



Mackenzie Valley Land and Water Board
7th Floor - 4922 48th Street
P.O. Box 2130
YELLOWKNIFE NT X1A 2P6
Phone (867) 669-0506
FAX (867) 873-6610

October 8, 2019

File: MV2019X0012

Mr. Reid Campbell
Transport Canada
Prairie and Northern Region
344 Edmonton Street
Winnipeg MB R3C 0P6

Email: reid.campbell@tc.gc.ca

Dear Mr. Campbell:

**Issuance of Type B Land Use Permit
Installation of Monitoring Wells at Fort Smith Airport – Fort Smith, NT**

Attached is Type B Land Use Permit MV2019X0012 granted by the Mackenzie Valley Land and Water Board (MVLWB or the Board) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA). This Permit has been approved for a period five (5) years, effective October 8, 2019 and expiring October 7, 2024.

Permit Conditions

Please read all conditions carefully. For the purpose of submitting plans in accordance with this Permit, the date of this letter, October 8, 2019, is the date of commencement.

Management Plans - Approved

The Board hereby approves the following Plans as summarized in Table 1:

Table 1: Management Plans

Condition Number	Title of Plan/Program/Report	Date Received
19	Waste Management Plan, version 2	July 10, 2019
40	Engagement Plan, version 2	June 21, 2019

Management Plans – Resubmission Required

The Board hereby requires that Transport Canada resubmit the Spill Contingency Plan in accordance with comments made during this review, as summarized in Table 2. This Plan will be considered to be approved, upon written conformity of confirmation from Board staff.

Table 2: Plans Requiring Resubmission

Condition Number	Title of Plan/Program/Report	Date Received	LUP Requirement
31	Spill Contingency Plan	April 30, 2019	Confirmation of conformity by Board staff required prior to commencement of land-use operation.

The Board hereby requires that Transport Canada submit supplemental information for the Spill Contingency Plan for confirmation of conformity prior to commencement of activity under Permit MV2019X0012.

Discontinuance

Should you wish to discontinue your land-use operation at any time prior to the expiry date set out in the Permit, a written notice of discontinuance is required as per section 37 of the MVLUR, in addition to the submission of a final plan.

Public Registry

A copy of this Permit and all related correspondence and documents has been filed on the [Public Registry](#) at the MVLWB office. Please be advised that this letter, with its attached procedures, inspection reports, and related correspondence is part of the Public Registry and is intended to keep all interested parties informed of the manner in which the Permit requirements are being met. All Public Registry material will be considered if an amendment to the Permit is requested.

The full cooperation of Transport Canada is anticipated and appreciated. If you have any questions or concerns, please contact David Finch at (867) 766-7467 or email dfinch@mvlwb.com.

Yours sincerely,



Mavis Cli-Michaud
MVLWB, Chair

Copied to: Distribution List
Charlene Coe, GNWT, Land Use Advisor

Attached: Land Use Permit MV2019X0012
Reasons for Decision



Land Use Permit

Permit Class	Permit No	Amendment No
B	MV2019X0012	

Subject to the Mackenzie Valley Land Use Regulations and the terms and conditions in this Permit, authority is hereby granted to:

Transport Canada

Permittee

to proceed with the land use operation described in the Application of:

Signature Reid Campbell	Date April 30, 2019
Type of Land Use Operation Installation of Groundwater Monitoring Wells	
Location Fort Smith Airport, Fort Smith, NT	

This Permit may be assigned, extended, discontinued, suspended, or cancelled pursuant to the Mackenzie Valley Land Use Regulations.

Dated at Yellowknife this 8 day of October, 2019

Signature Chair

Mavis Cli-Michaud

Signature Witness

Amanda Gauthier

Effective Date:
October 8, 2019

Expiry Date:
October 7, 2024

ATTENTION

It is a condition of this Permit that the Permittee comply with the provisions of the *Mackenzie Valley Resource Management Act* and Regulations and the terms and conditions set out herein. A failure to comply may result in suspension or cancellation of this Permit.

Conditions Annexed to and Forming Part of Land Use Permit # MV2019X0012

Part A: Scope of Permit

1. This Permit entitles the Permittee to conduct the following land-use operation:
 - a) Installation of monitoring wells; and
 - b) Use of drill equipment and vehicle.
2. This Permit is issued subject to the conditions contained herein with respect to the use of land for the activities and area identified in Part A, item 1 of this Permit.
3. Compliance with the terms and conditions of this Permit does not excuse the Permittee from its obligation to comply with the requirements of any applicable Federal, Territorial, or Municipal laws.

Part B: Definitions (defined terms are capitalized throughout the Permit)

Act - the *Mackenzie Valley Resource Management Act*.

Board - the Mackenzie Valley Land and Water Board established under Part 4 of the Act.

Borehole - a hole that is made in the surface of the ground by drilling or boring.

Drilling Fluid - any liquid mixture of water, sediment, drilling muds, chemical additives or other wastes that are pumped down hole while drilling and are specifically related to drilling activity.

Drilling Waste - all materials or chemicals, solid or liquid, associated with drilling, including drill cuttings and Drilling Fluids.

Engagement Plan - a document, developed in accordance with the Board's *Engagement and Consultation Policy* and the *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*, that clearly describes how, when, and which engagement activities will occur with an affected party during the life of the project.

Flowing Artesian Well - a well in which water:

- a) Naturally rises above the ground surface or the top of any casing; and
- b) Flows naturally, either intermittently or continuously.

Fuel Storage Container - a container for the storage of petroleum or allied petroleum products with a capacity of less than 230 litres.

Fuel Storage Tank - a closed container for the storage of petroleum or allied petroleum products with a capacity of more than 230 litres.

Habitat - the area or type of site where a species or an individual of a species of wildlife naturally occurs or on which it depends, directly or indirectly, to carry out its life processes.

Inspector - an Inspector designated by the Minister under the Act.

Minister - the Minister of Indian Affairs and Northern Development Canada or the Minister of the Government of the Northwest Territories – Department of Lands, as the case may be.

Oil and Gas Drilling Sump - a surface excavation, constructed of material that exhibits low permeability (hydraulic conductivity of less than 10^{-6} cm/s), for the purpose of depositing and containing Drilling Waste.

Ordinary High Water Mark - the usual or average level to which a body of water rises at its highest point and remains for sufficient time so as to change the characteristics of the land. In flowing waters (rivers, streams) this refers to the “active channel/bank-full level” which is often the 1:2 year flood flow return level. In inland lakes, wetlands, or marine environments, it refers to those parts of the Watercourse bed and banks that are frequently flooded by water so as to leave a mark on the land and where the natural vegetation changes from predominately aquatic vegetation to terrestrial vegetation (excepting water tolerant species). For reservoirs, this refers to normal high operating levels (full supply level).

Permittee - the holder of this permit.

Secondary Containment - containment that prevents liquids that leak from Fuel Storage Tanks or containers from reaching outside the containment area and includes double-walled Tanks, piping, liners, and impermeable barriers.

Spill Contingency Plan - a document, developed in accordance with Aboriginal Affairs and Northern Development Canada’s *Guidelines for Spill Contingency Planning* that describes the set of procedures to be implemented to minimize the effects of a spill.

Safety Data Sheet - a technical document, typically written by the manufacturer or supplier of a chemical, that provides information about the hazards associated with the product, advice about safe handling and storage, and emergency response procedures.

Toxic Material - any substance that enters or may enter the environment in a quantity or concentration or under conditions such that it:

- a) Has or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- b) Constitutes or may constitute a danger to the environment on which life depends; or
- c) Constitutes or may constitute a danger in Canada to human life or health.

Waste - any garbage, debris, chemical, or Toxic Material to be used, stored, disposed of, or handled on land, and also as defined in section 51 of the Act.

Waste Management Plan - a document, developed in accordance with the Board’s Guidelines for Developing a Waste Management Plan, that describes the methods of Waste management from Waste generation to final disposal.

Watercourse - a natural body of flowing or standing water or an area occupied by water during part of the year, and includes streams, springs, swamps and gulches but does not include groundwater.

Part C: Conditions Applying to All Activities (headings correspond to subsection 26(1) of the Mackenzie Valley Land Use Regulations)

Condition	Category
26(1)(a) Location and Area	
1. The Permittee shall only conduct this land-use operation on lands designated in the application.	LOCATION OF ACTIVITIES
2. Prior to the commencement of drilling, the Permittee shall submit the target areas and final drill hole locations on a 1:50,000-scale map with coordinates and map datum to the Board and an Inspector.	DRILL LOCATIONS
26(1)(b) Time	
3. At least 48 hours prior to commencement of the land-use operation, the Permittee shall provide the following information, in writing, to the Board and an Inspector: a) the name(s) of the person(s) in charge of the field operation; b) alternates; and c) all methods for contacting the above person(s).	IDENTIFY AGENT
4. At least ten days prior to the completion of the land-use operation, the Permittee shall advise an Inspector of: a) the plan for removal or storage of equipment and materials; b) when final cleanup and reclamation of the land used will be completed; and c) when the Final Plan will be submitted.	REPORTS BEFORE FINAL REMOVAL
26(1)(c) Type and Size of Equipment	
5. The Permittee shall only use equipment of a similar type, size, and number to that listed in the complete application.	USE APPROVED EQUIPMENT
26(1)(d) Methods and Techniques	
6. Prior to the expiry end of the land-use operation, the Permittee shall replace all excavated material, unless otherwise authorized in writing by an Inspector.	EXCAVATED MATERIAL TEST PITS
26(1)(e) Type, Location, Capacity, and Operation of All Facilities	
7. The Permittee shall ensure that the land use area is kept clean at all times.	CLEAN WORK AREA

26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land

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| 8. | The Permittee shall install and maintain suitable erosion control structures as the land-use operation progresses. | PROGRESSIVE
EROSION CONTROL |
| 9. | The Permittee shall, where flowing water from a Borehole is encountered:
a) plug the Borehole in such a manner as to permanently prevent any further outflow of water; and
b) immediately report the occurrence to the Board and an Inspector. | FLOWING ARTESIAN
WELL |
| 10. | The Permittee shall slope the sides of Waste material piles, excavations, and embankments — except in solid rock — to a minimum ratio of 2:1 vertical, unless otherwise authorized in writing by an Inspector. | EXCAVATION AND
EMBANKMENTS |

26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material

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| 11. | At least seven days prior to the use of any chemicals that were not identified in the complete application, the Safety Data Sheets must be provided to the Board and an Inspector. | CHEMICALS |
| 12. | When drilling within 100 metres of the Ordinary High Water Mark of any Watercourse, and when drilling on ice, the Permittee shall contain all drill water and Drilling Waste in a closed circuit system for reuse, off-site disposal, or deposit into a land-based Sump or natural depression. | DRILLING NEAR
WATER OR ON ICE |
| 13. | The Permittee shall remove all Drilling Waste containing Toxic Material to an approved disposal facility. | DRILLING WASTE
DISPOSAL |
| 14. | The Permittee shall not allow any Drilling Waste to spread to the surrounding lands or Watercourses. | DRILLING WASTE
CONTAINMENT |
| 15. | The Permittee shall dispose of all Toxic Material as described in the approved Waste Management Plan. | WASTE CHEMICAL
DISPOSAL |
| 16. | The Permittee shall dispose of all combustible Waste petroleum products by removal to an approved disposal facility. | WASTE PETROLEUM
DISPOSAL |
| 17. | The Permittee shall provide written notification to the Board and Inspector a minimum of 10 days prior to the initial deposit of Waste, demonstrating that the licenced disposal facility has agreed to accept the Waste and has the capacity to receive the volumes of Waste requested. | NOTIFICATION OF
SOLID WASTE
DISPOSAL |

26(1)(h) Wildlife and Fish Habitat

18. The Permittee shall take all reasonable measures to prevent damage to wildlife and fish Habitat during this land-use operation. **HABITAT DAMAGE**

26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage

19. The Permittee shall adhere to the **Waste Management Plan**, once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. **WASTE MANAGEMENT**

20. The Permittee shall keep all garbage and debris in a secure container until disposal. **GARBAGE CONTAINER**

26(1)(j) Protection of Historical, Archaeological, and Burial Sites

21. The Permittee shall not operate any vehicle or equipment within 150 metres of a known or suspected historical or archaeological site or burial ground. **ARCHAEOLOGICAL BUFFER**

22. The Permittee shall not knowingly remove, disturb, or displace any archaeological specimen or site. **SITE DISTURBANCE**

23. The Permittee shall, where a suspected archaeological or historical site, or burial ground is discovered: **SITE DISCOVERY AND NOTIFICATION**

- a) immediately suspend operations on the site; and
- b) notify the Board at (867) 699-0506 or an Inspector at (867) 874-6995 ext. 22 or ext. 24, and the Prince of Wales Northern Heritage Centre at 767-9347 ext. 71251 or ext. 71255.

26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value

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26(1)(l) Security Deposit

All costs to remediate the area under this Permit are the responsibility of the Permittee. **RESPONSIBILITY FOR REMEDIATION COSTS**

24. **26(1)(m) Fuel Storage**

The Permittee shall: **REPAIR LEAKS**

- a) examine all Fuel Storage Containers and Tank for leaks a minimum of once per day; and
- b) repair all leaks immediately.

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| 25. | The Permittee shall set up all refueling points with Secondary Containment. | SECONDARY
CONTAINMENT –
REFUELING |
| 26. | The Permittee shall mark all Fuel Storage Containers and Tanks with the Permittee's name. | MARK CONTAINERS
AND TANKS |
| 27. | The Permittee shall have a maximum of 400 litres of fuel stored on the land use site at any time, unless otherwise approved by the Board. | MAXIMUM FUEL ON
SITE |
| 28. | The Permittee shall adhere to the Spill Contingency Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | SPILL CONTINGENCY
PLAN |
| 29. | Prior to commencement of the land-use operation the Permittee shall ensure that spill-response equipment is in place to respond to any potential spills. | SPILL RESPONSE |
| 30. | All equipment that may be parked for two hours or more, shall have a haz-mat/drip tray under it or be sufficiently diapered. Leaky equipment shall be repaired immediately. | DRIP TRAYS |
| 31. | The Permittee shall clean up all leaks, spills, and contaminated material immediately. | CLEAN UP SPILLS |
| 32. | <p>During the period of this Permit, if a spill occurs or is foreseeable, the Permittee shall:</p> <p>a) implement the approved Spill Contingency Plan;</p> <p>b) report it–immediately using the NU-NT Spill Report Form by one of the following methods:</p> <ul style="list-style-type: none"> • Telephone: (867) 920-8130 • Fax: (867) 873-6924 • E-mail: spills@gov.nt.ca • <u>Online: Spill Reporting and Tracking Database</u> <p>c) within 24 hours, notify the Board and an Inspector; and</p> <p>d) within 30 days of initially reporting the incident, submit a detailed report to the Board and an Inspector, including descriptions of causes, response actions, and any changes to procedures to prevent similar occurrences in the future. Any updates to this report shall be provided to the Board and an Inspector in writing as changes occur.</p> | REPORT SPILLS |
| 33. | 26(1)(n) Methods and Techniques for Debris and Brush Disposal | |
| | <i>Intentionally left blank</i> | |

26(1)(o) Restoration of the Lands

Prior to the end of the land-use operation, the Permittee shall complete all cleanup and restoration of the lands used.

FINAL CLEANUP AND RESTORATION

34. **26(1)(p) Display of Permits and Permit Numbers**

The Permittee shall keep a copy of this Permit on hand at all times during this land-use operation.

COPY OF PERMIT

35. **26(1)(q) Biological and Physical Protection of the Land**

Prior to the commencement of the land-use operation, the Permittee shall submit a revised Spill Contingency Plan in accordance with *Aboriginal Affairs and Northern Development Canada's "Guidelines for Spill Contingency Planning"* to the Board for approval.

SUBMIT REVISED PLAN

36. If any plan is not approved by the Board, the Permittee shall revise the plan according to the Board's direction and re-submit it to the Board for approval.

RESUBMIT PLAN

37. The Permittee shall adhere to the **Engagement Plan**, once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval.

ENGAGEMENT PLAN

38. All revised plans submitted to the Board shall include a brief summary of the changes made to the plan.

SUMMARY OF CHANGES



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7th Floor - 4922 48th Street
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Phone (867) 669-0506
FAX (867) 873-6610

Reasons for Decision

Issued pursuant to paragraph 40(2)(c) of the Mackenzie Valley Land Use Regulations (MVLUR) and section 121 of the *Mackenzie Valley Resource Management Act* (MVRMA)

Land Use Permit Application	
Preliminary Screener	MVLWB
Reference/File Number	MV2019X0012
Company	Transport Canada
Project	Fort Smith, NT
Date of Decision	September 26, 2019

These Reasons for Decision set out the Mackenzie Valley Land and Water Board’s (the Board or MVLWB) decision on an Application made by Transport Canada to the Board on April 30, 2019 for Land Use Permit (Permit) MV2019X0012.

1.0 Background

Transport Canada submitted Land Use Permit application MV2019X0012 to install three (3) groundwater monitoring wells near the northern property boundary of the Fort Smith airport. This work proposed was 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. The project as described does not require any heavy vehicles, explosives, earth-moving machinery, or a camp. The area in question is previously disturbed industrial land. The wells were expected to be decommissioned and restored to previous condition once sampling was complete, i.e. by the end of the 2020-2021 field season.

The project location was in a non-federal area on Commissioner’s Land. Airport administration once fell under federal jurisdiction but was devolved to the GNWT in 1995 under the Arctic “A” Transfer Agreement. Accordingly, Transport Canada included a copy of an access agreement of July 8, 2019 with the Government of the Northwest Territories, Department of Infrastructure, authorizing them to conduct the work in question.

The term requested is five years (with the option of applying for a two-year extension).

2.0 Public Review

The application was submitted to the Board on April 30, 2019. The application was deemed incomplete on May 10, 2019, after which it was resubmitted with supplemental information by Transport Canada on July 12, 2019. The application was deemed complete on July 22, 2019, and review commenced.

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 placed the review over the 42-day limit, however ensuring the Board fulfilled its engagement requirements was determined to be a priority.

All review comments were received by the closing date of September 2, 2019, and Transport Canada responded by September 3, 2019. The Board met to deliberate the application on September 26, 2019.

3.0 Adequacy of Management Plans

A Waste Management Plan, Spill Contingency Plan, and Engagement Plan were included with the Application. The Waste Management Plan and Engagement Plan were found to be adequate. The Spill Contingency Plan was required to be updated following identification of a drilling contractor. Updates included the identification of site representatives and the contractor; inclusion of contractor contact information; and inclusion of all Material Safety Data Sheets (MSDS) when available.

4.0 Security

Calculation of security was 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.

5.0 Decision

In rendering its decision, the Board is satisfied that:

- notice of the Application was given in accordance with sections 63 and 64 of the MVRMA. The Board is satisfied that a reasonable period of notice was given to communities and First Nations so comments could be provided to the Board;
- the development has been screened pursuant to the MVRMA;
- any potential adverse environmental effects are insignificant or mitigable with known technology; and,
- there is no likelihood that the proposed development might be a cause of public concern.

After reviewing the evidence and submissions of Transport Canada, the written comments and submissions received by the Board and the Staff Report prepared for the Board, the Board, having due regard to the facts, circumstances, the merits of the submissions made to it, and to the purpose, scope, and intent of the MVRMA and Regulations made thereunder, has determined that Land Use Permit MV2019X0012 be issued subject to the term, scope, definitions, and conditions contained therein. The Board's determinations and reasons for this decision are set out below.

- The Board is satisfied that appropriate consultation has been conducted and that advice has been sought and considered, in accordance with sections 63 and 64 of the MVRMA.
- The use of land proposed by Transport Canada is of a nature contemplated by the MVRMA.
- The operation will likely contribute to the socio-economic well-being and economic development of the region.
- The Board has reviewed the information contained in the September 16, 2019 Staff Report regarding environmental impacts and/or public concerns.

- The scope of the Permit ensures Transport Canada is entitled to conduct activities which have been applied for and screened by the Board. In setting the scope, the Board endeavored to provide enough detail to identify and describe the authorized activities without being unduly restrictive or prescriptive, and to allow for project flexibility throughout the life of the Permit.
- The conditions set forth in the Permit have been imposed to address the Board’s statutory responsibilities and ensure the land-use operation is conducted in a manner which ensures impacts to surrounding lands and waters are minimized.
- The Board has approved the Engagement Plan and the Waste Management Plan because they meet the applicable guidelines and sufficiently reflect the scope of the proposed activities.
- The Spill Contingency Plan cannot be approved at this time and should be revised and re-submitted prior to the start of the land use activity to reflect updates as agreed to during the public review, to reflect the scope of the proposed activities, to meet the applicable guidelines, and to include the following:
 - Identification of site representatives and contractor information;
 - Updated contact information, including contractor (Section 3); and
 - 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.
 - The revised Plan will be considered to be approved upon written confirmation of conformity from Board staff.
- The definitions and conditions in the Permit are from the MVLWB’s *Standard Land Use Permit Conditions Template* (Standard Template), and are not discussed in detail in these reasons unless notable due to recommendations or concerns raised by reviewers. After considering the information gathered through the public review, the Board made the following changes, with rationale, to the conditions:

Condition	Change	Rationale
Site Discovery and Notification	Contact information for archaeology regulator updated.	Standard conditions did not reflect current extensions at Prince of Wales Northern Heritage Centre.
Archaeological Overview	Condition removed.	Per recommendation of Prince of Wales Northern Heritage Centre.
AIA – High Potential	Condition removed.	Per recommendation of Prince of Wales Northern Heritage Centre.
Final Cleanup and Restoration	Condition added.	Per recommendation of GNWT-Lands Inspector. Condition was omitted in earlier draft.

6.0 Conclusion

Land Use Permit MV2019X0012 contains provisions that the Board deems necessary to ensure and monitor compliance with the MVRMA and the Regulations made thereunder, and to provide appropriate safeguards in respect of Transport Canada’s use of the land affected by the Permit.

SIGNATURE

Mackenzie Valley Land and Water Board

Mavis Cli-Michaud, Chair

September 26, 2019

Date