



GWICH'IN LAND AND WATER BOARD

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www.glwb.com

August 3, 2016

File: G13H004

GNWT Department of Transportation
Attention: Arvind Vashishtha
Box 2038
Inuvik, NT X0E 0T0

Re: James Creek spill clean-up – Authorizations

Mr. Vashishtha,

During the review of KBL's draft proposed remediation plan for the diesel spill at DOT's James Creek maintenance facility, and subsequent discussions with GNWT DOT, Department of Lands, and ENR, Board staff identified the following activities which trigger additional authorizations under the *Mackenzie Valley Resource Management Act (MVRMA)/Mackenzie Valley Land Use Regulations (MVLUR)*, and *Waters Act /NWT Waters Regulations*:

1. The excavation of contaminated soils from the creek bank and the subsequent placement of fill constitutes a modification to creek bank, which triggers a water licence.
2. DOT's request to quarry 3,000 m³ of shale from the James Creek site falls outside the scope of existing land use permit G13H004, and would require a new land use permit

Given the importance of a timely clean up and remediation of the spill, and length of time that is required to proceed through the permitting process, the Board recommended that the above activities be implemented in the absence of additional permitting, under the Emergencies section of the MVLUR, which states:

17 (1) Notwithstanding any other provision of these Regulations or the conditions of any permit, where an emergency threatens life, property or the environment, a person may carry out such land-use operations as are necessary to cope with the emergency.

(2) A person who carries out a land-use operation under subsection (1) shall immediately thereafter send a written report to the Board describing the duration, nature and extent of the operation

GNWT Department of Lands provided its support of this decision in the attached letter. Upon further discussion and site analysis with ENR, it was determined that the remediation activities did not require a Water Licence as the width of James Creek where channel and bank alteration will occur is less than 5 meters wide at the ordinary high water mark. (See *Waters Regulations* Schedule D - Licensing Criteria for Industrial Undertakings, Column I, Item 2 (2), and Column II, Item 2 (b)).

Please proceed with the operations necessary to clean up the spill, and ensure that a report – as indicated above – is provided to the Board as soon as possible after the completion of clean-up activities.

Should you have questions, please contact AlecSandra Macdonald at amacdonald@glwb.com or by phone at (867) 777-6622 or

Sincerely,

A handwritten signature in black ink, appearing to be 'L. DeBastien', with a long horizontal flourish extending to the right.

Leonard DeBastien
Executive Director

CC: Stephen Charlie – Regional Superintendent – ENR – Inuvik Region
Conrad Baetz – Superintendent – GNWT Lands – Beaufort Delta Region



July 29, 2016

AlecSandra MacDonald
Regulatory Specialist
P.O. Box 2018
Inuvik, NT X0E 0T0

Re: Emergencies, Section 17(1) – Mackenzie Valley Land Use Regulations

Ms. MacDonald,

As discussed, regarding the timely clean-up and remediation of the James Creek spill that occurred on July 4th, 2016, the Department of Lands concurs with the Gwich'in Land and Water Board that section 17(1) can be implemented in this circumstance.

17 (1) Notwithstanding any other provision of these Regulations or the conditions of any permit, where an emergency threatens life, property or the environment, a person may carry out such land-use operations as are necessary to cope with the emergency.

We have issued quarry permit 2016QP0023 to the Department of Transportation for 3000 cubic meters of shale for remediation of this spill only. The exemption is in relation to the land use permit that would normally be required to carry out the quarry activities.

If you have any questions, please contact me.

Regards

Conrad Baetz
Regional Superintendent
Department of Lands
Beaufort Delta Region



Telephone: 867-678-6698

Fax: 867-678-6699

August 3, 2016

AlecSandra MacDonald
Regulatory Specialist
Gwich'in Land and Water Board
P.O. Box 2018
Inuvik, NT X0E 0T0

Re: James Creek Spill ID 2016249 Remediation, Water Licencing Criteria

Ms. MacDonald,

In follow-up to previous discussions regarding the potential requirement for a Water Licence for urgent remedial action at James Creek following a spill incident which occurred on July 4th, 2016, the Department of Environment and Natural Resources concurs with the Gwich'in Land and Water Board that the proposed work does not trigger the need for such an application.

This is consistent with Schedule D - Licencing Criteria for Industrial Undertakings, Column I, Item 2 (2), and Column II, Item 2 (b) of the *Waters Regulations*, given that the width of the area of James Creek where channel and bank alteration may occur stands less than 5 meters wide at the ordinary high water mark.

Please contact me if you have concerns or wish to discuss.

Sincerely,

Philippe Thibert-Leduc
Water Resource Officer
Environment and Natural Resources
Inuvik Region