



Box 32, Wekweètì, NT X0E 1W0
Tel: 867-713-2500 Fax: 867-713-2502

#1-4905 48th Street, Yellowknife, NT X1A 3S3
Tel: 867-765-4592 Fax: 867-765-4593
www.wlwb.ca

July 9, 2019

File: W2019S0001

Glenn Bourke
Environment and Natural Resources
Government of the Northwest Territories
P.O. Box 7, Fort Smith, NT X0E 0P0

Dear Glenn Bourke,

ISSUANCE OF A TYPE "A" LAND USE PERMIT

Attached is Land Use Permit No. W2019S0001 granted by the Wek'èezhìi Land and Water Board (WLWB) in accordance with the *Mackenzie Valley Resource Management Act*. A copy of this Permit has been filed in the Public Registry at the office of the WLWB. The WLWB approved Land Use Permit W2019S0001 for a period of five (5) years commencing July 9, 2019 and expiring July 8, 2024.

The Board requires the Government of the Northwest Territories, Environment and Natural Resources (GNWT-ENR) to make the revision listed in the attached Reasons for Decision and submit Version 1.1 of the Spill Contingency Plan to the Board within 30 days.

Please be advised that this letter, with attached procedures, all inspection reports, and correspondence related thereto, are part of the Public Registry, and are intended to keep all interested parties informed of the manner in which the Permit requirements are being met. All Public Registry material will be considered if an amendment to the Permit is requested.

The full cooperation of GNWT-ENR is anticipated and appreciated.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Mackenzie".

Joe Mackenzie
Chair, Wek'èezhìi Land and Water Board

Attachments: Land Use Permit W2019S0001

Copy to: Wek'èezhìi West Distribution List



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Reasons for Decision

Preliminary Screener	WLWB
Reference/File Number:	W2019S0001 (Type "A" Land Use Permit)
Applicant:	Government of the Northwest Territories, Environment and Natural Resources (GNWT-ENR)
Subject:	New Land Use Permit Application – Geotechnical Investigation

Decision from the Wek'èezhìi Land and Water Board Meeting of June 28, 2019

1.0 Decision

On June 28, 2019, the Wek'èezhìi Land and Water Board (the Board or WLWB) met to consider a Land Use Permit (LUP) Application by the Government of the Northwest Territories, Environment and Natural Resources (GNWT-ENR) to conduct a geotechnical investigation in advance of placing two modular buildings on Lots 5 and 6 within the Tlichò community boundaries of Behchokò.

Having reviewed all relevant evidence, including the submissions of the Parties and the Applicant, the Board has decided under subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA) that, in its opinion, there is no reasonable likelihood that the proposed geotechnical investigation might have a significant adverse impact on the environment and there is no reasonable likelihood that the proposed geotechnical investigation might be a cause of public concern.

The Board has therefore:

1. Issued Land Use Permit W2019S0001 for a period of five years effective July 9, 2019;
2. Approved Version 1.0 of the GNWT-ENR's Spill Contingency Plan; and
3. Required that the GNWT-ENR submit Version 1.1 of the Spill Contingency Plan within 30 days of the effective date of the Permit, incorporating the contact information for the GNWT-Department of Lands Inspector and adding the immediately reportable spill volumes as an appendix.

2.0 Background

The WLWB received a LUP Application from the GNWT-ENR on May 14, 2019.¹ The purpose of this Application is to complete a geotechnical investigation in advance of placing two modular buildings on Lots 5 and 6 within the local Tlicho community boundary of Behchokq. The geotechnical investigation is intended to take place between July and September of 2019.

The Application and a draft Land Use Permit (the Draft Permit) were distributed for review on May 21, 2019, inviting reviewers to provide comments and recommendations using the Online Review System (ORS). This application was subjected to preliminary screening as required under section 124(1) of the MVRMA. Reviewers were encouraged to provide comments and recommendation (e.g., on impacts and mitigations measures) to assist with the completion of the preliminary screening. Reviewer comments were due June 11, 2019. The GNWT Department of Lands (Lands)-Inspector provided comments and recommendations; a letter from GNWT-Lands was also received noting the comments and recommendations provided by the Inspector and that Lands Administration had no concerns. The GNWT-ENR submitted a letter indicating it had no comments or recommendations at this time and the Wek'èezhii Renewable Resources Board (WRRB) submitted a letter indicating it had no concerns with the geotechnical investigation. Board staff also submitted questions. The Applicant submitted responses to most reviewer comments by the response deadline of June 18, 2019; responses were finalized on June 19, 2019.²

3.0 Reasons for Decision

3.1 Eligibility

As per section 18 of the *Mackenzie Valley Land Use Regulations* (MVLUR), eligibility must be determined before the Board can issue a permit. The proposed activities are to take place on Lots 5 and 6 within the Tlicho community boundaries of Behchokq. As part of its Application, the GNWT-ENR submitted two documents: (1) a copy of the signed lease for Lots 5 and 6 granted to the GNWT-ENR by the Community Government of Behchokq (CGB); and (2) a copy of the Development Permit issued by the CGB. The Board confirms that eligibility under Paragraph 18(b) of the MVLUR has been satisfied.

3.2 Land Use Permit Conditions

The Draft Permit for the proposed geotechnical investigation was developed using the Mackenzie Valley Land and Water Boards' (MVLWB) *Standard Land Use Permit Conditions Template* (the Standard List). The Draft Permit included conditions which were intended to mitigate the potential impacts, as identified in the preliminary screening, for the activities proposed in the LUP Application.

¹ See WLWB Online Registry (www.wlwb.ca) for [GNWT-ENR – Geotechnical Investigation – Land Use Permit Application – May 14 19](#)

² See WLWB Online Registry for [GNWT-ENR - Geotechnical Investigation - Land Use Permit Application - Review Summary and Attachments - Jun 19 19.pdf](#)

During the public review, the GNWT-Lands Inspector recommended the deletion of 23 standard conditions from the Draft Permit because these conditions were not applicable to the proposed land use operation (GNWT-Lands Inspector comments 3, 5-8, 11-13, and 15-19). These included conditions related to Drilling/Adit Setback, Excavated Material Test Pits, Progressive Erosion Control, Repair Erosion, Prevention of Rutting, Suspend Overland Travel, Vehicle Movement Freeze-up, Equipment Watercourse Buffer, Notification of Solid Waste Disposal, Archaeological Buffer, Archaeological Overview, AIA-High Potential, Buffer/No-Activity, Repair Leaks, Fuel Storage Setback, Fuel Containment, Maximum Fuel on Site, Hand Crews Only, Clearing Sensitive Area, Pre-Construction Profiles, Save and Place Organic Soil, Display Permit, and Migratory Bird Nest Disturbance. The Board has reviewed these recommendations and believe that the deletion of the 23 conditions are appropriate; the Permit was updated to reflect these deletions. The Board also updated the definition section of the Permit following these deletions to remove definitions no longer reflected in the Permit.

The GNWT-Lands Inspector recommended the addition of one standard condition related to “Drilling Near Water or on Ice” (GNWT-Lands Inspector comment 10). As indicated in the response to Board staff comment 6, the minimum distance from the Ordinary High-Water Mark is not known at this time; therefore, it is possible that drilling could take place within 100 m of the Ordinary High-Water Mark. The Board agrees with the Inspector that this condition should be included in the Permit and have incorporated the change (see Condition #12).

The GNWT-Lands Inspector commented that modification is required for Condition #5 of the Draft Permit (i.e., Initial Notification – Contact Inspector) to reflect the Standard List (GNWT-Land Inspector comment 4). Specifically, it was recommended that the word “initial” be removed in order to reflect the condition from the Standard List. It was also recommended that the phone number be updated with the one provided in the comment. The Board notes that the Standard List was recently updated and that the GNWT-Lands Inspector’s recommendation appears to reflect the previous version of the Standard List. The Board has thus decided that the word “initial” should remain but have updated the condition to include the phone number provided by the GNWT-Lands Inspector.

The GNWT-Lands Inspector also commented that Condition #40 of the Draft Permit (i.e., Report Spills) should be removed because it does not reflect the Standard List (GNWT-Land Inspector comment 14). It was further recommended that the condition for reporting spills, as outlined in the GNWT-Lands Inspector comment 9, be added in order to reflect the Standard List. As mentioned above, the Standard List was recently updated; this update included the relocation of the “Report Spills” condition within the permit. These two comments from the GNWT-Lands Inspector’s appear to be recommending that the newer condition be replaced with the previous one. Because the permit reflects the more recent Standard List, the Board has decided that the Condition “Report Spills” will remain as is in the Permit (see Condition #24).

While the Applicant has indicated a completion date for the activities of July 31, 2022 in the Application, the Board may issue a Permit for a maximum of five years. The Board believes that there are no concerns with issuing the Permit for a period of five years and that this would limit the need for an extension request should there be any delays to the Project.

- **Decision #1: if the Board does not receive a notice of referral to environmental assessment by July 8th, it will issue Land Use Permit W2019S0001 for a period of five years effective July 9th, 2019.**

3.3 Spill Contingency Plan

The GNWT-ENR submitted a Spill Contingency Plan (i.e., Version 1.0) along with the Application.³ Spill management for the Project is mostly related to fuel spills. While no fuel will be stored on site, the Application described that equipment will be refueled by tidy tanks from a pickup. The Applicant also noted the following hazardous materials will be in the tidy tanks and in the pickup trucks: unleaded gasoline, engine coolant, oil, and diesel. No other chemicals have been proposed for use as part of this Project.

The Board reviewed the GNWT-ENR's Spill Contingency Plan Version 1.0 for conformity against the *GNWT/ENR Guidelines for Spill Contingency Planning* [2007] (Spill Guidelines).⁴ The Board recognizes that the submitted plan does not address all the requirements of the Spill Guidelines; however, given the scope of the project and the fact that the only hazardous products requiring spill management are fuel used for refuelling equipment by tidy tanks from a pickup and other products related to equipment maintenance (i.e., engine coolant and oil), the Board believes that the Spill Contingency Plan submitted with the Application is sufficient to address and mitigate potential impacts related to potential spills.

- **Decision #2: The Board approves the Spill Contingency Plan Version 1.0.**

The GNWT-Lands Inspector (comment 1) reviewed the Spill Contingency Plan and commented that since the GNWT-Department of Lands will be the lead for any spills from this land use operation, the plan must be updated to reflect this. The GNWT-Inspector (comment 2) also commented that the immediately reportable spill volumes is missing from the Plan. The GNWT-Inspector recommended that the Plan be updated to include GNWT-Inspectors contact information and to include the missing immediately reportable spill volumes to the Plan. GNWT-ENR responded that the Plan will be updated to include the Inspector's contact information and to include the immediately reportable spill volumes document.

- **Decision #3: The Board requires the GNWT-ENR to submit Version 1.1 of the Spill Contingency Plan within 30 days of Issuance of the Land Use Permit, incorporating the contact information for the GNWT-Department of Lands Inspector and adding the immediately reportable spill volumes as an appendix.**

Signed the 9th Day of July, 2019, on behalf of the Wek'èezhìi Land and Water Board



Witness



Joe Mackenzie
Chair, Wek'èezhìi Land and Water Board

³ See WLWB Online Registry [GNWT-ENR - Geotechnical Investigation - Spill Contingency Plan - May 14 19](#)

⁴ See [www.wlwb.ca](#) for [GNWT/ENR Guidelines for Spill Contingency Planning \(2007\)](#); These Guidelines were adopted by the MVLWB in 2009.