[40] Other people expressed concern regarding the presence of the Gate. Mr. Herrett advised that he would not feel comfortable calling Mr. Leussink to get access to his property. He said that he was not told about the Gate and that no one had given him a key.

[41] Mr. Konisenta testified that he operated a water taxi business and used to drop tourists off at Lindberg Landing to camp. He indicated that it had been a few years since he had done so, and that he was scared for his safety. He did not want to risk people following him or watching him on camera. The presence of the Gate caused him to be concerned for the welfare of Sue Lindberg as she was an elder.

[42] Don Antoine, a member of the Liidlii Kue First Nation, testified to acts of intimidation by Mr. Leussink and his fear in going to Lindberg Landing, even without the Gate being present. He said he was angry that he could no longer fish and hunt in the Area.

[43] Steve Vital, the Chief of the adjacent community of Nahanni Butte, testified that members of the Nahanni Butte community used to leave Nahanni Butte by boat, and travel to Lindberg Landing, where they would store their boats and use their vehicles to drive to other places. He felt that this was no longer possible because people felt harassed and unsafe. He also testified that he drove by the Main Access Road on July 26, 2025 and saw the Gate. The Gate was closed.

[44] The evidence is clear that the Gate caused difficulties with respect to other leaseholders and the public using the Main Access Road.

[45] On July 29, 2025, Ms. Rogers sent an email to Mr. Leussink advising that the Gate needed to be removed by August 1st. Mr. Leussink responded by email advising that “neither Sue or I installed that gate and we will not be moving it”. He defended the Gate, asserting that it does not block public access as anyone can walk around the Gate or boat into the Area. He also noted that if the Gate was closed for security reasons, access can be obtained by contacting someone “via radio or the communication methods that have been posted” (presumably referencing himself and Sue Lindberg being the two residents of Lindberg Landing identified on the sign on the Gate). Mr. Leussink also asserted that all leaseholders of Lindberg Landing had been notified about the Gate and would have unrestricted access.

[46] Mr. Herrett’s evidence is that he had never been notified about the Gate, notwithstanding being a lease holder.

[47] In submissions, Mr. Leussink defended the Gate, indicated that it was required for security reasons as residents had been harassed and that people were driving through the Area, causing fear and safety concerns. He highlighted the remoteness of the Area and the vulnerability of the residents of the Area. Mr. Leussink denied installing the Gate. He did not state who installed the Gate. None of these facts were before me as sworn evidence but his submissions in Court were similar to his email communication to Ms. Rogers with respect to the Gate, which communication was properly in evidence.

[48] Because of these obstructions, the Commissioner now seeks an interlocutory injunction directing the removal of the Gate and prohibiting any further obstructions on the Main Access Road or the Herrett Access Road, until a trial of the issues can be held.

LEGAL ANALYSIS

[49] There is a three-part test for determining whether to grant an interlocutory injunction set out in *RJR-MacDonald Inc. v Canada (Attorney General)*, [1994 CanLII 117 \(SCC\)](#), [1994] 1 SCR 311 at 348-49 [*RJR*]:

- (a) Is there a serious issue to be tried?
- (b) Would the plaintiff suffer irreparable harm if the injunction is not granted?
- (c) Where does the balance of convenience lie?

Strength of Plaintiff's Case

[50] In addressing the first branch of the *RJR* test, I must determine whether the injunction sought is a mandatory or a prohibitive injunction. A mandatory injunction requires a defendant do to something, as opposed to an injunction that merely prevents the defendant from doing something: *Ballantyne v Ballantyne*, 2024 FC 1738 at para 18, citing *R v Canadian Broadcasting Corp*, 2018 SCC 5 at paras 15 and 17. If the injunction sought is a mandatory injunction, the threshold to obtain an injunction is a higher one than the lower threshold of a “serious issue to be tried”. The Commissioner would need to establish that there is a strong *prima facie* case.

[51] A “strong *prima facie* case” means “there is a strong likelihood on the law and evidence presented [on the motion] that, at trial, the applicant will ultimately be successful in proving the allegations”: *R v Canada Broadcasting Corp.*, 2018 SCC 5 at para 17.

[52] If the injunction sought is not a mandatory injunction, but seeks to prohibit the defendant from doing something, the applicant seeking the injunction need only show that “there is a serious issue to be tried”.

[53] As the Supreme Court of Canada noted in *R v Canada Broadcasting Corp*, it can be difficult determining whether an injunction is a prohibitive or mandatory one. In arriving at a determination, a Court is directed to look beyond the language of the relief sought and look to the substance of what is being sought. Is the overall effect of the injunction to require someone to do something or to refrain from doing something? See *R v Canada Broadcasting Corp.* at para 16.

[54] The rationale of a higher threshold to be met for a mandatory injunction is that a mandatory injunction is restorative in nature; it requires “the defendant to take whatever steps are necessary to repair the situation in a manner consistent with the plaintiff’s rights”: *Goruk Estate v Goruk*, 2003 ABQB 271 at para 9, citing R. Sharpe, *Injunctions and Specific Performance* (Aurora: Canada Law Book, looseleaf updated to Nov. 2002) at 1-1. As such, the plaintiff must meet a higher burden to obtain the injunction.

[55] I am satisfied that, in essence, the overall effect of the proposed injunction is prohibitory in nature. The essence of the relief sought is to prohibit any person from actively blocking the Main Access Road or the Herrett Access Road. As the Main Access Road is currently blocked by a Gate, the injunction seeks the removal of that blockage, but, once that has occurred, the thrust of the injunction is prohibitory in nature and requires no further action by anyone.

[56] As such, on the first branch of the *RJR* test, I find that the threshold to establish that there is a serious question to be tried is a low one and not the higher test of a *prima facie* case. In *RJR*, at para 348, the Supreme Court of Canada noted that the threshold for establishing a serious issue is generally a low one and will be met if the issues raised are not frivolous or vexatious.

[57] In arriving at this conclusion, I note the decision of *Henderson v Quinn*, 2019 NSSC 190, wherein Arnold J held that an order which required the defendants to remove a blockage on road so as to allow access to others was, in essence, a restoration of the *status quo* where others had enjoyed unimpeded and continuous access across a roadway to a beach. The positive steps required were minimal – the removal of logs and filling in a ditch – the overall effect of the injunction was to require the defendants to refrain from doing something: See para 50.

[58] Even if I am wrong in this regard, I find that the Commissioner has made out a strong *prima facie* case. All the evidence points to the Gate being established on a public road under the administration and control of the Commissioner. While there is evidence that Mr. Leussink and others have described this as a private road, there is no evidence that any portion of the Main Access Road is held by anyone other than the Commissioner. The fact that the Main Access Road was built by a leaseholder, and that other leaseholders such as Mr. Leussink more recently, may help maintain the Main Access Road, does not give any leaseholder a legal interest in the Main Access Road sufficient to block others from access.

[59] I also note that the Main Access Road and the Herrett Access Road are highways under the *Public Highways Act*, RSNWT 1988, c P-13, as they are roads that the public is ordinarily entitled to use for the passage of vehicles. As such, blocking the Main Access Road and Herrett Access Road is an offence under the *Public Highways Act*: See s 28(1).

[60] The fact that a public road is blocked by a Gate, preventing Indigenous people from freely accessing land that they have used to hunt and fish for hundreds if not thousands of years, and preventing DECC officials from carrying out their statutorily mandated duties, is a serious issue to be tried.

Irreparable Harm

[61] The Commissioner must also establish that irreparable harm will result if the injunction is not granted. The Commissioner asserts that the fact that the public is blocked from accessing the road and that DECC officials cannot carry out their duties constitutes irreparable harm. They also point to the fact that at least one leaseholder, Stephen Herrett, has had his access to his property blocked and that

deprivation cannot properly be compensated for in damages should the Commissioner ultimately be successful.

[62] I agree with the Commissioner's submissions on both issues. The evidence before the Court is that there are serious land management issues in the Area which DECC is attempting to address. DECC has, in one case involving the Area, obtained court orders in relation to an individual trespassing in the Area: *Rogers v Hoven*. Ms. Rogers states that she was prevented from serving a court order obtained in that case because of an obstruction on the Main Access Road. She also states that on June 16, 2025, she was unable to serve another notice required as part of her duties because the Main Access Road was obstructed. These two examples, relating to another individual, illustrate the challenges posed in managing the land use in the Area as a result of what appear to be deliberate obstructions.

[63] Indeed, Ms. Rogers was prevented from attempting to serve court documents personally on Mr. Leussink in relation to this matter as the Gate prevented her from accessing Mr. Leussink's residence. This again illustrates the challenges posed by the current situation and highlights the damage that will occur if the situation is not remedied.

[64] This Court has held that an inability to plan for future use of land can constitute irreparable harm. See *Northwest Territories (Commissioner) v Sibbeston*, 2017 NWTSC 85.

[65] Mr. Leussink submitted that irreparable harm has not been established, noting that the Gate is not generally closed and on those rare occasions where it might be closed for reasons of security, that he and others are available to open the Gate to allow access. He minimized the closing of the Gate, suggesting in submissions that it has only happened once, on August 1, 2025.

[66] I reject the assertion that the Gate has only been closed once. The evidence establishes that the Gate was closed on July 25th and August 1st. It may have been closed on other days but due to the remoteness of the Area, I do not have evidence relating to other days.

[67] I have evidence from residents in surrounding communities that the Gate makes them feel uncomfortable and unable to access their traditional hunting and fishing lands.

[68] I have evidence from Mr. Herrett that he feels it is unsafe for him to access his property. Prior obstructions, such as the snow berm, have had a significant impact on Mr. Herrett's ability to use and enjoy his property.

[69] I have evidence that DECC employees are being prevented from carrying out their statutory duties.

[70] All of this constitutes harm that cannot be remedied through an award of damages.

[71] I find that the Commissioner has established that irreparable harm will occur if the injunction is not granted.

Balance of Convenience

[72] The third branch of the *RJR* test is that the Commissioner must establish that the balance of convenience supports the granting of the injunction. The question I must ask is whether the Plaintiff will be more harmed if the injunction is not granted than the Defendants will be if the injunction is granted?

[73] This third branch requires an assessment of harm to each based on the evidence before the Court. The Commissioner has established on-going harm to its ability to manage the Area and carry out its statutory duties. They have established past harm, and the potential for future harm, to one leaseholder, Mr. Herrett. Lastly, they have established a harm to the Indigenous people in the area who have historically used the Area.

[74] In contrast, Mr. Leussink has not filed any evidence supporting that harm will ensue to him or others if an injunction preventing obstructions on the Main Access Road and Herrett Road is granted. He referenced security concerns in his email correspondence to DECC and in his submissions, but his concerns were general in nature and spoke more to the tension that has developed as a result of what appears to be an adversarial relationship between residents of Lindberg Landing and their neighbours. It may well be that there is now an adversarial relationship which has developed between Mr. Leussink and residents in surrounding communities, but that does not justify the self-help mechanism of blocking others from the Area. Indeed, those self-help actions may have no doubt contributed to the current adversarial relationship. Notwithstanding Mr. Leussink's concerns expressed in his oral submissions, it is not up to Mr. Leussink to say who may or may not travel on the Main Access Road.

[75] I also note that the Commissioner has indicated its willingness to abide by any damages order if a court finds in favor of the Defendants and finds that granting of this Order has caused damage to the Defendants for which the Commissioner is liable.

[76] I find that the balance of convenience favours the Commissioner and that an injunction should be granted.

Form of Injunction

[77] Mr. Leussink submitted that he did not install the Gate and should not be responsible for removing the Gate. I have difficulty with his submissions. First, in Mr. Leussink's communications with DECC, while denying he installed the Gate, he has defended its existence. On July 29, 2025, he stated in an email to Ms. Rogers, "the gate is necessary for security and essential for the safety of vulnerable individuals..." He threatens to sue DECC if the Gate is removed, and security is compromised. In the same email, he also notes that if DECC has concerns regarding vehicle access, "please notify someone at the landing in advance so that the gate can be opened prior to your visit". The evidence before the Court is that his name and phone number is on the sign posted at the gate. The only other resident of Lindberg Landing listed on the sign is Sue Lindberg, by all accounts an elderly woman, and joint leaseholder with Mr. Leussink. The sign on the Gate suggests that Mr. Leussink has control over the Gate and is purporting to determine who may enter the Area.

[78] Additionally, in Mr. Leussink's submissions in Court opposing the injunction, Mr. Leussink questioned whether the injunction was necessary. Mr. Leussink stated that he could guarantee, to the extent he is able to do so, that the Gate would remain open. This suggests he has a degree of control over the Gate.

[79] I also note that Mr. Leussink is a lease holder on four out of ten leases at Lindberg Landing and someone who appears to be a family member, Josph Leussink, is a leaseholder on a fifth lease. A sixth lease is held by Stephen Herrett who indicated that he had no notice of the Gate. Stephen Herrett stated that the seventh leaseholder, Sam Roberts, has left Lindberg Landing and that an eighth leaseholder, Mary Cox, only went to Lindberg Landing "sometimes" and he did not know if she still went there. The number of leases held by Mr. Leussink, coupled with absentee leaseholders, supports the inference that Mr. Leussink exercises great control over the actions at Lindberg Landing.

[80] For the limited purpose of determining the form of the injunction to grant, I find that Mr. Leussink has control over the Gate and is required to remove the Gate.

[81] Mr. Leussink asserts in his submissions that the Gate was secured to the road by concrete and that he did not have the equipment to remove it. I do not have that information before me in the form of sworn evidence. What I do have in evidence before me from Mr. Herrett is that Mr. Leussink has operated a CAT machine, a type of heavy equipment often used in the construction industry. I also have evidence

that Mr. Leussink has a quad, being an all-terrain vehicle. Mr. Leussink stated in submissions that he has a sawmill. As such, it appears that Mr. Leussink has access to equipment which may assist in the removal of the Gate.

[82] If Mr. Leussink is unwilling or unable to remove the Gate, the Commissioner may remove the Gate. The issue of responsibility for the costs of doing so may be addressed at the conclusion of these proceedings.

Role of the Royal Canadian Mounted Police

[83] The Commissioner also seeks an order authorizing Peace Officers, including the Royal Canadian Mounted Police (“RCMP”) to accompany the Commissioner while carrying out the removal of the Gate and any cameras located in the area. I heard from counsel for the RCMP to the effect that such an order is not necessary, that the RCMP generally have a role to assist in keeping the peace, and that an order such as the one requested could be construed as directing the RCMP to take certain actions.

[84] I appreciate the submissions of counsel for the RCMP, however, in my view, including a term authorizing the Commissioner to be accompanied by a peace officer, including the RCMP, is helpful for two reasons. First, it brings home to all the leaseholders and to the public the seriousness of these matters and the importance of compliance with the terms of this order. Secondly, the enforcement provisions of the *Act* permit enforcement officers to be accompanied by any other person they believe is necessary to assist them in carrying out their enforcement functions: see s 30(4). The order sought by the Commissioner does not direct the RCMP to take any actions, however, it authorizes the presence of the RCMP when enforcement officers are carrying out their statutory duties if the enforcement officer believes this presence is necessary.

Scope of the Order

[85] The Commissioner seeks an order restraining Mr. Leussink, and his servants and agents, from placing any further obstructions or interfering with the Commissioner’s access or the public’s access to the area. This litigation is still in early stages and the evidence is not clear who falls within the category of Mr. Leussink’s “servants or agents”.

[86] In my view, it is preferable to issue an order which restrains any person from obstructing the Commissioner’s or public’s access to the Area. When a litigant seeks an injunction to restrain unknown persons from interfering with property rights, courts can issue orders using broad language that includes "John Doe, Jane Doe, and

Persons Unknown" to effectively cover individuals who are not specifically identified. This practice is intended to ensure that the order's scope is clear and that it can be applied to all persons who have notice of the order, even if they are not formally named parties to the litigation. Such orders are enforceable under the principle that non-parties who violate court orders may be found guilty of contempt for interfering with justice: *MacMillan Bloedel Ltd. v Simpson*, 1995 CanLII 57 (SCC), [1995] 4 SCR 725 at para 23 and 42.

[87] The issue raised by granting an order which binds non-parties is how to bring the order to the attention of those parties in a meaningful fashion. I have been provided with a map of the Area which illustrates how remote and isolated the Area is from the surrounding communities. There is no evidence that others who reside outside of the Area may be responsible for the obstructions which have occurred to date. I find that the most meaningful way to bring this order to the attention of non-parties is to direct that all ten leaseholders in the Area be served with registered mail sent to the address at which notice is to be given under their lease agreement with the Commissioner. Service shall be deemed to have been effected seven days after the posting of the order via registered mail.

CONCLUSION

[88] In conclusion, I order as follows:

Removal of Obstructions

1. By Friday September 5, 2025, Clinton Leussink shall remove the entire Gate including all gate posts.
2. By Friday September 5, 2025, Clinton Leussink shall remove the gate posts installed at GPS coordinates 61 07.0294 N and 122 50.6218 W and any other gate posts installed next to or around the Main Access Road.
3. By Friday September 5, 2025, Clinton Leussink shall remove any signs on or around the Main Access Road, including but not limited to: the stop sign, the road closed sign, and the private road sign.
4. By Friday September 5, 2025, Clinton Leussink shall remove all recording devices, including but not limited to any video cameras or CCTV devices from the Area that are not located within the boundaries of leases in which

Clinton Leussink is a leaseholder. Marked on Appendix A to this Order as 095G02003, 095G02010, 095G02004 and 095G02009.

5. By Friday, September 5, 2025, Clinton Leussink shall remove all obstructions located on or near the Main Access Road or the Herrett Access Road.

Failure to Remove Obstructions

6. Should Clinton Leussink fail to remove the items listed in clauses 2, 3, 4 and 5 by Friday September 5, 2025, at 5:00 pm, the Commissioner shall be permitted to remove those items and dispose of them by whatever means the Commissioner chooses.
7. The Commissioner may be accompanied by Peace Officers with the Royal Canadian Mounted Police while carrying out the removal of items in clause 6.
8. Should the Commissioner or their servants or agents, attend the Area for the purpose of carrying out the removal of items under clause 6, they shall carry a copy of this Order with them and present it to any individual in the Area who requests to see it.

Prohibitions

9. Clinton Leussink, or any other person, shall not place any obstructions on or near the Main Access Road or the Herrett Access Road, including but not limited to gates, trees, tree branches, metal, wood scraps, propane tanks, snow or ice, ropes and other garbage.
10. No person shall place any obstructions on or near the Main Access Road or the Herrett Access Road, including but not limited to gates, trees, tree branches, metal, wood scraps, propane tanks, snow or ice, rope and other garbage.
11. Clinton Leussink, or any other person, shall not place any signs that purport to direct traffic on the Main Access Road or the Herrett Access Road or indicate that the Main Access Road or the Herrett Access Road are not open to the public.

12. No person, unless authorized by law, shall place any signs that purport to direct traffic on the Main Access Road or the Herrett Access Road or indicate that the Main Access Road or the Herrett Access Road are not open to the public.
13. Clinton Leussink, or any other person, shall not interfere with the Commissioner or his servants or agents' ability to access any place in and around the Area.
14. Clinton Leussink, or any other person, shall not interfere with the public's ability to access any place in and around the Area.
15. Should the Commissioner or their servants or agents attend the Area for any purpose they shall carry a copy of this Order with them and present it to any individual in the Area, who request to see it.

Service

16. This order shall be served on all persons who hold a lease within the Area by mailing a copy of this order to each leaseholder by registered mail. Service of the order shall be deemed to have occurred seven days after the posting of the registered mail.

Further court processes

17. This order shall not prejudice any defence that the defendants may bring in court file number S-1-CV-2025-00199.

Term of the Order

18. This Order is effective upon being entered with the court and will expire once this matter is finally determined or on the consent of the parties.

"Sheila M. MacPherson"

Sheila M. MacPherson
J.S.C.

Dated in Yellowknife, NT this
29th day of, August, 2025

Counsel for the Plaintiff: Maren Zimmer
Ryan Donnelly

Counsel for the Defendants: Self-Represented

Counsel for the Attorney General: Matthew Scott

**Corrigendum of the Memorandum of Judgment
Of
The Honourable Justice S.M. MacPherson**

1) An error occurred in paragraph [88]

Paragraph 88 reads:

CONCLUSION

[88] In conclusion, I order as follows:

Removal of Obstructions

- (...)
4. By Friday September 5, 2025, Clinton Leussink shall remove all recording devices, including but not limited to any video cameras or CCTV devices from the Area that are not located within the boundaries of leases in which Clinton Leussink is a leaseholder. Marked on Appendix A to this Order as 095G02003, 095G0210, 095G02004 and 095G02009.
5. (...)

Prohibitions

11. Clinton Leussink, **nor** any other person, shall not place any signs that (...)
12. (...)
13. Clinton Leussink, **nor** any other person, shall not interfere with the (...)
14. Clinton Leussink, **nor** any other person, shall not interfere with the (...)

Paragraph 88 now reads:

CONCLUSION

[88] In conclusion, I order as follows:

Removal of Obstructions

- (...)
4. By Friday September 5, 2025, Clinton Leussink shall remove all recording devices, including but not limited to any video cameras or CCTV devices from the Area that are not located within the boundaries of leases in which Clinton Leussink is a leaseholder. Marked on Appendix A to this Order as 095G02003, 095G02010, 095G02004 and 095G02009.
5. (...)

Prohibitions

11. Clinton Leussink, **or** any other person, shall not place any signs that (...)

12. (...)

13. Clinton Leussink, **or** any other person, shall not interfere with the (...)

14. Clinton Leussink, **or** any other person, shall not interfere with the (...)

(...)

2) The Citation has been amended to read:

Commissioner v Leussink, 2025 NWTSC 63.cor1

(The changes to the text of the document are highlighted and underlined)

**IN THE SUPREME COURT OF THE
NORTHWEST TERRITORIES**

BETWEEN:

THE COMMISSIONER OF THE NORTHWEST
TERRITORIES

Plaintiff

-and-

CLINTON LEUSSINK & JOHN DOE

Defendants

<p>Corrected judgment: A corrigendum was issued on September 13, 2025; the corrections have been made to the text and the corrigendum is appended to this judgment.</p>
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MEMORANDUM OF JUDGMENT
OF
THE HONOURABLE
JUSTICE SHEILA M. MACPHERSON
