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July 22, 2021

File: W2021E0007, W2021L8-0002

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: The Government of the Northwest Territories Department of Infrastructure – Notice of Preliminary Screening Determination – Applications for Land Use Permit and Water Licence – Whatì Access Road Rehabilitation Project – Whatì, NT

The Wek'èezhì Land and Water Board (Board) met on July 22, 2021 and considered the Applications from the Government of the Northwest Territories Department of Infrastructure (GNWT-INF) for Land Use Permit (Permit) W2021E0007 and Water Licence (Licence) W2021L8-0002 for the Whatì Access Road Rehabilitation Project (Project) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board conducted a preliminary screening based on the public record for the proceedings. 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 will continue with the regulatory process.

The Board and staff look forward to continued communications throughout the pause period. Please contact Ryan Fequet at (867) 765-4589 with any questions or concerns regarding this letter.

Yours sincerely,

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

Joseph Mackenzie
Chair, Wek'èezhii Land and Water Board

BCC'd to: Wek'èezhii Distribution List
Ziaur Rahman, GNWT-INF

Attached: Preliminary Screening Determination and Reasons for Decision



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Preliminary Screening Determination and Reasons for Decision

File Number	Type B W2021L8-0002 and Type A W2021E0007
Company	Government of the Northwest Territories Department of Infrastructure
Project	Whatì Access Road Rehabilitation Project
Location	Whatì Access Road, NT
Activity	Miscellaneous and Public Road [i.e., Rehabilitation Project]
Date of Decision	July 22, 2021

1.0 Decision

In accordance with subsection 125(2) of the *Mackenzie Valley Resource Management Act* (MVRMA), the Wek'èezhìi Land and Water Board (Board) met on July 22, 2021, to make a preliminary screening determination on the Applications¹ from the Government of the Northwest Territories Department of Infrastructure (GNWT-INF) (Applicant) for Land Use Permit W2021E0007 (Permit) and Water Licence W2021L8-0002 (Licence) for the Whatì Access Road Rehabilitation Project (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.

The Board's determinations, including reasons for its decisions, are detailed in the sections 3 and 4.

¹See WLWB Online Registry (www.wlwb.ca) for [GNWT-INF - Whatì Access Rehabilitation Project - LUP and Type B WL Applications - Jun 21 21](#).

²The Project is the Whatì Access Road Rehabilitation Project, 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 Background and Scope of Screening

The WLWB received a Land Use Permit and Water Licence Application from the Government of the Northwest Territories Department of Infrastructure (GNWT-INF) on June 21, 2021. The purpose of the Application is to allow GNWT-INF to rehabilitate the Whatì access road, which involves a Geotechnical study, upgrading the access road, and replacing culverts with a bridge. GNWT-INF stated in its cover letter that it expects the Geotechnical study to start on August 2, 2021, while the road upgrades and culvert replacement are expected to start in 2022. The Project will include use of motorized earth-drilling machinery, establishment and use of a camp, establishment of a fuel storage facility, and use of stationary motorized machine. The location of the Project is wholly within the Community Boundary of Whatì, located within the following coordinates:³

- Minimum latitude: 63° 10' 59.10" N Maximum latitude: 63° 08' 47.71" N
- Minimum longitude: 117° 02' 18.13" W Maximum longitude: 117° 15' 40.28" W

As part of its Application, GNWT-INF engaged with the following Parties: Tłıchq Government (TG), Community Government of Whatì (CGW), Wek'èzhìi Renewable Resources Board (WRRB), North Slave Métis Alliance (NSMA), Prince of Wales Northern Heritage Center (PWNHC), GNWT-Department of Lands (GNWT-Lands), and GNWT-Environment and Natural Resources (GNWT-ENR). A summary of what was discussed, and copies of the engagement correspondence are included in the Engagement Record.⁴

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 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 3 below.

Public Record and Regulatory Proceeding

To assist the Board in its preliminary screening determination for the Project, the Board distributed the Application, supporting materials,^{5,6,7} and a draft Licence⁸ and Permit⁹ for public review on June 21, 2021, 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 July 12, 2021, with responses from the Applicant due July 14, 2021.

³ See WLWB Online Registry for [GNWT-INF - Whatì Access Rehabilitation Project - LUP and Type B WL App - Maps - Jun 21 21](#)

⁴ See WLWB Online Registry for [GNWT-INF - Whatì Access Rehabilitation Project - LUP and Type B WL App - Engagement Record - Jun 21 21](#)

⁵ See WLWB Online Registry for [GNWT-INF - Whatì Access Rehabilitation Project - LUP and Type B WL App - Support Email from CGW - Jun 21 21](#)

⁶ See WLWB Online Registry for [GNWT-INF - Whatì Access Rehabilitation Project - LUP and Type B WL App - Crossing Channel Description - Jun 21 21](#)

⁷ See WLWB Online Registry for [GNWT-INF - Whatì Access Rehabilitation Project - LUP and Type B WL App - Hydrotechnical Study - Jun 21 21](#)

⁸ See WLWB Online Registry for [GNWT-INF - Whatì Access Rehabilitation Project - LUP and Type B WL App - Draft Licence - Jun 21 21](#)

⁹ See WLWB Online Registry for [GNWT-INF - Whatì Access Rehabilitation Project - LUP and Type B WL App - Draft Permit - Jun 21 21](#)

The Board received comments and recommendations from the Department of Fisheries and Oceans (DFO) and the Government of the Northwest Territories Department of Lands (GNWT-Lands) Inspector. The Wek'èezhìi Renewable Resources Board (WLWB) commented indicating it had no comments or recommendations at this time. Additionally, a letter from GNWT-Lands was received indicating its support to issue the Permit and GNWT-Lands also noted that there were no concerns from the Mining Recorder's Office and Territorial Lands Administration. Board staff also submitted questions. Reviewer recommendations and proponent responses are available on the WLWB Online Registry.¹⁰

Since there were no requests to extend the reviewer comment deadlines, 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. The Board is also satisfied that the Tłıchq Government has been consulted in accordance with section 63 of the MVRMA.

3.0 Potential Impacts and Proposed Mitigations

During the public review, reviewers were encouraged to provide comments and recommendation on impacts and mitigation measures to assist with the Board's preliminary screening determination. Comments and questions were received during the public review regarding potential impacts from the proposed activities. Impact-Mitigation Tables were included as part of the Application (i.e., Section 17 of the Permit Application and Section 10 of the Water Licence Application).

The Board has completed a preliminary screening as required by the MVRMA using the information provided in the Application and during the regulatory proceeding. Table 1 below summarizes:

- the potential impacts and proposed mitigations for the proposed Project;
- the concerns that were identified during the regulatory proceeding and how the Applicant addressed those concerns; and
- the Board's analysis of the potential impacts and proposed mitigations.

¹⁰ See WLWB Online Registry for [GNWT-INF - Whatı Access Road Rehabilitation Project - Review Summary and Attachments - Jul 15 21](#).

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
Land (soil contamination)	Transfer, storage, and use of petroleum products and/or chemicals; use of motorized and heavy equipment; geotechnical borehole drilling	<ul style="list-style-type: none"> • GNWT-INF included a Spill Contingency Plan with its Applications. <ul style="list-style-type: none"> - The Plan includes: steps to take to respond to any spills on land, snow and ice, and in water; emergency contacts; lists of the contents included in a spill kit that will be on site; and notes that extra spill response materials will be available for use. The Plan states that “All spill kits will be located in an open and easily identifiable area for efficient use in spill circumstances”. • GNWT-INF included a Waste Management Plan with their Applications. <ul style="list-style-type: none"> - The Waste Management Plan states that all hazardous waste will be stored at the designated fuelling and containment storage area within the project area. GNWT-INF also stated that this area will be further than 100 m from a water source and will prevent potential spills or leaks from entering the creek. - The Plan states that “Any hazardous wastes will be stored in clearly marked containers with lids (i.e., drums). - The Plan states that “Any hazardous wastes will be removed from the designated storage area a minimum of bi-weekly, if necessary. The GNWT-INF also stated in the Plan that contaminated soil and snow wastes will be transported to an approved waste facility for treatment, and if other contaminated materials require disposal (i.e., spill pads), these will be disposed of through a licensed facility”. • The Board has standard conditions in land use permits and water licences that are typically used to mitigate the potential impacts from transfer, storage, and use of petroleum products and/or chemicals, use of motorized and heavy equipment, and geotechnical borehole drilling. 	Based on the described mitigations and standard conditions, 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, or will not be a cause of public concern.

<p>Water (changes in water quality)</p>	<p>Clearing of timber, brush, or vegetation mat near a watercourse; stripping of overburden adjacent to a watercourse; construction and use of a watercourse crossing (bridge, ford); watercourse alteration (ditch construction, channeling, training, installation of culvert); use of motorized or heavy equipment adjacent to, within, or through a watercourse; withdrawal of water from a watercourse</p>	<ul style="list-style-type: none"> • GNWT-INF stated in Section 17 of its Permit Application and in Section 10 of its WL Application that “Sediment control measures will be put in place to prevent sediment release into the creek”. • Board staff asked GNWT-INF to describe the measures that GNWT-INF will use to control erosion and sediment from entering a waterbody. Board staff requested that GNWT-INF describe the measures it will take to mitigate for potential impacts. GNWT-INF, in response to Board staff, stated that they will “work diligently to avoid releasing sediments into the creek. However, if there is any likelihood of sediment release, silt fences will be installed at different intervals to trap and prevent sediment from entering the creek.” GNWT-INF also stated that “silt fences, riprap will be laid to break the velocity of sediment-laden water to slow down the movement of the sediment and enhance easy trapping by the fences”. • The Board has standard conditions regarding natural drainage, brush disposal, habitat damage and erosion control. 	<p>Based on the described mitigations and standard conditions, 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, or will not be a cause of public concern.</p>
<p>Land and vegetation impacts; loss of vegetation; and effects on plant health (dust)</p>	<p>Clearing of timber, brush, or vegetation mat; use of motorized and heavy equipment</p>	<ul style="list-style-type: none"> • GNWT-INF stated in its Permit Application in Section 17 and Section 10 of its WL Application that “The existing [Right-Of-Way (ROW)] with brushes will be cleared without causing additional vegetation loss outside the ROW”. GNWT-INF also stated that “Appropriate dust suppression measures will be taken during road upgrades”. • Board staff asked GNWT-INF for impacts and mitigations of this operation as water used to suppress the dust will include run-off off the road. GNWT-INF responded stating that they will make sure dust suppression activities do not result in run-offs. • The Board has standard conditions for minimizing the potential land and vegetation impacts. 	<p>Based on the described mitigations and standard conditions, 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, or will not be a cause of public concern.</p>

<p>Aquatic habitat; breeding disturbances; and effects on health (sediment)</p>	<p>Clearing of timber, brush, or vegetation mat; noise (use of heavy equipment, blasting, crushing, drilling)</p>	<ul style="list-style-type: none"> • GNWT-INF stated in its WL Application in Section 10 that “In-water work will be scheduled to avoid during the spawning period” and that “Sediment control measures will be put in place to prevent sediment release into the creek”. • During the public review, DFO submitted a comment regarding the potential for the Project to result in the death of fish by means other than fishing or the harmful alteration, disruption, or destruction of fish habitat. DFO recommended that provided that the plans are implemented in the manner described in GNWT-INF’s Application, the Fish and Fish Habitat Protection Program are of the opinion that the proposed Project is not likely to require an authorization under the <i>Fisheries Act</i> or <i>the Species at Risk Act</i>. In their response, GNWT-INF’s committed to implementing DFO’s Interim Codes of Practice for End-of-Pipe Fish Screens, the Codes of Practice for Temporary Cofferdams and Diversion Channels, and the Zone 1 Northwest Territories Restricted Activity Timing Windows for the Protection of Fish and Fish Habitat. • The Board has standard conditions for erosion control measures. 	<p>Based on the described mitigations and standard conditions, 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, or will not be a cause of public concern.</p>
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3.1 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, or renewable resources. In general, impacts of the Project on the air, water, or renewable resources can be mitigated through the use of standard permit and licence conditions and/or project-specific conditions established by the Board as per the MVLWB [Standard Process for Creating New Conditions](#).

A draft Licence and Permit were 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 the evidence provided through the regulatory proceeding.

3.2 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.

4.0 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 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. If the Board does not receive a notice of referral to environmental assessment by August 1, 2021, it will continue with the regulatory process.

SIGNATURE



Joseph Mackenzie
Chair, Wek'èezhii Land and Water Board

July 22, 2021

Date