



Mackenzie Valley Land and Water Board
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Staff Report

Applicant: Transport Canada	
Location: Fort Smith, NT	File Number: MV2019X0012
Date Prepared: September 16, 2019	Date of Board Meeting: September 26, 2019
Subject: Fort Smith Airport Monitoring Wells	

1. Purpose

The purpose of this Report is to present to the Mackenzie Valley Land and Water Board (MVLWB/the Board):

- a) A new Land Use Permit (Permit) Application submitted by Transport Canada;
- b) Consider the preliminary screening;
- c) Consider the Waste Management Plan;
- d) Consider the Spill Contingency Plan; and
- e) Consider the Engagement Plan.

2. Background

- April 30, 2019 – Application received;
- May 10, 2019 – Application deemed incomplete;
- July 12, 2019 – Application resubmitted with supplemental information;
- July 22, 2019 – Application deemed complete and review commenced [incorrect distribution list];
- August 19, 2019 – Review extended [correct distribution list];
- August 26, 2019 – End of 42-day timeline;
- September 2, 2019 – Reviewer comments and recommendations due and received;
- September 9, 2019 – Responses due and received;
- **September 26, 2019 – Application presented to the Board for decision.**

3. Discussion

Description of Application

Transport Canada has applied to install three (3) groundwater monitoring wells near the northern property boundary of the Fort Smith airport. This work is being conducted to determine presence or absence of hydrocarbon contaminants near the airport property boundary, in order to detect any potential off-site concentrations.

The boreholes would be drilled using vehicle-portable equipment, and the project does not require any heavy vehicles, explosives, earth-moving machinery, or a camp. The area in question is previously disturbed industrial land. Vehicle refueling will occur from a tank in an airport refueling area. Most fieldwork would be conducted in the 2019-2020 field season. The wells are expected to be decommissioned once the sampling is complete and restored to previous condition by the end of the 2020-2021 field season.

Environmental risk from the project is expected to be minimal. The application and supplemental information (attached) provide information on mitigating risks.

Management Plans

A Waste Management Plan and Spill Contingency Plan were included with the Application. An updated Waste Management Plan was received on July 10, 2019.

Board staff suggest that the Plans meets applicable guidelines and sufficiently reflect the scope of the proposed activities, except for information in the Spill Contingency Plan to be furnished by the drilling contractor (see Section 5 below).

Engagement

An [Engagement Record and Engagement Plan](#) were included in the Application. An updated version was submitted on June 21, 2019. Transport Canada noted they engaged with the following parties:

- Akaitcho Territory Government (ATG);
- Salt River First Nation (SRFN)
- Smith's Landing First Nation (SLFN);
- Fort Smith Airport;
- Government of the Northwest Territories, Department of Infrastructure (GNWT-INF);
- Town of Fort Smith; and
- Northwest Territory Métis Nation (NWTMN).

The initial round of engagement was conducted by telephone followed by email. Transport Canada engaged with ATG to distribute their engagement material to local First Nations, but other groups were contacted directly. No concerns were noted in the Engagement Record.

Eligibility

Transport Canada holds an access agreement with GNWT-INF (the property owner) and is therefore eligible for a permit as per subsection 18(b) of the Mackenzie Valley Land Use Regulations:

18) A person is eligible for a permit who

(a) Where the proposed land-use operation is in the exercise of a right to search for, win or exploit minerals or natural resources,

(i) holds the right

(ii) is the manager of operations, where the right is held by two or more persons who have entered into an exploration or operating agreement designating one of them as the manager of operations; or

- (iii) *is the person who contracts to have the land use operation carried out, where the right is held by two or more persons who have not entered into an exploration or operating agreement designating one of them as manager of operations; or*
- (b) *in any other case, has a right to occupy the land and either contracts to have the land-use operation carried out or is the person who is to carry out the operation.*

Type of Area

This Project is located in a non-federal area. Airport administration once fell under federal jurisdiction but was devolved to the GNWT in 1995 under the Arctic “A” Transfer Agreement. The area of the Fort Smith airport now falls on Commissioner’s Land.

Fees

No application fee was required as the Applicant is the Government of Canada.

Term

Transport Canada has applied for a term of 5 years. Board staff note that permits can be granted for a period of five years, plus a two-year extension (for a total of seven years).

4. Comments

Triggers

The activities as described trigger a Type B Permit in accordance with paragraph 5(b) of the Mackenzie Valley Land Use Regulations:

- (5) *No person shall, without a Type B permit, carry out any activity that involves*
- (b) *On land within or outside the boundaries of a local government,*
- (i) *The use of motorized earth-drilling machinery the operating weight of which, excludes the weight of drill rods, stems, bits, pumps and other ancillary equipment, equals or exceeds 500 kg but is less than 2.5 t, for a purpose other than the drilling of holes for building piles or utility poles or the setting of explosives within the boundaries of a local government.*

No water licence is triggered because there is no direct water use or deposit of waste.

5. Public Review

On July 22, 2019, the item was posted for public review. Board staff determined that the initial distribution list was inadequate and did not reach all parties potentially affected by the proposed activity. On August 19, 2019, the item was put out for an additional review period in order to capture the entire Akaitcho distribution list. This second review period caused the regulatory process to exceed the 42-day limit in which the Board is required to issue a Permit. The need to adequately engage stakeholders in the Boards process is however of greater importance than that of the regulatory timeline.

By September 2, 2019, comments and recommendations on the Application were received from 4 reviewers:

- Government of the Northwest Territories, Department of Education, Culture and Employment (GNWT-ECE), Prince of Wales Northern Heritage Centre (PWNHC);

- Government of the Northwest Territories, Department of Environment and Natural Resources (GNWT-ENR);
- Government of the Northwest Territories, Department of Lands (GNWT-Lands), Inspector, Hay River Region; and
- Government of the Northwest Territories, Department of Lands (GNWT-Lands).

Transport Canada responded by September 3, 2019. The Review Summary and Attachments (attached) presents the concerns identified through this review.

Main Issues Raised during the Review

The following summarizes the main issues raised during the review:

- GNWT-ECE recommended removal of draft conditions Archaeological Overview and AIA-High Potential. These recommendations are outlined in the updated draft Permit (attached).
- GNWT-ENR issued a number of reminders to Transport Canada, including:
 - the requirement to obtain permission from the Town of Fort Smith to use its landfill (which was already obtained);
 - clarification of the location of hazardous waste disposal (which Transport Canada noted will be out of territory);
 - a number of standard suggestions such as the need to register as a generator of hazardous waste, guidance on spill contingency planning, avoiding disturbance of wildlife and wildlife habitat, and provision of GIS data for the project boreholes. The issues that fell within the Board’s authority are addressed by draft Permit conditions.
- The GNWT-Lands Inspector recommended including Final Cleanup and Restoration in the permit conditions. These recommendations are outlined in the updated draft Permit (attached).
- GNWT-Lands had no further comments.

Transport Canada responded appropriately to all comments.

Analysis of Adequacy of Management Plans

Board staff suggest that the Waste Management Plan and Engagement Plan meet applicable guidelines and sufficiently reflect the scope of the proposed activities. However, the Spill Contingency Plan does not include some project-specific information as Transport Canada had yet not identified a drilling contractor at the time of application.

Table 1: Plan Completeness

Permit Condition	Management Plan	Board staff analysis of the adequacy of the Plan
19	Waste Management Plan	Adequate.
29	Spill Contingency Plan	Overall adequate but requires confirmation of details when Transport Canada has identified a contractor. This includes: <ul style="list-style-type: none"> – Identification of site representatives and the contractor; – Updating of contact information, including the contractor (Section 3); and – Append Material Safety Data Sheets

		(MSDS) for any of the hazardous materials used or generated on site, such as on the Potential Contaminants list in Section 2.1.
38	Engagement Plan	Adequate.

Preliminary Screening

The draft Preliminary Screening (attached) contains information from the Application and public review regarding environmental and socio-economic concerns, along with mitigations, and is for the Board’s consideration.

Draft Permit

The draft Permit (attached) contains recommended conditions based the standard Permit conditions list and reflects concerns and recommendations raised during the public review.

6. Security

Security is not applicable to this Project as per section 94 of the *Mackenzie Valley Resource Management Act* (MVRMA), because the federal government is not required to post security pursuant to section 71 of the MVRMA.

7. Conclusion

The draft Permit conditions are based upon the standard condition list, public review, and Board staff recommendations. Board staff conclude that the conditions contained within this draft Permit should mitigate the potential environmental impacts this development may have on the land and water.

Board staff conclude that the Engagement Plan and the Waste Management Plan, as submitted, are in conformity with guidelines and the requirements of Permit MV2019X0012 and can be approved.

Board staff suggest that the Spill Contingency Plan should be revised and re-submitted to include information supplied by the local contractor. The Board will need to determine whether the information requested shall be submitted and reviewed prior to approval, or whether the Permit provides enough flexibility for staff conformity of revisions.

8. Recommendation

Board staff recommend the Board:

- a) **Make a motion to approve the preliminary screening** of the Application for Land Use Permit MV2019X0012 from Transport Canada.
- b) **Make a motion to approve the Type B Land Use Permit MV2019X0012** for a term of 5 years **and associated Reasons for Decision**.
- c) **Make a motion to approve the Waste Management Plan** as required by Land Use Permit MV2019X0012.
- d) **Make a motion to approve the Spill Contingency Plan as required by Land Use Permit MV2019X0012 as an interim submission**. Transport Canada is required to submit a revised submission in accordance with comments and commitments made during this review prior to commencement of the land use activity, for confirmation of conformity from Board staff.

e) **Make a motion to approve the Engagement Plan** as required by Land Use Permit MV2019X0012.

A draft decision letter is attached.

9. Attachments

- [Application](#)
 - [Application Additional Information](#), submitted July 12, 2019
 - [Map - Site Location Plan](#) (DWG-1)
 - [Map – Proposed Well Location Plan](#) (DWG-2)
 - [Access agreement](#) with GNWT Department of Infrastructure
 - [Letter from Town of Fort Smith](#) authorizing use of landfill
 - [Waste Management Plan](#), version 2
 - [Spill Contingency Plan](#)
 - [Engagement Plan and Record](#), version 2
- Review Summary and Attachments
- Draft Preliminary Screening
- Draft Land Use Permit Cover Page
- Draft Land Use Permit Conditions
- Draft Reasons for Decision
- Draft Decision Letter from the Board

Respectfully submitted,



David Finch
Regulatory Specialist

Review Comment Table

Board:	MVLWB
Review Item:	Transport Canada - New Permit application - Fort Smith Airport Monitoring Wells (MV2019X0012)
File(s):	MV2019X0012
Proponent:	Transport Canada
Document(s):	MV2019X0012 - Transport Canada - LUP application additional information (110 KB) MV2019X0012 - Transport Canada - New LUP Application (4.89 MB) MV2019X0012 - Transport Canada - Waste Management Plan v2 (584 KB) MV2019X0012 - Transport Canada - Spill Contingency Plan (278 KB) MV2019X0012 - Transport Canada - Engagement Plan v2 (624 KB) MV2019X0012 - Transport Canada - DWG-1 Site Location Plan (695 KB) MV2019X0012 - Transport Canada - DWG-2 Map (974 KB) MV2019X0012 - Transport Canada - Letter from Fort Smith on Landfill Use (23 KB) MV2019X0012 - Transport Canada - Fort Smith Airport Monitoring Wells - Draft LUP conditions (257 KB) MV2019X0012 - Transport Canada - Fort Smith airport monitoring - RE Access Agreement - TC at Fort Smith Airport (736 KB)
Item For Review Distributed On:	July 22 at 17:53 Distribution List Aug 19 at 15:24 Distribution List
Reviewer Comments Due By:	Sep 2, 2019
Proponent Responses Due By:	Sep 9, 2019
Item Description:	<p>*** Please note that this item has been extended in order to capture all parties on the distribution list. Please note that some parties have already responded in the review. ***</p> <p>Transport Canada (TC) has submitted a complete application for a type B land use permit (permit). The purpose of this Application is to conduct groundwater monitoring at Fort Smith Airport, in Fort Smith, NT. This includes the installation of monitoring wells and the use of drill equipment and vehicle.</p> <p>Reviewers are invited to submit comments and recommendations using the Online Review System (ORS) by the review comment deadline specified below. If reviewers seek clarification on the submission, they are encouraged to correspond directly with the Applicant prior to submitting comments and recommendations.</p> <p>Please provide comments and recommendations on the documents linked below. Reviewers may also wish to consider providing an overarching recommendation regarding whether they are in support of the submission, to provide context for comments and recommendations and to assist the Board with its decision.</p>

	<p>Please note that the draft Permit has been developed using the MVLWB’s current Standard Land Use Permit Conditions Template. The purpose of this draft Permit is to allow reviewers to comment on possible conditions. These draft materials are not intended to limit in any way the scope of reviewers’ comments. The Board is not bound by the contents of the draft Permit and will make its decision at the close of the proceeding on the basis of all the evidence and arguments filed by all reviewers.</p> <p>Under the Preliminary Screening Requirement Regulations of the <i>Mackenzie Valley Resource Management Act (MVRMA)</i>, the Board must conduct a preliminary screening for an application for a proposed development that requires a land use permit, unless it is exempt from preliminary screening in accordance with the <i>Exemption List Regulations</i>. Reviewers are encouraged to provide comments and recommendations (e.g. on impacts and mitigation measures) to assist with the completion of the preliminary screening.</p> <p>Please be advised that comments made by reviewers regarding impacts of this project to wildlife and wildlife habitat in this preliminary screening will inform the GNWT Minister of Environment and Natural Resources’ determination regarding whether a Wildlife Management and Monitoring Plan will be required for this project as per Section 95 of the <i>Wildlife Act</i>.</p> <p>All documents that have been uploaded to this review are also available on our public Registry. If you have any questions or comments about the ORS or this review, please contact Board staff identified below.</p>
<p>General Reviewer Information:</p>	<p>In addition to the email distribution list, the following organizations received review material by fax:</p> <ul style="list-style-type: none"> • Northwest Territory Métis Nation: Tim Heron, NWTMN IMA Coordinator - (867) 872-3586.
<p>Contact Information:</p>	<p>David Finch 867 766 7467 Jen Potten 867-766-7468</p>

Comment Summary

GNWT - ECE (Education, Culture and Employment): Glen Mackay				
ID	Topic	Reviewer Comment/ Recommendation	Proponent Response	Board Staff Analysis
1	Draft Land Use Permit Conditions - Section 26(1)(j).	<p>Comment As this project consists of only 3 boreholes on previously developed airport property, the Culture and Heritage Division of ECE does not require any pre-disturbance archaeological studies at this time</p> <p>Recommendation We recommend that conditions 24 (Archaeological Potential) and 25 (AIA-High Potential) be removed from the final land use permit.</p>	Aug 6: Noted	<p>Adequate response.</p> <p>Board staff have addressed recommendation in revised permit conditions.</p>
GNWT - ENR - EAM: Central Email GNWT				
ID	Topic	Reviewer Comment/ Recommendation	Proponent Response	Board Staff Analysis
12	General File	<p>Comment (doc) ENR Letter with Comments and Recommendations</p> <p>Recommendation</p>		
1	Topic: Industrial and Solid, Liquid or Sewage Waste Disposal	<p>Comment If the Proponents Waste Management Plan or methods of waste disposal indicate that project waste, or industrial waste, will be transported to community infrastructure for disposal, the Proponent should not assume they may deposit industrial wastes, generated outside of community boundaries, in Northwest Territories community Solid and Liquid Waste Disposal Facilities.</p> <p>Recommendation 1) Should the Proponent intend to deposit waste in an NWT community Solid</p>	<p>Aug 8: A letter from the Town of Fort Smith indicates which wastes are acceptable for disposal at the local facilities. This letter was provided to the MVLWB and has been uploaded as an attached document. TC does not assume that any waste outside what is described in the letter can be deposited at the facility. All waste will be disposed of in accordance with applicable regulations and guidelines. The Government of Northwest Territories ATLAS indicates that the</p>	<p>The attached correspondence from the Town of Fort Smith confirms that Transport Canada may dispose of non-hazardous waste at its landfill. This is an appropriate use under the facility's water licence.</p> <p>Verbal communication with Transport Canada (Sept. 4, 2019) indicates that their contractor will be responsible for hazardous waste disposal, and that they expect any hazardous waste to be shipped out of the NWT.</p>

		and Liquid Waste Disposal Facility, ENR requests that the Proponent demonstrate in the Waste Management Plan, and to the Board, that the receiving communities' Solid and Liquid Waste Disposal Facility holds a Water Licence that authorizes the disposal of any industrial waste streams originating from outside municipal boundaries. The Proponent should also demonstrate to the Board that the community has been consulted, and has consented in writing, regarding the use of its infrastructure for disposal of the waste streams and quantities in question, and the disposal of such wastes will not contravene the Waters Act or the Environmental Protection Act and related Regulations and Guidelines.	Fort Smith Airport is located within municipal boundaries.	
2	Topic: Hazardous Waste Management	Comment All Proponents that generate hazardous wastes must be registered as a generator of hazardous waste in the NWT. The Guideline for the General Management of Hazardous Waste in the NWT defines hazardous waste and outlines the roles and responsibilities of generators, carriers, and receivers of hazardous waste in the NWT. The ENR, Environment Division (ED) registers generators, carriers, receivers, and tracks the disposal of hazardous waste generated in the NWT to	Aug 8: Transport Canada is registered with the Government of Northwest Territories as a Hazardous Waste Generator.	Acceptable response. Board staff have confirmed with GNWT-ENR that Transport Canada is registered as a generator of hazardous waste.

		<p>registered receiving facilities on hazardous waste movement documents (manifest). The definition of hazardous waste includes all waste materials that are 'dangerous goods' according to the Transportation of Dangerous Goods Regulations, and any additional waste of special concern that the ED has determined hazardous until proven otherwise, including but not limited to: a) incinerator waste and/or residuals (including bottom ash and fly ash); b) any liquid or solid wastes contaminated with refined petroleum products; c) bilge wastes; d) vehicle or vessel servicing wastes e) drilling wastes; f) produced fluids (Glycol / Hydrocarbon / Inorganic Mixtures); g) tailings; and h) any hydrocarbon, lead, mercury or other forms of contaminated soils. The Guideline for the General Management of Hazardous Waste in the NWT and the Transportation of Dangerous Good Regulations may be found at the following sites: http://www.enr.gov.nt.ca/sites/enr/files/guidelines/general_management.pdf http://www.tc.gc.ca/eng/t dg/clear-menu-497.htm</p> <p>Recommendation 1) If the Proponent is using or generating hazardous waste, they must register as a generator of hazardous waste in the NWT and track the disposal</p>		
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		of hazardous waste from the site activities to registered receivers on hazardous waste movement documents provided by ENR. Please contact the Environment Division, ENR to register or for more information contact Mr. Lee Ross, Hazardous Materials Management Specialist, Waste Management and Monitoring Division by email (Lee_Ross@gov.nt.ca) or by phone (867) 767-9236 extension 53187.		
3	Topic: Fuel Storage and Spill Contingency Planning and Reporting	<p>Comment ENR acknowledges the proponent's Spill Contingency Plan. In addition, the Proponent should also follow best practices for fuel storage and spill containment during project activities which may include the following recommendations.</p> <p>Recommendation 1) To assist in spill contingency planning, information is provided in EPA Spill Contingency Planning and Reporting Regulations found here: https://www.justice.gov.nt.ca/en/files/legislation/environmental-protection/environmental-protection.r2.pdf If clarification or further information is needed please contact the Environment Division, ENR directly to aid in the development of the Plan</p>	Aug 8: Noted.	Acceptable response.
4	None	<p>Comment None</p> <p>Recommendation 2) In</p>	Aug 8: As per the Spill Contingency Plan, all	Acceptable response.

		accordance with the Spill Contingency Planning and Reporting Regulations Section 10, all spills in accordance with Schedule B must be reported immediately to the 24-hour Spill Report Line (867) 920-8130.	applicable spills will be reported to the 24-hour Spill Report Line.	Notification is included in the Spill Contingency Plan.
5	None	Comment None Recommendation 3) With respect to the Environmental Protection Act Section 5 (1b) all spills, regardless of amount, must be cleaned up, and contaminated materials disposed of at an approved facility, or in an approved manner. Additionally, as indicated in Section 5(1c) all reasonable efforts must be made to notify any parties affected or potentially affected by the spill.	Aug 8: Noted. Any spills, regardless of amount, will be cleaned up and disposed of appropriately.	Acceptable response. Already covered by permit condition <i>Clean Up Spills</i> . Notification and disposal are included in the Spill Contingency Plan and Waste Management Plan, respectively.
6	None	Comment None Recommendation 4) Fuel storage areas should be greater than 100m distance from the ordinary high water mark of a water body and not located in a drainage channel.	Aug 8: Noted.	Acceptable response. Board staff have addressed recommendation in revised permit conditions. <i>Fuel Storage Setback</i> added to conditions.
7	None	Comment None Recommendation 5) All fuel or storage vessels containing hazardous substances left for extended periods of time (including overnight in vehicles), should be stationed in an area that contains sufficient secondary containment (i.e. Drip pans, lined bermed areas, double walled enviro-tanks etc.).	Aug 8: Noted.	Acceptable response. Already covered by permit condition <i>Drip Trays</i> .

8	None	<p>Comment None</p> <p>Recommendation 6) It is recommended spill kits be provided. Personnel should be trained to ensure that in the event of a spill it is contained and remediated appropriately to industry-accepted best practices and regulatory approval. In case refuelling takes place near water, in water spill planning should be considered to prevent inadvertent releases.</p>	<p>Aug 8: Noted.</p>	<p>Acceptable response.</p>
9	None	<p>Comment None</p> <p>Recommendation 7) ENR recommends, for the operator's convenience and increased environmental protection, that all heavy equipment and refuelling vehicles carry portable spill kits that include items such as absorbent pads, containment booms, and spill pool catchment receptacles. Readily available and fully stocked spill kits can effectively mitigate potential spills.</p>	<p>Aug 8: Spill kits will be kept on site. The Spill Contingency Planning and Reporting Regulations will be adhered to for the project, including the recommendations outlined in comments ID 3-9, as described in the submitted Spill Contingency Plan.</p>	<p>Acceptable response.</p>
10	<p>Topic: Wildlife: NWT Listed and Pre-listed Species at Risk</p>	<p>Comment Sections 76 and 77 of the Species at Risk (NWT) Act require the Minister of Environment and Natural Resources to make a submission to the body responsible for assessing the potential impacts of a proposed development, or for considering a Land Use Permit or Water Licence application, respecting the potential impacts of the proposed development, Permit or Licence application on a NWT-listed or pre-listed species</p>	<p>Aug 8: Noted, the names of listed and/or pre-listed species will be provided to the qualified environmental consultant.</p>	<p>Acceptable response.</p>

		<p>or its habitat. NWT-listed species are those that are on the NWT List of Species at Risk. Pre-listed species are those that have been assessed by the NWT Species at Risk Committee (SARC) but have not yet been added to the NWT List of Species at Risk. The Proponent should be aware that NWT-listed or pre-listed species at risk and their habitat may also be subject to protection under existing sections of the NWT Wildlife Act. As a best practice, ENR encourages the Proponent to consider potential impacts, mitigation measures and monitoring requirements for species at risk listed under the federal Species at Risk Act, as well as those designated as at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) that may occur in the project area, and the prohibitions that may apply to these species under federal legislation. The project area overlaps with the ranges of the following NWT-listed and/or pre-listed species: . Boreal Caribou - Threatened . Grizzly Bear - Special Concern . Little Brown Myotis - Special Concern . Northern Myotis - Special Concern . Wood Bison - Threatened . Northern Leopard Frog - Threatened</p> <p>Recommendation 1) Although the project overlaps with the range(s) of the species listed above, ENR is of the opinion that</p>		
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		the scope, areal extent, scale and/or timing of the proposed project are such that the likelihood of significant negative impacts to NWT-listed or pre-listed species at risk is minimal while employing appropriate mitigation measures.		
11	Topic: Cumulative Effects Tracking	<p>Comment Keeping track of the disturbance footprint of development activities is an important component of tracking and informing the management of cumulative effects on wildlife and wildlife habitat.</p> <p>Recommendation 1) The Proponent should submit the bounding coordinates or geospatial data for the proposed project footprint and for the completed project footprint to the Land and Water Board for placement on the public registry. The Mackenzie Valley Land and Water Board's <i>Standards for Geographic Information Systems (GIS) Submissions</i> should be followed when submitting spatial data.</p>	<p>Aug 8: The project is taking place on previously disturbed land, and TC is required under the Access Agreement to return the Lands to the condition it was in upon commencement of the Work. Surface disturbance is not anticipated to be more severe than normal operational activities that take place on airport property. Should the Board require additional maps or coordinates, they can be provided prior to mobilization.</p>	<p>Adequate response.</p> <p>Board staff request that Transport Canada provide geospatial data of project area, including borehole locations following completion of work.</p>

GNWT - Lands - Hay River Region: Norman McCowan

ID	Topic	Reviewer Comment/ Recommendation	Proponent Response	Board Staff Analysis
1	LUPA MV2019X0012 - Restoration Condition	<p>Comment Recommended condition addresses final cleanup and restoration of lands used within the project area at completion of operation.</p> <p>Recommendation Inspector recommends the following condition be</p>	<p>Aug 8: The Access Agreement between the Government of Northwest Territories and Transport Canada requires that, upon completion of the work, Transport Canada will remove all equipment, infrastructure and installations associated with the Work and repair</p>	<p>Adequate response.</p> <p>Board staff have addressed recommendation in revised permit conditions. <i>Final Cleanup and Restoration</i> added to conditions.</p>

		included in the land use permit under section 26(1)(0) Restoration of Lands “Prior to the end of the land-use operation, the Permittee shall complete all cleanup and restoration of the lands used.”	any damage to landscaping or other improvements on the Lands caused by the Work and return the Lands to the condition it was in upon commencement of the Work.	
GNWT - Lands - North Slave Region: Cheryl Larocque				
ID	Topic	Reviewer Comment/ Recommendation	Proponent Response	Board Staff Analysis
1	LUPA - MV2019X0012	Comment (doc) Please see attached formal response. Recommendation Please see attached formal response.	Aug 8: Noted.	Adequate response.



August 1, 2019

David Finch
Mackenzie Valley Land and Water Board (MVLWB)
7th Floor, 4922-48th Street
YELLOWKNIFE, NT X1A 2P6

Dear Mr. Finch:

Land Use Permit Application: MV2019X0012 - Transport Canada
Type of Operation: Groundwater Monitoring
Location: Fort Smith Airport

The Government of the Northwest Territories (GNWT) reviewed Land Use Permit Application MV2019X0012 and recommends that the permit be granted.

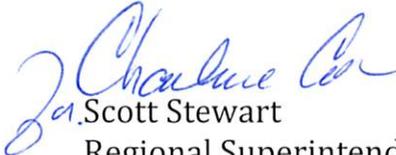
Our Inspector Leslie Wiltzen, provided his comments and recommendations for your consideration, via the LWB Online Review System.

Comments received from Commissioner's Lands Administration (CLA) have advised that based on the map and coordinates provided, the Department of Infrastructure administers these lands pursuant to the *Commissioner's Public Airport Lands Regulations*. It would appear, based on the access agreement between the Department of Infrastructure and Transport Canada that Infrastructure consents to the activity. Therefore, CLA has no concerns with the proposed application.

The Mining Recorder's Office indicates no concerns.

Thank you for the opportunity to comment on this application. Should you have any questions or concerns regarding our comments, please contact our Inspector, Leslie Wiltzen, at (867) 872-2558 ext. 23.

Sincerely,


Scott Stewart
Regional Superintendent
North Slave Region

c. South Slave Region (Fort Smith), Department of Lands, GNWT

Land Administration (Yellowknife), Department of Lands, GNWT

Mining Recorder's Office (Yellowknife), Department of Industry, Tourism & Investment, GNWT



August 6, 2019

Jen Potten
Regulatory Coordinator
Mackenzie Valley Land and Water Board
7th Floor – 4910 50th Avenue
P.O. Box 2130
Yellowknife, NT
X1A 2P6

Dear Ms. Potten,

**Re: Transport Canada
Land Use Permit Application – MV2019X0012
Fort Smith Airport Monitoring Wells
Request for Review and Comments**

The Department of Environment and Natural Resources (ENR), Government of the Northwest Territories has reviewed the application at reference based on its mandated responsibilities under the *Environmental Protection Act*, the *Forest Management Act*, the *Forest Protection Act*, the *Species at Risk (NWT) Act*, the *Waters Act* and the *Wildlife Act* and provides the following comments and recommendations for the consideration of the Board.

Topic 1: Industrial and Solid, Liquid or Sewage Waste Disposal

Comment(s):

If the Proponents Waste Management Plan or methods of waste disposal indicate that project waste, or industrial waste, will be transported to community infrastructure for disposal, the Proponent should not assume they may deposit industrial wastes, generated outside of community boundaries, in Northwest Territories community Solid and Liquid Waste Disposal Facilities.

Recommendation(s):

- 1) Should the Proponent intend to deposit waste in an NWT community Solid and Liquid Waste Disposal Facility, ENR requests that the Proponent demonstrate in the Waste Management Plan, and to the Board, that the receiving communities'

Solid and Liquid Waste Disposal Facility holds a Water Licence that authorizes the disposal of any industrial waste streams originating from outside municipal boundaries. The Proponent should also demonstrate to the Board that the community has been consulted, and has consented in writing, regarding the use of its infrastructure for disposal of the waste streams and quantities in question, and the disposal of such wastes will not contravene the Waters Act or the *Environmental Protection Act* and related Regulations and Guidelines.

Topic 2: Hazardous Waste Management

Comment(s):

All Proponents that generate hazardous wastes must be registered as a generator of hazardous waste in the NWT.

The Guideline for the General Management of Hazardous Waste in the NWT defines hazardous waste and outlines the roles and responsibilities of generators, carriers, and receivers of hazardous waste in the NWT. The ENR, Environment Division (ED) registers generators, carriers, receivers, and tracks the disposal of hazardous waste generated in the NWT to registered receiving facilities on hazardous waste movement documents (manifest). The definition of hazardous waste includes all waste materials that are 'dangerous goods' according to the Transportation of Dangerous Goods Regulations, and any additional waste of special concern that the ED has determined hazardous until proven otherwise, including but not limited to:

- a) incinerator waste and/or residuals (including bottom ash and fly ash);
- b) any liquid or solid wastes contaminated with refined petroleum products;
- c) bilge wastes;
- d) vehicle or vessel servicing wastes
- e) drilling wastes;
- f) produced fluids (Glycol / Hydrocarbon / Inorganic Mixtures);
- g) tailings; and
- h) any hydrocarbon, lead, mercury or other forms of contaminated soils.

The Guideline for the General Management of Hazardous Waste in the NWT and the Transportation of Dangerous Good Regulations may be found at the following sites:

http://www.enr.gov.nt.ca/sites/enr/files/guidelines/general_management.pdf

<http://www.tc.gc.ca/eng/tdg/clear-menu-497.htm>

Recommendation(s):

- 1) If the Proponent is using or generating hazardous waste, they must register as a generator of hazardous waste in the NWT and track the disposal of hazardous

waste from the site activities to registered receivers on hazardous waste movement documents provided by ENR. Please contact the Environment Division, ENR to register or for more information contact Mr. Lee Ross, Hazardous Materials Management Specialist, Waste Management and Monitoring Division by email (Lee.Ross@gov.nt.ca) or by phone (867) 767-9236 extension 53187.

Topic 3: Fuel Storage and Spill Contingency Planning and Reporting

Comment(s):

ENR acknowledges the proponent's Spill Contingency Plan.

In addition, the Proponent should also follow best practices for fuel storage and spill containment during project activities which may include the following recommendations.

Recommendation(s):

- 1) To assist in spill contingency planning, information is provided in EPA *Spill Contingency Planning and Reporting Regulations* found here:

<https://www.justice.gov.nt.ca/en/files/legislation/environmental-protection/environmental-protection.r2.pdf>

If clarification or further information is needed please contact the Environment Division, ENR directly to aid in the development of the Plan

- 2) In accordance with the *Spill Contingency Planning and Reporting Regulations Section 10*, all spills in accordance with Schedule B must be reported immediately to the 24-hour Spill Report Line (867) 920-8130.
- 3) With respect to the *Environmental Protection Act Section 5 (1b)* all spills, regardless of amount, must be cleaned up, and contaminated materials disposed of at an approved facility, or in an approved manner. Additionally, as indicated in *Section 5(1c)* all reasonable efforts must be made to notify any parties affected or potentially affected by the spill.
- 4) Fuel storage areas should be greater than 100m distance from the ordinary high water mark of a water body and not located in a drainage channel.
- 5) All fuel or storage vessels containing hazardous substances left for extended periods of time (including overnight in vehicles), should be stationed in an area

that contains sufficient secondary containment (i.e. Drip pans, lined bermed areas, double walled enviro-tanks etc.).

- 6) It is recommended spill kits be provided. Personnel should be trained to ensure that in the event of a spill it is contained and remediated appropriately to industry-accepted best practices and regulatory approval. In case refuelling takes place near water, in water spill planning should be considered to prevent inadvertent releases.
- 7) ENR recommends, for the operator's convenience and increased environmental protection, that all heavy equipment and refuelling vehicles carry portable spill kits that include items such as absorbent pads, containment booms, and spill pool catchment receptacles. Readily available and fully stocked spill kits can effectively mitigate potential spills.

Topic 4: Wildlife: NWT Listed and Pre-listed Species at Risk

Comment(s):

Sections 76 and 77 of the Species at Risk (NWT) Act require the Minister of Environment and Natural Resources to make a submission to the body responsible for assessing the potential impacts of a proposed development, or for considering a Land Use Permit or Water Licence application, respecting the potential impacts of the proposed development, Permit or Licence application on a NWT-listed or pre-listed species or its habitat. NWT-listed species are those that are on the NWT List of Species at Risk. Pre-listed species are those that have been assessed by the NWT Species at Risk Committee (SARC) but have not yet been added to the NWT List of Species at Risk.

The Proponent should be aware that NWT-listed or pre-listed species at risk and their habitat may also be subject to protection under existing sections of the NWT *Wildlife Act*.

As a best practice, ENR encourages the Proponent to consider potential impacts, mitigation measures and monitoring requirements for species at risk listed under the federal *Species at Risk Act*, as well as those designated as at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) that may occur in the project area, and the prohibitions that may apply to these species under federal legislation.

The project area overlaps with the ranges of the following NWT-listed and/or pre-listed species:

- [Boreal Caribou](#) - Threatened
- [Grizzly Bear](#) - Special Concern

- [Little Brown Myotis](#) - Special Concern
- [Northern Myotis](#) - Special Concern
- [Wood Bison](#) - Threatened
- [Northern Leopard Frog](#) - Threatened

Recommendation(s):

- 1) Although the project overlaps with the range(s) of the species listed above, ENR is of the opinion that the scope, areal extent, scale and/or timing of the proposed project are such that the likelihood of significant negative impacts to NWT-listed or pre-listed species at risk is minimal while employing appropriate mitigation measures.

Topic 5: Cumulative Effects Tracking

Comment(s):

Keeping track of the disturbance footprint of development activities is an important component of tracking and informing the management of cumulative effects on wildlife and wildlife habitat.

Recommendation(s):

- 1) The Proponent should submit the bounding coordinates or geospatial data for the proposed project footprint and for the completed project footprint to the Land and Water Board for placement on the public registry. The Mackenzie Valley Land and Water Board's "*Standards for Geographic Information Systems (GIS) Submissions*" should be followed when submitting spatial data.

Comments and recommendations were provided by ENR technical experts in the the Environmental Protection and Waste Management Division, the Wildlife Management Division and the South Slave Region and were coordinated and collated by the Environmental Assessment and Monitoring Section(EAM), Environmental Stewardship and Climate Change Division.

Should you have any questions or concerns, please do not hesitate to contact Patrick Clancy, Environmental Regulatory Analyst at (867) 767-9233 Ext: 53096 or email patrick.clancy@gov.nt.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Clancy', written in a cursive style.

Patrick Clancy
Environmental Regulatory Analyst
Environmental Assessment and Monitoring Section
Environmental Stewardship and Climate Change Division
Department of Environment and Natural Resources
Government of the Northwest Territories