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October 28, 2022

File: MV2022X0014

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: Re: Kát'odeeche First Nation – Notice of Preliminary Screening Determination – Application for Land Use Permit – Phase II Environmental Assessment – Kát'odeeche First Nation (Hay River Dene Reserve No.1) NT

The Mackenzie Valley Land and Water Board (Board) met on October 27, 2022 and considered the Application from Kát'odeeche First Nation (KFN) for Land Use Permit (Permit) MV2022X0014 for the Phase II Environmental Assessment (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 MV2022X0014 on **Tuesday November 8, 2022**.

The Board and staff look forward to continued communications throughout the pause period. Please contact [Shelagh Montgomery](#) via email or at (867) 766-7457 with any questions or concerns regarding this letter.

Yours sincerely,

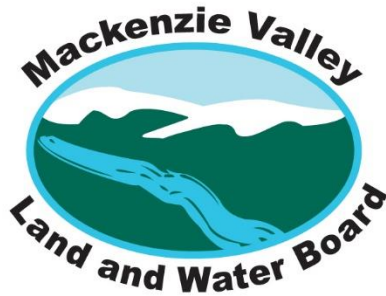


Mavis Cli-Michaud

Chair, Mackenzie Valley Land and Water Board

BCC'd to: Akaitcho Distribution List
Dehcho Distribution List
Victoria St. Jean - Kát'odeeche First Nation
Marshall Pachal - Senior Associate, Environmental Scientist, Stantec
Lee Ann Malley – Senior Environmental Planner, Environmental Services, Stantec

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	MV2022X0014
Company	Kát'odeeche First Nation
Project	Phase II Environmental Assessment
Location	Kát'odeeche First Nation (Hay River Dene Reserve No.1)
Activity	Miscellaneous
Date of Decision	October 27, 2022

1.0 Decision

In accordance with subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA), the Mackenzie Valley Land and Water Board (MVLWB or Board) met on October 27, 2022 to make a preliminary screening determination on the Application from Kát'odeeche First Nation (KFN) (Applicant) for Land Use Permit MV2022X0014 (Permit)¹ for the Phase II Environmental Assessment (Project).²

The Board has decided not to refer the proposed 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 Project will not have a significant adverse impact on the environment or be a cause of public concern.

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

¹See MVLWB Online Registry www.mvlwb.com for Kát'odeeche First Nation (KFN) – [Permit Application](#) – Sept14_22.

² The Project is the Phase II Environmental Assessment, 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."

2.0 List of Defined Terms and Acronyms

Applicant	Kát'odeeche First Nation
Application	The complete application package submitted by the Applicant for Land Use Permit MV2022X0014.
Board	Mackenzie Valley 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	Phase II Environmental Assessment, 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	Tłıchǫ Government
TK	Traditional Knowledge
WMP	Waste Management Plan

3.0 Background and Scope of Screening

On September 8, 2022 the Applicant submitted an application for a new Permit MV2022X0014 (the Application). The Application is to conduct a Phase II Environmental Assessment within the Hay River Dene Reserve #1. The work is being undertaken to support the transfer of land administration and management from the Government of Canada to KFN. The Project will require an estimated 34 boreholes, 10 of which will be completed with monitoring well installations. The borehole and monitoring wells will be used to conduct soil sampling and groundwater monitoring and sampling. The KFN engaged with the Town of Hay River on August 25, 2022, no concerns were raised.

In accordance with paragraph 125(1)(a) of the MVRMA, the Board must conduct a preliminary screening of the proposed Project to determine and report to the Review Board whether, in its opinion, the

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.”

proposed 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:

The Project will have a very low impact on the area. The area being screened is pre-disturbed and the applicant will only be disturbing the areas where the boreholes and monitoring wells are being installed and sampled from.

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 September 16, 2022, inviting reviewers to provide comments and recommendations on the Applications and the preliminary screening (e.g., on impacts and mitigation measures) using the Online Review System (ORS). Comments were due October 6, 2022, with responses from the Applicant due October 13, 2022. The Board received comments and recommendations from Crown Indigenous Relations and Northern Affairs Canada - Yellowknife (CIRNAC), Crown Indigenous Relations and Northern Affairs Canada (CIRNAC) – Inspectors, and Government of the Northwest Territories – Environment and Natural Resources – Environmental assessment and Monitoring (GNWT–ENR–EAM) (attached).⁴

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.

4.0 Potential Impacts and Proposed Mitigations

Table 1 below summarizes:

- the potential impacts of the proposed 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.

⁴ See MVLWB Online Registry for Kátł'odeeche First Nation – [Review Comment Summary Table](#) – Oct13_22.

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

Potential Impact	Activity	Proposed Mitigations <i>Description of measures to reduce potential impacts, including consideration of cumulative impacts and climate change.</i>	Board Analysis and Determination
Soil Contamination	Drilling	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application <ul style="list-style-type: none"> ○ Secure containment; and ○ Spill contingency plan and clean up protocols • The Board has a standard permit condition that is typically used to mitigate the identified potential impact. These standard conditions include:⁵ <ul style="list-style-type: none"> ○ Drilling Waste; ○ Drilling Waste Disposal; and ○ Drilling Waste Containment. 	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.
Changes in Water Quality	Drilling and Storage of Waste	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application <ul style="list-style-type: none"> ○ Secure containment; and ○ Spill contingency plan; ○ Waste Management Plan; and ○ Clean up protocols • The Board has a standard permit condition that is typically used to mitigate the identified potential impact. These standard conditions include: <ul style="list-style-type: none"> ○ Drilling Setback; ○ Flowing Artesian Well; ○ Drilling Waste; ○ Drilling Waste Disposal; and ○ Drilling Waste Containment. 	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.

⁵ See the MVLWB Policies and Resources webpage to access the MVLWB [Standard Water Licence Conditions Template](#) and/OR MVLWB [Standard Land Use Permit Conditions Template](#).

Compaction of Vegetation	Moving of equipment	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application <ul style="list-style-type: none"> ○ Plywood will be used to minimize rutting to the ground surface if warranted. • The Board has a standard permit condition that is typically used to mitigate the identified potential impact. These standard conditions include: <ul style="list-style-type: none"> ○ Prevention of Rutting; and ○ Suspend overland travel. 	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.
Human – wildlife conflicts	Drilling	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application <ul style="list-style-type: none"> ○ Will suspend work by turning off machinery to allow for safe passage of wildlife. ○ If injured wildlife are encountered, Ministry of Natural Resources will be contacted for direction. • The Board has a standard permit condition that is typically used to mitigate the identified potential impact. These standard conditions include: <ul style="list-style-type: none"> ○ Habitat Damage; and ○ 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.
Effects on Health (toxins, metals, sediment, etc.)	Drilling	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application <ul style="list-style-type: none"> ○ Drill cuttings will be collected and stored in soil bags and containers until analytical results can inform the best disposal methods. ○ Spills and accidental release will be managed and mitigated for as per the Spill Contingency Plan and Waste Management Plan. • The Board has a standard permit condition that is typically used to mitigate the identified potential impact. These standard conditions include: <ul style="list-style-type: none"> ○ Habitat Damage; ○ Drilling Waste Disposal; ○ Drilling Waste Containment; ○ Waste Management; ○ Spill Contingency Plan; and ○ Spill Response. 	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.

4.1 Consideration of Potential Impacts

Based on the potential impacts and proposed mitigations identified above in Table 1, the Board considered whether the Project might have a significant adverse impact on the environment. In general, impacts of the Project on the environment can be mitigated through the use of standard permit conditions and/or project-specific conditions 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 Project, the Board considered whether 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 Board has reviewed all the evidence received during the regulatory process with respect to the Preliminary Screening of the proposed Project. Based on the evidence, it is the Board's opinion that the proposed 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 Project to Environmental Assessment.

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

SIGNATURE



Mavis Cli-Michaud, Chair
Mackenzie Valley Land and Water Board

October 28, 2022

Date