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February 5, 2024

File: MV2023S0038

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: Government of the Northwest Territories – Department of Infrastructure – Notice of Preliminary Screening Determination – Application for Land Use Permit – Geotechnical Investigation – 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 Geotechnical Investigation (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 MV2023S0038 on **Friday, February 16, 2024**.

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

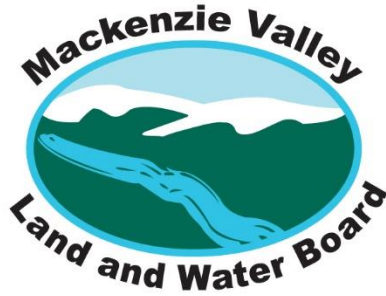
Yours sincerely,

A handwritten signature in blue ink that reads "Tanya MacIntosh". The signature is written in a cursive, flowing style.

Tanya MacIntosh
Chair, Mackenzie Valley Land and Water Board

BCC'd to: Dehcho Distribution List
Shane Johnson – GNWT-INF

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	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

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 February 1, 2024 to make a preliminary screening determination on the Application from Government of the Northwest Territories – Department of Infrastructure (GNWT - INF)(Applicant) for Land Use Permit MV2023S0038 (Permit)¹ for the Hay River Geotechnical Investigation (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 is not likely to have a significant adverse impact on air, water, and/or renewable resources, and will not be a cause of public concern.

¹See MVLWB Online Registry www.mvlwb.com for GNWT – INF – [Permit Application – Dec20_23](#)

² The Project is the Geotechnical Investigation, which is the proposed development, where “development” is defined in Part 5 of the [MVRMA](#) as:

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

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

2.0 **List of Defined Terms and Acronyms**

Applicant	Government of the Northwest Territories – Department of Infrastructure
Application	The complete application package submitted by the Applicant for Land Use Permit MV2023S0038.
Board	Mackenzie Valley Land and Water Board
CRP	Closure and Reclamation Plan
EA/EIR	Environmental Assessment/Environmental Impact Review
GNWT	Government of the Northwest Territories
GNWT-ECC	Government of the Northwest Territories – Environment and Climate Change
MVLWB	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 (www.new.onlinereviewssystem.ca)
Party	As per the LWB Rules of Procedure , an applicant, a person, or an organization participating in the regulatory proceeding for the Application.
Project	Hay River Geotechnical Investigation 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	LWB Standard Land Use Permit Conditions Template
TK	Traditional Knowledge
WMP	Waste Management Plan

3.0 **Background and Scope of Screening**

On December 20, 2023, GNWT – INF submitted an application to conduct geotechnical investigations within the Town of Hay River for the possible new long term care facility. The program is fairly small with only requesting five boreholes, soil and rock sampling as well as monitoring wells for monitoring the ground temperature and ground water levels. On December 29, 2023, the Application was deemed complete and the review commenced.

In accordance with paragraph 125(2)(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 is likely to have a significant adverse impact on air, water, and/or renewable resources, 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:

On December 20, 2023, GNWT – INF submitted an application 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.

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 December 29, 2023, 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 January 18, 2024, with responses from the Applicant due January 22, 2024. The Board received comments and recommendations from GNWT-INF (Inspector) (attached).⁴ Board staff also submitted comments and questions for the purposes of clarification.

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](#).

Pursuant to Schedule 4.1 of [Northwest Territory Métis Nation \(NWTMN\) Interim Measures Agreement](#),⁵ the Board determined that written notice was given to the NWTMN and that a reasonable period of time was allowed for NWTMN to make representations with respect to the Application.

Pursuant to section 27, paragraphs (a) and (b) of the [Dehcho First Nations \(DCFN\) Interim Measures Agreement](#),⁶ the Board has determined that written notice was given to the DCFN, and that a reasonable period of time was allowed for DCFN to make representations with respect to the Application.

In accordance with the Minister of Indian Affairs and Northern Development’s 2003 [Policy Direction to the MVLWB Regarding Consultations with the Manitoba Denesuline](#),⁷ 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.

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

⁵ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Northwest Territory Métis Nation Interim Measures Agreement](#).

⁶ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Dehcho First Nations Interim Measures Agreement](#).

⁷ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Policy Direction to the MVLWB Regarding Consultations with the Manitoba Denesuline](#).

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*](#),⁸ 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

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.

⁸ 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*](#).

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
Abiotic Components – Land – Soil Contamination	Project	<ul style="list-style-type: none"> • Potential Impact – potential soil contamination could occur due to a hydrocarbon spill. • Mitigation – any such spill will be immediately contained and cleaned up as per the Project Spill Contingency Plan • The Board has standard permit conditions that are typically used to mitigate the identified potential impacts. These standard conditions are included under:⁹ <ul style="list-style-type: none"> ○ 26(1)(m) 	Based on the described mitigations, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on air, water, or renewable resources, and will not be a cause of public concern.
Abiotic Components – Permafrost – Loss or change in extent	Project	<ul style="list-style-type: none"> • Potential Impact – permafrost degradation is not anticipated • Mitigation – implementation of best management practices (e.g. drill holes will be backfilled with the drill cuttings and sealed). • The Board has standard permit conditions that are typically used to mitigate the identified potential impacts. These standard conditions are included under:¹⁰ <ul style="list-style-type: none"> ○ 26(1)(f) 	Based on the described mitigations, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on air, water, or renewable resources, and will not be a cause of public concern.

⁹ See the MVLWB Policies and Resources webpage to access the LWB [Standard Land Use Permit Conditions Template](#).

¹⁰ See the MVLWB Policies and Resources webpage to access the LWB [Standard Land Use Permit Conditions Template](#).

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
Biotic Components – Terrestrial Wildlife Habitat	Project	<ul style="list-style-type: none"> • Potential Impact – potential wildlife attraction is anticipated to be limited due to the ongoing operation of equipment. • Mitigation – to minimize potential for attraction, food wastes will be removed from site at the end of every shift. • The Board has standard permit conditions that are typically used to mitigate the identified potential impacts. These standard conditions are included under:¹¹ <ul style="list-style-type: none"> ○ 26(1)(i) 	Based on the described mitigations, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on air, water, or renewable resources, and will not be a cause of public concern.

¹¹ See the MVLWB Policies and Resources webpage to access the LWB [Standard Land Use Permit Conditions Template](#).

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 is likely to have a significant adverse impact on air, water, and/or renewable resources. In general, impacts of the Project on the air, water, and/or renewable resources can be mitigated through the use of standard permit conditions and/or project-specific conditions established by the Board as per the LWB [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 is not likely to have a significant adverse impact on air, water, and/or renewable resources, and will not be a cause of public 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.

If the Board does not receive a notice of referral to environmental assessment by February 15, 2024, the Board can issue the Permit on February 16, 2024.

SIGNATURE



Tanya MacIntosh Chair
Mackenzie Valley Land and Water Board

February 5, 2024

Date