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June 27, 2022

File: W2022W0005

Mark Cliffe-Phillips
Mackenzie Valley Review Board
200 Scotia Centre
Box 938, 5102-50th Avenue
Yellowknife NT X1A 2N7

Sent by email

Dear Mark Cliffe-Phillips,

Re: Kerry Smith – Notice of Preliminary Screening Determination – Application for Land Use Permit – Wood Operations – Km 172.5 of Highway #3, NT

The Wek'èezhì Land and Water Board (Board) met on June 27, 2022 and considered the Application for Land Use Permit (Permit) W2022W0005 for the Wood Operations at Km 172.5 of Highway #3, NT (Project) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board conducted a preliminary screening based on the public record for the proceeding. Based on the evidence provided, the Board is satisfied the screening has been completed according to section 125 of the MVRMA and has decided **not to refer** the Project to environmental assessment. The Board's Preliminary Screening Determination and Reasons for Decision, as required by section 121 of the MVRMA, is attached.

If the Board does not receive notice of referral to environmental assessment, it can proceed with issuance of Permit W2022W0005 on **Friday, July 8, 2022**.

The Board and staff look forward to continued communications throughout the pause period. Please contact Ryan Fequet at (867) 765-4589 with any questions or concerns regarding this letter.

Yours sincerely,

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

Mason Mantla
Chair, Wek'èezhii Land and Water Board

BCC'd to: Wek'èezhii Distribution List
Kerry Smith

Attached: Preliminary Screening Determination and Reasons for Decision



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Preliminary Screening Determination and Reasons for Decision

Land Use Permit Application	
File Number	W2022W0005
Company	Kerry Smith
Project	Wood Operations at Km 172.5 on Highway #3
Location	Km 172.5 of Hwy #3, NT
Activity	Wood Operations
Date of Decision	June 27, 2022

1.0 Decision

In accordance with subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA), the Wek'èezhì Land and Water Board (WLWB or Board) met on June 27, 2022 to make a preliminary screening determination on the renewal Application from Kerry Smith (Applicant) for Land Use Permit W2022W0005 (Permit)¹ for the Wood Operations at Km 172.5 on Highway #3, NT (Project).²

The Board has determined that some Project activities and areas are exempt from preliminary screening, because they were previously screened. The Applicant has proposed new Project activities and areas, however, the Board has decided not to refer the proposed changes to the Project to the Mackenzie Valley Environmental Impact Review Board (the Review Board) for Environmental Assessment because, based on the evidence, it is the Board's opinion that the proposed changes to the Project will not have a significant adverse impact on the environment or be a cause of public concern.

¹See WLWB Online Registry www.wlwb.ca for [Kerry Smith – Land Use Permit Application – May 24 22](#).

² The Project is the Wood Operations at Km 172.5 on Highway #3, which is the proposed development, where “development” is defined in Part 5 of the MVRMA as:

“any undertaking, or any part or extension of an undertaking, that is carried out on land or water and includes an acquisition of lands pursuant to the *Historic Sites and Monuments Act* and measures carried out by a department or agency of government leading to the establishment of a park subject to the *Canada National Parks Act* or the establishment of a park under a territorial law.”

The Board’s determination, including reasons for its decision, are detailed in sections [3.0](#) and [4.0](#).

2.0 List of Defined Terms and Acronyms

Applicant	Kerry Smith
Application	The complete application package submitted by the Applicant for Land Use Permit W2022W0005.
Board	Wek’èezhìi Land and Water Board
CRP	Closure and Reclamation Plan
EA	Environmental Assessment
GNWT	Government of the Northwest Territories
GNWT-ENR	Government of the Northwest Territories – Environment and Natural Resources
GNWT-Lands	Government of the Northwest Territories – Lands
MVLWB	Mackenzie Valley Land and Water Board
MVRMA	<i>Mackenzie Valley Resource Management Act</i>
Minister	Minister of the Government of the Northwest Territories – Lands (GNWT-Lands)
ORS	Online Review System (www.new.onlinereviewssystem.ca)
Party	As per the MVLWB Rules of Procedures , an applicant, a person, or an organization participating in the regulatory proceeding for the Application.
Project	Wood Operations at Km 172.5 on Highway #3, NT, which is the proposed development (as defined in Part 5 of the MVRMA). ³
Review Board	Mackenzie Valley Environmental Impact Review Board
SCP	Spill Contingency Plan
Standard Permit Conditions	MVLWB Standard Land Use Permit Conditions Template
TG	Tłı̨chǫ Government
TK	Traditional Knowledge
WMP	Waste Management Plan

³ “development” is defined in Part 5 of the MVRMA as:

“any undertaking, or any part or extension of an undertaking, that is carried out on land or water and includes an acquisition of lands pursuant to the *Historic Sites and Monuments Act* and measures carried out by a department or agency of government leading to the establishment of a park subject to the *Canada National Parks Act* or the establishment of a park under a territorial law.”

3.0 Background and Scope of Screening

Land Use Permit MV2003W0020 was issued to Kerry Smith by the Mackenzie Valley Land and Water Board (MVLWB) in 2003.⁴ The WLWB issued renewals of the Permit twice, in 2008 (W2008W0012)^{5,6} and then in 2015 (W2015W0007).^{7,8}

The MVLWB conducted a preliminary screening for the activities associated with the Wood Operations at Km 172 on Highway 3 for the cutting and hauling of firewood. The findings of the preliminary screening indicated that the proposed development might not have a significant adverse impact on the environment or be a cause of public concern.⁹ The Permit Renewal Applications submitted in 2008 and 2015 were determined to be exempt from preliminary screening because the activities and areas outlined in the application were previously screened.

Under Part 1, Schedule 1, section 2.1 of the Exemption List Regulations to the MVRMA, project areas and activities that have already been subject to Part 5 of the MVRMA are exempt from preliminary screening. The current Permit Renewal Application (W2022W0005) includes approximately 0.1429 hectares of additionally disturbed area for the campsite, nine additional pieces of equipments for the cutting and hauling of firewood, and 360 gallons of additional fuel to support operations. The new Project activities and area require screening by the Board in accordance with subsection 124(1) of the MVRMA.

In accordance with paragraph 125(1)(a) of the MVRMA, the Board must conduct a preliminary screening of the proposed changes to the Project to determine and report to the Review Board whether, in its opinion, the proposed changes to the Project might have a significant adverse impact on the environment, or might be a cause of public concern. The details of the Board's analysis are set out in section [4.0](#) below.

3.1 Scope of Screening:

Previously Screened or Assessed Areas and Activities:

The previous preliminary screening for this Project included activities associated with the Wood Operations including the access, salvage, and removal of fire kill timber near Km 172 of Highway #3 at coordinates:

2003:

62° 16"N, 116° 17"W

Equipment:

- One (1) 518 Cat Skidder

⁴ See WLWB Online Registry for [MV2003W0020 – Kerry Smith – Land Use Permit – Jun 26 03](#)

⁵ See WLWB Online Registry for [W2008W0012 – Kerry Smith – Land Use Permit – Terms and Conditions – Sep 15 08](#)

⁶ See WLWB Online Registry for [W2008W0012 – Kerry Smith – Land Use Permit – Extension – Mar 1 13](#)

⁷ See WLWB Online Registry for [W2015W0007 – Kerry Smith – Land Use Permit – Aug 13 15](#)

⁸ See WLWB Online Registry for [W2015W0007 – Kerry Smith – Land Use Permit – Jul 28 20](#)

⁹ See WLWB Online Registry for [MV2003W0020 – Kerry Smith – Land Use Permit – Preliminary Screening – Jun 26 03](#)

- One (1) one-ton truck

Section 11 of the Application (Fuel):

- 2 x 45 gallon Diesel
- 1 x 45 gallon Fuel
- 2 x 100 lb Propane bottles
- 1 gallon hydraulic oil for Chain Saw

Activities that the Board understands to have been previously considered,¹⁰ and which therefore do not require preliminary screening at this time, are listed below.

- Harvesting
- Automobile, Aircraft, or Vessel Movement
- Cutting of Trees or Removal of Vegetation
- Fuel Storage
- Waste Management
- Sewage
- Slashing and removal of vegetation

New Areas and Activities:

2008:

In the 2008 Permit Application, Kerry Smith outlined that the Project included a cabin and a portable shop. Equipments to support the cutting and hauling of firewood (e.g., 518 Cat Skidder, 950 cat loader, and 1 ton truck). Fuel to support camp (e.g., 5 x 45 gallon Diesel, 5 x 5 gallon cans of Fuel, and 3 x 100 lb Propane bottle).

2015:

In the 2015 Permit Application, Kerry Smith outlined that the Project included a cabin, portable shop, an outhouse, and a camper on the hill top. Equipments to support the cutting and hauling of firewood (e.g., Skidder (518 Cat), Loader (950 Cat), Processor (Pto driven), Harvester, Semi Truck and Trailer, Ford Truck with Tank (water tank), and 1 ton Truck). Fuel to support the campsite (e.g., 5 x 45 gallon Diesel, 2 x 45 gallon Fuel, 2 x 20 lb Propane bottles, 1 Gerry can of Lantern Fuel, 5 (5 gallon) cans of motor oil, hydrulic oil, and gear oil).

2022:

In the 2022 Permit Application, Kerry Smith outlines that the Project includes a camp (cabin (16m x 24m), Portable shop (25m x 33m), camper on hill top (10m x 22m), and an outhouse). Equipments to support the cutting and hauling of firewood (e.g., two 518 cat (1 line and 1 grapple), 440 John Deere, 440 Timberjack, Loader (950 cat), Processor (Pto driven; Japa 370), Harvester (Hyundai 210 LC7 620 Wartha), semi truck and trailer, Ford truck with tank (water truck), 1 ton Truck, and a Kobota Truck). Fuel and various types of oil to support campsite (e.g., 8 x 45 gallon Diesel, 3 x 45 gallons of Fuel, 3 x 100 lb of Propane bottles, 3 x 20 lb of Propane bottles, 1 x 5 gallons of Lantern Fuel, 5 x 5 litres of Motor oil, 3 x 5 gallons of Hydraulic oil, and 1 x 1 gallon of Gear oil).

¹⁰ See WLWB Online Registry for [MV2003W0020 – Kerry Smith – Land Use Permit – Preliminary Screening – Jun 26_03](#)

The previous preliminary screening conducted for this Project included fuel storage and a couple pieces of heavy equipment. The footprint of the camp (now 0.1429 hectares), the total number of heavy equipment's stored on site (seven additional pieces of equipment), and the total amount of fuel stored (increased from 135 to 495 gallons) for this Project have all increased since the preliminary screening conducted in 2003.

3.2 Public Record and Regulatory Proceeding

To assist the Board in its preliminary screening determination for the Project, the Board distributed the Application and a draft Permit for public review on May 24, 2022, inviting reviewers to provide comments and recommendations on the Application and the preliminary screening (e.g., on impacts and mitigation measures) using the Online Review System (ORS). Comments were due June 14, 2022, with responses from the Applicant due June 20, 2022. The Board received comments and recommendations from the Government of the Northwest Territories Department of Lands (GNWT-Lands)-Inspector.¹¹ Government of the Northwest Territories Environment and Natural Resources - Environmental Assessment and Monitoring (GNWT-ENR – EAM) and the Wek'èzhìi Renewal Resources Board (WRRB) indicated they had no comments/recommendations at this time. The Tłı̨chq̄ Government stated they reviewed the Application and had no concerns at this time.

Since there were no requests to extend the reviewer comment deadline, the Board is satisfied that a reasonable period of notice was given to affected communities and First Nations, as required by subsection 63(2) of the MVRMA. The Board is also satisfied that notice of the Application was provided to the Tłı̨chq̄ Government (TG) and that a reasonable period of time was provided for the TG to make representations to the Board in accordance with section 63 of the MVRMA.

4.0 Potential Impacts and Proposed Mitigations

Table 1 below summarizes:

- the potential impacts of the proposed changes to the Project;
- the concerns that were identified during the regulatory proceeding and how the Applicant addressed those concerns;
- the proposed and potential mitigations for the potential impacts; and
- the Board's analysis of the potential impacts and proposed mitigations.

¹¹ See WLWB Online Review System for [Kerry Smith – Land Use Permit Renewal Application – Mar 24 22](#)

Table 1: Potential Impacts and Proposed Mitigations for the Proposed Changes to the Project

Potential Impact	Activity	<p align="center">Proposed Mitigations</p> <p align="center"><i>Description of measures to reduce potential impacts, including consideration of cumulative impacts and climate change.</i></p>	Board Analysis and Determination
Impairment of the anesthetic quality of the land	Camp establishment, fuel storage, equipment storage	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application and during the public review: <ul style="list-style-type: none"> ○ Complete removal of all camp and heavy equipment and the land will be allowed to reforest naturally. • The Board has standard permit conditions that are typically used to mitigate the described impacts. These standard conditions include: <ul style="list-style-type: none"> ○ USE EXISTING CAMP ○ INSPECT LOCATIONS ○ LOCATION OF ACTIVITIES ○ REPORTS BEFORE FINAL REMOVAL ○ USE APPROVED EQUIPMENT ○ REMOVE GARBAGE ○ WASTE MANAGEMENT ○ GARBAGE CONTAINER ○ SEWAGE DISPOSAL – SUMP SETBACK ○ CLEAN WORK AREA ○ BRUSH DISPOSAL/TIME ○ MINIMIZE AREA CLEARED ○ FINAL CLEANUP AND RESTORATION ○ NATURAL VEGETATION ○ PROGRESSIVE RECLAMATION ○ TRAILS RESTORATION 	Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern.
Soil contamination, soil compaction, erosion	Clearing of timber, brush, or vegetation mat, Trasfer, storage, and use of petroleum products and/or	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application and during the public review: <ul style="list-style-type: none"> ○ Drums will be sealed and stored on flat shale and sand, sawdust, and residues will absorb spills. ○ Sand and sawdust containing residues will be burned in fall 	Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern.

	chemicals, Use of motorized and heavy equipment	<p>on brush piles.</p> <ul style="list-style-type: none"> • The Board has standard permit conditions that are typically used to mitigate the described impacts. These standard conditions include: <ul style="list-style-type: none"> ○ FIRE-FIGHTING EQUIPMENT ○ CLEAN WORK AREA ○ USE APPROVED EQUIPMENT ○ PROGRESSIVE EROSION CONTROL ○ REPAIR EROSION ○ PREVENTION OF RUTTING ○ SUSPEND OVERLAND TRAVEL ○ VEHICLE MOVEMENT FREEZE-UP ○ WASTE PETROLEUM DISPOSAL ○ WASTE MANAGEMENT ○ SPILL CONTINGENCY PLAN ○ SECONDARY CONTAINMENT – REFUELING ○ FUEL CONTAINMENT ○ SEAL OUTLET ○ SPILL RESPONSE ○ DRIP TRAYS ○ CLEAN UP SPILLS ○ REPORT SPILLS 	
Direct loss or removal of habitat, dens, or nests (Terrestrial wildlife)	On-site storage or disposal of domestic wastes	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application and during the public review: <ul style="list-style-type: none"> ○ Garbage is burned to prevent attracting wildlife. • The Board has standard permit conditions that are typically used to mitigate the described impacts. These standard conditions include: <ul style="list-style-type: none"> ○ REMOVE GARBAGE ○ GARBAGE CONTAINER ○ WASTE MANAGEMENT ○ HABITAT DAMAGE; ○ MIGRATORY BIRD NEST DISTURBANCE 	Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern.

<p>Direct loss or removal of habitat, dens, or nests (Terrestrial wildlife)</p>	<p>Clearing of timber, brush, or vegetation mat, noise, increase traffic risk to wildlife</p>	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application and during the public review: <ul style="list-style-type: none"> ○ Disturbance to nests for migratory birds and dens for wildlife may occur. • The Board has standard permit conditions that are typically used to mitigate the described impacts. These standard conditions include: <ul style="list-style-type: none"> ○ HABITAT DAMAGE; ○ MIGRATORY BIRD NEST DISTURBANCE 	<p>Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern.</p>
<p>Soil contamination, soil compaction, Direct loss or removal of habitat, dens, or nests (Terrestrial wildlife)</p>	<p>Clearing of timber, brush, or vegetation mat, noise, increase traffic risk to wildlife, use of heavy equipment</p>	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application and during the public review: <ul style="list-style-type: none"> ○ New road access may be required for trees cleared within cutblock to other locations within approved land use area. • The Board has standard permit conditions that are typically used to mitigate the described impacts. These standard conditions include: <ul style="list-style-type: none"> ○ LOCATION OF ACTIVITIES; ○ INSPECT LOCATIONS; ○ INITIAL NOTIFICATION – CONTACT INSPECTOR; ○ IDENTIFY AGENT; ○ REPORTS BEFORE FINAL REMOVAL; ○ USE APPROVED EQUIPMENT; ○ CLEAN WORK AREA; ○ PROGRESSIVE EROSION CONTROL; ○ REPAIR EROSION; ○ SUSPEND OVERLAND TRAVEL; ○ VEHICLE MOVEMENT FREEZE-UP; ○ CONSTRUCT ICE BRIDGES SNOWFILLS; ○ HABITAT DAMAGE; ○ ARCHAEOLOGICAL BUFFER; ○ SITE DISTURBANCE; ○ SITE DISCOVERY AND NOTIFICATION; ○ BURSH DISPOSAL/TIME; ○ MINIMIZE AREA CLEARED; 	<p>Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern.</p>

		<ul style="list-style-type: none">○ NATURAL VEGETATION;○ PROGRESSIVE RECLAMATION;○ TRAILS RESTORATION;○ TRAPS PROTECTION;○ MIGRATORY BIRD NEST DISTURBANCE	
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4.1 Consideration of Potential Impacts

Based on the potential impacts and proposed mitigations identified above in Table 1, the Board considered whether the changes to the Project might have a significant adverse impact on the environment. In general, impacts of the changes to the Project on the environment can be mitigated through the use of permit conditions of two general types:

1. conditions in the existing Permit, including requirements for management and monitoring plans, with revisions where necessary; and
2. new or unique conditions that may be needed to mitigate potential impacts of the changes to the Project that may not be addressed by the conditions in the existing Permit, and which may be from the Board's standard conditions list or established by the Board as per the [MVLWB Standard Process for Creating New Conditions](#).

These conditions may include requirements for management and monitoring plans that provide detailed information regarding the implementation of mitigation measures and the evaluation of their effectiveness.

A draft Permit was circulated for review during the regulatory proceeding, and all Parties were given the opportunity to provide comments and recommendations on the draft conditions. In finalizing the conditions, the Board will consider all of the evidence provided through the regulatory proceeding.

4.2 Consideration of Public Concern

In addition to considering the potential impacts of the changes to the Project, the Board considered whether the changes to the Project might be a cause of public concern.

Based on the evidence provided during the regulatory proceeding, the Board did not identify any comments or issues that indicate that the Project is a cause of public concern.

5.0 Conclusion

The Mackenzie Valley Land and Water Board completed a preliminary screening of the Project on June 26, 2003.¹² Accordingly, the Wekeezhii Land and Water Board (the Board) has determined that the Project activities that have already been subject to Part 5 of the MVRMA are exempt from preliminary screening under Part 1, Schedule 1, section 2.1 of the Exemption List Regulations to the MVRMA. The 2022 Application includes proposed changes to the Project. On June 27, 2022, the Board conducted a preliminary screening of the proposed changes to the Project. The Board has reviewed all the evidence received during the regulatory process with respect to the Preliminary Screening of the proposed changes to the Project. Based on the evidence, it is the Board's opinion that the proposed changes to the Project will not have a significant adverse impact on the environment or be a cause of public concern, as set out in paragraph 125(1)(a) of the MVRMA. The Board has therefore decided not to refer the proposed changes

¹² See WLWB Online Registry for [MV2003W0020 – Kerry Smith – Land Use Permit – Preliminary Screening – Jun 26 03](#)

to the Project to Environmental Assessment. If the Board does not receive a notice of referral to environmental assessment by July 7, 2022, the Board can issue the Permit on July 8, 2022.

SIGNATURE



June 27, 2022

Mason Mantla, Chair
Wek'èezhii Land and Water Board

Date