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Staff Report

Applicant: Jean Marie River First Nation	
Location: Jean Marie River Community, NT	File Number: MV2020W0002
Date Prepared: July 7, 2020	Date of Board Meeting: July 23, 2020
Subject: New Type A Land Use Permit Application	

1. Purpose

The purpose of this report is to present the following to the Mackenzie Valley Land and Water Board (MVLWB or Board):

- a) New Land Use Permit (Permit) Application from Jean Marie River First Nation (JMRFN or Applicant);
- b) Consider the Preliminary Screening;
- c) Consider the Spill Contingency Plan;
- d) Consider the Waste Management Plan; and
- e) Consider the Engagement Plan.

2. Background

- February 20, 2020 – Application received;
- February 28, 2020 – Application deemed incomplete;
- March 03, 2020 – Additional information provided;
- March 30, 2020 – Additional information provided;
- May 29, 2020 – Additional information provided;
- June 09, 2020 – Application distributed for public review;
- June 23, 2020 – Due date for public comments;
- June 30, 2020 – Due date for Applicant to respond to comments; and
- **July 23, 2020** – Application presented to the Board for decision.

3. Discussion

Description of Application

On February 20, 2020, Jean Marie River First Nation (JMRFN or Applicant) submitted an Application for a Land Use Permit (Permit) to undertake a wood/timber harvesting operation (Project), located approximately 17 kilometres from the Community of Jean Marie River. Activities included with the Project are as follows:

- Field planning to locate roads, landing, and harvesting boundaries in fulfillment of requirements linked to timber-harvesting authorizations;
- Development of access roads from Jean Marie River community Road to harvesting areas;
- Mobilization and demobilization of logging equipment and transportation equipment, exceeding 10 tonnes, to and from logging areas;
- Construction of new all-season or winter roads in addition to temporary log-storage areas (landings) along with maintenance and eventual deactivation of roads and landings in accordance with an Annual Operating Plan (AOP);
- Harvesting of timber with power saws and mechanical equipment exceeding 10 tonnes; and
- Disposal of woody debris in accordance with direction from the Government of the Northwest Territories - Department of Environment and Natural Resources (ENR) and the Project's Annual Operating Plan (OAP).

Management Plans

A Spill Contingency Plan (SCP), Waste Management Plan (WMP), and Engagement Plan were included as part of the Application, which Board staff reviewed and found to have met relevant requirements for approval.

Additionally, the Applicant provided letters of authorizations confirming that the following entities have agreed to accept wastes generated from the Project: KBL Environmental Ltd. – Potential Industrial Waste, Carter Industries – Potential Hydrocarbon Waste, and Jean Marie River Community Landfill – Potential Municipal Waste.

Engagement Plan

An Engagement Plan and Engagement Record were included as part of the application. Details contained in the engagement log indicate that the Applicant engaged the following parties:

- Government of the Northwest Territories – Department of Infrastructure;
- Dehcho Region;
- Dehcho First Nations; and
- Jean Marie River First Nation.

All the above-referenced parties provided separate letters of support for the Project (attached).

Eligibility

In accordance with section 18 of the Mackenzie Valley Land Use Regulations (MVLUR), eligibility must be determined before the Board can issue a permit. The Applicant indicated that it has applied for a Wood or Timber-Harvesting Licence (#FA005332) from the Government of the Northwest Territories – Department of Environment and Natural Resources (GNWT – ENR), which is expected to be issued subsequent to any Land Use Permit authorization the MVLWB may issue.

However, after MVLWB staff informed GNWT-ENR of the Application's obligation to satisfy section 18(a)(i) of the Mackenzie Valley Land Use Regulations, the GNWT – ENR issued Timber Harvesting Licence # FA005332 on July 21, 2020 (Which is attached to this correspondence).

Board staff received confirmation of eligibility for a permit, consistent with subsection 18(a)(i) of the Mackenzie Valley Land Use Regulations, which states:

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

Type of Area

This Project is on non-federal land.

Fees

Application Fee amounting to \$150.00 was paid for processing the Application. (Please see relevant attachment below)

Term

The Applicant requested a five year term for the prospective Permit. It should be noted, however, that the relevant Regulations allow for a permit to be granted for a period of five (5) years plus a maximum extension of two years, combining for a total of seven years.

4. Comments

Triggers

The activities as described trigger a Type A Land Use Permit based on paragraph 4(a) of the Mackenzie Valley Land Use Regulations:

- (4) No person shall, without a Type A permit, carry on any activity that involves*
- (a) on land outside the boundaries of a local government,*
 - (i) the use of a quantity of explosives equal to or exceeding 150 kg in any 30-day period,*
 - (ii) the use of a vehicle or machine of a weight equal to or exceeding 10 t, other than on a road or on a community landfill, quarry site or airport,*
 - (iii) the use of a single container for the storage of petroleum fuel that has a capacity equal to or exceeding 4000L,*
 - (iv) the use of a self-propelled motorized machine for moving earth or clearing land,*
 - (v) the leveling, grading, clearing, cutting or snow ploughing of a line, trail or right-of-way, other than a road or existing trail to a building, that exceeds 1.5 m in width or 4 ha in area, for the purpose other than the grooming of recreational trails,*

The Project does not involve any direct water use and/or waste deposit activities; therefore, it does not trigger requirements for a water licence.

5. Public Review

Prior the June 23, 2020 due date for comments on the Application, comments were received from the following parties:

- Government of the Northwest Territories – Department of Environment Natural and Resources (GNWT-ENR) (Environmental Assessment and Monitoring);
- Government of the Northwest Territories (GNWT) – Lands (Dehcho Region); and
- Government of the Northwest Territories GNWT – Prince of Wales Northern Heritage Centre (PWNHC) - (w/in ECE).

GNWT – Lands (Dehcho Region) provided, on June 25, 2020, additional commentary regarding security following the June 23, 2020 due date for public comments. As this comment was received after the comment deadline the Board will need to determine if it accepts the comment.

On June 25, 2020 the Applicant's Consultant provided responses to some of the comments and/or recommendations received from commenting parties. On July 30, 2020, the Applicant confirmed agreement with the response(s) provided by its Consultant.

Main Issues Identified During the Review

- Waste Management;
- Spill Contingency Planning and Reporting;
- Wildlife Management and Protection
- Forest Management
- Reclamation Security
- Recommended changes to Permit Conditions:
 - Sensitive Areas - Permit Conditions 65 in the context of 34,
 - Protection of Archeological Sites - 44-48 (Section 26(1)(j))

Preliminary Screening

Attached, for the Board’s consideration, is a draft Preliminary Screening containing information from the Application and public review process regarding environmental and socio-economic concerns, in addition to mitigations.

Draft Permit

The draft Permit, which is also attached, contains recommended conditions based on the Standard Permit Conditions List. As noted in the document, some of these conditions have been modified to reflect concerns and recommendations raised during the public review.

6. Security

Legislative Requirements

The Board may require security as per section 32 of the Mackenzie Valley Land Use Regulations, which state:

32(1) The Board may require security to be posted in an amount not exceeding the aggregate of the costs of

- (a) Abandonment of the land-use operation;*
- (b) Restoration of the site of the land-use operation; and*
- (c) Any measures that may be necessary after the abandonment of the land-use operation.*

32(2) In setting the amount of security pursuant to subsection (1), the Board may consider

- (a) The ability of the applicant or prospective assignee to pay the costs referred to in that subsection;*
- (b) The past performance of the applicant or prospective assignee in respect of any other permit;*
- (c) The prior posting of security by the applicant pursuant to other federal legislation in relation to the land-use operation; and*
- d) The probability of environmental damage or significance of any environmental damage.*

Security Estimate Calculations

While the Applicant provided a reclamation security estimate for the Project, it was requested that the requirement to post security be waived. The Government of the Northwest Territories – Lands (Dehcho Region) in its submission recommended that security be held for the Project to cover the cost of any potential clean-up required.

The Applicant’s estimate, conducted using the Board’s Reclamation Security Worksheet, assessed potential reclamation cost at \$10,207.50. During the “regular” public review period no comments were provided on this estimate. However, following the due date for public comments, the GNWT – Lands (Dehcho Region) indicated support for the Applicant’s proposed reclamation estimate. GNWT-Lands did not provide a calculated estimate for the Project’s reclamation security.

Board Staff completed the Board Reclamation Security Worksheet, which assessed reclamation security at **\$25,128.13**

As both the Applicant's and Board Staffs' estimates were conducted using the Board's Security Calculation Template, the estimates are directly comparable. **Table 1** below summarizes this information including the differences between these estimates.

Table 1: Summary of Estimates Including Differences			
Line Item	JMRF Estimate	Board Staff Estimate	Notes
Camp (C1)	N/A	N/A	No camp facility required or expected to be constructed.
Regulated/ Hazardous Materials (R1)	N/A	\$3,500	Staff estimate for this sub - category assumes a maximum of 7 pieces of heavy equipment being on site.
Hydrocarbon Storage and Transfer (H1)	N/A	\$928.13	Staff estimate for this sub- category assumes a maximum of 2,475 Litres of fuel potentially being on site.
Land Disturbance (L1)	\$10,200	\$10,200	Assumes 9.7 hectares of land being disturbed.
Equipment (E1)	\$4,750	\$10,500	Applicant assumed 4 pieces of heavy equipment being on site; Board Staff assumed 7 pieces of equipment.
Multiplier	0.85	1	Staff use a multiplier of 1 as no previous timber harvesting permit seen on file; the Applicant use a multiplier of 0.85.
Existing Security	-\$2,500.00	0	Security posted under Timber-Cutting Licence not considered overlapping.
Total	\$10,207.5	\$25,128.13	

*The numbers in these columns do not directly add up because of multipliers (for site access, performance, and environmental risks) in the Board's security template

7. Conclusion

Information provided in the Application and during the public review period suggests that the proposed Project or undertaking is unlikely to have significant adverse impact on the receiving environment or cause public concern.

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/or water.

Board staff conclude there are no outstanding issues or concerns regarding this Application.

8. Recommendation

Board staff request the Board consider accepting the late comments on security received from GNWT – Lands (Dehcho Region).

Board Staff recommend that the Board:

- a) Make a motion to approve **the preliminary screening for the Land Use Permit Application MV2020W0002 from Jean Marie River First Nation;**

- b) Make a motion to approve **the Type A Land Use Permit MV2020W0002 for a term of five years along with associated Reasons for Decision;**
- c) Make a motion to approve **the Waste Management Plan, required under the Land Use Permit MV2020W0002;**
- d) Make a motion to approve **the Spill Contingency Plan, required under Land Use Permit MV2020W0002;**
- e) Make a motion to approve **the Engagement Plan, required under Land Use Permit MV2020W0002;**

A draft decision letter is attached.

9. Attachments

- [Application](#)
- [Location Map](#)
- [Engagement Plan and Consultation Log](#)
- [Waste Acceptance Letter KBL](#)
- [Application - Fee Receipt](#)
- [Hazardous Waste Permission Letter from Carter Industries](#)
- [Incomplete Letter](#)
- [Site Satellite Imagery](#)
- [Security Calculations](#)
- [Spill Contingency Plan \(SCP\)](#)
- [Project Site Map](#)
- [GNWT-ENR - Requirements for Timber Cutting Licence](#)
- [Security Deposit Exemption Request](#)
- [Consultation Letters of Support](#)
- [Application - Cover letter](#)
- [Waste Management Plan \(Revision 2\)](#)
- [Applicant' Response to Public Comment](#)
- Draft Preliminary Screening Report Form
- Draft Letter to Review Board regarding 10-day pause period
- Review Comment Table
- Timber Harvesting Licence
- Board Staff Security Estimate
- Draft Land Use Permit Cover Page
- Draft Land Use Permit Conditions
- Draft Reasons for Decision
- Draft Decision Letter from the Board

Respectfully submitted,



Sean Joseph
Regulatory Specialist

Review Comment Table

Board:	MVLWB
Review Item:	MV2020W0002 - Jean Marie River First Nation - New_ Type A_ Land Use Permit Application
File(s):	MV2020W0002
Proponent:	Ttshets'ek'ehdeli First Nation (JMR)
Document(s):	MV2020W0002 - JMRFN - New LUP - General Location Map - Feb 21 20.pdf (241.38 KB) (241.38 KB) MV2020W0002 - JMRFN - New LUP Application - Engagement Plan and Consultation Logs (V1) - Feb 21 20.xlsx (29.12 KB) (29.12 KB) MV2020W0002 - JMRFN - New LUP Application - Draft Conditions - June 5 20.docx (179.79 KB) (179.79 KB) MV2020W0002 - JMRFN - New LUP Application - Waste Acceptance Letter from KBL - Mar 31 20.pdf (153.07 KB) (153.07 KB) MV2020W0002 - JMRFN - New LUP Application - Application Fee Receipt - Mar 30 20.pdf (70.83 KB) (70.83 KB) MV2020W0002 - JMRFN - New LUP Application - Hazardous Waste Disposal Permission from Carter Industries - Feb 3 20.pdf (83.11 KB) (83.11 KB) MV2020W0002 - JMRFN - New LUP Application - Appendix B - Environmental and Resource Impacts and Mitigation - Mar 2 20.pdf (323.64 KB) (323.64 KB) MV2020W0002 - JMRFN - New LUP Application - Timber Harvesting Operation - Incomplete Letter - Feb. 28 20.pdf (204.87 KB) (204.87 KB) MV2020W0002 - JMRFN - New LUP Application - Completed Application Form - Feb 21 20.pdf (350.81 KB) (350.81 KB) MV2020W0002 - JMRFN - New LUP Application - Site Satellite Imagery - Feb 21 20.png (3.66 MB) (3.66 MB) MV2020W0002 - JMRFN - New LUP Application - Security Calculations - Feb 21 20.xls (70.5 KB) (70.5 KB) MV2020W0002 - JMRFN - New LUP Application - Spill Contingency Plan (SCP) - Feb 21 20.pdf (588.13 KB) (588.13 KB) MV2020W0002 - JMRFN - New LUP Application - 1;20,000 Application Map - Feb 21 20.png (363.16 KB) (363.16 KB) MV2020W0002 - JMRFN - New LUP Application - Appendix C-CL Requirements - Feb 21 20.pdf (98.58 KB) (98.58 KB) MV2020W0002 - JMRFN - New LUP Application - Appendix D - Request for Security Deposit Exemption - Feb 21 20.pdf (229.62 KB) (229.62 KB) MV2020W0002 - JMRFN - New LUP Application - Appendix E-Consultation Letters of Support - Feb 21 20.pdf (249.14 KB) (249.14 KB) MV2020W0002 - JMRFN - New LUP Application - Cover letter - Feb 21 20.pdf (333.6 KB) (333.6 KB) MV2020W0002 - JMRFN - New LUP Application - Waste Management Plan (Revision 2) - Mar 3 20.pdf (931.52 KB) (931.52 KB)
Item For Review Distributed On:	June 9 at 10:51 Distribution List

Reviewer Comments Due By:	June 23, 2020
Proponent Responses Due By:	June 30, 2020
Item Description:	<p>Jean Marie River First Nation (the Applicant) has submitted a complete application for a Type A, Land-Use Permit (permit). The purpose of this Application is to allow the Applicant to conduct timber harvesting operations and associated activities, in the Deh Cho Region, approximately 17 km from the Jean Marie River First Nation Community, for a period of five (5) years.</p> <p>Using the Online Review System (ORS), reviewers are invited to submit comments and recommendations on the documents linked below by the review comment deadline specified. Reviewers may also wish to consider providing an overarching recommendation regarding whether the Board should approve the submission, to provide context for the comments and recommendations and assist the Board with its decision. If reviewers seek clarification on the submission, they are encouraged to correspond directly with the Applicant prior to submitting comments and recommendations.</p> <p>Under the Preliminary Screening Requirement Regulations, the Board must conduct a preliminary screening for a proposed development, unless it is exempt from preliminary screening in accordance with the Exemption List Regulations. Reviewers are encouraged to provide comments and recommendations (e.g., on impacts and mitigation measures) to assist with the Board’s preliminary screening determination.</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 Wildlife Act.</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. If you have any questions or comments about the ORS or this review, please contact Board staff identified below.</p>
Contact Information:	Jen Potten 867-766-7468 Sean Joseph

Comment Summary

GNWT - ENR - EAM (Environmental Assessment and Monitoring): Central Email GNWT				
ID	Topic	Reviewer Comment/Recommendation	Proponent Response (NB: copied and paste by staff)	Board Staff Analysis
			Their concerns are either all covered off in the application, or by the requirement from ENR Forestry to submit an Annual Operating Plan, and its incumbent requirements	
25	General File	Comment (doc) ENR Letter with Comments and Recommendations Recommendation		
1	Topic 1: 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 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		Board Staff concur with this recommendation

		<p>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</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 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 Waste Management Specialist, Environmental Protection and Waste Management Division by email (Lee.Ross@gov.nt.ca) or by phone (867) 767-9236 extension 53187.</p>		
2	Topic 2: 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>		Board Staff concur with is recommendation – A Spill Contingency Plan has been submitted with the application.
3	None	<p>Comment None</p> <p>Recommendation 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.</p>		
4	None	<p>Comment None</p> <p>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</p>		

		reasonable efforts must be made to notify any parties affected or potentially affected by the spill.	
5	None	Comment None Recommendation 4) Fuel storage areas should be greater than 100m distance from the ordinary highwater mark of a water body and not located in a drainage channel.	
6	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.).	
7	None	Comment None 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.	
8	None	Comment None 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.	
9	Topic 3: Wildlife: NWT Listed and Pre-listed Species at Risk	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 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	

	<p>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:</p> <ul style="list-style-type: none"> o Boreal Caribou - Threatened in the NWT o Little Brown Myotis (bat) - Special Concern in the NWT o Northern Myotis (bat) - Special Concern in the NWT <p>The project area overlaps with the ranges of the following NWT-listed and/or pre-listed species; information on these species is available at: https://www.nwt-species-at-risk.ca/SpeciesAtRisk/</p> <p>The project will contribute new habitat disturbance within the range of boreal caribou, the proposed cutblocks and access roads are adjacent to an existing all-season access road, and despite the proximity of the project to existing all-season road, this area is not avoided by boreal caribou. ENR notes that there have been collared boreal caribou locations within 1 km of the project area in the past 3 years, including during pre-calving and calving season. There is therefore potential for sensory disturbance to boreal caribou from timber harvesting operations.</p> <p>Recommendation 1) Although the project overlaps with the range(s) of the species listed above, ENR is of the opinion that the nature, scope, scale and/or timing of the proposed project are such that the likelihood of impacts to NWT-listed or pre-listed species listed above can be avoided or minimized if ENR's wildlife recommendations in this letter are implemented as necessary, including the application of any wildlife mitigation and monitoring measures imposed by the Board, and the application of any</p>		
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		wildlife mitigation and monitoring measures outlined in the Proponent’s authorization, application and supporting documents.		
10	None	<p>Comment None</p> <p>Recommendation 2) ENR recommends that the proponent include Little Brown Myotis and Northern Myotis and the mitigation measures for bat roosts and hibernacula contained in this letter in Appendix B - Environmental and Resource Impacts and Mitigation - 2020-03-02 - JMRFN - MV2020W0002.</p>	<ul style="list-style-type: none"> • Bats have not been noted within the Community of Jean Marie River (Pers. Comm. Chief Sanguez). • During winter timber harvesting, the bats are not present in the timber. There are no known caves in the area. • Typically, the road construction, tree felling, skidding, and merchandizing Activities will be conducted during the winter months; however, some Activities may occur during the snow-free months. Summer ops will primarily be focused on loading and hauling logs that were harvested during the winter. • Annual Operating Plans (AOP) are required by ENR for the Timber Cutting Licence. It adheres to the forest practices and mitigations outlined in the “Commercial Timber Harvest Planning & Operations SOP’s Manual (ENR)”. (see Appendix C for AOP requirements per Regs). 	Board Staff concur with this recommendation

			<ul style="list-style-type: none"> The AOP is conducted during snow free conditions, and it will identify any obvious bat nesting sites and bear den sites too. 	
11	None	<p>Comment None</p> <p>Recommendation 3) Road construction, tree felling, skidding, merchandizing, and debris piling activities during snow-free month should be avoided to prevent the disturbance of boreal caribou during pre-calving and calving season (April 1st-June 30th). Activities scheduled during snow-free months should involve the consultation of The Manager, Wildlife Research and Monitoring, Dehcho, ENR, Eve Lamontagne by phone (867)695-7450 or email at Eve_Lamontagne@gov.nt.ca</p>		Board Staff concur with this recommendation
12	None	<p>Comment None</p> <p>Recommendation 4) ENR recommends the proponent provide greater detail as to when snow-free activities are expected to occur.</p>	Somewhere in the time period from Mid April-mid October	This is taken into consideration in the permit
13	None	<p>Comment None</p> <p>Recommendation 5) ENR recommends harvesting areas father from the community access road earlier in the winter, and areas closer to the community access road during snow free season if operations cannot be avoided during the snow free season.</p>	Somewhere in the time period from Mid April-mid October.	Board Staff concur with this recommendation
14	None	<p>Comment None</p> <p>Recommendation 6) If boreal caribou are observed within the harvesting area, it is recommended that activities should be temporarily delayed or suspended, and the caribou should be given the opportunity to move off site prior to work commencing or continuing</p>		
15	Topic 4: 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</p>		

		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.		
16	Topic 5: Wildlife Abodes	<p>Comment Subject to sub-section 51(2) of the Wildlife Act, it is illegal to break into, destroy, or damage a den, beaver dam or lodge, muskrat push-up or hibernaculum unless you have an Aboriginal or treaty right or a Permit to do so. Protection of dens, beaver lodges, muskrat push-ups, and hibernacula is essential to ensuring reproductive success and survival of both adults and young.</p> <p>Recommendation 1) The Proponent should conduct pre-activity surveys within 800m of the project footprint to identify active bear dens if project activities will occur between September 30 and March 30. Surveys should be conducted in the fall to detect freshly dug dens.</p>	It is not intended for JMRFN to have to hire consultants; in order to meet their extensive list of surveys (both within the harvest areas, and up to 800 m outside them) and concerns.	Board Staff concur with this recommendation
17	None	<p>Comment None</p> <p>Recommendation 2) If an active bear den is detected, or suspected, the Proponent should implement and maintain an 800 m exclusion zone until the bear emerges in spring.</p>		
18	None	<p>Comment None</p> <p>Recommendation 3) If a bear den and exclusion zone would result in the halt of part or the entire program, the Proponent should contact ENR to discuss alternative mitigation options. The location of active bear dens should be kept confidential between the developer and ENR until after emergence in the spring.</p>		
19	None	<p>Comment None</p> <p>Recommendation 4) It is recommended that, if encountered, beaver lodges, muskrat push-ups, and hibernacula are not disturbed or damaged.</p>		
20	Topic 6: Wildlife Attractants and Waste Management	<p>Comment Subject to sub-section 66(1) of the Wildlife Act no person shall store food, waste, or other substances in a manner that may attract big game or other prescribed wildlife and put people, domestic animals, or wildlife in danger. Subject to sub-section 65(1) of the Wildlife Act, it is illegal to intentionally feed big game, furbearers or other prescribed wildlife. Schedule A - Part 2 of the Wildlife General Regulations sets out the species</p>		

		prescribed as fur-bearers. Recommendation 1) The Proponent should utilize food and garbage handling and storage procedures that will minimize the attraction of wildlife.		
21	None	Comment None Recommendation 2) The Proponent should store all food, waste, washed recyclables and debris that may attract wildlife within sealed animal proof containers until final disposal.		Board Staff concur with this recommendation
22	None	Comment None Recommendation 3) The Proponent should ensure that sealed animal proof containers are cleaned once emptied to minimize the attraction of wildlife.		
23	None	Comment None Recommendation 4) The Proponent should ensure that all grey water (dishwater, showers, laundry, etc.) and black water (sewage) are treated and disposed of in a manner that will minimize the attraction of wildlife.		
24	None	Comment None Recommendation 5) The Proponent should remove all waste petroleum products including used oil filters, rags, scrap metal, discarded machinery, parts, drums, barrels, or plastics to an approved waste disposal facility.		Board Staff concurs with GNWT-ENR's recommendation; although, minimal amount of petroleum product waste are expected to be generated.

GNWT - Lands - Dehcho Region: Kyle Christiansen

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Analysis
1	Draft Conditions - 49. Security Deposit	Comment Inspectors believe security deposits are essential to ensure the permitted area is left in a satisfactory manner once the Land Use Permit expires. Recommendation Have a security deposit in place for any potential clean up that may be required.	NWT has provided significant financial and morale support towards the sawmill project. The Deposit is a cost centre that needs to be waived, in the spirit of GNWT's support. As described in the application, there is a request to waive this deposit. Precedence has been set by Patterson	Board Staff concurs with GNWT-Lands recommendation

			Sawmills' LUP for a much larger volume of timber and area of operation.	
2	Draft Conditions - 65. Clearing Sensitive Area	<p>Comment Board staff is seeking additional feedback on this condition.</p> <p>Recommendation Inspectors recommend a minimum of 100 metres for clearing by hand in sensitive areas. Inspectors recommend this due to Condition 34. Equipment: Watercourse Buffer having a 100 metre buffer from any Ordinary High-Water Mark.</p>	The concerns are either all covered off by application (e.g.; Machine Fee Zones), or by the requirement from ENR Forestry to submit an Annual Operating Plan, and its incumbent requirements. This does not need "Extra stringent" conditions; especially if on frozen ground.	Board Staff concur with GNWT-Lands recommendation
3	Security Calculations	<p>Comment (Submitted after Due Date) Inspectors from the Department of Lands reviewed the security calculation spreadsheet. Inspectors believe the security estimate will be sufficient for the Land Use activities occurring.</p> <p>Recommendation Inspectors recommend the security estimate of \$10,207.50 be paid in full.</p>		Board staff estimated reclamation cost at \$25,128.13

GNWT - PWNHC (Prince of Wales Northern Heritage Centre (w/in ECE)): Naomi Smethurst

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Analysis
1	Protection of Historical, Archaeological, and Burial Sites	<p>Comment The Culture and Heritage Division (ECE) has reviewed the draft conditions in Section 26(1)(j). Conditions 44-48 are sufficient for the protection of archaeological sites for this project.</p> <p>Recommendation Retain conditions 44-48 on the final land use permit. The Culture and Heritage Division recommends changing the wording of condition 44 to "The Permittee shall not operate any vehicle or equipment within 150 metres of a known or suspected historical or archaeological site or burial ground, unless ECE has provided specific alternate recommendations."</p>		Board staff anticipate the proposed change may be problematic in terms of enforcement



June 23, 2020

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: Jean Marie River First Nation
Land Use Permit Application – W2020W0002
Timber Harvesting and Associated Activities
Request for Comment**

The Department of Environment and Natural Resources (ENR), Government of the Northwest Territories (GNWT) 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 and the Proponent.

Topic 1: 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 Waste Management Specialist, Environmental Protection and Waste Management Division by email (Lee.Ross@gov.nt.ca) or by phone (867) 767-9236 extension 53187.

Topic 2: 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:

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 3: 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 in the NWT
- [Little Brown Myotis \(bat\)](#) – Special Concern in the NWT
- [Northern Myotis \(bat\)](#) – Special Concern in the NWT

The project area overlaps with the ranges of the following NWT-listed and/or pre-listed species; information on these species is available at:

<https://www.nwtspeciesatrisk.ca/SpeciesAtRisk>:

The project will contribute new habitat disturbance within the range of boreal caribou, the proposed cutblocks and access roads are adjacent to an existing all-season access road, and despite the proximity of the project to existing all-season road, this area is not avoided by boreal caribou. ENR notes that there have been collared boreal caribou locations within 1 km of the project area in the past 3 years, including during pre-calving and calving season. There is therefore potential for sensory disturbance to boreal caribou from timber harvesting operations.

Recommendation(s):

- 1) Although the project overlaps with the range(s) of the species listed above, ENR is of the opinion that the nature, scope, scale and/or timing of the proposed project are such that the likelihood of impacts to NWT-listed or pre-listed species listed above can be avoided or minimized if ENR's wildlife recommendations in this letter are implemented as necessary, including the application of any wildlife mitigation and monitoring measures imposed by the Board, and the

application of any wildlife mitigation and monitoring measures outlined in the Proponent's authorization, application and supporting documents.

- 2) ENR recommends that the proponent include Little Brown Myotis and Northern Myotis and the mitigation measures for bat roosts and hibernacula contained in this letter in Appendix B - Environmental and Resource Impacts and Mitigation - 2020-03-02 - JMRFN - MV2020W0002 .
- 3) Road construction, tree felling, skidding, merchandizing, and debris piling activities during snow-free month should be avoided to prevent the disturbance of boreal caribou during pre-calving and calving season (April 1st-June 30th). Activities scheduled during snow-free months should involve the consultation of The Manager, Wildlife Research and Monitoring, Dehcho, ENR, Eve Lamontagne by phone (867)695-7450 or email at Eve.Lamontagne@gov.nt.ca
- 4) ENR recommends the proponent provide greater detail as to when snow-free activities are expected to occur.
- 5) ENR recommends harvesting areas farther from the community access road earlier in the winter, and areas closer to the community access road during snow free season if operations cannot be avoided during the snow free season.
- 6) If boreal caribou are observed within the harvesting area, it is recommended that activities should be temporarily delayed or suspended, and the caribou should be given the opportunity to move off site prior to work commencing or continuing.

Topic 4: 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.

Topic 5: Wildlife Abodes

Comment(s):

Subject to sub-section 51(2) of the *Wildlife Act*, it is illegal to break into, destroy, or damage a den, beaver dam or lodge, muskrat push-up or hibernaculum unless you have an Aboriginal or treaty right or a Permit to do so.

Protection of dens, beaver lodges, muskrat push-ups, and hibernacula is essential to ensuring reproductive success and survival of both adults and young.

Recommendation(s):

- 1) The Proponent should conduct pre-activity surveys within 800m of the project footprint to identify active bear dens if project activities will occur between September 30 and March 30. Surveys should be conducted in the fall to detect freshly dug dens.
- 2) If an active bear den is detected, or suspected, the Proponent should implement and maintain an 800 m exclusion zone until the bear emerges in spring.
- 3) If a bear den and exclusion zone would result in the halt of part or the entire program, the Proponent should contact ENR to discuss alternative mitigation options. The location of active bear dens should be kept confidential between the developer and ENR until after emergence in the spring.
- 4) It is recommended that, if encountered, beaver lodges, muskrat push-ups, and hibernacula are not disturbed or damaged.

Topic 6: Wildlife Attractants and Waste Management

Comment(s):

Subject to sub-section 66(1) of the *Wildlife Act* no person shall store food, waste, or other substances in a manner that may attract big game or other prescribed wildlife and put people, domestic animals, or wildlife in danger.

Subject to sub-section 65(1) of the *Wildlife Act*, it is illegal to intentionally feed big game, furbearers or other prescribed wildlife. Schedule A – Part 2 of the *Wildlife General Regulations* sets out the species prescribed as fur-bearers.

Recommendation(s):

- 1) The Proponent should utilize food and garbage handling and storage procedures that will minimize the attraction of wildlife.
- 2) The Proponent should store all food, waste, washed recyclables and debris that may attract wildlife within sealed animal proof containers until final disposal.

- 3) The Proponent should ensure that sealed animal proof containers are cleaned once emptied to minimize the attraction of wildlife.
- 4) The Proponent should ensure that all grey water (dishwater, showers, laundry, etc.) and black water (sewage) are treated and disposed of in a manner that will minimize the attraction of wildlife.
- 5) The Proponent should remove all waste petroleum products including used oil filters, rags, scrap metal, discarded machinery, parts, drums, barrels, or plastics to an approved waste disposal facility.

Comments and Recommendations Directed to the Proponent

The following comments are directed to the applicant of the Land Use Permit and are provided based on ENR's 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*. The following comments and recommendations are for the information, consideration, and appropriate action of the Proponent and as they are applicable to project activities.

Legislative and Regulatory Requirements

Topic 1: Forest Management

Recommendation(s):

- 1) In order to comply with the *Forest Protection Act* (Sections 10 and 19(1)), the Proponent should adhere to the *Forest Fire Prevention and Suppression Guidelines*. The intent of the Guidelines is threefold. First, industrial operations must be conducted so that they do not contribute to the fire load. Second, industrial operations must be able to control and extinguish any fires that occur as a result of their operations. Finally, industrial operations must be able to respond to wildfires that may affect human life and other property as a result of their operations. The guidelines may be accessed at the following website:

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

- 2) The *Forest Management Act* and Regulations prohibits anyone from cutting, using or transporting timber, or damaging standing timber unless:
 - Authorized with a Timber Permit;
 - Authorized by license; or
 - Exempted from holding a Permit or license.

The Proponent is requested to contact the local/regional ENR office for further information on obtaining a Forest Management Authorization, if required.

- 3) If the Proponent plans to burn brush or other materials during the official fire season (May 01 – September 30), they will require a Permit to Burn from ENR, as per the *Forest Protection Act* (Section 10(1) and 21).

- 4) The Proponent should be aware of Part 1 Clause 18 of the *Exemption List Regulations* under the *Mackenzie Valley Resource Management Act* in which a burn authorized under a Permit to Burn is exempt from Preliminary Screening if it is not greater than an area of 25 m².
- 5) If the site brush and tree cover is not merchantable then it should be piled up accordingly (and not mixed with soil) so that it can be burned or spread out at a later date. If merchantable wood is involved, either merchantable firewood or saw timber, it should be cleanly set to one side of the operation and made available for recovery. The Proponent should contact the local ENR office to determine what forest management authorization will be required, if any.

Topic 2: Wildlife Abodes

Comment(s):

Subject to sub-section 51(2) of the *Wildlife Act*, it is illegal to break into, destroy or damage a den, beaver dam or lodge, muskrat push-up or hibernaculum unless you have an Aboriginal or treaty right or a Permit to do so.

Protection of dens, beaver lodges, muskrat push-ups, and hibernacula is essential to ensuring reproductive success and survival of both adults and young.

Subject to sub-section 5.3.(1) of the General Wildlife Regulations, no person shall damage, destroy, disturb, or otherwise adversely affect the summer abode of a bat (also referred to as a summer maternity roost), unless authorized by a licence or permit to do so. This prohibition does not apply to a summer abode in a man-made structure on private property. In the summer, NWT bats roost (rest) in tree hollows or crevices, under tree bark, among the leaves of trees, in caves, in rock crevices, and in buildings. Roosts in forested habitat typically occur in large, dead or decaying trees. Roosts provide shelter, protection from predators, and suitable temperature and humidity conditions. A single roost may be used by many reproducing females and their young. Many bats show strong fidelity to roosts or to a group of roosts, returning year after year to the same roost or to the same patches of roosting habitat. Destruction or removal of a roost may be authorized where required by a *Wildlife General Permit* which can be obtained from ENR.

Recommendation(s):

- 1) Contact ENR prior to start-up of project activities to determine if there are any known dens, push-ups, lodges, beaver dams or hibernacula within the project area.

- 2) Prior to start-up of project activities, conduct surveys of lakes or other water bodies proposed to be used for water withdrawal or winter access roads to determine the presence of muskrat push-ups, beaver lodges or beaver dams. If one or more of these features is found contact ENR to discuss mitigation options.
- 3) Further guidance on different setback distances and timing windows for wildlife abodes are provided in Table 6 of the Northern Land Use Guidelines: Northwest Territories Seismic Operations Vol.9 (a) at:

http://www.lands.gov.nt.ca/sites/lands/files/resources/nlug_seismic_2015_english_-_16_sept_2015.pdf

- 4) Proponents should also check whether there are setback distances and timing restrictions for wildlife abodes within the regional Land Use Plan for their project area.
- 5) The Proponent should conduct pre-activity surveys within 800m of the project footprint to identify active bear dens between September 30 and March 30. Surveys should be conducted in the fall shortly after the first snow fall to detect freshly dug dens.
- 6) If an active bear den is detected, or suspected, implement and maintain an 800 m buffer zone until the bear emerges in spring.
- 7) If the bear den and exclusion zone would result in the halt of part or the entire program, the Proponent should contact ENR to discuss alternative mitigation options. The location of active bear dens should be kept confidential between the developer and ENR until after emergence in the spring.
- 8) The Proponent should avoid vegetation clearing or demolition of buildings or other man-made structures that may be used as summer maternity roosts for bats between May 1 to September 30.
- 9) If bats are suspected to be present in structures or buildings associated with the project, the Proponent should consult the NWT Guide for Managing Bats in Buildings (https://www.enr.gov.nt.ca/sites/enr/files/resources/3546-gnwt-enr-bats-guidebook_july15.pdf)

Topic 3: Advice for NWT Listed and Pre-listed Species at Risk

Comment(s):

Sections 76 and 77 of the *Species at Risk (NWT) Act* requires 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:

- [Barren-ground Caribou](#) - Threatened in the NWT
- [Grizzly Bear](#) – Special Concern in NWT

Recommendation(s):

1) For information on NWT species at risk in the project area please consult:

- <http://www.nwtspeciesatrisk.ca/SpeciesAtRisk>
- <http://www.nwtspeciesatrisk.ca/ToolsForDevelopers>
- [Species at Risk in the NWT - 2016 Edition](#)

2) The Proponent should be aware of the prohibitions that may apply to the species that occur in your area. Check the *Species at Risk (NWT) Act* regulations webpage (<http://www.nwtspeciesatrisk.ca/ToolsForDevelopers>) to see if there are any applicable regulations or agreements with land owners that must be followed for NWT-listed or pre-listed species at risk.

3) For information and legislative requirements related to federally-listed species at risk, consult the Species at Risk Public Registry (www.sararegistry.gc.ca) or contact Environment and Climate Change Canada or the Department of Fisheries and Oceans.

- 4) Ensure that employees and contractors are aware of the species at risk that might occur in the project area. This includes species that are pre-listed or listed under the *Species at Risk (NWT) Act*, species listed under the federal *Species at Risk Act*, and species designated as at risk by COSEWIC.
- 5) If species at risk are encountered during project undertakings, the primary mitigation measure should be avoidance. The Proponent should avoid contact with or disturbance to each species, its habitat and/or its residence.
- 6) Monitoring should be undertaken by the Proponent to determine the effectiveness of mitigation and/or identify where further mitigation is required. As a minimum, monitoring should include recording the locations and dates of any observations of species at risk, behaviour or actions taken by the animals when project activities were encountered, and any actions taken by the Proponent to avoid contact with or disturbance to the species, its habitat, and/or its residence.
- 7) Submit sightings of species at risk and monitoring information to ENR's Wildlife Management Information System (WMIS) at WMISTeam@gov.nt.ca and to other appropriate regulators and organizations with management responsibility for the species as may be necessary at:

<http://www.enr.gov.nt.ca/programs/wildlife-research/wildlife-management-information-services>

Further information on the WMIS can be found at:

<http://www.enr.gov.nt.ca/programs/wildlife-research/wildlife-management-information-services>

Topic 4: 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.

To better understand cumulative effects in the NWT, ENR-NWT Cumulative Impact Monitoring Program has developed the 'Inventory of Landscape Change' (ILC). One of the layers incorporated in the ILC is derived from public registry documents and validated through satellite imagery. Submission of standardized spatial data to public registries facilitates data acquisition for this layer.

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 MVLWB's "Standards for Geographic Information Systems (GIS) Submissions" should be followed when submitting spatial data.

Topic 5: Nesting Birds

Comment(s):

- Conducting activities involving vegetation clearing, ground disturbance or demolition of buildings and other structures during the nesting season increases the risk of contravening paragraph 51(1)(a) of the *Wildlife Act* which prohibits destroying, disturbing, or taking the eggs of a bird or a nest when it is occupied by a bird or its eggs, or destroying, disturbing, or taking the nest of a prescribed bird at any time.
- Protection of nests is essential to ensuring reproductive success and survival of both adults and young.
- The Canadian Wildlife Service of Environment and Climate Change Canada (ECCC) is the responsible management authority for migratory birds protected under the Migratory Birds Convention Act, 1994.

<https://ec.gc.ca/nature/default.asp?lang=En&n=496E2702-1>

- GNWT is responsible for the management of non-migratory birds including raptors.
- Critical breeding periods for NWT raptors can start as early as the 1st week of April and last up until 3rd week of September, depending on the species and location.

Recommendation(s):

- 1) Conduct vegetation clearing and any new ground disturbance outside of the nesting season for birds in the project area.
- 2) Information on critical breeding periods for raptors in the NWT is available at:

https://www.enr.gov.nt.ca/sites/enr/files/raptor_species_breeding_periods.pdf

- 3) Follow the Government of Canada's *Guidelines to reduce risk to migratory birds* available at:

<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html>

- 4) Consult the Government of Canada's *General nesting periods of migratory birds* for current information on general nesting periods of federally protected migratory birds that occur within the NWT at the following link:

<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/general-nesting-periods.html>

- 5) If active nests are encountered during project activities implement protective buffer zones described in applicable the regional land use plan, Table 6 of the Northern Land Use Guidelines – Northwest Territories Seismic Operations (<http://www.lands.gov.nt.ca/en/northern-land-use-guidelines>), or the Government of Canada's guidance on *Establishing buffer zones and setback distances* for nests at (<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html#toc5>).
- 6) If disturbance or destruction of an occupied nest or eggs of a non-migratory bird species (including raptors), or an unoccupied raptor nest, cannot be avoided and all other all mitigation options have been ruled out, Proponents should contact the regional ENR office to determine whether a permit to disturb or destroy the nest/eggs can be obtained.
- 7) Consult ECC's *General Nesting Periods of Migratory Birds in Canada* for current information on general nesting periods of federally protected migratory birds that occur within the NWT. Available at:

<http://www.ec.gc.ca/paom-itmb/default.asp?lang=En&n=4F39A78F-1>

- 8) Contact ENR, Wildlife Division for information on critical breeding periods for raptors and/or known raptor nest sites in the project area.

Topic 6: Wildlife Disturbance and Harassment

Comment(s):

Unless authorized by a Licence or Permit, paragraphs 52(a) and (b) of the *Wildlife Act* prohibit engaging in an activity that is likely to result in significant disturbance

to big game or other prescribed wildlife, or to unnecessarily chase, fatigue, disturb, torment or otherwise harass game or other prescribed wildlife.

Game species include big game, fur-bearers, and small game as listed in Schedule A of the Wildlife General Regulations, and birds of prey are listed in Schedule B.

Schedule A – Part 1 of the *Wildlife General Regulations*, sets out the species prescribed as big game, and Schedule B sets out prescribed wildlife for the purpose of paragraphs 52(a) and (b) of the *Wildlife Act*. Game species include big game, fur-bearers, and small game as listed in Schedule A of the Wildlife General Regulations, and birds of prey are listed in Schedule B.

As per section 55 of the Wildlife Act a person may chase wildlife away from a camp or work site if doing so is necessary to prevent injury or death to a person or damage to property. However sub-section 56(2) also states wildlife may be killed if it is necessary to prevent injury or death to a person, as long as resorting to killing wildlife was not a result of his or her mismanagement.

Disturbance to wildlife from sources such as noise, light, vibrations, and human presence can result in energetic stress, avoidance of key habitat, loss of reproductive fitness, injury or mortality of wildlife. Activities that may cause sensory disturbance to wildlife include vehicle traffic, stationary machinery, noise from blasting, excavation, crushing, seismic testing, vegetation clearing, and lighting or flaring.

Recommendation(s):

- 1) The Proponent should be aware that no wildlife should be disturbed, chased, or harassed by human beings on foot, in a motorized vehicle, or by aircraft. Unless authorized by a Licence or Permit, paragraphs 52(a) and (b) of the *Wildlife Act* prohibit engaging in an activity that is likely to result in significant disturbance to big game or other prescribed wildlife, or to unnecessarily chase, fatigue, disturb, torment or otherwise harass game or other prescribed wildlife. However, subject to section 55 of the *Wildlife Act* a person may chase wildlife away from a camp or work site if doing so is necessary to prevent injury or death to a person or damage to property.
- 2) Consult the setback distances, flight altitude guidelines and timing windows for wildlife provided in Tables 6 and 7 of the Northern Land Use Guidelines: Northwest Territories Seismic Operations Vol.9 (a) as they are applicable to variety of land use activities:

http://www.lands.gov.nt.ca/sites/lands/files/resources/nlug_seismic_2015_english_-_16_sept_2015.pdf

- 3) Consult the approved Land Use Plan, if applicable, that applies to the project area for further guidance on setback distances and timing windows to minimize disturbance to wildlife.
- 4) Wildlife shall be given the right of way at all times.
- 5) Suspend activities temporarily if one or more individuals of a big game species are spotted within five hundred (500) metres of the work site.
- 6) If big game species are observed within 500 m prior to starting up activities that could lead to sensory disturbance or startling the animal(s), delay starting up until they have moved at least 500 m away from the site of project activities. If they do not leave the area within 15 minutes, they may be gently encouraged to move away from the site. This should involve the slow approach by vehicle towards the animal or making your presence known by calling out and waving your arms to encourage them to move. This should be done from behind a vehicle or piece of equipment to prevent personnel from going too close to the animal. It is possible that females may be unwilling to leave the area if they have a calf hiding nearby. If big game species approach the project within 500 m once activities have already started, monitor and document their behaviour, and suspend activities if there is an imminent threat of injury or mortality to the animal(s).
- 7) An Incident Report should be completed for all wildlife deterrent actions taken and submitted to ENR. Blank incident report forms can be downloaded from the following link:

https://www.enr.gov.nt.ca/sites/enr/files/resources/sample_procedural_manual_and_reporting_templates_june_2019.pdf

Topic 7: Reporting Wildlife Sighting

Comment(s):

Proponents are encouraged to record wildlife sightings and to submit these records to ENR's WMIS. Wildlife sightings data provides useful information for assessing changes in species distribution and the timing and location of different life history events such as migration, denning, nesting, calving, etc.

Recommendation(s):

- 1) Submit information about wildlife sightings (species, date, time, location, number of individuals, sex, behaviour, etc.) to WMIS at WMISTeam@gov.nt.ca. For further information on the WMIS consult:

<http://www.enr.gov.nt.ca/programs/wildlife-research/wildlife-management-information-services>

- 2) Contact the regional ENR office to obtain blank wildlife sightings forms, or blank wildlife sighting report forms can be downloaded from the following link:

https://www.enr.gov.nt.ca/sites/enr/files/resources/sample_procedural_manual_and_reporting_templates_june_2019.pdf

Topic 8: Reporting Wildlife Defence/Property Kills and Wildlife Incidents

Comment(s):

Subject to paragraph 57(a) of the *Wildlife Act*, any big game or other prescribed wildlife that is killed to prevent injury or death to a person or damage to property must be reported to ENR as soon as is practicable. Section 7 of the *Wildlife General Regulations* describes what information must be included in the report.

Subject to section 58 of the *Wildlife Act* and sub-section 8(1) of the *Wildlife General Regulations*, any person who accidentally kills or seriously wounds big game or other prescribed wildlife with a motorized vehicle on a highway must report the event to an officer within 24 hours after the incident.

Recommendation(s):

- 1) Ensure all field personnel have completed a bear safety training course to decrease the risk of attracting bears to work sites and threats to human safety, learn how to respond to bear encounters, and decrease the risk of wildlife mortality resulting from kills in defense of life and property.
- 2) Report all sightings of bears in and around the project location to your local ENR office. Any defence of life and property kills must be reported to the appropriate ENR office immediately. Please contact the following Regional Office as required:
 - Dehcho Region Wildlife Emergency Line at (867) 695-7433
- 3) Ensure all field personnel have completed a bear safety training course to decrease the risk of attracting bears to work sites and threats to human safety,

learn how to respond to bear encounters, and decrease the risk of wildlife mortality resulting from kills in defence of life and property.

- 4) Consult the “Safety in Grizzly Bear and Black Bear Country” brochure, available at:

http://www.enr.gov.nt.ca/sites/enr/files/resources/safety_in_grizzly_and_black_bear_country_english.pdf

- 5) Report to an ENR officer as soon as is practicable any wildlife that is killed to prevent injury or death to a person or damage to property.
- 6) Report to an ENR officer any big game or other prescribed wildlife that is killed or seriously wounded by a motorized vehicle on a highway within 24 hours after the incident.
- 7) Reports must include at minimum the name of the person who killed or injured the wildlife, an explanation of the incident, the time, date and location of the incident, the species or quantity involved, and any other information requested by the wildlife officer.
- 8) Contact the regional ENR office to obtain blank wildlife incident forms, or Blank incident report forms can be downloaded from the following link:
https://www.enr.gov.nt.ca/sites/enr/files/resources/sample_procedural_manual_and_reporting_templates_june_2019.pdf

Topic 9: Wildlife Attractants and Waste Management

Comment(s):

Subject to sub-section 66(1) of the *Wildlife Act* no person shall store food, waste, or other substances in a manner that may attract big game or other prescribed wildlife and put people, domestic animals or wildlife in danger.

Subject to sub-section 65(1) of the *Wildlife Act*, it is illegal to intentionally feed big game, furbearers or other prescribed wildlife. Schedule A – Part 2 of the *Wildlife General Regulations* sets out the species prescribed as fur-bearers.

Recommendation(s):

- 1) Waste being stored on site prior to being transported to a municipal landfill site, or disposed by other methods, must be stored in a manner that minimizes the attraction of wildlife, as it is a violation of *Section 66(1) of the Wildlife Act*. An animal proof, sealed container must be used for storing waste onsite to minimize

wildlife being attracted to odours. For reference please refer to the following guidance document “Safety in Grizzly and Black Bear Country”

http://www.enr.gov.nt.ca/sites/enr/files/resources/safety_in_grizzly_and_black_bear_country_english.pdf

- 2) Project personnel should not intentionally feed wildlife or purposefully encourage wildlife to habituate to human presence.

Topic 10: Spill Contingency Planning

Recommendation(s):

- 1) 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.
- 2) 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, and as per *Section 5(1c)* all reasonable efforts must be made to notify any parties affected or potentially affected by the spill.
- 3) ENR recommends, for 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.

ENR reminds the Proponent that references to applicable statutes and regulations are to be considered as advice only, and should not be construed as permission to contravene any other applicable statutes and regulations not mentioned in this letter.

Comments and recommendations were provided by ENR technical experts in the Environmental Protection and Waste Management Division, the Wildlife and Fish Management Division and the Dehcho Region and were coordinated and collated by the Environmental Assessment and Monitoring Section, 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