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www.mvlwb.com

February 16, 2024

File: MV2023S0038

Shane Johnson
Government of the Northwest Territories – Department of Infrastructure
Box 1320
Yellowknife NT X1A2L9

Sent by email

Dear Shane Johnson,

Re: Hay River Geotechnical Investigation – Issuance Package – Land Use Permit MV2023S0038 – Geotechnical Investigation – Town of Hay River, NT

The Mackenzie Valley Land and Water Board (Board) met on February 1, 2024 and considered the Application Package from Government of the Northwest Territories – Department of Infrastructure (GNWT-INF) for Land Use Permit (Permit) MV2023S0038 for the Hay River Geotechnical Investigation Project (Project) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board has approved Land Use Permit MV2023S0038 (attached) for a term of two years, effective February 16, 2024 and expiring February 15, 2026. The Permit is supported by the Board's Reasons for Decision. These documents are posted to the Board's Public Registry.¹

Submission Requirements

Please refer to Attachment A of the Permit for a complete summary and timetable of submissions required for the Permit. The Board's decisions on submissions that were considered in conjunction with the Application Package are set out below.

¹ See MVLWB Online Registry www.mvlwb.com for [MV2023S0038](#)

Management Plans – Approved

The Board has approved the following Plans:

Condition Number and Title	Title of Plan (Version)
21, WASTE MANAGEMENT PLAN	Waste Management Plan (V1.0) ²
29, SPILL CONTINGENCY PLAN	Spill Contingency Plan (V1.0) ³
39, ENGAGEMENT PLAN	Engagement Plan (V1.0) ⁴

Inspectors

The Inspectors referred to in the Permit can be contacted at the regional GNWT-ECC offices.⁵

Permit Processes and Additional Information

Sections 5 and 6 of the Land and Water Board (LWB) *Guide to the Land Use Permitting Process*⁶ (Guide) contain detailed information on permit enforcement and potential post-issuance processes, such as amendments to conditions, and assignment to another company. Please be familiar with these sections of the Guide and reach out to Board staff with any questions about LWB processes related to the Permit.

Full cooperation of GNWT - INF is anticipated and appreciated. Please contact Tyree Mullaney via [email](#) or at (867) 766-7464 with any questions or concerns regarding this letter.

Yours sincerely,



Tanya MacIntosh

Chair, Mackenzie Valley Land and Water Board

BCC'd to: Dehcho Distribution List
Jayda Robillard – Inspector, GNWT-ECC
Scott Stewart – GNWT-ECC

Attached: Land Use Permit MV2023S0038
Reasons for Decision

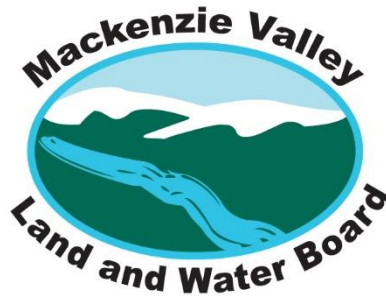
² See MVLWB Online Registry for GNWT – INF – [Waste Management Plan – Version 1.0 – Dec21 23](#)

³ See MVLWB Online Registry for GNWT - INF – [Spill Contingency Plan – Version 1.0 – Dec21 23](#)

⁴ See MVLWB Online Registry for GNWT -INF – [Engagement Plan – Version 1.0 – Dec21 23](#)

⁵ See GNWT-ECC Regional Offices webpage (<https://www.ecc.gov.nt.ca/en/regional-offices>) for regional contact information.

⁶ See MVLWB Policies and Guidelines webpage for LWB [Guide to the Land Use Permitting Process](#).



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**Government of the Northwest Territories – Department of Infrastructure
Land Use Permit MV2023S0038**

Pursuant to the *Mackenzie Valley Resource Management Act* and Mackenzie Valley Land Use Regulations, the Mackenzie Valley Land and Water Board grants this Land Use Permit to:

Government of the Northwest Territories – Department of Infrastructure
(Permittee)

of _____
Box 1320 Yellowknife NT X1A2L9
(Mailing Address)

hereinafter called the Permittee, to proceed with the following land-use operation, subject to the annexed definitions and conditions contained therein:

Location:	Hay River, NT
Purpose:	Geotechnical Investigation
Type:	Type A
Effective Date:	February 16, 2024
Expiry Date:	February 15, 2026

Handwritten signature of Tanya MacIntosh in blue ink.

**Tanya MacIntosh, Chair
Mackenzie Valley Land and Water Board**

Handwritten signature of Amanda Gauthier in blue ink.

Amanda Gauthier, Witness

Conditions Annexed to and Forming Part of Land Use Permit # MV2023S0038

Part A: Scope of Permit

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

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

Act - the *Mackenzie Valley Resource Management Act*.

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

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

Closure and Reclamation - the process and activities that facilitate the return of areas affected by the Project to viable and, wherever practicable, self-sustaining ecosystems that are compatible with a healthy environment, human activities, and the surrounding environment.

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

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

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

Flowing Artesian Well - a well in which water:

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

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

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

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

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

Permittee - the holder of this permit.

Progressive Reclamation - Closure and Reclamation activities conducted during the operating phase of the project.

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

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

Sump - a human-made pit or natural depression in the earth's surface used for the purpose of depositing Waste that does not contain Toxic Material, such as non-toxic Drilling Waste or Sewage, therein.

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

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

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

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

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

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

Condition	Category
26(1)(a) Location and Area	
1. The Permittee shall only conduct this land-use operation on lands designated in the application.	LOCATION OF ACTIVITIES
2. Prior to the commencement of drilling, the Permittee shall submit the target areas and final drill hole locations on a 1:50,000-scale map with coordinates and map datum to the Board and an Inspector.	DRILL LOCATIONS
3. The Permittee shall not locate any Sump within 100 metres of the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector.	SUMP SETBACK
4. Prior to the commencement of the land-use operation, the Permittee shall accompany an Inspector during an inspection of the proposed land use area.	INSPECT LOCATIONS
26(1)(b) Time	
5. At least 48 hours prior to the initial commencement of the land-use operation, the Permittee's Field Supervisor shall notify the Board and contact an Inspector at (867) 874-6995.	INITIAL NOTIFICATION – CONTACT INSPECTOR
6. At least 48 hours prior to commencement of the land-use operation, the Permittee shall provide the following information, in writing, to the Board and an Inspector: <ul style="list-style-type: none"> a) the name(s) of the person(s) in charge of the field operation; b) alternates; and c) all methods for contacting the above person(s). 	IDENTIFY AGENT
7. At least ten days prior to the completion of the land-use operation, the Permittee shall advise an Inspector of: <ul style="list-style-type: none"> a) the plan for removal or storage of equipment and materials; b) when final cleanup and reclamation of the land used will be completed; and c) when the Final Plan will be submitted. 	REPORTS BEFORE FINAL REMOVAL
26(1)(c) Type and Size of Equipment	
8. The Permittee shall only use equipment of a similar type, size, and number to that listed in the complete application.	USE APPROVED EQUIPMENT

26(1)(d) Methods and Techniques

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26(1)(e) Type, Location, Capacity, and Operation of All Facilities

9. The Permittee shall ensure that the land use area is kept clean at all times. **CLEAN WORK AREA**

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

10. The Permittee shall, where flowing water from a Borehole is encountered: **FLOWING ARTESIAN WELL**
- a) plug the Borehole in such a manner as to permanently prevent any further outflow of water; and
 - b) immediately report the occurrence to the Board and an Inspector.
11. The Permittee shall prepare the site in such a manner as to prevent rutting or gouging of the ground surface. **PREVENTION OF RUTTING**

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

12. At least seven days prior to the use of any chemicals that were not identified in the complete application, the Safety Data Sheets must be provided to the Board and an Inspector. **CHEMICALS**
13. The Permittee may deposit Drilling Waste that does not contain Toxic Material in a Sump. Any Sumps or natural depressions used to deposit Drilling Waste must be located at least 100 metres from the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. **DRILLING WASTE**
14. The Permittee shall remove all Drilling Waste containing Toxic Material to an approved disposal facility. **DRILLING WASTE DISPOSAL**
15. The Permittee shall not allow any Drilling Waste to spread to the surrounding lands or Watercourses. **DRILLING WASTE CONTAINMENT**
16. Prior to the expiry date of this Permit or the end of the land-use operation whichever comes first, the Permittee shall backfill and restore all Sumps, unless otherwise authorized in writing by an Inspector. **RECLAIM NON-OIL AND GAS SUMPS**
17. The Permittee shall dispose of all Toxic Material as described in the approved Waste Management Plan. **WASTE CHEMICAL DISPOSAL**
18. The Permittee shall dispose of all combustible Waste petroleum products by removal to an approved disposal facility. **WASTE PETROLEUM DISPOSAL**

19.	The Permittee shall provide written notification to the Board and Inspector a minimum of 10 days prior to the initial deposit of Waste, demonstrating that the licenced disposal facility has agreed to accept the Waste and has the capacity to receive the volumes of Waste requested.	NOTIFICATION OF SOLID WASTE DISPOSAL
26(1)(h) Wildlife and Fish Habitat		
20.	The Permittee shall take all reasonable measures to prevent damage to wildlife and fish Habitat during this land-use operation.	HABITAT DAMAGE
26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage		
21.	The Permittee shall dispose of all Waste as described in the Waste Management Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval.	WASTE MANAGEMENT PLAN
22.	The Permittee shall keep all garbage and debris in a secure container until disposal.	GARBAGE CONTAINER
26(1)(j) Protection of Historical, Archaeological, and Burial Sites		
23.	The Permittee shall not operate any vehicle or equipment within 150 metres of a known or suspected historical or archaeological site or burial ground.	ARCHAEOLOGICAL BUFFER
24.	The Permittee shall not knowingly remove, disturb, or displace any archaeological specimen or site.	SITE DISTURBANCE
25.	The Permittee shall, where a suspected archaeological or historical site, or burial ground is discovered:	SITE DISCOVERY AND NOTIFICATION
	a) immediately suspend operations on the site; and	
	b) notify the Board at (867) 669-0506 or an Inspector at (867) 874-6995, and the Prince of Wales Northern Heritage Centre at 767-9347 ext. 71251 or ext. 71255.	
26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value		
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26(1)(l) Security Deposit		
26.	All costs to remediate the area under this Permit are the responsibility of the Permittee.	RESPONSIBILITY FOR REMEDICATION COSTS

26(1)(m) Fuel Storage

- | | | |
|-----|---|--|
| 27. | The Permittee shall set up all refueling points with Secondary Containment. | SECONDARY
CONTAINMENT –
REFUELING |
| 28. | The Permittee shall not allow petroleum products to spread to surrounding lands or Watercourses. | FUEL CONTAINMENT |
| 29. | The Permittee shall comply with the Spill Contingency Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | SPILL CONTINGENCY
PLAN |
| 30. | Prior to commencement of the land-use operation the Permittee shall ensure that spill-response equipment is in place to respond to any potential spills. | SPILL RESPONSE |
| 31. | All equipment that may be parked for two hours or more, shall have a hazmat/drip tray under it or be sufficiently diapered. Leaky equipment shall be repaired immediately. | DRIP TRAYS |
| 32. | The Permittee shall clean up all leaks, spills, and contaminated material immediately | CLEAN UP SPILLS |
| 33. | During the period of this Permit, if a spill occurs or is foreseeable, the Permittee shall:
a) implement the approved Spill Contingency Plan;
b) report it-immediately using the NU-NT Spill Report Form by one of the following methods: <ul style="list-style-type: none">• Telephone: (867) 920-8130• Fax: (867) 873-6924• E-mail: spills@gov.nt.ca• <u>Online: Spill Reporting and Tracking Database</u>
c) within 24 hours, notify the Board and an Inspector; and
d) within 30 days of initially reporting the incident, submit a detailed report to the Board and an Inspector, including descriptions of causes, response actions, and any changes to procedures to prevent similar occurrences in the future. Any updates to this report shall be provided to the Board and an Inspector in writing as changes occur. | REPORT SPILLS |

26(1)(n) Methods and Techniques for Debris and Brush Disposal

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26(1)(o) Restoration of the Lands

- | | | |
|-----|---|--|
| 34. | Prior to the end of the land-use operation, the Permittee shall complete all cleanup and restoration of the lands used. | FINAL CLEANUP AND
RESTORATION |
|-----|---|--|

- | | | |
|--|---|--------------------------------|
| 35. | Prior to the end of the land-use operation, the Permittee shall prepare the site in such a manner as to facilitate natural revegetation. | NATURAL VEGETATION |
| 36. | The Permittee shall carry out Progressive Reclamation of disturbed areas as soon as it is practical to do so. | PROGRESSIVE RECLAMATION |
| 26(1)(p) Display of Permits and Permit Numbers | | |
| 37. | The Permittee shall keep a copy of this Permit on hand at all times during this land-use operation. | COPY OF PERMIT |
| 26(1)(q) Biological and Physical Protection of the Land | | |
| 38. | If any plan is not approved by the Board, the Permittee shall revise the plan according to the Board’s direction and re-submit it to the Board for approval. | RESUBMIT PLAN |
| 39. | The Permittee shall comply with the Engagement Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | ENGAGEMENT PLAN |
| 40. | All revised plans submitted to the Board shall include a brief summary of the changes made to the plan. | SUMMARY OF CHANGES |

Attachment A: Concordance Table for MV2023S0038 of Items Requiring Submission

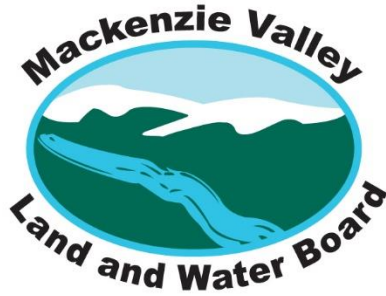
Supplemental information to be submitted by Permittee as required through Land Use Permit Conditions.

Disclaimer: If there are any discrepancies between this table and the body of the Permit, the Permit conditions prevail.

Permit Condition(s)	Report, Plan or Program Required	When Required
Condition 21 - WASTE MANAGEMENT PLAN	Waste Management Plan	Shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval.
Condition 29 - SPILL CONTINGENCY PLAN	Spill Contingency Plan	Shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval.
Condition 39 - ENGAGEMENT PLAN	Engagement Plan	Shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval.

Attachment B: MV2023S0038 – Table of Revision History

Date	Change	Date Approved



7th Floor - 4922 48th Street
PO Box 2130, Yellowknife NT X1A 2P6

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www.mvlwb.com

Reasons for Decision

Issued pursuant to paragraphs 22(2)(a) and 40(2)(c) of the Mackenzie Valley Land Use Regulations (MVLUR).

Land Use Permit Application	
File Number	MV2023S0038
Company	Government of the Northwest Territories – Department of Infrastructure
Project	Hay River Geotechnical Investigation
Location	Hay River, NT
Activity	Geotechnical
Date of Decision	February 1, 2024

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On February 1, 2024, the Mackenzie Valley Land and Water Board (MVLWB or Board) met and considered the Application made by [Government of the Northwest Territories – Department of Infrastructure (GNWT – INF) (Applicant) to the Board on December 20, 2023 for Land Use Permit (Permit) MV2023S0038 for the Geotechnical Investigation (the Project) in the Town of Hay River, NT. After reviewing the Application and the evidence gathered during the regulatory proceeding, the Board has made the following decisions:

- 1) To issue Land Use Permit MV2023S0038 for a term of 2 years;
- 2) To approve Version 1.0 of the Engagement Plan;
- 3) To approve Version 1.0 of the Waste Management Plan; and
- 4) To approve Version 1.0 of the Spill Contingency Plan.

These Reasons for Decision set out the Board’s regulatory process for the Application and rationale for decisions regarding the Permit. A summary of the Application and the main issues identified during the proceeding is provided in sections [2.0](#) and [3.0](#) below, followed by an outline of the regulatory process for the Application in [section 4.0](#). [Section 5.0](#) describes how the applicable legislative requirements have been met. The Board’s decisions and supporting rationale regarding the Permit are set out in [section 6.0](#).

1.0 **List of Defined Terms and Acronyms**

Applicant/Permittee	Government of the Northwest Territories – Department of Infrastructure
Application	The complete application package submitted by the Applicant for Land Use Permit MV2023S0038.
CRP	Closure and Reclamation Plan
Distribution List	The list of individuals and organizations to whom materials from this regulatory proceeding were circulated. ¹
EA/EIR	Environmental Assessment/Environmental Impact Review
GLWB or Board	Gwich’in Land and Water Board
GNWT	Government of the Northwest Territories
GNWT-ECC	Government of the Northwest Territories – Environment and Climate Change
Inspector	An Inspector designated under subsection 84(1) of the Mackenzie Valley Resource Management Act
LWBs	Land and Water Boards of the Mackenzie Valley
MVEIRB	Mackenzie Valley Environmental Impact Review Board
MVLUR	Mackenzie Valley Land Use Regulations
MVLWB or Board	Mackenzie Valley Land and Water Board
MVRMA	Mackenzie Valley Resource Management Act
Minister	Minister of the Government of the Northwest Territories – Environment and Climate Change
ORS	Online Review System (https://new.onlinereviewsystem.ca/reviews)
Party	As per the LWB Rules of Procedure , an applicant, a person, or an organization participating in this regulatory process.

¹ To access the Distribution List, see the LWBs’ Online Review System for GNWT -INF – [Hay River Geotechnical Investigation – Dec29 23](#)

Permit	Land Use Permit MV2023S0038
Project	Geotechnical Investigation, the undertaking as described in Part A of the Permit.
Review Board	Mackenzie Valley Environmental Impact Review Board
SCP	Spill Contingency Plan
Standard Permit Conditions	LWB Standard Land Use Permit Conditions Template
WMP	Waste Management Plan

2.0 Summary of Application

On December 20, 2023, the Applicant submitted an application for a new Permit MV2023S0038 (the Application).² The Application is to conduct geotechnical investigations within the Town of Hay River for a possible new long term care facility. The program is fairly small with only five boreholes requested, soil and rock sampling, as well as monitoring wells for monitoring ground temperature and ground water levels. These activities are located within the Dehcho Region.

In making its decision and preparing these Reasons for Decision, the Board has reviewed and considered:

- 1) The Permit Application as submitted by the Applicant for the Project;
- 2) The evidence and submissions received by the Board from the Applicant in relation to the Permit; and
- 3) The comments and recommendations, evidence, and submissions received by the Board from Parties during this regulatory proceeding.

3.0 Main Issues Raised During the Regulatory Proceeding

These Reasons for Decision focus primarily on the following key issues raised during this regulatory proceeding. Issues that were resolved by Parties to the Board's satisfaction during the proceeding are not addressed in detail in these Reasons.

4.0 Regulatory Process

On December 20, 2023, the Applicant submitted the Application, and the Application was subsequently deemed complete and circulated to the Distribution List for public review on the Online Review System (ORS) on December 29, 2023.³

As part of the public review, Board staff requested comments and recommendations to assist with the Board's preliminary screening determination. To assist the Board in making its decision on the Permit, Board staff also circulated a draft Permit for review with the Application to allow all Parties the opportunity to comment on the specific wording of the draft conditions.

² See MVLWB Online Registry for GNWT – INF – [Permit Application – Dec20 23](#)

³ See MVLWB Online Review System for GNWT - INF– [Hay River Geotechnical Investigation – Dec29 23](#)

By January 18, 2024, the Board received comments and recommendations regarding the Application and the draft Permit from the following Parties, Government of the Northwest Territories – Education Culture and Employment - Prince of Wales Northern Heritage Centre, and the Government of the Northwest Territories – Inspector. Board staff also submitted comments and questions for the purposes of clarification. On January 22, 2024, the Applicant responded to the Parties’ comments and recommendations.⁴

On February 1, 2024, the Board met and made its preliminary screening determination for the Project.⁵

On February 1, 2024, the Board met to make decisions regarding the Application. These decisions and related reasons are described in sections [5.0](#) and [6.0](#) below.

5.0 Legislative Requirements Related to Permit Issuance

The Project is subject to the [MVRMA](#) and the [MVLUR](#). As per the [MVLUR](#), the proposed use of land for the Project requires a permit. Accordingly, the Board has jurisdiction to issue the Permit as per subsection 59(1) and section 102 of the [MVRMA](#).

In conducting its regulatory process for the Application (as described in sections [3.0](#) and [4.0](#) above), the Board has ensured that section 62 of the [MVRMA](#) and all applicable legislative requirements have been satisfied as outlined in the subsections below. The Board has considered the people and users of the land and water in the Mackenzie Valley, and any Traditional Knowledge and scientific information that was made available to the Board during the regulatory proceeding, as per section 60.1 of the [MVRMA](#). The consideration of information provided to the Board is discussed in detail below and in section [6.0](#).

5.1 Consultation, Engagement, and Public Notice

As per paragraph 60.1(a) of the [MVRMA](#), in exercising its authority, the Board must consider the importance of conservation to the well-being and way of life of Indigenous peoples of Canada, specifically those to whom section 35 of the *Constitution Act, 1982*, applies and who use an area of the Mackenzie Valley. Accordingly, the Board works with applicants, affected parties (including Indigenous governments and organizations), and other parties (such as other boards and regulators) to ensure that potential impacts of proposed projects, including impacts on rights under section 35, are understood and carefully considered before decisions are made with respect to the issuance of permits and licences.

The Board’s requirements for engagement are set out the LWB [Engagement and Consultation Policy](#) and [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#).⁶ The Policy and Guidelines were developed to ensure that the Board’s obligations for achieving meaningful

⁴ See MVLWB Online Registry for [GNWT - INF – Review Summary Table – Feb 5 24](#).

⁵ See MVLWB Online Registry for [GNWT – INF – Preliminary Screening Determination and RFD – Feb 5 24](#).

⁶ See MVLWB Policies and Guidelines webpage to access the LWB [Engagement and Consultation Policy](#) and [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#).

consultation (as set out by land claims and applicable legislation) with all affected parties, including Indigenous groups in the Mackenzie Valley, are met and engagement and consultation results clearly articulated. Emails were sent out in October to all the parties. There were exchanges between the GNWT and Kátł'odeeche First Nation (land status), West Point First Nation (archaeological finds and research being complete to address concern) and Dene Nation indicated that they don't typically respond to these applications. In accordance with the Policy and Guidelines, the Applicant's engagement efforts and proposed procedures are detailed in the Engagement Record and Plan (Version 1.0), respectively,⁷ submitted with the Application. The Board has approved the Applicant's Engagement Plan (Version 1.0), and the Board's reasons for this decision are described below in [section 6.3](#). Following issuance, the Applicant must continue engagement efforts as outlined in the Engagement Plan, once approved, and as required in the Permit.

The Application was posted to the Board's Public Registry and distributed through the ORS. As the Project is located in the Dehcho Region, the appropriate organizations, governments, First Nations, and Indigenous organizations were included in the Distribution List.⁸ The Distribution List was used throughout this proceeding to circulate submissions, information, and updates relevant to the proceeding; the List was updated if needed, and (if requested) individuals with specific interests in the Project were added. More information about the proceeding for the Application is provided above in [section 4.0](#).

In accordance with sections 63 and 64 of the [MVRMA](#), the Board is satisfied that notice of and access to copies of the Application were provided, and that a reasonable amount of time was given to communities, First Nations, and the public to participate in this proceeding and make submissions to the Board.

In accordance with the [Northwest Territory Métis Nation Interim Measures Agreement](#),⁹ the Northwest Territory Métis Nation was notified of the Application through the ORS distribution. The Board did not receive any evidence from the Northwest Territory Métis Nation during the proceeding.

In accordance with the Minister of Indian Affairs and Northern Development's 2004 [Policy Direction regarding the Deh Cho First Nations Interim Measures Agreement](#),¹⁰ the Dehcho First Nation was notified of the Application through the ORS distribution. The Board did not receive any evidence from the Dehcho First Nation member nations during the proceeding.

⁷ See MVLWB Online Registry for GNWT - INF – [Engagement Record V1.0 and Engagement Plan V1.0 – Dec21_23](#)

⁸ To access the Distribution List, see the LWBs' Online Review System for GNWT - INF – [Hay River Geotechnical Investigation – Dec29_23](#)

⁹ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Northwest Territory Métis Nation Interim Measures Agreement](#).

¹⁰ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Policy Direction regarding the Deh Cho First Nations Interim Measures Agreement](#).

In accordance with the Minister of Indian Affairs and Northern Development's 2003 [Policy Direction to the MVLWB Regarding Consultations with the Manitoba Denesuline](#),¹¹ the Ghotelnene K'odtjneh Dene (formerly Manitoba Denesuline) were notified of the Application through the ORS distribution. The Board did not receive any evidence from the Ghotelnene K'odtjneh Dene during the proceeding.

In accordance with the Minister of Indian Affairs and Northern Development's 2003 [Policy Direction to the MVLWB Regarding Consultations with the Saskatchewan Athabasca Denesuline](#),¹² the Saskatchewan Denesuline were notified of the Application through the ORS distribution. The Board did not receive any evidence from the Saskatchewan Denesuline during the proceeding.

5.2 Eligibility for Land Use Permit

As per section 18 of the MVLUR, eligibility must be determined before the Board can issue a permit. The Applicant provided a Memorandum of Understanding between the GNWT and the Town of Hay River to demonstrate eligibility under paragraph 18(b) of the [MVLUR](#). No issues were raised regarding eligibility during this proceeding. Based on the supporting information provided, the Board concludes that the eligibility requirements under section 18 of the MVLUR have been satisfied.

5.3 Land Use Plan Conformity

As per section 61 of the [MVRMA](#), where an approved Land Use Plan applies, the Board must confirm conformity with the Land Use Plan before issuing a permit or licence.

No approved Land Use Plans apply in the Project area.

5.4 Land Use Fees

The Project is located wholly outside of federal areas, so no land-use fees apply.

5.5 Time Limit

As per section 22 of the [MVLUR](#), the Board is required to make its decision on a permit within 42 days of receiving a complete application.

5.6 Environmental Review (Part 5 of the MVRMA)

5.6.1 Preliminary Screening

On February 1, 2024, the Board met it is the Board's opinion that the proposed Project is not likely to have a significant adverse impact on air, water, and/or renewable resources, and will not be a cause of public

¹¹ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Policy Direction to the MVLWB Regarding Consultations with the Manitoba Denesuline](#).

¹² See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Policy Direction to the MVLWB Regarding Consultations with the Saskatchewan Athabasca Denesuline](#).

concern, as set out in paragraph 125(2)(a) of the [MVRMA](#). The Board has therefore decided not to refer the proposed Project to Environmental Assessment and will resume the regulatory proceeding].¹³

6.0 Decision – Land Use Permit MV2023S0038

Having due regard to the facts, circumstances, and the merits of the submissions made to it, and to the purpose, scope, and intent of the [MVRMA](#), the Board has determined that Permit MV2023S0038 should be issued, subject to the scope, definitions, conditions, and term contained therein. The Board's determinations and reasons for this decision are set out below.

The Permit has been developed to address the Board's statutory responsibilities, to protect the receiving environment, and to address issues within the Board's jurisdiction that were identified and investigated during this regulatory proceeding.

In developing the Permit, the Board considered the LWB [Standard Land Use Permit Conditions Template](#) (Standard Permit Conditions) and included a number of these standard conditions that are relevant to the Project. As noted in [section 4.0](#), Board staff circulated a draft Permit for review to allow Parties to provide specific input to the Board on possible conditions, and the Board considered these review comments and recommendations in making its determination on the Permit conditions.

The Standard Permit Conditions have been established by the LWBs based on information from LWB policies and guidelines, other applicable guidelines and best practices, meetings with Inspectors, input from LWB staff, and feedback from a public review. Each standard condition has been evaluated against the following characteristics of an ideal condition:

- Clearly part of LWBs' authority;
- Has a clear purpose and rationale;
- Is practical and enforceable;
- Matches the scale of the project; and
- Does not conflict with existing legislation (i.e., is not less stringent).

The Standard Permit Conditions include general rationale for each standard condition, and as such, the language of any standard condition included in the Permit is only discussed in detail in the following sections of these Reasons for Decision when it specifically relates to concerns or recommendations raised during the regulatory proceeding. The Board's reasons for developing and including project-specific conditions, including discussion of any concerns and recommendations raised regarding these conditions, are detailed in the relevant sections below.

¹³ See MVLWB Online Registry for [GNWT- INF – Preliminary Screening Determination and RFD – Feb 5 24](#).

6.1 Term of Permit

The Applicant has applied for a term of 2 years for the Permit. Subsection 26(5) of the [MVLUR](#) allows for a Permit term of not more than five years. After reviewing the submissions made during this regulatory proceeding, the Board has determined an appropriate term for the Permit is 2 years.

6.2 Part A: Scope of Permit

The scope of the Permit ensures the Permittee is entitled to conduct activities which have been applied for and which have been subject to Part 5 of the [MVRMA](#). In setting out the scope of the Permit, the Board endeavoured to provide enough detail to identify and describe the authorized activities, without being unduly restrictive or prescriptive, and to allow for project flexibility, as contemplated in the Application, throughout the life of the Permit.

Based on the activities described in the Permit Application and on the scope outlined in the [Standard Permit Conditions](#), Board staff included a draft scope in the draft Permit that was circulated for public review. The Board did not receive any comments or recommendations regarding the draft scope during the proceeding, so the Board accepted it as the scope of the Permit.

6.3 Part B: Definitions

The Board defined certain terms in the Permit to ensure a common understanding of the conditions, to avoid future differences in interpretation of the Permit, to reflect Project-specific evidence, and to support consistency across licences and permits issued by the LWBs. For the most part, the Board selected applicable definitions relevant to the Project from the [Standard Permit Conditions](#).

6.4 Part C: Conditions Applying to All Activities

The LWB [Waste and Wastewater Management Policy](#) applies to the Permit, and the objectives of the Policy are protection of water quality in the receiving environment, waste prevention/minimization, and minimization of the amount of waste disposed to the receiving environment.¹⁴ The Permit does not authorize any deposit of waste to water; however, in accordance with the Policy and these objectives, the Permit includes many conditions that are, directly or indirectly, intended to meet the objectives of the Policy. The Board is satisfied that the conditions set out in the Permit are consistent with the Policy and compliance with these conditions will ensure that waste will be minimized, managed, and disposed of in a manner that will be protective of the receiving environment. These conditions and detailed rationale are described in the sections below.

The subheadings below correspond to the headings in the conditions section of the Permit, as outlined in subsection 26(1) of the [MVLUR](#).

¹⁴ See MVLWB Policies and Guidelines webpage to access the LWB [Waste and Wastewater Management Policy](#).

26(1)(a) Location and Area

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

26(1)(b) Time

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

26(1)(c) Type and Size of Equipment

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

26(1)(d) Methods and Techniques

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

26(1)(e) Type, Location, Operation of All Facilities

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

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

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

During the review the GNWT – Inspector recommended that Condition 11 (Prevention of Rutting) be added to mitigation concerns to rutting if the project is to commence later than expected (spring).

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

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

26(1)(h) Wildlife and Fish Habitat

The [MVLUR](#) includes provisions related to the protection of wildlife habitat; however, requirements for Wildlife Management and Monitoring Plans (WMMPs) are under the jurisdiction of the GNWT through the *Wildlife Act*. Accordingly, all applicants are directed to contact the GNWT-ECC to determine whether a WMMP, which details mitigations to reduce or eliminate impacts to applicable wildlife and wildlife habitat, is required for the project and should be submitted to the Board with a permit and/or licence application.

The Permittee did not include a WMMP in the Application.

The Board included Condition 20 (HABITAT DAMAGE) in the Permit, which requires the Permittee to prevent damage to wildlife and fish habitat. This is a condition from the Board's Standard Permit Conditions and is intended to ensure the Permittee conducts their land-use operation in such a way as to minimize disturbance to wildlife habitat.

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

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

WASTE MANAGEMENT PLAN – APPROVED

All applicants must submit detailed waste management information, identifying all types of waste that will be produced by the project (including quantity and quality) and describing the disposal methods that are proposed for each type of waste. For most applicants, this will be in the form of a Waste Management Plan, developed in accordance with the LWB [Guidelines for Developing a Waste Management Plan](#),¹⁵ and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board. The Guidelines can be applied to a wide range of projects and are intended to ensure that all waste management activities are carried out in a way that is consistent with best practices and applicable guidelines to minimize waste released from a project.

As required, the Permittee included a Waste Management Plan in the Application.¹⁶ The Board considered this Plan as part of the Application Package, and its decision on the Plan is set out below.

The Board has approved the Waste Management Plan, Version 1 because it meets the requirements of the Guidelines and is appropriate for the Project activities.

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

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

During the review of the draft Permit the GNWT – Inspect noted that Condition 25 (Archaeological Overview) should be removed from the Permit as the area is an area which has been disturbed.

During the review of the draft Permit the GNWT – Prince of Wales Northern Heritage Centre noted that Condition 25 (Archaeological Overview) and Condition 26 (AIA – High Potential) should be removed from the Permit as they do not apply.

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

This section was intentionally left blank, because the Board did not require conditions in this section to satisfy its mandate and did not receive any recommendations related to this section during the review of the draft Permit.

¹⁵ See MVLWB Policies and Guidelines webpage to access the LWB [Guidelines for Developing a Waste Management Plan](#).

¹⁶ See MVLWB Online Registry for GNWT – INF – [Waste Management Plan V1.0 – Dec21_23](#)

26(1)(l) Security Deposit

This section sets out the Permittee's responsibility for all costs associated with remediation of the Project area and establishes the amount of security that must be posted and maintained by the Permittee. The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

The Board did not include security requirements in the Permit because, as per section 94 of the [MVRMA](#), the territorial government is not required to post security for permits. Condition 27 (RESPONSIBILITY FOR REMEDIATION COSTS) establishes the Permittee's responsibility for all costs to remediate the Permit area, so the Board is satisfied that the Permittee will be accountable for carrying out closure and reclamation even though a security deposit is not required.

26(1)(m) Fuel Storage

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

SPILL CONTINGENCY PLAN – APPROVED

All applicants must describe spill contingency planning. For most applicants, this will be in the form of a Spill Contingency Plan, developed in accordance with the INAC [Guidelines for Spill Contingency Planning](#),¹⁷ and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board. The Plan is intended to ensure that an action plan for responses to spills and unauthorized discharges has been established to effectively control and clean up spills and unauthorized discharges, with the goal of preventing or limiting damage to the receiving environment.

As required, the Permittee included a Spill Contingency Plan in the Application.¹⁸ The Board considered the Plan as part of the Application Package, and its decision on the Plan is set out below.

The Board has approved the Spill Contingency Plan, Version 1 because it meets the requirements of the INAC Guidelines and is appropriate for the Project activities. Condition 30 (SPILL CONTINGENCY PLAN) requires the Permittee to comply with the approved Plan.

26(1)(n) Methods and Techniques for Debris and Brush Disposal

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

26(1)(o) Restoration of the Lands

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

¹⁷ See MVLWB External Policies and Guidelines webpage to access the INAC [Guidelines for Spill Contingency Planning](#).

¹⁸ See MVLWB Online Registry for GNWT - INF– [Spill Contingency Plan V1.0 – Dec21_23](#)

CLOSURE AND RECLAMATION PLAN

All applicants must describe closure and reclamation planning. For most applicants, this will be in the form of a Closure and Reclamation Plan (CRP), developed in accordance with the LWB/AANDC [Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories](#) (Closure Guidelines),¹⁹ and licences and permits will include standard conditions regarding compliance with the Plan, as approved by the Board.

Due to the small scale of the Project, in lieu of submitting a stand-alone CRP, the Permittee described the proposed closure and reclamation activities in the Application Form. In this case, the Board considered this information equivalent to a CRP, and the Board's decision on the Plan is set out below.

As the geotechnical investigation will be conducted with track-mounted drill equipment and the boreholes will be backfilled with drill cuttings and/or granular fill upon completion, it is not anticipated that additional remediation will be needed.

26(1)(p) Display of Permits and Permit Numbers

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

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

The conditions included in this section are all consistent with the LWB Standard Permit Conditions.

ENGAGEMENT PLAN – APPROVED

The Board assesses engagement adequacy through the LWB [Engagement and Consultation Policy](#) and [Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits](#), and an Engagement Plan is a standard requirement for land use permits issued by the Board. This Plan is intended to ensure adequate and effective engagement with potentially affected parties has occurred prior to the submission of the Application (in the form of the Engagement Record) and is planned for throughout the life of the Project.

In accordance with the Policy and Guidelines, the Applicant included an Engagement Record and Plan in the Application,²⁰ and these documents were distributed for public review with the Application. The Board considered the Plan as part of the Application Package.

¹⁹ See MVLWB Policies and Guidelines webpage to access the LWB/AANDC [Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories](#).

²⁰ See MVLWB Online Registry for GNWT - INF – [Engagement Record V1.0 and Engagement Plan V1.0 – Dec21_23](#)

An Engagement Record and Engagement Plan were included in the Application. GNWT - INF noted they engaged with the following Parties:

- Town of Hay River
- Kátł'odeeche First Nation
- Dene Nation
- West Point First Nation
- Hay River Métis Government
- Hay River Regional Health Centre
- Hay River Suites

Emails were sent out in October to all parties. There were exchanges between GNWT -INF and Kátł'odeeche First Nation (Land Status), West Point First Nation (archaeological finds and research being complete to address concern) and Dene Nation indicated that they don't typically response to these applications.

The Board has approved the Engagement Plan, Version 1 because it meets the requirements of the Policy and Guidelines and is appropriate for the Project activities.

6.5 Attachment A: Concordance Table of Submissions

Attachment A to the Permit contains a table that summarizes the submissions required by the Permit conditions.

6.6 Attachment B: Revision History Table

Attachment B to the Permit contains a table which identifies updates and tracks changes made to the Permit. This table is currently blank because this is a new permit, but it will be updated throughout the life of the Permit.

7.0 Conclusion

Subject to the scope, definitions, conditions, and term set out in the Permit, and for the reasons expressed herein, the MVLWB is of the opinion that the activities and land use associated with the Project can be completed by Government of the Northwest Territories – Department of Infrastructure while providing for the conservation, development, and utilization of waters in a manner that will provide the optimum benefit for all Canadians and in particular for the residents of the Mackenzie Valley.

Land Use Permit MV2023S0038 contains provisions that the Board deems necessary to ensure and monitor compliance with the MVRMA and the Regulations made thereunder, and to provide appropriate safeguards in respect of Government of the Northwest Territories – Department of Infrastructure’s use of the land as authorized by the Permit.

SIGNATURE



Tanya MacIntosh, Chair
Mackenzie Valley Land and Water Board

February 16, 2024

Date