



Mackenzie Valley Land and Water Board
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Staff Report

Company: Town of Hay River	
Location: Hay River, NT	Application: MV2009L3-0005
Date Prepared: October 6, 2009	Meeting Date: October 22, 2009
Subject: Draft Work Plan for the Regulatory Review of the Town of Hay River's Municipal Water Licence (WL) Renewal Application	

1. Purpose/Report Summary

To obtain the Board's approval on the draft work plan for the Town of Hay River's municipal WL renewal application.

2. Background

- June 11, 2009 – Town of Hay River submitted the Municipal WL Renewal Application;
- July 3, 2009 – WL Renewal Application deemed incomplete;
- July 27, 2009 – Town of Hay River submitted supplemental information required to complete the application;
- July 27, 2009 – the WL Renewal Application deemed complete and sent out for review with a comment deadline of October 7, 2009. The draft Work Plan was sent out for review with a comment deadline of August 12, 2009;
- August 12, 2009 – comment deadline on the draft Work Plan; and
- October 6, 2009 - replied to comments made by GNWT - ENR.

3. Discussion

As the end of the review period for the Town of Hay River's municipal WL renewal has passed, the draft Work Plan has been prepared to guide the licensing process.

Note that the Work Plan proposes a public hearing date, as required under the *Northwest Territories Waters Act*, from January 26-27, 2010. An external technical meeting is scheduled for November 13, 2009.

4. Comments

n/a

5. Review Comments

See the attached Comment Summary Table.

6. Security

n/a

7. Conclusion

The Work Plan will establish approximate timelines enabling Board staff, the City, and reviewers to plan their work accordingly.

8. Recommendation

I recommend that the Board approve the Draft Work Plan.

9. Attachments

- Reviewer Comment Summary Table
- Draft Work Plan
- MVLWB reply to GNWT - ENR comments

Respectfully submitted,



Shannon Hayden
Regulatory Officer

Reviewer Comments – Town of Hay River – MV2009L3-0005

Reviewer	Comment	Mitigation
<p>Chris Heron, Environment Manager Northwest Territory Métis Nation</p>	<p>Excerpt from NWTMN Comments:</p> <p>“The Northwest Territory Métis Nation has the following concerns:</p> <ul style="list-style-type: none"> • As stated in previous correspondence, the NWTMN will not be accepting applications via the MVLWB website. • As per our Interim Measures Agreement, the MVLWB is required to deliver a package of information to our office. • Although the Interim Measures Agreement indicates delivery via express post, it was further negotiated verbally to deliver the information via facsimile as express post takes one week to arrive in our office. • Until this application is received by the agreed to method, we are in a position to deem this application incomplete.” <p>Upon receipt of the August 4, 2009 letter from the Northwest Territory Métis Nation (NWTMN), the former RO sent a fax to Mr. Heron on the same day stating the following:</p> <p>“This application will not be faxed or mailed to your office as it is available for viewing online. To save time, money, and the environment, our office has begun the transition to electronic reviews. If you are having problems viewing this application online, please call our office for technical support...”</p> <p>This application review is anticipated to be one-year in duration and correspondence will be done via e-mail. If you would not like the e-mails to go to your personal e-mail, I would recommend setting up an office e-mail that is dedicated to this purpose.”</p>	<p>Background:</p> <p>The Regulatory Officer (RO) who previously worked on this file sent the application out for review on July 27, 2009 directing people to the website to review this file.</p> <p>This seemed to be reasonable with all reviewers with the exception of the Northwest Territory Métis Nation (see comments).</p>

Reviewer Comments – Town of Hay River – MV2009L3-0005

Reviewer	Comment	Mitigation
<p>Patrick Clancy, Environmental Regulatory Analyst, GNWT – ENR</p>	<p>On August 12, 2009, the NWTMN sent a letter to the Board which contained the following:</p> <ul style="list-style-type: none"> • “The NWTMN received a fax dated July 27, 2009 indicating a deadline of August 12, 2009 to comment on timelines and exemption from preliminary screening, and comments on the application were to be received by October 7, 2009. • On August 4, 2009 a letter was forwarded to your office requesting the information for the above application. • To this date the NWTMN has not received the requested information, therefore the public record must show the NWTMN has not been consulted as per our Interim Measures Agreement. <p>NWTMN will review and provide comments, as per our Interim Measures Agreement, upon receipt of application data.”</p>	<p>This application has since been sent via courier service to the offices of the NWTMN. There have been no further comments from the NWTMN on the draft Work Plan.</p>
	<p>Summarized from GNWT-ENR Comments:</p> <p>ENR has reviewed the Plan and finds that it contains several issues relating to the timing of events and several Tasks that require clarification:</p> <ul style="list-style-type: none"> • Requests clarification on Purpose/scope of technical meeting, and who is expected to attend. 	<p>MVLWB Response:</p> <p>The purpose of holding an external technical meeting is typically to:</p> <ul style="list-style-type: none"> • Identify any major technical issues associated with a project; and • Provide an opportunity for participants to seek clarification or request additional information on a project.

Reviewer Comments – Town of Hay River – MV2009L3-0005

Reviewer	Comment	Mitigation
	<ul style="list-style-type: none"> • Clarification on Purpose/scope of pre-hearing conference, and who is expected to attend. 	<p>Participants typically include technical reviewers and the Proponent.</p> <p>The purpose and scope of a pre-hearing conference may include, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Identifying and discussing any preliminary or legal issues that the Board should address before the public hearing; • Providing and developing a list of issues that you intend to address in your evidence at the public hearing; • Listing the witnesses or representatives who will be making presentations on your behalf at the public hearing, and outlining their expertise and the nature of their evidence; • Indicating how much time needed to present an intervention (including all witnesses) at the public hearing; and

Reviewer Comments – Town of Hay River – MV2009L3-0005

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	<ul style="list-style-type: none"> • Why are intervention IRs listed in the Plan as due on two separate deadlines, Jan 4, 2010 and Jan 14, 2010? • More time required to assess response to undertakings. • Why does Proponent get two extra days for final arguments? 	<ul style="list-style-type: none"> • Outlining other matters or clarifications related to the conduct of the public hearing which could be addressed before the hearing takes place. Participants typically include Board staff, legal counsel, and interveners <p>Jan. 4 is the due date for IRs. Jan. 14 is the due date for responses to the IRs. The MVLWB is under strict timelines for this municipal water licence renewal, restricting our ability to provide longer timeframes for final intervenor arguments.</p> <p>The Proponent is given two additional days to submit their final argument so that they can prepare a response based on what has been submitted by the interveners.</p>

Reviewer Comments – Town of Hay River – MV2009L3-0005

Reviewer	Comment	Mitigation
<p>Robert Jenkins A/Manager Indian and Northern Affairs</p>	<p>It is ENR's position that decisions pertaining to the determination of the requirement for preliminary screening rest with the Land and Water Board. Given the above, we will not be providing comments on this matter.</p> <p>Excerpt from INAC's comments.</p> <p>"At this time, INAC has no objections to the DRAFT timeline for the processing of this application as proposed by the Board.</p> <p>Within your letter, the Board also requested input from external parties regarding whether this application could be exempt from preliminary screening under the <i>Mackenzie Valley Resource Management Act</i>. Part 5 Section 124 of the <i>Mackenzie Valley Resource Management Act</i> as well as the <i>Exemption List Regulations</i> under the Act, clearly identify situations where an application for a water licence may be exempt from preliminary screening. The Board must now decide whether or not the application from the Town of Hay River warrants such an exemption. INAC looks forward to the Board's decision and reasons for decision on this matter."</p>	<p>Noted.</p>
		<p>Noted.</p>

Town of Hay River, MV2009L3-0005 – WORK PLAN

Task	Duration	Date Completed
Complete application received/sent for review		July 27, 2009, comments due October 7, 2009
Work Plan sent out for review		July 27, 2009, comments due August 12, 2009
Comments issued to Proponent		October 8, 2009
Proponent reply to comments	Approximately 14 days	October 21, 2009
Technical meeting	1 day	November 13, 2009
Written interventions due	Approximately 2 weeks later	November 25, 2009
Public Hearing Announcement	60 days before hearing	November 27, 2009
Intervention IRs – if required	10 days before presentations due	January 4, 2010
Pre-hearing conference	18 days before the hearing	January 7, 2010
Proponent's response to interventions	15 days prior to hearing	January 11, 2010
Hearing presentations and intervention IRs due	Approximately 10 days prior to hearing	January 14, 2010
Public Hearing	2 days	January 26-27, 2010
Undertakings due	1 week after hearing	February 4, 2010
Final argument due - Intervener		February 10, 2010
Final argument due - Proponent		February 12, 2010
Draft WL sent out for review	21 days for review	February 16, 2010 Comment deadline March 9, 2010
Draft WL and reasons for decision presented to Board	1 day	March 30, 2010
Final WL sent to Minister of INAC for review and approval	60 days	March 31, 2010
Current licence expiry		May 31, 2010

From: Shannon Hayden - MVLWB [shayden@mvlwb.com]
Sent: Tuesday, October 06, 2009 2:32 PM
To: 'patrick_clancy@gov.nt.ca'
Cc: 'permits@mvlwb.com'; 'Anne Umpleby'
Subject: Response to Town of Hay River MV2009L3-0005 Draft Work Plan Comments

Mr. Clancy,

The Mackenzie Valley Land and Water Board (MVLWB) would like to take this opportunity to respond to the questions and comments provided by the GNWT- Environment and Natural Resources (ENR) dated August 12, 2009 concerning the Draft Work Plan for the Town of Hay River Water Licence Renewal. We apologize for the delayed response.

1. Clarification on Technical Meeting

The purpose of holding an External Technical Meeting is typically to:

- Identify any major technical issues associated with a project; and
- Provide an opportunity for participants to seek clarification or request additional information on a project. Participants typically include technical reviewers and the proponent.

2. Clarification on Pre-Hearing Conference

The purpose and scope of a Pre-Hearing Conference may include, but is not limited to, the following:

- Identifying and discussing any preliminary or legal issues you identify that the Board should address before the public hearing;
- Providing and developing a list of issues that you intend to address in your evidence at the public hearing;
- Listing the witnesses or representatives who will be making presentations on your behalf at the public hearing, and outlining their expertise and the nature of their evidence;
- Indicating how much time you will need to present your intervention (including all of your witnesses) at the public hearing; and
- Outlining other matters or clarifications related to the conduct of the public hearing which you would like addressed before the hearing takes place.

Participants typically include Board staff, legal counsel and interveners

3. Clarification on IR's, multiple requests

The Jan 4th date is the due that IRs are due.

The Jan 14th date is the date responses to those IR's are due.

4. Intervener Arguments, time constraints

The MVLWB is under strict timelines for this Municipal Water Licence renewal, restricting our ability to provide longer timeframes for Final Intervener Arguments.

5. Clarification on proponent argument due date

The Proponent is given two additional days to submit their final argument so that they can prepare a response based what has been submitted by the interveners.

I hope this answers your questions, if you have any further concerns please contact me at 669-0506.

Thank you,

Shannon Hayden

Regulatory Officer

Mackenzie Valley Land and Water Board

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